

Primary Submission to the
Joint Standing Committee on Electoral Matters

Inquiry into the 2007 Federal Election

Brussels and Canberra

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The Southern Cross Group is an international volunteer-run non-profit advocacy and support organisation for the Australian Diaspora

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Executive Summary

The purpose of this submission is to put before the JSCEM suggestions for changes to the law and Australian Electoral Commission (AEC) administrative procedures relating to the enrolment of, and voting by, expatriate Australians estimated to number in the order of one million people, some 800,000 of whom are thought to be of voting age.

Since 2001 the Southern Cross Group (SCG) has been undertaking advocacy work on electoral matters on behalf of this Australian Diaspora. Section 1 of this submission reviews the Group's work to date.

Data that the SCG has identified from a variety of sources in relation to electoral participation by overseas Australians is reviewed in Section 2. It confirms that participation in the electoral process by expatriate Australians to date has been very low.

This is followed in Section 3 by a discussion of the mechanisms currently available to overseas Australians who wish to participate in the electoral process from abroad, and the shortcomings inherent in these mechanisms which mean that many cannot enrol and therefore cannot vote.

The High Court's 2007 reasoning in the *Roach* case is explored and the conclusion reached in Section 4 that the disenfranchisement of a large part of the Diaspora due to several provisions of the *Commonwealth Electoral Act 1918* (Electoral Act) may well be unconstitutional.

This is followed in Section 5 by an analysis of factors which suggest that, regardless of the implications of the *Roach* case, a rethink by Parliament of the status of Australian expatriates in electoral matters is now well and truly due.

Suggested amendments to the *Electoral Act* are put forward in Section 6. Essentially these changes would allow all Australian citizens over the age of 18 living overseas to be enrolled and to vote at any election or referendum regardless of the time they have been absent from Australia and/or whether or not they voted at a prior election. In short, the current arbitrary provisions that allow overseas Australians to be denied enrolment or result in removal from the roll for not voting or seeking a postal vote would be removed. Further, a set of administrative processes which would allow the AEC to maintain contact with, and facilitate voting by, Eligible Overseas Electors (EOEs) by e-mail is proposed.

Sections 7 through 9 discuss the shortcomings of present arrangements to educate and to reach out to overseas Australians and how those shortcomings might be overcome by the AEC. Section 10 reflects upon outreach efforts by the SCG and the AEC and Section 11 suggests that a more active approach both in Australia and overseas is required of the AEC.

Section 12 contains a discussion on the role elected representatives could play in reaching out to EOE's registered in their Divisions to keep the EOE's within the electoral loop.

Although internet voting is recognized by the SCG as probably being beyond the scope of the current inquiry, some relevant material is summarised in Section 13.

In conclusion, Sections 14, 15 and 16 draw to the Committee's attention the SCG's position in relation to the current constitutional restriction on the holding of dual citizenship by elected representatives, direct parliamentary representation for overseas Australians, and the scope for harmonization of Federal, State and Territory electoral legislation in relation the enrolment of, and voting by, overseas Australians.

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Introduction

The Southern Cross Group (SCG) welcomes this opportunity to place its views before the Joint Standing Committee on Electoral Matters (JSCEM or Committee) in the context of the present inquiry into the 2007 federal election.

In the 21st century, ever increasing numbers of Australia's citizens spend time travelling or living abroad. It stands to reason that at the time of any Australian federal election, several hundred thousand potential voters will be out of the country. Many individual expatriate Australians will have made submissions to this inquiry, providing the Committee with insight into their personal experiences with the Australian electoral system while resident abroad.

Voting is voluntary for Australian citizens abroad at the time of an election, and the SCG believes that it would be impossible on practical grounds alone to ever impose compulsory voting on the diaspora.

But it is certainly Parliament's intention that eligible voters leaving Australia should be able to vote from abroad. Australia's present electoral arrangements provide two mechanisms for the eligible voter to continue voting once away: the status of Eligible Overseas Elector (EOE), and the status of "temporarily absent".

Despite this, based on the limited data available, electoral participation rates by Australian citizens outside the country are presently disturbingly low. Taking into account that there are probably at least an estimated 800,000 adult Australians resident abroad at any one time, based on the number of votes issued overseas in the November 2007 federal election and previous elections, it would appear that electoral participation rates by adult Australians resident abroad are below 10%. This figure sinks into single digits once it is understood that approximately 80% of votes issued abroad are issued to Australians who are out of the country as tourists or on business or for relatively short periods rather than longer-term overseas Australian citizens.

Two major hurdles to greater electoral participation by Australians abroad stand out. Both are within the power of the Parliament to address:

- Many Australians resident abroad (perhaps in excess of 500,000) are no longer enrolled and the three-year limitation in Section 94A of the *Commonwealth Electoral Act 1918* (the *Electoral Act*) prevents them from re-enrolling while they remain living abroad;
- Many departing Australians and Australians already abroad are ignorant of the rights and responsibilities in Australia's electoral system applicable to them, which change once they are offshore. Although resident eligible voters departing the country still have the right to vote, many have simply not been alerted to the different enrolment and administrative technicalities

which, if ignored for too long, can result in inadvertent but permanent disenfranchisement (under the first bullet point above) while the person remains resident abroad.

Legislative amendments are required to address the first hurdle. In March 2005, the Senate's Constitutional and Legal References Committee recommended changes which would have made re-enfranchisement possible for many but not all in the diaspora.¹ But the previous Government rejected that recommendation in December 2006.²

Crucially, since then, the High Court has handed down its reasons in the landmark *Roach* case.³ While the Court has not to date specifically examined the constitutionality of Section 94A of the *Electoral Act*, *Roach* necessitated a fresh examination of the "right to vote" in the Australian Constitution and explored the circumstances in which that right may be legitimately limited or taken away. The High Court's statements, when considered in the context of expat disenfranchisement, are strongly indicative that Section 94A of the *Electoral Act* may well be unconstitutional.

If the present government does not reform the *Electoral Act* with respect to expat electoral enrolment, it is likely that one or more disenfranchised overseas Australians will bring an action in the High Court seeking to have that provision declared unconstitutional.

As to the second hurdle identified above, there are a number of practical measures which could be undertaken which would greatly raise electoral participation among overseas eligible voters even within the current limitations of the law. As the SCG argued before the JSCEM in 2006, the AEC has a duty not only to provide passive information on its website, but to engage in active efforts for the overseas eligible voter group.⁴

The AEC should actively provide all adult Australian citizens and eligible British subjects with basic guidance on "what to do" before they leave Australia, most logically at international departure terminals, although other avenues are also available. This information should be couched in terms

1 *They still call Australia home: Inquiry into Australian Expatriates*, Report by the Senate Legal and Constitutional References Committee, 8 March 2005, available online at: http://www.aph.gov.au/senate/committee/legcon_ctte/completed_inquiries/2004-07/expats03/report/index.htm.

2 Government response of 7 December 2006, available online at: http://parlinfoweb.aph.gov.au/piweb/view_document.aspx?ID=2397373&TABLE=hansards&TARGET=.

3 *Roach v Electoral Commissioner* [2007] HCA 43 (26 September 2007), available online at: <http://www.austlii.edu.au/au/cases/cth/HCA/2007/43.html>.

4 SCG Primary Submission to the JSCEM Inquiry into Civics and Electoral Education, 19 June 2006, available online at: <http://www.aph.gov.au/house/committee/em/education/subs/sub085.pdf>.

which encourage continued electoral participation from abroad, despite the fact that voting is voluntary once an adult Australian citizen is outside Australia.

It is very clear that many who do still have a right under the law to participate in elections when they initially leave Australia are in large part ignorant of the law and the administrative requirements which they must fulfil to maintain their franchise while abroad. The need for appropriate and increased electoral education for intending expats and new expats is acute because Section 94A of the *Electoral Act* stipulates a “drop dead date” of three years from the date of departure beyond which enrolment or re-enrolment becomes legally impossible. While that aspect of the law remains unchanged, a fundamental message in any electoral literature must be to communicate these limitations so that those who do not take the appropriate steps within that initial three year period can do so in full knowledge of the consequences that their lack of action will have for their franchise as overseas citizens going forward.

Low participation by Australia’s diaspora in the Australian federal electoral process is undesirable for the Australian nation in today’s globalised world. The vast majority of Australian citizens support compulsory voting for those in Australia, which itself has given rise to a culture, or norm, of universal participation. Many of those citizens now spend periods of their lives abroad, moving in and out of the country due to professional, family and educational commitments. Even when not in Australia, their connection and commitment to the present and future of Australia remains strong, and it should be legally possible for them to help determine Australia’s future as voters in the federal electoral system throughout their lives, regardless of their location at the time of any single election.

The SCG asks the JSCEM in this inquiry to closely examine these two key causes of low expatriate electoral participation and to make recommendations to address both. First, the *Electoral Act* needs to be amended to remove the present legislative barriers to increased electoral enrolment. In light of the High Court’s 2007 reasons in *Roach*, the constitutionality of the present legislative provisions is highly questionable. *Roach* by itself necessitates a fundamental rethink by the Parliament as to the appropriateness of existing arrangements.

Second, whether or not the *Electoral Act* is amended, a great deal more can and should be done by the AEC to educate departing Australians and existing Australian expatriates on the electoral rules applicable to them and what they have to do to stay enrolled and participate while overseas.

1 SCG Advocacy Work on Diaspora Electoral Matters to Date

The SCG has been advocating change to Australian electoral law and electoral education as it pertains to Australian expatriates since 2001. Under the previous government, the SCG was an active participant in the inquiry into the 2001 Federal Election which was conducted during 2002 and 2003.⁵ Some one hundred Australian expatriates also made personal submissions to that inquiry. Amendments to the *Electoral Act*, limited in scope, but nonetheless helpful for a small number of expatriate Australians, came into force in mid 2004 as a result of the Government's acceptance of Recommendations 4 and 5 in the JSCEM's June 2003 Report.⁶

In October 2003, following a number of representations to Government by the SCG, the Senate's Constitutional and Legal References Committee initiated an Inquiry into Australian Expatriates. The SCG and hundreds in the Australian overseas community used that inquiry as an opportunity to put additional extensive material concerning expatriate enrolment and voting before Australia's elected representatives, in the period 2003 – 2005.⁷

The SCG and many expatriate citizens were heartened by the various recommendations resulting from that inquiry which were tabled in the Senate on 8 March 2005.⁸ Recommendation 13 concerned the matter of expatriate enfranchisement:

- Australian citizens moving or living overseas should be entitled to register as an "Eligible Overseas Elector" if they left Australia in the previous three years, or have returned to Australia (for any length of time) in the past three years; and they intend to resume residence in Australia within six years of their departure; and
- Australian citizens who have been living overseas for six years should be entitled to renew their enrolment as an eligible overseas elector if they have returned to Australia (for any length of time) within the last three years.

The Senate Committee also recommended that voting for overseas Australians should continue to be non-compulsory.

5 SCG Submissions of 12 July 2002, 9 December 2002, 18 February 2003, 2 March 2003 and 5 May 2003, all available online at: <http://www.aph.gov.au/house/committee/em/elect01/subs.htm>.

6 *Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Act 2004*, in force from 21 July 2004; see also Government Response to the Report of the JSCEM: The 2001 Federal Election, October 2003, pages 3 and 4.

7 The 677 submissions received by that Inquiry are available online at: http://www.aph.gov.au/senate/committee/legcon_ctte/expats03/submissions/sublist.htm.

8 *They still call Australia home: Inquiry into Australian Expatriates*, Report by the Senate Legal and Constitutional References Committee, 8 March 2005, available online at: http://www.aph.gov.au/senate/committee/legcon_ctte/completed_inquiries/2004-07/expats03/report/index.htm.

Twenty-one months after the Senate Committee tabled its report in the Inquiry into Australian Expatriates, the previous Government responded in December 2006, rejecting Recommendation 13.

In mid 2006, the SCG made a major submission to the JSCEM's Inquiry into Civics and Electoral Education.⁹ That study canvassed a broad range of issues, including the challenge of engaging the diaspora not only in JSCEM inquiries but in Australian democracy generally, as well as low levels of expatriate participation and the fact that the diaspora is younger demographically than the Australian resident population. The SCG made a number of practical suggestions for enhancing electoral education for departing Australians and existing Australian expatriates. Although many of the SCG's points were discussed in a public hearing held as part of the inquiry on 27 November 2006,¹⁰ the JSCEM did not pick up on any of the SCG's work in its final report in that inquiry.

In August-September 2006, to coincide with the 2006 Australian Census, the SCG was able to put a number of questions on overseas enrolment and voting to the diaspora as part of *One Million More – 2006 Census of Australians Abroad*. The results of those specific survey questions, completed by almost 10,000 expats representing over 16,000 in the diaspora, were published by the SCG in a media release just prior to the November 2007 federal election.¹¹ That data is attached again here as **Annex 1**. It confirms the SCG's previous work on low levels of electoral participation by the diaspora and the widespread ignorance by those abroad as to the limitations in Australian electoral law pertaining to them.

In early 2008, the SCG proposed to the current Government that an **Australian Expatriate and Diaspora Office** (AEDO) be established within the Department of the Prime Minister and Cabinet in Canberra.¹² In its submission to the Treasury dated 18 January 2008 in response to the Treasurer's call for community input on the 2008-09 Budget, the SCG suggested that the establishment of AEDO would be the first step towards the development and implementation of Australia's first ever Expatriate and Diaspora Policy. In that submission the SCG noted that the largest single issue presently facing Australia's diaspora is probably that of disenfranchisement from the Australian electoral system. A

9 SCG Primary Submission to the JSCEM Inquiry into Civics and Electoral Education, 19 June 2006, available online at <http://www.aph.gov.au/house/committee/em/education/subs/sub085.pdf>.

10 A transcript of that public hearing is available online at <http://www.aph.gov.au/hansard/joint/commtee/J9866.pdf>.

11 See SCG Media Release of 15 November 2007, available online at http://www.southern-cross-group.org/archives/Overseas%20Voting/2007/SCG_Media_Release_Voting_15_Nov_2007.pdf. The One Million More - 2006 Census of Australians Abroad was an initiative of Advance in partnership with the Southern Cross Group. At the closing date of the OMM Census, 9,529 people had started the survey as individuals or as part of a family unit, representing 16,902 people, with 8,578 of those people completing the survey (a 90% completion rate).

12 The SCG's submission on AEDO can be accessed here: http://www.southern-cross-group.org/archives/Australian%20Diaspora/SCG_Submission_Budget08-09_18_Jan_2008.pdf.

number of expatriates wrote to the Prime Minister supporting the SCG's proposal, but it was not acted upon in the recent Budget.

2 Existing Data on Electoral Participation by Overseas Australians

Data on the participation by overseas Australians in recent federal elections is relatively limited. While the SCG was able to find AEC research on "electorally engaging the homeless", and the 2005 Youth Electoral Survey (YES)¹³ examines the engagement of youth, the AEC does not appear to have carried out similar research on overseas eligible voters.¹⁴ It should be noted that the number of Eligible Overseas Electors (EOEs) on the electoral roll at any one time is quite a low figure when one takes into account that almost a million Australians live abroad.¹⁵ Further, the number of total EOE is only a small proportion of all the votes issued overseas at an election.

In August 2001, just before the 2001 federal election, there were 9,064 Eligible Overseas Electors on the electoral roll. When the roll closed before the 2004 federal election on 7 September 2004, there were 16,149 EOE on the roll. As at 22 November 2004 there were 17,451 EOE. As at 31 March 2006 there were 15,957 individuals with EOE status on the roll, and as at 31 May 2006 there were 16,047. Data from the AEC showing the number of EOE by electorate and by state and territory as at 31 May 2006 is attached as **Annex 2**, as well as data showing the number of EOE deleted for any reason from the roll between 10 October 2004 and 26 May 2006.

For this inquiry, the SCG submits that the Committee should request from the AEC data showing the number of EOE on the electoral roll on the date that the roll closed prior to the 2007 federal election, broken down by electoral Division and by state and territory.

The 2006 data on EOE attached as **Annex 2** shows that distribution of EOE among the 150 House of Representative seats is far from even. As of 31 May 2006, nineteen electorates had EOE populations in excess of 200, and the two ACT electorates led the field with Canberra having 940 and Fraser 815 (probably largely due to DFAT and other public service staff based overseas). Melbourne had 720 followed by Melbourne Ports (588), Sydney (571) and Higgins (522). Barker in South Australia had the least EOE of any electorate with just 7. The fact that a person is an EOE on the

13 Youth Electoral Survey, Report 1: Enrolment and Voting, December 2004 and Report 2: Youth, Political Engagement and Voting, 2005, available on the AEC website.

14 AEC Electoral Research Report Number 6, *Electorally Engaging the Homeless*, February 2005.

15 In 2002 the SCG told the JSCEM that it estimated that there were approximately 645,000 Australian citizens of voting age abroad. This was calculated on the basis of DFAT consular estimates of overseas Australians for the calendar year 2001, which estimated that there were 860,000 Australians abroad. Assuming that 25% of these are under the age of 18 (as in the Australian resident population, although the percentage of minors among the overseas community is probably lower because many young people going abroad have no children), 75%, or 645,000 would be citizens of voting age.

electoral roll does not however mean that they will necessarily have a vote issued to them at the time of an election.

For the 2007 federal election, 70,059 votes were issued overseas. Data showing those votes broken down by overseas voting post and by electoral division is attached as **Annex 3**. 68,544 votes were issued overseas for the October 2004 election, and 63,016 votes were issued overseas for the 2001 election. AEC data showing the breakdown by overseas post for previous elections is attached as **Annex 4**. It is important to note that as well as EOE's voting overseas, these figures encompass some of those who had notified the AEC that they were "temporarily absent" and a large number of people who just happened to be overseas on holidays or for a short period who probably had not contacted the AEC to say they were going overseas before their departure.

It is very difficult to say with any precision what percentage of all eligible voters abroad (whether on a short-term basis or as expats resident abroad) voted in the 2007 election. The 70,059 votes issued overseas would in many cases have been issued to travelling or holidaying Australians.

On census night in 2001, 330,900 Australian residents were reported to be "temporarily" overseas.¹⁶ Although the date of the 2001 election did not coincide with the date of census, if the total number of votes issued abroad in the 2001 election (63,036) is expressed as a percentage of the number of residents reported to be temporarily overseas on census night, an approximate participation rate of 19% is obtained. This is most certainly inflated, however, because not every eligible voter out of the country would have been declared "temporarily" overseas on census night. Only those who normally live at the census household and are closely connected with members of that household are likely to have been reported as temporarily absent. Further, not every Australian resident declared temporarily overseas on census night would be an eligible voter – some would not be Australian citizens or eligible British subjects and others would be minors. We can probably say that less than 15% of Australians who presently qualify to vote under the *Electoral Act* and who are out of the country at the time of an election actually do vote while away.¹⁷

It is also impossible to say exactly how many Australian citizens of voting age (as opposed to those who are legally eligible to vote) reside abroad. A conservative figure used by the SCG in its JSCEM submission in 2002 was 645,000, based on DFAT consular estimates to 31 December 2001. However, departures data indicates that the diaspora has most definitely grown in the last few years, and it is also unclear what percentage of all Australians resident overseas are minors. If for the

16 ABS 3101.0, Australian Demographic Statistics, 2001 Census Edition - Preliminary, June 2002, Page 51. This figure is significantly higher than the 264,955 citizens that DFAT estimates were "visiting" overseas rather than living overseas as at 31 December 2001.

17 A small number who leave just before election day may of course cast pre-poll votes in Australia before they leave.

purposes of argument, one assumed that there could now be as many as one million Australians abroad, and that 20% of these are minors, a higher figure of 800,000 citizens of voting age is reached. So even if all 70,059 votes issued in the 2007 election were to resident overseas Australians (which they were not), only 8-10% of all resident overseas Australians of voting age participated. In reality, since many of the votes issued overseas were to people not living abroad but only travelling or holidaying, the participation rate of Australian citizens resident abroad is much lower. Many Australians resident overseas of voting age are not currently eligible voters due to the three-year drop-dead limitation in Section 94A of the *Electoral Act*.

It is not known how many of the 70,059 votes issued overseas in the 2007 election were issued to EOE's. The Committee may wish to ask the AEC for this data.

But if EOE numbers when the roll closed prior to the 2007 election were similar to 2006 EOE figures, even assuming that every EOE on the roll had a vote issued to them overseas (which is not the case since some did not vote or would have been visiting Australia and would have voted while there), EOE voting would account for only approximately 25% of all overseas voting. Taking into account that not all EOE's voted, and that some voted in Australia, the most accurate conclusion is probably that only 20% or less of the votes issued overseas were issued to EOE's.

Some EOE's on the roll at roll closure prior to the 2007 federal election would not have had votes issued to them for that election. The difficulty with missing an election as an EOE is that there is a strong chance the AEC will then remove the EOE from the electoral roll under Section 94(13) of the *Electoral Act*, which provides that a person ceases to be entitled to be treated as an EOE if while they are an EOE, a general election is held at which they neither vote nor apply for a postal vote. Once this removal has occurred, the overseas Australian cannot re-enrol from abroad unless it is less than three years since they ceased to reside abroad.

Kelly Parker's 2006 data provided to the JSCEM for the 2006 Inquiry into Civics and Electoral Education also provides some insights into recent electoral participation by Australians, but just for the United States.¹⁸ Only 24.5% of Ms Parker's survey respondents (384 out of 1,567) had voted in the 2004 Australian federal election. 3.1% of those who had voted were under 25. 22.6% were under 30, and 53.1% were under 35, while 73.7% of those who had voted were under the age of 40. Electoral participation declined rapidly for age groups of 40 and above. This is no doubt a direct consequence of the length of time spent away from Australia (65.1% of those who voted in the 2004 election had left Australia to live abroad 5 years ago or less), and the fact that older expats who have been away for longer generally tend to have been removed from the electoral roll and have no legal right to re-enrol

18 Ms Parker's submission is available online at:
<http://www.aph.gov.au/house/committee/em/education/subs/sub035.pdf>.

under the current provisions of the *Electoral Act*, until they return to live at an address in Australia for one month or more.

A simple analysis of the limited UK data that is available reinforces the conclusion that electoral participation by young Australians abroad is very low. Approximately 40,000 young Australians are in the UK at any one time on two-year working holiday visas and are therefore by definition aged 30 or younger. But only 20,716 votes were issued to Australians of all ages in the UK for the October 2004 election and only 16,226 for the November 2007 election. Even if all those who had votes issued to them were working holidaymakers (which they were not), this would mean that less than 50% of that group voted in the 2007 election. In reality a much lower percentage of Australian working holidaymakers in the UK took part because of the other groups of Australians who in fact voted.¹⁹ It is important to note that virtually all the young Australians in the working holidaymaker group were legally entitled to enrol and hence vote – they would almost all have left Australia within the last three years, as UK working holiday visas are for two years (unless they had lived outside Australia before going to the UK). Even if they had been removed from the electoral roll after their departure from Australia, or had not been on the roll while they were living in Australia, most would have been legally entitled to (re-)enrol from the UK under Section 94A of the *Electoral Act* because it would still have been less than three years since they had ceased to reside in Australia on the date of the closing of the rolls.

Taking into account the total number of Australians in the UK, which is estimated to be in the order of 200,000 to 300,000, estimating that 25% of that population is probably minors, only an estimated 7 to 10% of all Australians in that country of voting age voted at Australia's last federal election.

Many of those who did not vote in the UK would no longer be on the electoral roll and are currently prevented from enrolling due to the three-year drop dead provision in the *Electoral Act*. The SCG has in the past estimated that probably at least 500,000 Australian citizens overseas of voting age are not currently on the electoral roll and have no entitlement to enrol because they left Australia to live abroad more than three years ago. If a third of this figure is in the UK because roughly a third of the diaspora is in the UK, then probably at least 165,000 Australians of voting age fall into this category in that country.

However, the disenfranchisement issue aside, it is very clear from the working holidaymaker example above that among the group that left Australia most recently, primarily young Australians, which still has a legal right to be enrolled and to vote from overseas, only a fraction is actually voting.

19 They would have included Australians of all age groups, in the UK as dual citizens, on work permits, with right of abode, and with other types of immigration status.

The Victorian Expatriate Network (VEN) conducted an online survey of Australian expatriates in mid 2006 in which it listed a number of government services that an expatriate network might offer its members. Participants were asked to rate the importance of each service to them. Electoral education, information and assistance was one of the nine listed services. 353 people out of the total of 537 that ranked that service on the list of all nine services rated it as “important” or “very important” to them. The fact that 66% of respondents viewed electoral education, information and assistance as key to what they would like to see governments delivering to expats is a clear indication that despite the extensive disenfranchisement in the expatriate community, many still maintain a keen interest in Australian elections, would like to receive information, and are likely to participate given better information.

Data collected in August/September 2006 in a large online survey of Australian expatriates as part of the *One Million More- Census of Australians Abroad* (see **Annex 1**) also underlines low participation rates in federal elections by Australian expatriates. 9027 individuals answered a question asking whether they voted in the 2004 federal election. 6726 said they had been overseas on that date, but only 1621 of those (24%) had voted.

All this demonstrates a very clear trend. Expat Australians of all ages are not participating in Australian democracy from abroad in the numbers that might be expected or hoped. Younger expat Australians are probably participating at lower levels than the expatriate population as whole. Even putting to one side the fact that the law presently disenfranchises in the order of half a million overseas Australian citizens of voting age because of the three-year drop dead rule in the *Electoral Act*, departing Australians who do have the right to be enrolled and vote, usually young, could be better educated, encouraged and assisted to participate from abroad in far greater numbers.

3 The Two Mechanisms for Overseas Electoral Participation, and How the *Electoral Act* Thwarts that Participation for Many

Fundamentally, although with some limitations, Australian law provides for enrolment and voting by Australian citizens outside the country and envisages their participation at the ballot box. There are two mechanisms by which this can occur – as an eligible overseas elector (EOE) and as someone who is “temporarily absent” but not an EOE.

a) Eligible Overseas Elector (EOE) Status

The *Electoral Act* expresses the Parliament’s clear intention that Australian citizens leaving Australia to live abroad may continue to participate in elections by becoming eligible overseas electors. Those who are on the electoral roll when they leave may apply to be treated as an eligible overseas

elector.²⁰ Applicants must intend to resume residing in Australia no later than 6 years after ceasing to reside in Australia.²¹ The application for EOE status may be made in the 3 months before departure, but must be made no later than 3 years after the day on which the elector ceased to reside in Australia. EOE status can be extended beyond the initial 6 years enrolment by virtue of annual extensions, which must be applied for within three months before the period expires.

The AEC does not send out reminder letters to EOE's whose initial six-year period is coming up for expiry, so it is up to the EOE to be organised enough to know that they have to apply for the extension three months before the end of the six-year period. The SCG has been contacted by former EOE's who have discovered some time after the expiry of the initial six-year period (usually when they tried to vote in an election) that they have been removed from the electoral roll, because no AEC reminder letter was received. These people cannot then re-enrol from abroad due to the three-year drop dead date in Section 94A(2)(d) of the *Electoral Act*.

For those who are not on the electoral roll when they leave, or those who are deleted from the electoral roll after they leave, enrolment as an EOE is possible from abroad under Section 94A of the *Electoral Act*. Again, the intention to resume residing in Australia within 6 years applies, and the application must be made within 3 years of the day on which the person making the application ceased to reside in Australia. A person who discovers that they are not on the roll just three years and one day after moving to live abroad is legally prevented from enrolling while he remains resident overseas. He could only enrol again after moving back to Australia and residing at an address for one month.

In 2006, 9013 expat Australians answered a question in the online *One Million More* survey asking whether they were on the electoral roll (**Annex 1**). 22% said they didn't know. 34.1% said they were not. 43.9% said that they were on the electoral roll.

Incongruously, although EOE's do not have to vote, Section 94(13)(c) of the *Electoral Act* provides that the AEC can delete their names from the electoral roll if a general election is held and they do not vote (the "use it or lose it" provision). If this happens, the person may not be able to re-enrol from abroad due to the three-year limitation in Section 94A(2)(d), and would therefore be unable to vote for the remainder of the time they reside abroad. By way of example, AEC data setting out the number of EOE's deleted from the roll for any reason in the period 10 October 2004 to 26 May 2006 by electorate

20 Electoral Act, Section 94.

21 Electoral Act, Section 94(1)(c).

and state is contained at **Annex 2**. By 26 May 2006, 7,340 EOE's, or 45% of the number of EOE's on the roll for the October 2004 election, had been deleted.²²

The Committee may wish to ask the AEC for data on the number of EOE's deleted from the electoral roll since the 2007 federal election.

In its 15 November 2007 media release just prior to the federal election, the SCG profiled two expats who had fallen foul of provisions in the *Electoral Act*:

Brendan Barry, a 29-year-old Australian lawyer from Brisbane who left Australia in February 2003 to work abroad first in Ireland and now in London can't have his say this election. He knew it wasn't compulsory to vote once he was overseas, and for a variety of reasons missed voting in the 2004 election, mistakenly believing he would be able to vote in 2007.

"It's fair enough that the AEC should have deleted me from my old enrolled address after I left and missed voting in the 2004 election", he said. "But expats are being punished by not being allowed to re-enrol which results in their most basic democratic right to vote as a citizen disappearing when they haven't done anything wrong because it's not compulsory to vote once you're overseas. The three-year limitation in the law on enrolling from abroad is utterly ridiculous."

Erica Sloan, a 33-year-old scientist engaged in medical research at UCLA, finds herself voteless as well. "I jumped at the opportunity to come to Los Angeles in November 2003" she says, "because I know it will make me a better scientist, better able to contribute to Australia when I eventually return". Although she sent in a form to the AEC in early 2004 to register as an eligible overseas elector, and voted at the Australian Consulate in LA for the October 2004 election, the AEC removed her from the electoral roll in January 2006. But she only discovered she was off the roll in mid 2007. By then, her three year window for re-enrolment was gone. Like Brendan, Erica maintains close ties with Australia, both personally and professionally. She feels the current law alienates her from her country of birth and citizenship. "Surely that can't be the point of the law", she says.

EOE status is not compulsory for someone going overseas. The AEC has told the SCG:

EOE status was intended to provide a means for electors who were going overseas but who did not intend to return to the place of residence they were leaving to remain enrolled. This would include people who before departure were enrolled for an address at which they were renting, or which they sold, and therefore would not return to live at. As these people could not have that address as a real place of living to which they intended to return, the AEC on receiving such advice, would be obliged to commence action to remove them from the roll.²³ (emphasis added)

22 Note however that almost as many new EOE's had been registered in the same period so that the total number of EOE's on 7 September 2004 and 31 May 2006 was virtually the same.

23 E-mail from Andrew Moyes, Assistant Commissioner, Roll Management, AEC, 9 June 2006.

In August/September 2006, as part of the online survey entitled *One Million More - Census of Australians Abroad* (**Annex 1**) 7906 expat Australians answered a question inquiring as to whether they were formally EOE's. 31.9% said they "didn't know". 60.3% said "No". Only 7.8% said that they were EOE's.

b) Voting From Abroad Without EOE Status – "Temporarily Absent"

Many eligible electors overseas are only "temporarily absent" from Australia and therefore EOE status will not be appropriate for them. If a person is on the electoral roll and happens to be overseas at the time of an election, it is not compulsory to vote, but voting is possible, even without EOE status. The vast majority of votes issued overseas at an election are on this "temporarily absent" basis. At the time of the 2004 election, for example, the number of enrolled EOE's comprised only 23% of the total number of votes issued overseas and not all EOE's would have had votes issued to them overseas, meaning that probably somewhere in the order of only 20% of all votes issued overseas at any election are issued to EOE's. The remaining 80% are issued to people who fall into the "temporarily absent" category in AEC terms. On census night in 2001, 330,900 Australian residents were reported to be "temporarily" overseas.²⁴

Australians overseas can remain enrolled and continue voting for some time after their departure without becoming eligible overseas electors. These situations appear to most often arise when young people go overseas and were enrolled, before their departure, at their parent's address in Australia, particularly where the parent or parents remain at the same address for many years. If the person does not inform the AEC that they have gone overseas, and continues to vote in every federal election, it could well be the case that the AEC never has any reason to question that person's enrolment, and enrolment could continue for a number of years.

If the AEC wrote to the person's enrolled address to check their enrolment details, the letter might be forwarded on by the parent to the person overseas so that they could respond, or the parent might respond. If the AEC visited the house and asked whether the person still lived there, the parent may respond that the person is simply "not home", or just "temporarily" overseas. If the parent advised that the son or daughter retained the address as his real place of living but was temporarily absent, then that record would be made by the AEC, and no further action would be taken. If the parent stated that the son or daughter was overseas for an indefinite period, then the AEC would take action to commence the removal process. That would involve writing to the person at the enrolled address unless the AEC had information as to a new address. If the person, or someone on their behalf then responded to the letter to say that the address remained their real place of living, but they were temporarily absent, the process to remove the name from the roll would stop. If the response

24

ABS 3101.0, Australian Demographic Statistics, 2001 Census Edition - Preliminary, June 2002, Page 51.

confirmed the original information that the person was indefinitely away, or there was no response, then the process of removal would continue with a follow-up letter confirming removal. Again, at this stage, if a response is received saying that the address is the person's real place of living, the removal can be reversed.

The AEC admits that "temporary absence" is something of a grey area.

The definition of "real place of living" in Section 4(1) of the *Electoral Act* gives some guidance – "real place of living includes the place of living to which a person, when temporarily living elsewhere, has a fixed intention to returning for the purpose of continuing to live at that place". However, there is no definition of "temporarily". The advice of temporary absence can be very important, especially if the absent residents rent out the property while they are away. Without that record of temporary absence it would be probable that information about new residents would be received by the AEC and action taken to remove the temporarily absent electors.²⁵

The AEC has explained:

The difference between a person who is temporarily absent (with a fixed intention to return to reside at their real place of living) and the person who has no fixed intention to return to that address, is that the former may remain enrolled for their real place of living while they have that intention to return, and need not apply to be registered as an EOE, whereas the latter person only has the EOE provision available to retain the right to vote (but comes with the proviso that they do in fact vote), recognising of course that they can apply after they depart.²⁶

Individuals who wish to remain enrolled while they are abroad without EOE status must of course be on the electoral roll before they depart, whereas a person who is overseas and not on the electoral roll can apply for enrolment (but only coupled with EOE status) from abroad under Section 94A of the *Electoral Act*. If an enrolled overseas Australian without EOE status subsequently finds themselves removed from the electoral roll for any reason and wants to re-enrol from abroad, they would be able to do so but only as an EOE, and only subject to the three-year drop dead date in Section 94A.

The whole basis for distinguishing between EOE status and "temporarily absent" status appears to primarily hinge upon nothing more than the technicality of whether or not an elector intends to return to the original address that they were enrolled at on their departure. If they intend to return to Australia, but do not expect to live at that address, EOE status is the only status open to them. In cases of short absences overseas, such as holidays or short secondments of a fixed and known duration, it is clear that "temporarily absent" status is the appropriate one, as the elector can be sure that they will return to that address and that it will be their real place of living on their return.

25 E-mail from Andrew Moyes, Assistant Commissioner, Roll Management, AEC, 9 June 2006.

26 E-mail from Andrew Moyes, Assistant Commissioner, Roll Management, AEC, 9 June 2006.

c) Transitions from Non-EOE to EOE Status to reflect changing circumstances: Unclear, and in any event legally limited in time by the three-year drop dead date in the EOE rules

“Temporarily absent” status may also be being used by people who end up being absent from the country for longer periods than they originally intended. People who may have thought they were going on a one-year stint to complete a masters degree abroad for example and who may have initially told the AEC that they were going to be “temporarily absent” in good faith, may find themselves with a job offer afterwards, and one year quickly extends into a number of years away. These people could in many cases simply be maintaining their temporarily absent status with the AEC because it has not crossed their minds to do anything different, although it is arguably the case that with each passing year, the chances that they will return to their enrolled address when they do in fact return probably diminish (unless they own the property at that address). If the enrolled address is that of a parent, for example, and the parent dies and the house at the address is sold, then there would seem to be no basis for maintaining temporarily absent status. Probably a person in this situation should strictly speaking change their status with the AEC from that of temporarily absent to EOE. However, such a change would only be legally possible within the first three years of leaving to reside abroad.

All this said, it is extremely doubtful that any significant numbers of overseas Australians would be across the issues discussed here enough to even consider that a change of status might be applied for, as the AEC does not canvass such a status change in the information available to overseas Australians on its website.

Data from the August/September 2006 *One Million More - Census of Australians Abroad* (**Annex 1**) shows that less than 40% of expats even think to inform the AEC of their move overseas. 9001 individuals answered a question inquiring whether they informed the AEC before their departure or after their arrival overseas of their move offshore. 18.2% said they “didn’t know”. 42.1% said they had not. Only 39.8% said they had contacted the AEC to say they were moving abroad, or already living abroad.

4 Implications of the High Court’s 2007 Reasoning in *Roach*: The Disenfranchisement of a Large Part of the Diaspora is Probably Unconstitutional

Over the years, many disenfranchised expat Australians have asked the Southern Cross Group whether those provisions in the *Electoral Act* which have led to the loss of their franchise could be unconstitutional. Many question how it could be lawful for their vote, a right attached to their Australian citizenship, to be taken away by the legislature.

Unlike many other nations, Australia's Constitution does not contain an explicit right to vote. Australia's lack of a Bill of Rights containing such an explicit right along with other fundamental rights is seen by many as a serious deficit. It is the result of the historical circumstances in which the Australian Constitution was framed. In 1942, in trying to explain to an audience in the United States why Australia had few explicit "constitutional rights", Sir Owen Dixon said:

The framers of the Australian Constitution were not prepared to place fetters upon legislative action, except and in so far as it might be necessary for the purpose of distributing between the States and the central government the full content of legislative power. The history of their country had not taught them the need of provisions directed to the control of the legislature itself.²⁷

But two sections of the Constitution are today considered by the High Court to have come to provide a constitutional protection of the right to vote. Sections 7 and 24 of the Constitution require that the senators and members of the House of Representatives be "directly chosen by the people" of the State or the Commonwealth respectively. Who are "the people"? Are Australian citizens overseas part of "the people"? The High Court has never specifically examined whether those provisions in the *Electoral Act* which have the practical effect of disenfranchising hundreds of thousands of expatriate Australian citizens breach the constitutional protection in Sections 7 and 24.

Nevertheless, those provisions in the Constitution came under scrutiny in 2007, when Vickie Roach, an Australian citizen of indigenous descent, who was serving a total effective sentence of six years imprisonment, asked the Court to examine whether 2006 amendments to the *Electoral Act* which prohibited a person serving a sentence of imprisonment of any length from voting were unconstitutional. Prior to the 2006 amendment, the *Electoral Act* had prohibited only those serving a sentence of imprisonment of three years or longer from voting in federal elections.

The majority's discussion in *Roach* of when it will be appropriate to exclude particular groups from the constitutional protection afforded by Sections 7 and 24 provides a new frame of reference for examining the expat disenfranchisement problem.

Chief Justice Gleeson, in his reasons in the *Roach* case, said:

...the words of ss 7 and 24, because of changed historical circumstances including legislative history, have come to be a constitutional protection of the right to vote. That, however, leaves open for debate the nature and extent of the exceptions. The Constitution leaves it to Parliament to define those exceptions, but its power to do so is not unconstrained. Because the franchise is critical to representative government, and lies at the centre of our concept of participation in the life of the community, and of citizenship, disenfranchisement of any group of adult citizens on a basis that does not

27 Sir Owen Dixon, "Two Constitutions Compared", in Woinarski, *Jesting Pilate and Other Papers and Addresses*, (1965) 100 at 102.

constitute a substantial reason for exclusion from such participation would not be consistent with choice by the people. To say that, of course, raises questions as to what constitutes a substantial reason, and what, if any limits there are to Parliament's capacity to decide that matter.²⁸

The Chief Justice went on to note that many forms of disenfranchisement could easily be identified as inconsistent with choice by the people, citing as an example disenfranchisement on the grounds of religion. In articulating parameters for exclusions from the franchise, he stated:

An arbitrary exception would be inconsistent with choice by the people. There would need to be some rationale for the exception; the definition of the excluded class or group would need to have a rational connection with the identification of community membership or with the capacity to exercise free choice. Citizenship, itself, could be a basis for discriminating between those who will and those who will not be permitted to vote. Citizens, being people who have been recognized as formal members of the community, would, if deprived temporarily of the right to vote, be excluded from the right to participate in the political life of the community in a most basic way. The rational connection between such exclusion and the identification of community membership for the purpose of the franchise might be found in conduct which manifests such a rejection of civic responsibility as to warrant temporary withdrawal of a civic right.²⁹

Chief Justice Gleeson pointed out that

since deprivation of the franchise takes away a right associated with citizenship, that is, with full membership of the community, the rationale for the exclusion [in the Roach case] must be that serious offending represents such a form of civic irresponsibility that it is appropriate for Parliament to mark such behaviour as anti-social and to direct that physical separation from the community will be accompanied by symbolic separation in the form of loss of a fundamental political right. The concept of citizenship has itself evolved in Australian law. The preamble to the *Australian Citizenship Act 2007* (Cth) declares that the Parliament recognises that Australian citizenship represents full and formal membership of the community of the Commonwealth of Australia.³⁰

Applying these general concepts to the expat disenfranchisement problem, it is indisputable that Australian citizens resident abroad remain Australian citizens, and as such, formal members of the community. The *Electoral Act* presently excludes many of them from the right to participate in the life of that community. The SCG questions whether Parliament, in enacting those provisions of the *Electoral Act*, takes the view that living abroad constitutes what Chief Justice Gleeson calls "conduct which manifests a rejection of civic responsibility" by a citizen. The SCG submits that any such view is inappropriate in today's world when one in twenty Australian citizens lives overseas.

28 *Roach v Electoral Commissioner* [2007] HCA 43 (26 September 2007), at paragraph 7.

29 *Roach*, op cit, at paragraph 8.

30 *Roach*, op cit, at paragraph 12.

Justices Gummow, Kirby and Crennan, in their joint reasons in *Roach*, set out similar principles to those of Chief Justice Gleeson:

Voting in elections for the Parliament lies at the very heart of the system of government for which the Constitution provides...In *McGinty* the Court held that what is involved here is a category of indeterminate reference, where the scope for judgment may include matters of legislative and political choice. But that does not deny the existence of a constitutional bedrock when what is at stake is legislative disqualification of some citizens from exercise of the franchise...In *McGinty* Brennan CJ considered the phrase “chosen by the people” as admitting of a requirement “of a franchise that is held generally by all adults or all adult citizens unless there be substantial reason for excluding them”.

The question with respect to legislative disqualification from what otherwise is adult suffrage (where 18 is now the age of legal majority throughout Australia) thus becomes a not unfamiliar one. Is the disqualification for a “substantial” reason? A reason will answer that description if it be reasonably appropriate and adapted to serve an end which is consistent or compatible with the maintenance of the constitutionally prescribed system of representative government. When used here the phrase “reasonably appropriate and adapted” does not mean “essential” or “unavoidable”. Rather, as remarked in *Lange*, in this context there is little difference between what is conveyed by that phrase and the notion of “proportionality”. What upon close scrutiny is disproportionate or arbitrary may not answer to the description reasonably appropriate and adapted for an end consistent or compatible with observance of the relevant constitutional restraint upon legislative power.³¹

In concluding that Ms Roach should succeed in her action, and that the 2006 amendment to the *Electoral Act* on prisoner voting should be declared invalid, the three justices stated:

The legislative pursuit of an end which stigmatises offenders by imposing a civil disability during any term of imprisonment takes s 93(8AA) beyond what is reasonably appropriate and adapted (or “proportionate”) to the maintenance of representative government. The net of disqualification is cast too wide by s 93(8AA).³²

The SCG submits that those provisions in the *Electoral Act* which operate to prevent many expatriate Australian citizens from enrolling, and therefore from voting, similarly stigmatise overseas Australians by imposing a civil disability beyond what is reasonably appropriate or “proportionate” to the maintenance of representative government. What is Parliament’s “substantial reason” for disqualifying up to 500,000 of its citizens? These provisions are “arbitrary” in a number of ways.

For example, an Australian citizen who has been living abroad for three years and one day can find themselves off the electoral roll and prevented by law from re-enrolling from abroad. But an Australian citizen who has been away for much longer, and who has registered as an EOE in a timely fashion,

31 *Roach*, op cit, at paragraphs 81-85.

32 *Roach*, op cit, at paragraph 95.

voted in every election, and always managed to notify the AEC in time that they wished to extend their EOE status when it was coming up for expiry, could remain enfranchised while living abroad for an indefinite period.

Even for those expat citizens who fully understand the limitations in the current legislation, whether they can manage to stay enrolled while abroad is often determined by factors beyond their control. For example, events in the United States just before the 2001 Australian federal election led to many Australians in that country and other countries at the time not being able to enrol and vote, and as a result becoming disenfranchised in the longer term. That election took place shortly after the 11 September 2001 terrorist attacks in New York and Washington. The US postal system was locked down following anthrax attacks at some post offices for approximately one month during the run up period to the election. The delivery of ballot papers from the AEC in Australia to Australia's overseas missions was in many cases, notably Washington and London, delayed for up to a week, leaving only one week of the normal two week period available for the distribution of postal votes or for the casting of votes in person at the mission. As a consequence many overseas electors who had, or would have, requested postal votes via overseas posts did not receive the ballot papers in a timely fashion and/or did not have the time available or the means to lodge the request or to return the ballot papers by the cut off time. Others who had opted to vote in person at an overseas polling place travelled significant distances from their homes to the missions in that initial week only to find that they were unable to vote at that time. Probably only the most intrepid and determined electors would have travelled again to the mission in the hope that the ballot papers would be available.

Despite the fact that many EOE's tried to do the right thing prior to the 2001 election, if their application for a postal vote was never received, or if they tried to vote in person but could not, Section 94(13)(c) of the *Electoral Act* then meant that those people then ceased to be entitled to be treated as eligible overseas electors, and Section 94(14) allowed the AEC to cancel their enrolment. They would only have been able to re-enrol for the 2004 federal election if it was less than three years since they left Australia to reside abroad.

There are many circumstances where EOE's are removed from the electoral roll by the AEC under these provisions, despite the fact that extraneous circumstances are responsible for the EOE not being able to vote or apply for a postal vote. So the relevant provisions in the *Electoral Act* concerning EOE's give rise to an arbitrary result as to those who manage to maintain their franchise and those who do not.

By contrast, those Australians who were overseas on a "temporary" basis rather than as a registered EOE, and were unable to vote in 2001 for the same reasons as indicated above, had available to them the defence for not voting that compulsory voting does not apply to normal electors while they are overseas. Thus they would not have been removed from the roll by the AEC.

Consider also, the provision in the *Electoral Act* which establishes the right to enrol, i.e. the requirement to reside at a given address for one month or more (Section 99(1)). Many overseas-based Australians spend time in Australia on a fairly regular basis. But few disenfranchised Australians in overseas workforces are able to take leave for a stretch of one month or more and so are unable to meet the one month residence requirement back in Australia for (re)enrolment. Yet those who do manage to go back to Australia and live at an address for at least one month between stints overseas are entitled to again enrol and then stay on the roll going forward after their departure overseas again as ordinary electors or EOE's for in many cases an indefinite period. The difference of perhaps as little as one day makes all the difference under the legislation. Here again, whether a particular expat Australian can become enrolled and then stay enrolled is the result of arbitrary circumstances which they themselves do not necessarily control.

5 Time to Reconsider the Status of Australian Expatriates in Electoral Matters

The SCG suggests that the present inquiry provides a timely opportunity to re-appraise the status that is currently accorded Australian expatriates under the *Electoral Act*.

The present provisions in the *Electoral Act* are probably in part the reflection of earlier national perceptions which to an extent saw Australian citizens living overseas as having turned their back on their Australian heritage by choosing to live elsewhere. Immediately post World War II there was a common view held by many Australians that such action was unpatriotic and in some way posed a threat to Australia's security.

Indeed, until 4 April 2002, Australia's citizenship legislation provided that a person was no longer entitled to Australian citizenship and its associated rights if they were foolish enough to take up the citizenship of another country.

In the decades just after World War II, those who left Australia often did so believing that they were unlikely to return, with the intention of "settling" abroad. Transport between continents was slow and expensive. The possibility to return to Australia, even for a visit, was often far from a given. In the fifties, sixties and even the seventies, the number of Australians leaving Australia was relatively small with most looking to further their career in fields with limited opportunities in Australia, or found families with partners of other nationalities. In those decades, without cheap telephone calls, cheap flights and the internet, Australia's expats often did lose touch with events at home, and often found it very difficult to maintain an ongoing interest in the future of Australia.

But today the world is a very different place. Australia and Australians are important actors in many theatres on the world stage. There are a number of factors which have contributed to this, not the least of which are globalization and the arrival of the electronic and information age.

To understand this it is perhaps appropriate to consider the changes which have taken place in the community's attitudes to Australian citizenship and the Australian Diaspora generally:

Despite pockets of uncertainty within Australia's political leadership at the time, the repeal of Section 17 of the *Australian Citizenship Act 1948* in April 2002, allowing overseas Australians to become naturalized in their countries of residence without forfeiting their Australian citizenship caused hardly a ripple within the Australian community. With it came the recognition that Australian citizens abroad, regardless of how they obtained their Australia citizenship (by birth, naturalisation or descent) were entitled to dual citizenship and were on an equal footing with those 4 to 5 million people within our migrant community living in Australia who were already dual citizens because they or one or both of their parents were born abroad.

In March 2004, the Lowy Institute commissioned UMR Research to conduct a telephone survey of 1,000 resident Australians, in order to gauge Australians' attitudes toward expatriates and the diaspora.³³ Only 10% of those surveyed believed that expatriates had "let us down by leaving Australia" and a massive 86% disagreed with that statement. That research confirmed that Australians today are extremely positive about the existence of a sizable community of offshore Australians and that most believe it is good for Australia.

The new *Australian Citizenship Act 2007* which came into force on 1 July 2007 was also accepted by the Australian community with no objections. As the SCG noted in its media release to mark the entry into force of that Act, an estimated 100,000 individuals living outside Australia now have a new right to apply for Australian citizenship.³⁴

Citizenship applicants living abroad fall into three main groups:

- **Resumption of Australian Citizenship** is possible for people who were previously Australian citizens, but who lost their citizenship in various ways. The SCG estimates that there are approximately 50,000 people globally who are now eligible for resumption. The vast majority were born in Australia.
- **Australian Citizenship by Descent** is possible for people born outside Australia on or after 26 January 1949 who had an Australian citizen parent at the time of their birth, regardless of their age now. Further, people born abroad before 26 January 1949 may apply for Australian

33 Michael Fullilove and Chloë Flutter, *Diaspora: the world wide web of Australians*, Lowy Institute Paper 4, Lowy Institute for International Policy, 2004, pages 37-41, available online at <http://www.lowyinstitute.org/Publication.asp?pid=182>.

34 SCG Media Release of 1 July 2007, "100,000 Eligible for Australian Citizenship Overseas", available at: http://www.southern-cross-group.org/archives/Dual%20Citizenship/2007/SCG_Media_Release_Act_Commencement_1_July_2007.pdf.

citizenship by descent if their parent became an Australian citizen on 26 January 1949. The SCG estimates that in excess of 30,000 people around the world fall into this category.

- **Conferral of Australian Citizenship** is possible for people born outside Australia to a person who had automatically forfeited their Australian citizenship (due to the acquisition of another citizenship as an adult) prior to their birth. The SCG estimates that at least 15,000 individuals in the diaspora fall into this category.

The impact of these citizenship law reforms on the nature of the Australian Diaspora has been and will continue to be extensive. The SCG contends that the lack of adverse reaction to these citizenship changes clearly indicates that at all levels within the Australian political scene and the community in general there is a general acceptance that approximately one in twenty of our citizens are living overseas. An unknown, but probably substantial and growing number of them are no doubt dual citizens. The SCG would suggest that today most individuals in Australia would have at least one valued Australian close family member, other relative, friend or acquaintance living overseas with whom they remain in regular contact. The Australian Diaspora has become a prominent feature of modern Australian society.

Globalisation is a continuing phenomenon now widely accepted in Australia. At the government level Australia has:

- negotiated Free Trade Agreements (FTA) or similar with a number of countries and negotiations with more countries are in hand;
- Working Holiday Agreements with nineteen countries and Work and Holiday Agreements with five countries under which young Australians are encouraged to spend time in those countries with the objective of improving our knowledge of and links with those countries;
- Social Security Agreements with nineteen countries with several other agreements to come into force soon under which those who have lived and worked in Australia and another country gain additional access to pensions, etc;
- Extensive and growing programs to encourage skilled migrants to our shores.

At the economic level we are far from isolationist with large import and export agendas and recognition of the role of multinationals and their necessary international staffing programs. There are many recruitment agencies operating programs to recruit Australians for overseas positions. In a converse arrangement several Australian Governments run programs to encourage Australians and other nationalities to take up employment in Australia.

At the professional level we have mutual recognition arrangements with overseas professional bodies and processes to evaluate overseas trade qualifications.

At the academic level our universities recognize the extent that overseas qualifications and experience enhance the quality of their teaching staff. Also of importance is the admission of overseas students to our courses and the establishment of overseas campuses of Australian universities and colleges.

In the fields of medicine and research the Australian media regularly carries stories of praise for overseas Australians who are highly successful in their chosen fields.

In short, a major aspect of globalisation is the movement of individuals of various nationalities between countries – sometimes on a short-term basis and at other times on a long-term or more or less permanent basis. Australia is proud of the achievements of those of its citizens who choose to work and live overseas.

Perhaps the most significant change to impact on the Australian Diaspora has been the extent of the information technology revolution in recent years. Overseas Australians now have easy access to:

- E-mail communication at will with family, friends and business links in Australia;
- Online access to the world wide web including Australia-based sources such as:
 - Daily newspapers and other media services.
 - Online access to live and stored TV programs.
 - Government agencies and community based organizations.
 - Newsletter services from a broad range of providers.
 - Australian businesses including banks and other financial institutions
- Cheap telephone and video links including voice over the internet (VOIP) and computer-based video programs.

No longer can it be said that overseas Australians suffer from an information vacuum on what is happening in Australia. Thousands of them watched Australian election night coverage on 24 November 2007 live on their computer screens.

Today we can say that overseas Australians form an integral part of the Australian community:

- They are Australian citizens and generally “still call Australia home”;
- Many possess and maintain real property in Australia;
- Many have other investments in Australia, including past and sometimes continuing superannuation contributions, and equity in public and private businesses;

- They pay Australian taxes associated with income, property and investments;
- Most have been primarily educated in Australia and many expect their children to be educated in Australia;
- They understand and accept Australian values and the Australian way of life;
- Many expect to return to live in Australia in the longer term.

Finally, the SCG would ask the Committee to consider the notion of exclusion versus inclusion.

From its many contacts with those in the Australian Diaspora the SCG believes that a large percentage of overseas Australians have a strong sense of being excluded from the Australian community. By and large this is a reflection of their disenfranchised status under Federal, State and Territory electoral legislation but with an emphasis at the federal level.

The SCG senses, under the current government, that there is a growing trend towards inclusion rather than exclusion in matters of public policy.

The Diaspora, of some one million people, is now a larger section of the Australian community than many other groups within that community who have special policies tailored for them:

- Elements of the multicultural community;
- The Aboriginal and Torres Strait Islander community;
- Homeless people (who have special enrolment arrangements);
- General postal voters in remote locations;
- Those in the immigration and the humanitarian programs;
- Those in the gay and lesbian community whose wellbeing will be enhanced by the recently announced legislative review to remove discrimination against homosexual couples;
- Recent Government announcements relating to several UN protocols;
- Many and varied programs for various disadvantaged groups.

The SCG believes that there is a strong case for electoral inclusion based on the view that overseas Australians are unofficial ambassadors for Australia. Expats are:

- Well placed in the communities, work places and businesses in their country of residence.

- A well-educated source of advice relative to overseas approaches to business and public administration.
- Independent gauges of international attitudes to Australian domestic, trade and foreign policies;
- A source of skilled labour.

6 Developing New Electoral Arrangements for Australian Expatriates

The SCG suggests that any amendments to the *Commonwealth Electoral Act 1918* and any other policies and practices resulting from this inquiry should continue to recognise that there are practical difficulties which differentiate the arrangements necessary in respect of overseas Australians from those living in Australia. These include:

- Difficulties in communication:
 - Some individuals reside in remote overseas locations and have poor links with Australia either by post or electronic means.
 - Overlong delivery times and sub-standard (by Australian standards) systems of many overseas postal services.
 - Travel requirements placed on individuals and/or postal delays when an Australian mission is acting as a proxy between the individual and the AEC.
- Lack of interest in Australian political affairs by some long-term expats who do not expect to return to Australia at any time in the foreseeable future.
- Lack of knowledge by some individuals of their electoral rights and responsibilities while overseas.
- Difficulties arising from the short time frame in which some elections are called and held.

Thus, the SCG takes the view that there are two underlying principles to be observed in developing any new electoral arrangements for overseas Australians:

- The right to enrol from overseas and the intention to remain on the roll while overseas should be on an *opt-in* basis rather than on a compulsory basis.
- Voting while overseas should not be compulsory.

An analysis of the *Roach* case leads the SCG to the view that that **the primary right to be enrolled is tightly linked to an individual's Australian citizenship**. This should be the case regardless of age or the place of residence of an individual.

Flowing from this, the SCG submits that there should be no time constraints which might act to deny that right to any overseas Australian whether they are abroad permanently or temporarily, long-term or short-term. Thus, the current three-year limit applying to overseas enrolment should be repealed, together with the concept of a six-year entitlement to be enrolled as an eligible overseas elector (EOE).

In recognition of the special difficulties outlined above in respect of overseas Australians, those departing from Australia, or presently living overseas should have the right to:

- Advise the AEC that they wish to be removed from the roll while they are overseas; or
- Remain on the roll at their present registered address without advising the AEC of their departure. This would need to be done in the full knowledge that failure to vote at an election or referendum during their absence, or in any situation in which an AEC check failed to explain their absence from the registered address, could result in them being removed from the roll.
 - This would be the normal course chosen by those on overseas holidays or undertaking other short-term travel.
 - Being overseas at the time of the election would continue to be an acceptable excuse for not voting; or
- Request the AEC to register them as an Eligible Overseas Elector (EOE).
 - There should be no requirement for the person to have to declare an intention to return to Australia within any period. Nor should the registration as an EOE be time limited.
 - While registered as an EOE, and if overseas on election day, an individual should retain the right to not vote at an election or referendum without running the risk that not voting will result in their removal from the roll by the AEC, because voting is not compulsory for Australian citizens abroad on polling day.
 - Arrangements which the SCG sees as necessary for maintaining EOE entries on the roll are discussed further below.

Those currently living overseas who turn 18 and are thus entitled to enrol for the first time, or those who are older and who wish to re-enrol after a period of voluntary removal from the roll, should be

entitled to re-enrol at any time and at any age during those times when the roll is open. Those in this category would be automatically enrolled as EOE's by the AEC. Validation of these enrolments would be on the basis of a valid Australian passport.

On a more general note, the SCG believes that the present provisions for timing of the closure of the rolls are patently unfair and exacerbate instances of expatriate disenfranchisement.³⁵ While early closure of the roll before the 2007 election was clearly been a problem for thousands living in Australia, it is a completely unworkable arrangement for those living overseas given the time zones in which expats live and the difficulties of getting news that an election has been called through to them in a timely manner. Even prior to the 2007 federal election, the one-week period following the issuing of the writs during which the electoral roll remained open after the election was called still presented difficulties for many overseas. A large part of the problem lies in the AEC's incapacity to reach out to the overseas unenrolled.

New Procedures Necessary in Respect of Eligible Overseas Electors (EOEs)

We consider that many changes are now appropriate in respect of the administrative processes necessary to better keep EOE's in the loop. Such changes are possible regardless of whether the legislative changes proposed above are undertaken. Whether the SCG's proposals require changes to the *Electoral Act*, its Regulations or can be adopted as internal AEC procedures is a matter the SCG leaves for consideration by the Commonwealth's legal advisers.

The SCG's proposals are heavily dependent upon the use of e-mail and appropriate support material on the AEC website. However, the SCG accepts that probably neither the AEC nor the Parliament are yet confident enough in the security of online voting to adopt that as a standard for all overseas Australians.

Given the growth in the use of e-mail and the fact that most overseas Australians would have regular access to computers, these suggested procedures rely very heavily on e-mail arrangements. Nevertheless, there will always be some EOE's not reachable by this process.

The SCG's objective here is to open up direct links between the AEC and individual EOE's. Significantly, the role of Australian overseas missions would be greatly reduced with their residual work being largely associated with non-EOE's wishing to cast a vote in person at the overseas polling place.

At present the EOE application form and the overseas enrolment form make provision for the applicant to include an e-mail address. This should continue to be the case and be supported by a statement

35

Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006.

from the AEC on the forms that supplying such an address is highly desirable if the applicant wishes to be kept up to date on all electoral matters.

From the SCG's own experience in maintaining mailing lists, many addresses die over time and many people overlook the necessity to advise the SCG of changes. Many people overcome this problem by opening a web-based e-mail account (Hotmail, Gmail, Yahoo) as distinct from those provided by an internet service provider (ISP) or an employer.

Proposed procedures involve the following steps:

1. If not already the case, the AEC database used to maintain the roll should be extended to record, in the case of EOE's:
 - a. The elector's overseas postal address;
 - b. The elector's e-mail address;
 - c. The elector's passport number;
 - d. A flag which would be activated if the AEC judged that an EOE had become an "inactive EOE"; and
 - e. A second flag that would be activated to record that the EOE had voted in the most recent election or referendum.
2. On registration of the EOE, the AEC would acknowledge the registration and provide the EOE with an access code and password generated by the AEC to allow the EOE to access his/her record to effect changes to their postal or e-mail address or to check the correctness of other aspects of the enrolment. Changes to the elector's preferred Australian address and the passport number would need to be the subject of an evidence-based submission to the AEC. The validity of the passport number used to support the application would be verified by cross matching with the passport records of the Department of Foreign Affairs and Trade (DFAT).
3. At appropriately relevant times the AEC would generate an e-mail message to the EOE to advise of:
 - a. Redistributions which may, or have, affected the enrolled address.
 - b. By-elections which have arisen in the EOE's registered Division.
 - c. On a general election or referendum being called, details of the timetable that will apply, particularly to the closing of the roll, the requesting of postal votes, the availability of ballot papers, and the closing date for the return of postal votes.

- i. This e-mail would require a response from the EOE indicating whether or not the EOE wished to vote at the election and whether he/she would vote in person at an overseas mission, or by postal vote.
 - ii. The absence of a response from the EOE within an appropriate, but reasonable, time frame would indicate to the AEC that it should set the "inactive EOE" flag in the EOE's enrolment record. (The setting of the flag should not be taken as denying the EOE the right to vote at the election. If a vote is cast the flag would be removed).
 - d. Where a postal vote has been requested, after nominations close and ballot papers become available, the AEC would forward the ballot papers to the EOE by e-mail together with a serially numbered covering advice, to be returned by the EOE with the postal vote.
 - i. The covering advice would contain AEC generated details of the EOE's enrolment, together with instructions that it was to be signed by the EOE and included in the external envelope which contained a sealed envelope enclosing the completed ballot papers.
 - e. At such other times as felt appropriate by the AEC to confirm the correctness of the EOE's enrolment record.
4. As each vote from an EOE is checked against the roll, the second flag in the AEC database would be set to indicate that the EOE had voted.
 5. As part of the AEC general validation process on the accuracy of the rolls, one approach for the checking the existence of EOE's could be a cross matching process with the international arrival and departure records maintained by the Department of Immigration and Citizenship (DIAC).
 6. Following each election or referendum, the AEC would automatically set the "inactive EOE" flag for those who have not voted.
 - a. The length of time over which an EOE would remain on the roll would be a matter of judgment driven mainly by the need to cull unused records from the database to improve its operational capacity. As a guiding principle there should be a *prima facie* assumption that the EOE wishes to remain on the roll.
 - b. Removal of an inactive EOE from the roll would not disenfranchise the individual who would be free at any time to re-enrol in accord with the normal processes.

At the same time as it dispatches the e-mail to EOE's under 3c above, the AEC would request DFAT to send an appropriately worded e-mail to all of those recorded in the DFAT Register of Australians Overseas advising the recipient to check their electoral registration. DFAT missions should be expected to pass on the information to all Australian expatriate groups within their geographical area of responsibility.

7 Educating Eligible Voters as they Depart Australia

Due to the fact that elections are often called only a month or six weeks ahead of the election date, not just "long-term" departing eligible electors, but even many "short-term" departing eligible electors will not know when they leave for their holiday or extended business trip that an election will occur while they are abroad. They may well not have their enrolment in order before they leave, and they may well not understand the ins and outs of voting from abroad. Once an election is called, those departing during the immediate pre-election period are likely to be more informed, and indeed pre-poll voting is available at international airports for a period before polling day. But to increase the overall level of electoral participation among eligible electors overseas in the medium to long term, constant AEC efforts are needed throughout the electoral cycle. That fact that the grace period between the calling of an election and the closing of the roll was effectively non-existent for the 2007 federal election following the passage of the *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005* in 2006 significantly strengthens the case for ongoing, and not just immediate pre-election outreach of this nature.

Every Australian citizen aged 17 or over or adult eligible British subject who departs Australia at any time, not just in the months immediately before a federal election, should be handed an AEC brochure. This could be done at check-in by airline staff at the same time as they give people their Outgoing Passenger Card and boarding pass. The AEC brochure should impart the basic fact that voting is not compulsory once the person is abroad, but simultaneously encourage the person to nevertheless participate in elections in their absence. A short message from a non-political but respected figure, such as Australia's Governor-General, might be included along the following lines:

Today you're leaving Australia perhaps for a holiday, business, or to live abroad. I extend to you my very best wishes for an enjoyable and safe trip. You are a valued Australian, and you remain an important part of the Australian nation even while you are away from Australia. All Australians can contribute to and be part of our country's future, regardless of where they are. An important way that you can do this is to make sure you vote in Australian elections, even if they occur while you are abroad. Voting is not compulsory if you are outside Australia on election day, but your vote is your voice in Australia's future.

The brochure should encourage young people who are not on the electoral roll at the time of departure to enrol once they return from their short trip or from abroad under Section 94A of the *Electoral Act* if they are going away for a longer period. A detachable (improved) version of the AEC's "Overseas

Notification Form” could be part of this standard brochure. The brochure should allow people to determine whether they are “temporarily absent” in AEC terms (i.e. they intend to return to live at their enrolled address), or whether EOE status is the most appropriate for them. If it is not possible to give a concise explanation of the applicable rules, the form should allow them to ask the AEC to send them more information by either e-mail or airmail. Collection boxes for completed “Overseas Notification Forms” should be provided in the area just in front of the immigration desks where people already fill out their Outgoing Passenger Cards before lining up with their passports and boarding cards, as well as in the departure lounges at each gate where people generally wait for some time before they board their flight and might have time to fill in the form.

If this plan were comprehensively implemented at all international airports and ports, at least some of the Australians who should be on the electoral roll but currently are not would become enrolled, because they would be educated to do so as they left the country. With some 5 million residents leaving the country annually for a wide variety of periods and reasons, but most returning within a relatively short period, this step could not fail but to significantly increase electoral participation by all eligible voters overseas on polling day.

There are in addition a number of other ways to reach departing Australians before they get to the airport to board their flights. These are outlined in **Annex 5**.

8 The AEC is Failing to Meet its Obligations vis-à-vis the Eligible Voter Overseas and Those About to Depart

Despite the various difficulties and inconsistencies inherent in the two overseas voting routes outlined above, the fact remains that it is Parliament’s intention that adult Australian citizens going overseas should be able to vote from abroad.

This being Parliament’s intention, it must be the role and duty of the AEC to deliver appropriate electoral education and information programs to this group as well as to the resident electorate. Under Section 7(1)(c) of the *Electoral Act*, one of the AEC’s statutory functions is “to promote public awareness of electoral and Parliamentary matters by means of the conduct of education and information programs and by other means”. Further, Section 7(3) of the *Electoral Act* provides that the AEC “may do all things necessary or convenient to be done for or in connection with the performance of its functions”.

The AEC’s Service Charter states that it provides a range of electoral services “to the people of Australia” and that its services include “educating and informing the community”. Does the fact that the AEC currently engages in virtually no efforts to reach existing expats beyond the information passively displayed on its website mean that it interprets the “people of Australia” and the “community”

as only those in Australia?³⁶ Even if this were the case, this approach would still provide no justification for the lack of active efforts to educate intending expats of their electoral rights and responsibilities once overseas. The AEC also states that it “will provide you with timely and accurate information on electoral matters” (emphasis added), along with explaining “the things you need to know and what you need to do”. In underscoring its respect for the law, the AEC states “we will give you the information you need to comply with your responsibilities, by providing brochures, online information on the AEC website and education programs for schools and other community groups”. It does seem that overseas electors are a clearly defined client group for the AEC. In its Online Action Plan dated 13 February 2004, it states (on page 2) that the “AEC’s clients are people who participate in or who have an interest in the Australian electoral and democratic processes” and “these include people eligible to enrol and vote, including special category voters”.

But the AEC seems to want to make its own job easier by encouraging as many people as possible who are going overseas to simply apply to have themselves removed from the roll.

The AEC’s present website page headed “Overseas Electors” provides an “Overseas Notification Form” for those “going overseas permanently and indefinitely” and advises.³⁷

If you are going overseas permanently or indefinitely you must complete (emphasis added) and submit an Overseas Notification Form requesting to be removed from the roll. You will not be able to vote while overseas and you will need to re-enrol after you live back in Australia for one month. The removal process requires the AEC to issue formal written advice to an elector.

The difficulty with this advice is that many people simply do not know how long they will be away. The SCG has taken issue with this approach (and the Overseas Notification Form) previously.³⁸ No doubt the language used by the AEC (“permanently” and “indefinitely”) is there because of the current limitations in the EOE provision of the *Electoral Act* which make EOE status conditional upon an intention to return to Australia within six years. But the language used in connection with the Overseas Notification Form on the AEC website will lead many expats who have no idea how long they might remain abroad to take themselves off the roll. Then, they cannot re-enrol from abroad later once they’ve been away for more than three years.

36 Other agencies take a different view. DIAC states on its citizenship website that “Almost a million members of the Australian family are living overseas. They are united in spirit and character by their Australian Citizenship.” <http://www.citizenship.gov.au/info/overseas.htm>.

37 http://www.aec.gov.au/Enrolling_to_vote/overseas/index.htm.

38 SCG Primary Submission to the JSCEM Inquiry into Civics and Electoral Education, 19 June 2006, available online at: <http://www.aph.gov.au/house/committee/em/education/subs/sub085.pdf>.

9 **The Fact that Voting is Not Compulsory for Overseas Australians is Not an Excuse for Inaction – Australia’s Norm of Universal Participation**

The fact that enrolment and voting is not legally compulsory for the overseas subset of the overall electorate cannot be a sound policy justification to ignore its needs or to deliver insufficient or inadequate electoral education and information services to it. If “participation” is a central concern, as it indisputably is, then surely the JSCEM must be concerned to achieve “participation” in Australia’s democratic life by all Australians that the Parliament has deemed may participate. Where voting is not compulsory for a particular group, the AEC will necessarily have to work that much harder with that group, but the unique challenges presented are not an excuse to put overseas eligible voters in the “too hard” basket. If Australia wants to ensure greater political knowledge and participation among all its citizens because, as the Civics Experts Group noted in 1994, “without active, knowledgeable citizens the forms of democratic representation remain empty; without vigilant, informed citizens there is no check on potential tyranny”,³⁹ this desire to include and encourage participation must logically extend to those citizens which Parliament has said may still be enrolled and vote from overseas.

Those overseas Australians and intending expatriate Australians who have a legal entitlement to be enrolled and vote from overseas have specific needs in terms of electoral education and information. The first and primary goal of efforts directed towards this group, in view of the fact that enrolment and voting are voluntary for it, must necessarily be to ensure increased levels of electoral participation. All the evidence we have about well-established democracies which practice voluntary voting indicates that voter turnout is steadily declining and becoming a matter of increasing concern.⁴⁰ High electoral participation levels enhance a number of fundamental democratic values, such as popular sovereignty, legitimacy, representativeness, political equality and minimisation of elite power.⁴¹

The original purpose behind the introduction of compulsory voting for resident Australians in 1924 was to increase turnout, and this remains probably the main argument for its maintenance today. In a society which so highly values voter turnout, and in which compulsory voting is widely viewed as a “good thing”,⁴² it is difficult to fathom why so little attention has to date been given to encouraging

39 Civics Expert Group (CEG), *Whereas the People...Civics and Citizenship Education* – report of the Civics Expert Group, Australian Government Publishing Service, Canberra, 1994.

40 See for example, Lisa Hill, “Low voter Turnout in the United States – Is compulsory voting a viable solution?”, *Journal of Theoretical Politics* 18(2), 2006, page 207.

41 Lisa Hill, “Compulsory voting in Australia: A basis for a “best practice” regime”, 32 *Federal Law Review* 2004, page 479, at 480.

42 McAllister, op cit, 1999, page 232, notes that “if the system of compulsory voting is ever removed in Australia, it is likely to be for partisan reasons, rather than for any philosophical objections to the system, either by voters or politicians”. He argues that the Australian electorate has been compliant in supporting compulsory voting because of Australia’s distinctive utilitarian political culture. “Based on the assumption that the goals of the society were more likely to be met by widespread participation in the electoral process, the logical corollary was to enforce voting legally.” (page 231).

enrolment and voting by one of the few groups within the total electorate which does not have a legal obligation to enrol or turn out. Australia is a country in which the system of compulsory enrolment and voting for those adult citizens in Australia has given rise, over time, to a norm of universal participation. The majority of the electorate would appear to subscribe to the system of compulsory enrolment and voting on the grounds that voting is a public good and therefore a problem of collective action, which can be resolved only by mandatory means.⁴³ Graeme Orr writes:

It is a curious fact that the bulk of Australians routinely report in opinion surveys that they favour compulsion. Now this could simply show how the law generates conformity to itself. But more idealistically it reflects a virtuous feedback loop: Australians grow up to appreciate that voting is an important social obligation.⁴⁴

Hill maintains that Australia is a good case study for demonstrating how well a compulsory system can work, and that Australia is a country where the obligation to vote is held mutually between citizens, rather than to the state, and is a cultural rather than a legal value.⁴⁵

The norm of universal participation in Australia in some instances is so firmly entrenched that it is carried overseas as part of an individual Australian's psyche when they go abroad. In the SCG's experience, for these people, barriers to enrolment and hence voting while abroad give rise to particular frustrations – they are not looking to opt-out and the fact that voting is not compulsory is irrelevant to them. They want to do everything they can to make sure they can participate and strongly believe that they should be able to participate. On being told by the AEC that she did “not need to vote” while away, one Australian woman told the SCG:

The AEC letter stated that I did not need to vote if I was outside of the country. Given that my decision to return to Australia on a permanent basis at the end of this year will hinge largely on the outcome of this year's election, I was frustrated by their suggestion that I didn't need to vote.⁴⁶

Within the voluntary enrolment and voting regime which exists for Australian eligible voters overseas, it seems clear that the more informed potential expatriate voters are, the more likely they are to enrol and vote. This can be extrapolated from what we know from survey data which asks whether people would have voted if it were not compulsory in Australia. McAllister writes:

43 Lisa Hill, “Compulsory Voting: Residual Problems and Potential Solutions”, *Australian Journal of Political Science*, Vol 37, No. 3, 2002, page 437, sets out the clear and important benefits to both society and individuals which compulsory voting delivers (at page 438).

44 Graeme Orr, “Australian Electoral Systems – How Well Do They Serve Political Equality?”, Report No. 2 for the Democratic Audit of Australia, 2004, page 12.

45 Lisa Hill, “On the reasonableness of Compelling Citizens to Vote: the Australian Case”, *Political Studies*, Vol 50, Issue 1, page 82.

46 E-mail from RM, Dublin, Ireland, 6 September 2004.

The problem of voter knowledge is compounded by the system of compulsory voting, which ensures that the least knowledgeable, who would be most likely not to vote in a voluntary system, are compelled to attend the polls. Those who say that they would abstain in a voluntary system tend to be younger, less educated and less politically interested than intending voters (McAllister and Mackerras 1999).⁴⁷

10 Outreach Efforts by the AEC and the SCG

In its June 2006 submission to the JSCEM in the Civics and Electoral Education Inquiry, the SCG examined the AEC's overseas education outreach efforts prior to the 2004 election, and concluded that it was a case of too little, too late.⁴⁸ The Committee may wish to ask the AEC to supply details as to the overseas outreach efforts it employed for the 2007 election for the purposes of this inquiry.

In that same submission, the SCG outlined its various diaspora outreach efforts on enrolment and voting prior to the 2004 election, concluding that its modest efforts as a small, volunteer-run organisation had helped to contribute to a 9% increase in the number of votes issued overseas between the 2001 and 2004 federal elections. The SCG believes that similar efforts during 2007 have contributed to the increase in 2007 numbers (to 70,059 from 68,433 in 2004).

In particular, the SCG's "What you need to know about voting in Australia while you live overseas" brochure is regularly updated and permanently available on the SCG website. Prior to each election it is widely actively disseminated.⁴⁹ The version used prior to the 2007 federal election is attached as **Annex 6**.

In mid 2007 the SCG commenced the publication of an occasional newsletter to those on its e-mailing list. Although not exclusively so, the newsletter has an emphasis on reporting changes in federal legislative and administrative processes that may affect expats. In the run up period to the 2007 election several issues of the SCG newsletter contained items relating to electoral issues such as the need to check enrolment status and procedures that needed to be followed in enrolling from overseas. Each of those issues also provided links to the websites of the major political parties. In the latest issue dated 14 May 2008, there was an item advising of the Gippsland by-election and another

47 Ian McAllister, "Elections Without Cues: The 1999 Australian Republic Referendum", *Australian Journal of Political Science*, Vo. 36, No. 2, 2001, page 247 at 266.

48 SCG Submission of 19 June 2006, pages 41-45, available online at <http://www.aph.gov.au/house/committee/em/education/subs/sub085.pdf>.

49 The version used prior to the November 2007 election is available here: http://www.southern-cross-group.org/archives/Overseas%20Voting/2007/Brochure_Expats_Voting_August_2007.pdf.

suggesting that all recipients should take the time to consider their current enrolment status. The SCG will repeat that suggestion in appropriately timed future issues.

There is no way to measure how many individuals have become EOE's or maintained their enrolment or voted overseas because of the SCG's active and passive outreach work. While the SCG's modest outreach efforts are valuable and appear to be quite successful as far as they go, it must be stressed that the SCG's literature is reaching only a tiny fraction of the entire Australian diaspora. A fundamental matter for the JSCEM's consideration in this inquiry is whether it should be the role of an NGO such as the SCG to disseminate basic electoral information for overseas Australians. If non-profit expatriate organisations are to assist the AEC in reaching expats, as they are generally very willing to do, it is not appropriate for government to expect that this will occur without any expense to the AEC or other government agencies.

The SCG's limited efforts have been so welcome because of the dearth of any meaningful active efforts by the AEC (apart from the passive information on its website) or other Australian government agencies to communicate with overseas Australians or departing Australians on electoral matters. Even when the SCG's information results in an expat discovering that they are no longer entitled to enrol and hence vote or reaches an expat that already knows they cannot enrol and vote, it is invariably gratefully received, as the e-mail below from one Australian woman in Germany demonstrates:

Thank you for the information I found from your organisation on voting as an expat on the Yahoo website. I have been feeling outraged for three years that I am not able to vote in Australia or Europe and have been rendered effectively voiceless simply because I happened to marry a European. Now that I know that your group is campaigning to change this, I will get on board and do all that I can to help. Living abroad is often a very isolating experience - I was relieved to find that there are others out there who not only understand this, but are working to improve things. I give you my heartfelt thanks for this assurance.⁵⁰

11 Active Outreach Efforts both in Australia and Abroad are Required by the AEC in Addition to its Website

In its June 2006 submission to the JSCEM in the Inquiry into Civics and Electoral Education, the SCG congratulated the AEC on its website and made a number of practical suggestions for improvement. The SCG notes that some changes have been made in the interim.

It is clear that the AEC views its website as its main tool for reaching Australians overseas and the SCG has sensed a general reluctance by the previous government and the AEC, perhaps due to budgetary and financial resourcing concerns, but also because expats seem to have been put into the

50 E-mail from LK, Germany, 6 September 2004.

“too hard basket” and often are “out of sight, out of mind”, to engage in supplementary, non-website efforts specifically directed at Australians about to go abroad or already overseas.

But the AEC says that its primary customer is the eligible voter, and thousands of Australians leaving Australia and already abroad are eligible voters. Just because voting is voluntary for this group does not absolve the AEC from its responsibilities to actively work towards higher electoral participation levels and the wider electoral education of this group.

A website is only ever going to be a “passive” resource. A website by itself cannot jump out and grab a person and ask them whether they have thought about and understand their electoral responsibilities and options on going abroad. A website cannot demand to be read. People first have to realise that enrolment and voting are matters to be carefully considered on leaving Australia and while they are away. In the SCG’s experience, actively seeking out the target groups with concise information in the form of brochures, flyers, posters, newspaper advertisements and media coverage all placed where they are likely to be found is essential to direct many people to the website resource in the first place. A large number of people would not otherwise ever visit the AEC website. Many people tell the SCG on picking up its “What you need to know” brochure that they “just hadn’t thought about it” or “didn’t know what the story was” or “had been meaning to do something about it but hadn’t got around to it”. But they are always pleased to have clear guidance.

In June 2003 the JSCEM recommended “that the AEC provide comprehensive information on overseas voting entitlements and enrolment procedures to all electors who contact the AEC about moving overseas.”⁵¹ This recommendation came about due to a number of submissions by expatriate Australians to the earlier inquiry which indicated that on several occasions, the AEC had perhaps made an erroneous judgment that particular individuals did not qualify for Eligible Overseas Elector status and had therefore not provided those individuals with complete information enabling them to assess their own eligibility.

In October 2003, the previous Government supported the JSCEM’s recommendation on this point, but said:

The AEC will review its approach to providing information to persons who contact it about moving overseas and amend staff training accordingly. The AEC website already provides a substantial amount of information including frequently asked questions, and information about eligibility and forms for overseas electors.

As these people include travellers, who may be mobile and difficult to contact personally for some period of time, the AEC would propose to use its website as the key vehicle for providing information. The AEC

51 Recommendation 6, JSCEM Report into the 2001 Election, June 2003, page 78.

is also working closely with the Department of Foreign Affairs and Trade to provide better service at the next federal election through the provision of ballot papers electronically to diplomatic posts.⁵²

The JSCEM's recommendation and the Government's relatively guarded response seemed framed to ensure that the AEC was not given any additional responsibilities to engage in active efforts to reach departing Australians and Australians already abroad on its own initiative.

The AEC states in its 2004-05 Annual Report, at page 197, that among Australians voting overseas in the October 2004 federal election, the most common complaints were about:

- Pre-poll votes not counted because they arrived late in the enrolled division (the cut-off is the thirteenth day after polling day)
- Postal vote ballot papers not received (usually because of postal service difficulties in the other country)
- Quality of service provided by the Department of Foreign Affairs and Trade or the Austrade post
- Voting procedures not adequately followed at the post.

All of these are framed in terms which seem to absolve the AEC of responsibility because it was "someone else's fault".

In **Annex 5** the SCG has identified a number of initiatives that might be adopted to fully alert those who need to know. The emphasis is on alerting people well before their departure, or at least at the point of departure. There are also some suggestions for keeping people in the loop once they are overseas.

12 Elected Representatives Can Assist in Increasing Electoral Participation by Overseas Australians

Australia's elected representatives and political parties could also do more to encourage greater electoral participation by overseas Australians. In some electorates, new constituents are sent welcome letters for example, and MPs make a variety of efforts to reach their constituents. But the SCG has heard of no instances in which MPs or Senators have contacted EOE's on the electoral roll on their own initiative, either during an electoral cycle or even during an election campaign. Some MPs have regular newsletters for their constituents, but it is submitted that EOE's in an electorate miss out on these sorts of communications from their elected Member.

52

Government Response to the Report of the JSCEM: The 2001 Federal Election, October 2003, page 4.

Before the 2004 election, exceptionally, the SCG was contacted by the Democrat candidate running for the seat of Moreton in Queensland, Frederika Steen, who wrote

The website of the Australian Democrats will be a useful tool for your members. I'm standing in the seat of Moreton in Queensland, and would be chuffed to win some votes from broadminded, worldly wise and knowledgeable expats!⁵³

However in general efforts by elected representatives, candidates and political parties to reach overseas eligible voters are best described, in the SCG's experience, as low-key to non-existent.

Both the Coalition and the ALP have their own electoral databases (*Feedback* and *Electrac* respectively), which have been developed to facilitate communication with the electorate. It is unclear whether *Feedback*, for example, has a "tagging" system within it to allow an MP or Senator's office staff to identify a person as an EOE, or indeed to note in the system that that person is particularly concerned with and impacted by diaspora issues.

The AEC's *Application for Registration as an Overseas Elector Form* and the *Application for Enrolment from Outside Australia Form* both ask for the enrolled address as well as a postal address, daytime phone number and e-mail address. If a person's postal address is the same as their enrolled address, the space for postal address does not have to be filled in. Many EOE's, however, provide an overseas postal address, and many also provide overseas telephone numbers and e-mail addresses. But how much of this contact information do elected representatives have available to them if they want to contact the EOE's in their electorate?

The Coalition's *Feedback* program is automatically updated monthly with information from the AEC roll. The SCG has recently explored with the AEC what contact information about EOE's is provided to MPs, Senators and political parties with roll data. It has emerged that very little contact information, if any, is provided.

The AEC has advised that if an EOE provides an overseas address as a postal address on their form then "it is not likely that it would be recorded in the enrolment database", although the Divisional Returning Officer would use this address to write to the EOE.⁵⁴ If an Australian postal address is given by an EOE, such as a post office box, it seems this would be entered in the system and transmitted with electronic versions of the electoral roll. So in those cases, MPs would have postal contact details for the EOE. The AEC has said that postal addresses are attached to the enrolment record but kept separate to the place of living. It is not known what percentage of EOE's have provided Australian postal addresses.

53 E-mail from Frederika Steen, 6 September 2004.

54 E-mail from Sue Sayer, AEC, 16 June 2006.

Clearly, the enrolled address given by the EOE will be an address within Australia, but since the EOE is overseas there will be little point in elected representatives trying to contact the EOE at the enrolled address, unless a parent, friend or relative lives at the address and forwards mail on, in which case the same address may well have been given as an Australian postal address. In any event, the AEC has said that for an EOE, "neither the place of living, nor the address to which the enrolment relates, of an EOE is provided" with electronic roll data.

Telephone numbers and e-mail addresses of EOE's are also not provided by the AEC to MPs, Senators, and political parties. This is because they are not recorded into the Roll Management System.

What this reveals is that even if elected representatives and candidates want to reach their EOE constituency, they are going to have a hard time contacting them.

It is submitted that there should be a review of the practices outlined above, so that at least the e-mail addresses of EOE's in a particular electorate are available to the elected MPs and candidates for that electorate. This would facilitate increased contacts between this group of eligible voters and the individuals who represent them. When a person becomes an EOE, for example, the sitting MP could send the person an e-mail or letter, noting that they are now overseas, but nevertheless encouraging them to stay in touch, communicate any issues that they feel concerned about, and remain connected with the democratic process. The SCG has asked the AEC whether it is possible for MPs to presently identify which people in their electorate have just become EOE's, and the AEC has responded: "by comparing a copy of the latest roll with information from earlier copies of the roll it may be possible, depending on what information the party has on their database." Even if identification of new EOE's is presently possible, the lack of contact information provided with AEC electoral roll data seems that it is currently very difficult for elected representatives to stay in touch with this group.

13 Internet Voting Would Increase Participation by Eligible Voters Overseas

It is beyond the scope of this inquiry to engage in a lengthy discussion of the pros and cons of various forms of electronic voting, except to note that internet voting would in all likelihood greatly contribute to not only greater levels of electoral participation among youth in Australia, but also Australians of all ages abroad.

Alport and Hill distinguish between two main forms of E-voting: internet-enabled voting and non-internet Electronic Voting.⁵⁵ They also identify Full Internet Voting (FIV) as voting which can take place from any computer anywhere with voter identification, vote casting and counting and

55 Kate Alport and Lisa Hill, "Trusting Democracy to Cyberspace: Lessons Learnt from Trials of E-voting, unpublished paper, May 2006.

transmission of results all taking place, in contrast to Partial Internet Voting (PIV) which is E-voting that uses connection with the Internet at one or more stages of the process but which limits the casting of votes to a designated polling place.

Alport and Hill note:

In many of the countries surveyed for this paper there are a significant number of eligible voters who could conceivably benefit from access to electronic voting over the Internet, especially people with disabilities, shift workers, disengaged young people, expatriates and people living in remote areas for whom even postal voting is a problem.⁵⁶

Swiss electoral authorities offered FIV in two federal referendums in 2004. The trial was considered a success when 22.4% chose to vote online, while 71.4% opted to cast their ballot by the popular postal method. A Switzerland-wide survey of over 4,000 citizens in 2003 and 2004 indicated that young adult voting abstainers considered it an incentive to vote.⁵⁷ Further,

One notable effect of a (FIV) Swiss national referendum trial in 2004 was a small increase in turnout of several percentage points above the five-year average. Significantly the improvement in turnout was concentrated among a traditionally high-abstention voting group: the young. This result is consistent with findings of an AEC commissioned survey of 1000 voters in the ACT (Australia). The respondents who were more comfortable with the idea of electronic voting were also the early adopters of Internet technology, namely, the young adult demographic who do business online and have Internet access at home. Polling of U.S. voters indicates that "Internet voting is attractive to...younger voters". The researchers conclude that "[i]f Internet voting is shown to bring young voters into the electoral process, then significant, long term, cohort effects could follow". The low voting participation of the young was once dismissed (correctly) as a mere life-cycle phenomenon but now researchers are increasingly inclined to the view that the civic disengagement of the young could signal a pattern of disengagement that may well endure. Getting young people into the voting habit early seems to be crucial for the future of vital democracies. Thus, one good reason for pursuing E-voting is the potential it holds for democratic renewal and social inclusion, particularly of high abstention groups like the young who are less resistant to the idea of voting on the Internet. This, indeed, is the belief of recently surveyed French Internet users, the majority of whom indicated that they believed the Internet 'could lead to a better democracy...fight abstention [and]...contribute to more transparency in politics'. Significantly, when Internet users were polled on their receptiveness to online voting non-voters and occasional voters were those most interested in using FIV.⁵⁸

56 Alport and Hill, *Op cit*, page 6.

57 Alport and Hill, *Op cit*, page 30.

58 Alport and Hill, *Op cit*, page 36.

Hence there are very good reasons to continue working on the development of E-voting technologies at the federal level. The SCG notes that following an inquiry into electronic democracy, the Victorian Government has recently introduced measures to facilitate electronic voting in State elections.⁵⁹

14 Dual Citizenship of Parliamentary Representatives

While it is probably beyond the scope or the timing of the current inquiry, the SCG wishes to record its support for the amendment of Section 44(i) of the Commonwealth Constitution to allow Australian citizens with dual or multiple nationalities to stand for election to Parliament without the need to renounce their non-Australian citizenship(s). The SCG believes that this is a matter that should be carefully explored if and when community discussion is taking place on whether or not Australia should become a republic.

15 Direct Parliamentary Representation for Overseas Australians

The SCG continues to receive suggestions that overseas Australians should be entitled to directly elect members of the Federal Parliament who represent people in several overseas electorates rather than the existing electorates within Australia's borders. In principle the SCG would support that proposition.

Given the increasing recognition of overseas Australians as a national asset, and the availability of a number of practical models adopted by other countries, now may be the time to establish a separate inquiry, either by the JSCEM or another Government appointed body, of the pros and cons of providing overseas Australians with direct representation in the Parliament.

16 State and Territory Electoral Legislation

While the SCG's attention in relation to overseas voting has remained focused over a number of years on the Commonwealth's legislation and administrative procedures, from time to time we receive comments about the difficulties and disappointments overseas Australians experience with how they are treated under the provisions of the electoral legislation of the various States and Territories.

In the current political climate supporting the review of Federalism arrangements, the Committee may feel that now is an appropriate time to suggest to the Council of Australian Governments (COAG) that the possibility of bringing State and Territory legislation into line with the Commonwealth's legislation in respect of the enrolment of, and voting by, overseas Australian citizens is now ripe for consideration. The SCG recognises that four year and/or fixed terms in some States and Territories makes complete harmonisation implausible at this time.

59 Parliament of Victoria, Scrutiny of Acts and Regulations Committee, Inquiry into Electronic Democracy, Final Report, April 2005.

Table of Annexes

- 1 Overseas Enrolment and Voting Data from *One Million More - Census of Australians Abroad*, August/September 2006
- 2 AEC Data on Eligible Overseas Electors, by State, Territory and Electorate
- 3 AEC Data on Votes issued Overseas in the November 2007 Federal Election, by Post and Division
- 4 AEC Data on Votes Issued Overseas for the 2001 and 2004 Federal Elections
- 5 Suggested Electoral Education Outreach Strategies for Eligible Voters Leaving Australia and Already Abroad
- 6 SCG Brochure “What you need to know about voting in Australia while you live overseas”

What Australian expats said about voting and enrolment when surveyed in 2006

Question: Did you vote in the October 2004 Federal Election?

	Frequency	Percent
No - I was in Australia at the time	114	1.3
No - I was overseas at the time	5105	56.6
Yes - I was in Australia at the time	2187	24.2
Yes - I was overseas at the time	1621	18.0
Total	9027	100.0

Of those who stated they were overseas at the time of the 2004 election, whether they voted or not, 47% were aged 20-34, 28% were aged 35-44, 14% were aged 45-55, and 11% were aged 55 or over.

Of those overseas at the time of the 2004 election, whether they voted or not, at the time of the 2006 survey 37% were in the UK, 32% in the USA, 14.5% in Europe (excluding UK), 9% in Asia, 3% in Africa and the Middle East, 3% in Canada and 1.5% in other countries.

Question: Did you inform the Australian Electoral Commission before your departure or after your arrival overseas of your move offshore?

	Frequency	Percent
Don't Know	1634	18.2
No	3787	42.1
Yes	3580	39.8
Total	9001	100.0

Question: In order to vote in Australian federal elections/referenda, a person has to be on the electoral roll. Are you currently on the electoral roll?

	Frequency	Percent
Don't Know	1982	22.0
No	3070	34.1
Yes	3961	43.9
Total	9013	100.0

Question: If you are NOT presently on the electoral roll please chose the reason below which best describes why.

	Frequency	Percent
I asked the AEC to remove my name from the electoral roll because I didn't want the hassle of voting from abroad or felt that I wouldn't be informed enough to participate in Australian elections while abroad.	838	22.2
I asked the AEC to remove my name from the electoral roll because I was told/believed that this was necessary for me to be treated as 'non-resident' by the Australian Taxation Office while abroad.	529	14.0
I have never in my life been on the electoral roll.	435	11.5
I was removed from the electoral roll by the AEC sometime after my move abroad and I have not sought to re-enrol.	945	25.1
I was removed from the electoral roll by the AEC sometime after my move abroad and I have tried or would like to re-enrol from overseas but am prevented by law from doing so because it is/was now more than three years since my move abroad.	583	15.5
Other (please specify)	442	11.7
Total	3772	100.0

Question: Are you formally an "Eligible Overseas Elector" (EOE) - i.e., have you specifically applied for and been granted EOE status by the Australian Electoral Commission?

	Frequency	Percent
Don't Know	2522	31.9
No	4771	60.3
Yes	613	7.8
Total	7906	100.0

Data from One Million More - 2006 Census of Australians Abroad

An initiative of Advance in partnership with the Southern Cross Group

Extracted survey data collected during August/September 2006. At the closing date, 9,529 people had started the survey as individuals or as part of a family unit, representing 16,902 people, with 8,578 of those people completing the survey (a 90% completion rate). The survey comprised 49 questions. Complete survey data will be released shortly by Advance and the Southern Cross Group in partnership with Graeme Hugo, Professor of Geography at the University of Adelaide, who is currently analysing the complete survey results.

Number of Eligible Overseas Electors (EOEs) enrolled on 7 September 2004

NSW	4,937	VIC	5,026	QLD	2,442	WA	924	SA	606	TAS	188	ACT	1,909	NT	162	Total EOEs	16149
Banks	80	Aston	69	Blair	59	Brand	42	Adelaide	165	Bass	86	Canberra	778	Lingiari	39		
Barton	115	Ballarat	150	Bonner	102	Canning	35	Barker	6	Braddon	13	Fraser	1,131	Solomon	123		
Bennelong	166	Batman	144	Bowman	56	Cowan	28	Boothby	73	Denison	46						
Berowra	126	Bendigo	61	Brisbane	310	Curtin	167	Grey	20	Franklin	16						
Blaxland	37	Bruce	125	Capricornia	49	Forrest	17	Hindmarsh	74	Lyons	27						
Bradfield	291	Calwell	37	Dawson	16	Fremantle	73	Kingston	37								
Calare	36	Casey	75	Dickson	83	Hasluck	34	Makin	37								
Charlton	25	Chisholm	217	Fadden	51	Kalgoorlie	49	Mayo	61								
Chifley	23	Corangamite	88	Fairfax	33	Moore	70	Port Adelaide	22								
Cook	120	Corio	75	Fisher	60	O'Connor	19	Sturt	96								
Cowper	21	Deakin	125	Forde	35	Pearce	46	Wakefield	15								
Cunningham	62	Dunkley	59	Griffith	274	Perth	66										
Dobell	43	Flinders	48	Groom	90	Stirling	70										
Eden-Monaro	111	Gellibrand	125	Herbert	237	Swan	126										
Farrer	21	Gippsland	73	Hinkler	30	Tangney	82										
Fowler	14	Goldstein	204	Kennedy	33												
Gilmore	56	Gorton	40	Leichhardt	45												
Graynder	322	Higgins	467	Lilley	123												
Greenway	42	Holt	17	Longman	18												
Gwydir	29	Hotham	104	Maranoa	29												
Hughes	115	Indi	53	Mcperson	49												
Hume	42	Isaacs	66	Moncrieff	58												
Hunter	28	Jagajaga	168	Moreton	110												
Kingsford Smith	239	Kooyong	358	Oxley	55												
Lindsay	44	La Trobe	109	Petrie	74												
Lowe	156	Lalor	61	Rankin	73												
Lyne	18	Mallee	45	Ryan	272												
Macarthur	29	Maribyrnong	74	Wide Bay	18												
Mackellar	112	Mcewen	63														
Macquarie	79	Mcmillan	39														
Mitchell	99	Melbourne	680														
New England	42	Melbourne Ports	557														
Newcastle	64	Menzies	165														
North Sydney	474	Murray	21														
Page	24	Scullin	77														
Parkes	16	Wannon	60														
Parramatta	90	Wills	127														
Paterson	44																
Prospect	16																
Reid	26																
Richmond	44																
Riverina	18																
Robertson	67																
Shortland	17																
Sydney	553																
Throsby	11																
Warringah	246																
Watson	69																
Wentworth	398																
Werriwa	17																

= Electorates with in excess of 200 EOEs.

Eligible Overseas Electors (EOEs) deleted for any reason between 10 October 2004 and 26 May 2006

NSW	2543	VIC	1703	QLD	811	WA	525	SA	466	TAS	176	ACT	1013	NT	103	Total EOEs	7340
Banks	54	Aston	22	Blair	15	Brand	32	Adelaide	86	Bass	82	Canberra	504	Lingiari	20		
Barton	62	Ballarat	44	Bonner	26	Canning	13	Barker	12	Braddon	8	Fraser	509	Solomon	83		
Bennelong	77	Batman	26	Bowman	5	Cowan	13	Boothby	72	Denison	42						
Berowra	73	Bendigo	43	Brisbane	96	Curtin	58	Grey	24	Franklin	17						
Blaxland	26	Bruce	69	Capricornia	13	Forrest	6	Hindmarsh	63	Lyons	25						
Bradfield	88	Calwell	18	Dawson	11	Fremantle	61	Kingston	33								
Calare	20	Casey	21	Dickson	23	Hasluck	15	Makin	35								
Charlton	12	Chisholm	77	Fadden	10	Kalgoorlie	44	Mayo	25								
Chifley	15	Corangamite	20	Fairfax	13	Moore	49	Port Adelaide	31								
Cook	44	Corio	27	Fisher	21	O'Connor	28	Sturt	62								
Cowper	16	Deakin	23	Forde	9	Pearce	30	Wakefield	23								
Cunningham	39	Dunkley	19	Griffith	71	Perth	37										
Dobell	23	Flinders	18	Groom	21	Stirling	23										
Eden-Monaro	48	Gellibrand	25	Herbert	158	Swan	93										
Farrer	11	Gippsland	64	Hinkler	11	Tangney	23										
Fowler	12	Goldstein	79	Kennedy	16												
Gilmore	50	Gorton	33	Leichhardt	26												
Grayndler	66	Higgins	110	Lilley	49												
Greenway	22	Holt	7	Longman	8												
Gwydir	42	Hotham	87	Maranoa	7												
Hughes	69	Indi	21	McPherson	18												
Hume	42	Isaacs	8	Moncrieff	11												
Hunter	27	Jagajaga	88	Moreton	20												
Kingsford Smith	123	Kooyong	69	Oxley	19												
Lindsay	29	La Trobe	19	Petrie	18												
Lowe	71	Lalor	13	Rankin	12												
Lyne	11	Mallee	19	Ryan	96												
Macarthur	24	Maribymong	53	Wide Bay	6												
Mackellar	55	McEwen	42														
Macquarie	38	McMillan	11														
Mitchell	73	Melbourne	204														
New England	22	Melbourne Ports	179														
Newcastle	37	Menzies	42														
North Sydney	284	Murray	13														
Page	19	Scullin	39														
Parkes	10	Wannon	24														
Parramatta	43	Wills	25														
Paterson	42																
Prospect	15																
Reid	15																
Richmond	27																
Riverina	13																
Robertson	39																
Shortland	10																
Sydney	266																
Throsby	10																
Warringah	64																
Watson	58																
Wentworth	189																
Werriwa	17																

Number of Eligible Overseas Electors (EOEs) enrolled on 31 May 2006

NSW	4,605	VIC	5,275	QLD	2,536	WA	970	SA	565	TAS	172	ACT	1,755	NT	169	Total EOEs	16047
Banks	56	Aston	80	Blair	48	Brand	35	Adelaide	151	Bass	59	Canberra	940	Lingiari	47		
Barton	93	Ballarat	160	Bonner	99	Canning	47	Barker	7	Braddon	25	Fraser	815	Solomon	122		
Bennelong	178	Batman	165	Bowman	71	Cowan	40	Boothby	73	Denison	50						
Berowra	104	Bendigo	41	Brisbane	339	Curtin	221	Grey	15	Franklin	17						
Blaxland	24	Bruce	79	Capricornia	56	Forrest	21	Hindmarsh	63	Lyons	21						
Bradfield	306	Calwell	25	Dawson	10	Fremantle	60	Kingston	22								
Calare	37	Casey	76	Dickson	92	Hasluck	38	Makin	35								
Charlton	30	Chisholm	222	Fadden	59	Kalgoorlie	37	Mayo	69								
Chifley	15	Corangamite	94	Fairfax	35	Moore	40	Port Adelaide	25								
Cook	116	Corio	75	Fisher	61	O'Connor	22	Sturt	90								
Cowper	27	Deakin	147	Forde	45	Pearce	41	Wakefield	15								
Cunningham	60	Dunkley	68	Griffith	296	Perth	70										
Dobell	35	Flinders	49	Groom	105	Stirling	83										
Eden-Monaro	117	Gellibrand	136	Herbert	190	Swan	98										
Farrer	15	Gippsland	45	Hinkler	23	Tangney	117										
Fowler	11	Goldstein	238	Kennedy	31												
Gilmore	48	Gorton	36	Leichhardt	49												
Grayndler	378	Higgins	522	Lilley	119												
Greenway	48	Holt	23	Longman	25												
Gwydir	30	Hotham	63	Maranoa	31												
Hughes	78	Indi	61	McPherson	52												
Hume	33	Isaacs	73	Moncrieff	73												
Hunter	18	Jagajaga	159	Moreton	122												
Kingsford Smith	203	Kooyong	436	Oxley	46												
Lindsay	28	La Trobe	122	Petrie	89												
Lowe	139	Lalor	76	Rankin	73												
Lyne	9	Mallee	44	Ryan	280												
Macarthur	15	Maribyrnong	52	Wide Bay	17												
Mackellar	106	McEwen	72														
Macquarie	84	McMillan	41														
Mitchell	92	Melbourne	720														
New England	39	Melbourne Ports	588														
Newcastle	59	Menzies	178														
North Sydney	388	Murray	18														
Page	20	Scullin	83														
Parkes	16	Wannon	53														
Parramatta	74	Wills	155														
Paterson	45																
Prospect	14																
Reid	18																
Richmond	33																
Riverina	26																
Robertson	53																
Shortland	13																
Sydney	571																
Throsby	8																
Warringah	256																
Watson	41																
Wentworth	378																
Werriwa	20																

= Electorates with in excess of 200 EOEs.

**Votes Issued Overseas for 2007 Federal Election
by Overseas Polling Place**

	Pre Poll	PVAs	PVCs	Total Issued
Abu Dhabi	461	138	96	599
Abuja	10	5	2	15
Accra	36	6	5	42
Amman	134	1	1	135
Ankara	47	8	6	55
Apia	189	0	1	189
Athens	292	35	19	327
Atlanta	41	65	42	106
Auckland	1,083	139	142	1,222
Baghdad	187	0	0	187
Bali	351	22	17	373
Bandar Seri Begawan	78	0	0	78
Bangkok	1,105	110	126	1,215
Beijing	1,384	120	93	1,504
Beirut	100	0	0	100
Belgrade	143	12	5	155
Berlin	407	171	172	578
Brasilia	40	36	28	76
Brussels	178	25	23	203
Budapest	154	4	8	158
Buenos Aires	319	26	25	345
Cairo	199	17	14	216
Canakkale	4	3	0	7
Chennai	128	43	55	171
Chicago	198	100	80	298
Colombo	395	17	35	412
Copenhagen	233	39	46	272
Dhaka	203	2	4	205
Dili	532	0	4	532
Dubai	996	0	23	996
Dublin	670	271	223	941
Frankfurt	134	58	78	192
Fukuoka	59	28	22	87
Geneva	251	220	222	471
Guangzhou	1,284	29	27	1,313
Hanoi	402	15	12	417
Harare	35	3	2	38
Ho Chi Minh City	1,156	21	25	1,177
Hong Kong	9,970	486	421	10,456
Honiara	463	0	3	463
Honolulu	87	14	7	101
Islamabad	92	44	46	136
Istanbul	105	13	14	118
Jakarta	707	59	61	766
Kabul	52	22	26	74
Kathmandu	187	0	2	187
Kuala Lumpur	826	112	95	938
Kuwait	90	52	115	142
Lima	136	10	5	146
Lisbon	114	11	7	125
London	12,737	3,489	3,593	16,226
Los Angeles	357	275	245	632
Madrid	248	99	68	347
Malta	151	6	3	157
Manila	815	66	44	881

**Votes Issued Overseas for 2007 Federal Election
by Overseas Polling Place**

Mexico City	96	0	27	96
Milan	191	14	12	205
Moscow	98	0	10	98
Mumbai	172	15	29	187
Nagoya	94	38	35	132
Nairobi	103	17	9	120
Nauru	54	0	0	54
New Dehli	427	74	89	501
New York	1,437	399	96	1,836
Nicosia	146	0	5	146
Noumea	80	0	1	80
Nuku'alofa	96	0	0	96
Osaka	251	72	76	323
Ottawa	164	149	117	313
Paris	1,017	228	244	1,245
Phnom Penh	780	1	6	781
Pohnpei	10	3	5	13
Port Louis	138	5	6	143
Port Moresby	678	98	78	776
Port of Spain	21	8	5	29
Port Vila	191	10	16	201
Pretoria	203	144	93	347
Rangoon	104	5	4	109
Riyadh	74	34	8	108
Rome	378	67	62	445
San Francisco	381	115	139	496
Santiago	378	23	8	401
Sao Paulo	29	0	1	29
Sapporo	38	13	17	51
Seoul	339	38	17	377
Shanghai	1,721	95	73	1,816
Singapore	2,717	110	187	2,827
Stockholm	183	115	115	298
Suva	395	33	24	428
Taipei	1,028	179	206	1,207
Tarawa	35	0	0	35
Tehran	88	1	3	89
Tel Aviv	203	22	20	225
The Hague	296	206	168	502
Tokyo	984	234	226	1,218
Toronto	491	30	27	521
Tripoli	0	0	33	0
Vancouver	676	11	104	687
Vienna	252	49	38	301
Vientiane	300	40	33	340
Warsaw	140	59	36	199
Washington	585	756	397	1,341
Wellington	588	191	79	779
Zagreb	142	64	43	206
Total	59,747	10,312	9,465	70,059

Votes Issued Overseas Comparison 2001 and 2004 Federal Elections

2001 Federal Election				Total Issued	2004 Federal Election				Total Issued	Percentage Change			Total Change	
Post	PRE	PVA	PVC		Post	PRE	PVA	PVC		PRE	PVA	PVC		
Abu Dhabi	130	80	17	210	Abu Dhabi	229	7	8	236	76.15%	-91.25%	-0.529412		12.38%
Abuja	N/A	N/A	N/A	0	Abuja	5	3	2	8					
Accra	N/A	N/A	N/A	0	Accra	33	21	21	54					
Amman	65	7	0	72	Amman	126	1	2	127	93.85%	-85.71%	NA		76.39%
Ankara	54	11	5	65	Ankara	85	7	13	92	57.41%	-36.36%	160.00%		41.54%
Apia	131	1	3	132	Apia	159	1	1	160	21.37%	0.00%	-66.67%		21.21%
Athens	397	56	54	453	Athens	685	109	45	794	72.54%	94.64%	-16.67%		75.28%
Atlanta	48	199	10	247	Atlanta	63	95	49	158	31.25%	-52.26%	390.00%		-36.03%
Auckland	816	208	130	1024	Auckland	999	168	138	1167	22.43%	-19.23%	6.15%		13.96%
Bali	256	7	9	263	Bali	127	21	11	148	-50.39%	200.00%	22.22%		-43.73%
Bandar Seri Begawan	131	6	0	137	Bandar Seri Begawan	107	1	0	108	-18.32%	-83.33%	NA		-21.17%
Bangkok	1016	112	83	1128	Bangkok	1058	204	175	1262	4.13%	82.14%	110.84%		11.88%
Beijing	678	92	48	770	Beijing	831	107	52	938	22.57%	16.30%	8.33%		21.82%
Beirut	373	1	1	374	Beirut	498	3	5	501	33.51%	200.00%	400.00%		33.96%
Belgrade	75	11	11	86	Belgrade	261	15	11	276	248.00%	36.36%	0.00%		220.93%
Berlin	221	236	193	457	Berlin	428	250	195	678	93.67%	5.93%	1.04%		48.36%
Brasilia	13	0	2	13	Brasilia	15	23	7	38	15.38%	NA	250.00%		192.31%
Bridgetown	10	4	1	14	Bridgetown	N/A	N/A	N/A	0					
Brussels	119	28	14	147	Brussels	167	38	32	205	40.34%	35.71%	128.57%		39.46%
Bucharest	18	5	3	23	Bucharest	31	1	0	32	72.22%	-80.00%	-100.00%		39.13%
Budapest	142	12	9	154	Budapest	199	20	8	219	40.14%	66.67%	-11.11%		42.21%
Buenos Aires	52	13	11	65	Buenos Aires	107	4	7	111	105.77%	-69.23%	-36.36%		70.77%
Cairo	92	19	17	111	Cairo	221	25	15	246	140.22%	31.58%	-11.76%		121.62%
Caracas	17	0	5	17	Caracas	N/A	N/A	N/A	0		NA			
Chicago	124	137	29	261	Chicago	159	195	139	354	28.23%	42.34%	379.31%		35.63%
Colombo	249	17	16	266	Colombo	373	14	24	387	49.80%	-17.65%	50.00%		45.49%
Copenhagen	107	45	33	152	Copenhagen	194	94	57	288	81.31%	108.89%	72.73%		89.47%
Dhaka	91	2	3	93	Dhaka	96	0	0	96	5.49%	-100.00%	-100.00%		3.23%
Dili	1973	2	0	1975	Dili	377	0	10	377	-80.89%	-100.00%	NA		-80.91%
Dubai	263	8	137	271	Dubai	590	4	59	594	124.33%	-50.00%	-56.93%		119.19%
Dublin	905	212	175	1117	Dublin	629	209	182	838	-30.50%	-1.42%	4.00%		-24.98%
Frankfurt	86	115	79	201	Frankfurt	114	114	76	228	32.56%	-0.87%	-3.80%		13.43%
Fukuoka City	37	49	28	86	Fukuoka City	50	38	25	88	35.14%	-22.45%	-10.71%		2.33%
Geneva	183	268	205	451	Geneva	243	234	197	477	32.79%	-12.69%	-3.90%		5.76%
Guangzhou	675	39	10	714	Guangzhou	832	82	33	914	23.26%	110.26%	230.00%		28.01%
Hanoi	296	15	14	311	Hanoi	317	30	31	347	7.09%	100.00%	121.43%		11.58%
Harare	43	42	31	85	Harare	22	7	1	29	-48.84%	-83.33%	-96.77%		-65.88%
Ho Chi Minh City	746	29	40	775	Ho Chi Minh City	967	16	18	983	29.62%	-44.83%	-55.00%		26.84%
Hong Kong	9232	467	440	9699	Hong Kong	7211	557	420	7768	-21.89%	19.27%	-4.55%		-19.91%
Honiara	82	8	7	90	Honiara	345	10	53	355	320.73%	25.00%	657.14%		294.44%
Honolulu	82	6	4	88	Honolulu	121	20	13	141	47.56%	233.33%	225.00%		60.23%
Islamabad	27	7	9	34	Islamabad	47	18	11	65	74.07%	157.14%	22.22%		91.18%
Istanbul	56	2	2	58	Istanbul	82	2	2	84	46.43%	0.00%	0.00%		44.83%
Jakarta	651	217	138	868	Jakarta	218	230	192	448	-66.51%	5.99%	39.13%		-48.39%
Kathmandu	180	0	0	180	Kathmandu	119	12	0	131	-33.89%	NA	NA		-27.22%
Kuala Lumpur	698	61	49	759	Kuala Lumpur	602	166	153	768	-13.75%	172.13%	212.24%		1.19%

Votes Issued Overseas Comparison 2001 and 2004 Federal Elections

Post	PRE	PVA	PVC	Post	PRE	PVA	PVC	Post	PRE	PVA	PVC	Post	
Lagos	15	10	9	25	Lagos	N/A	N/A	N/A	0				
Lima	27	4	0	31	Lima	79	5	5	84	192.59%	25.00%	NA	170.97%
Lisbon	56	8	6	64	Lisbon	154	25	17	179	175.00%	212.50%	183.33%	179.69%
London	14193	4973	3266	19166	London	15878	4838	2800	20716	11.87%	-2.71%	-14.27%	8.09%
Los Angeles	180	417	214	597	Los Angeles	338	237	193	575	87.78%	-43.17%	-9.81%	-3.69%
Madrid	175	44	16	219	Madrid	274	106	46	380	56.57%	140.91%	187.50%	73.52%
Malta	185	0	1	185	Malta	298	2	4	300	61.08%	NA	300.00%	62.16%
Manila	558	76	34	634	Manila	529	80	11	609	-5.20%	5.26%	-67.65%	-3.94%
Mexico City	57	43	31	100	Mexico City	68	41	24	109	19.30%	-4.65%	-22.58%	9.00%
Milan	101	38	35	139	Milan	177	32	27	209	75.25%	-15.79%	-22.86%	50.36%
Moscow	62	30	5	92	Moscow	113	15	7	128	82.26%	-50.00%	40.00%	39.13%
Mumbai	69	10	3	79	Mumbai	101	17	16	118	46.38%	70.00%	433.33%	49.37%
Nagoya	45	24	23	69	Nagoya	91	47	46	138	102.22%	95.83%	100.00%	100.00%
Nairobi	50	8	2	58	Nairobi	74	19	10	93	48.00%	137.50%	400.00%	60.34%
Nauru	N/A	N/A	N/A	0	Nauru	8	49	47	57				
New Delhi	160	62	45	222	New Delhi	219	65	58	284	36.88%	4.84%	28.89%	27.93%
New York	840	487	250	1327	New York	1464	415	337	1879	74.29%	-14.78%	34.80%	41.60%
Nicosia	92	1	3	93	Nicosia	254	12	7	266	176.09%	1100.00%	133.33%	186.02%
Noumea	77	0	0	77	Noumea	71	5	0	76	-7.79%	NA	NA	-1.30%
Nuku'alofa	72	3	1	75	Nuku'alofa	62	0	0	62	-13.89%	-100.00%	-100.00%	-17.33%
Osaka	137	140	123	277	Osaka	248	138	116	386	81.02%	-1.43%	-5.69%	39.35%
Ottawa	109	176	59	285	Ottawa	210	175	112	385	92.66%	-0.57%	89.83%	35.09%
Paris	549	190	74	739	Paris	1194	285	187	1479	117.49%	50.00%	152.70%	100.14%
Phnom Pehn	377	11	8	388	Phnom Pehn	505	4	4	509	33.95%	-63.64%	-50.00%	31.19%
Pohnpei	11	12	4	23	Pohnpei	16	21	14	37	45.45%	75.00%	250.00%	60.87%
Port Louis	99	14	5	113	Port Louis	143	1	2	144	44.44%	-92.86%	-60.00%	27.43%
Port Moresby	624	264	125	888	Port Moresby	545	180	123	725	-12.66%	-31.82%	-1.60%	-18.36%
Port Vila	118	8	8	126	Port Vila	186	12	8	198	57.63%	50.00%	0.00%	57.14%
Port of Spain	N/A	N/A	N/A	0	Port of Spain	23	7	1	30				
Pretoria	88	112	80	200	Pretoria	153	110	61	263	73.86%	-1.79%	-23.75%	31.50%
Rangoon	61	0	0	61	Rangoon	84	0	3	84	37.70%	NA	NA	37.70%
Riyadh	83	209	33	292	Riyadh	42	278	49	320	-49.40%	33.01%	48.48%	9.59%
Rome	311	62	45	373	Rome	508	114	55	622	63.34%	83.87%	22.22%	66.76%
San Francisco	393	274	248	667	San Francisco	418	194	135	612	6.36%	-29.20%	-45.56%	-8.25%
Santiago	205	8	4	213	Santiago	325	21	9	346	58.54%	162.50%	125.00%	62.44%
Sao Paulo	13	0	0	13	Sao Paulo	30	10	9	40	130.77%	NA	NA	207.69%
Sapporo	28	13	15	41	Sapporo	21	13	11	34	-25.00%	0.00%	-26.67%	-17.07%
Sendai	17	16	13	33	Sendai	21	15	11	36	23.53%	-6.25%	-15.38%	9.09%
Seoul	286	86	63	372	Seoul	281	37	114	318	-1.75%	-56.98%	80.95%	-14.52%
Shanghai	802	56	44	858	Shanghai	1168	74	64	1242	45.64%	32.14%	45.45%	44.76%
Singapore	2631	117	113	2748	Singapore	1872	574	423	2446	-28.85%	390.60%	274.34%	-10.99%
Stockholm	218	168	111	386	Stockholm	188	163	120	351	-13.76%	-2.98%	8.11%	-9.07%
Suva	346	69	36	415	Suva	512	61	54	573	47.98%	-11.59%	50.00%	38.07%
Taipei	664	200	174	864	Taipei	746	117	121	863	12.35%	-41.50%	-30.46%	-0.12%
Tarawa	33	4	3	37	Tarawa	41	0	0	41	24.24%	-100.00%	-100.00%	10.81%
Tehran	41	0	0	41	Tehran	63	0	0	63	53.66%	NA	NA	53.66%
Tel Aviv	81	35	0	116	Tel Aviv	131	31	28	162	61.73%	-11.43%	NA	39.66%
The Hague	235	264	213	499	The Hague	364	217	178	581	54.89%	-17.80%	-16.43%	16.43%

Votes Issued Overseas Comparison 2001 and 2004 Federal Elections

Post	PRE	PVA	PVC		Post	PRE	PVA	PVC		PRE	PVA	PVC	
Tokyo	625	254	166	879	Tokyo	1091	268	161	1359	74.56%	5.51%	-3.01%	54.61%
Toronto	307	1	26	308	Toronto	525	91	75	616	71.01%	9000.00%	188.46%	100.00%
Vancouver	392	244	152	636	Vancouver	652	179	166	831	66.33%	-26.64%	9.21%	30.66%
Vienna	235	56	22	291	Vienna	345	73	43	418	46.81%	30.36%	95.45%	43.64%
Vientiane	145	3	2	148	Vientiane	141	9	11	150	-2.76%	200.00%	450.00%	1.35%
Warsaw	110	40	8	150	Warsaw	192	54	28	246	74.55%	35.00%	250.00%	64.00%
Washington	472	598	58	1070	Washington	675	644	477	1319	43.01%	7.69%	722.41%	23.27%
Wellington	425	213	140	638	Wellington	568	313	224	881	33.65%	46.95%	60.00%	38.09%
Zagreb	81	19	9	100	Zagreb	171	83	71	254	111.11%	336.84%	688.89%	154.00%
Total Issued 2001	50006	13030	8203	63036	Total Issued 2004	54792	13752	9416	68544	9.57%	5.54%	14.79%	8.74%

Key
 PRE = pre-poll votes issued
 PVA = postal vote applications issued
 PVC = postal vote certificates received at overseas post
 N/A = not applicable

Annex 5

Suggested Electoral Education Outreach Strategies for Eligible Voters Leaving Australia and Already Abroad

1. Early Warnings in the Pre-Departure Weeks/Months

Develop an AEC brochure entitled "Going Overseas?" which essentially contains the information on the existing AEC "Going Overseas" A4-size Fact Sheet, but in brochure format and with some enhancements. Unless and until the *Electoral Act* is appropriately amended, for those going overseas longer-term, the fact that Eligible Overseas Elector (EOE) status can only be applied for the in three months prior to departure or within three years of ceasing to reside in Australia should be made very clear. The material should contain a strong warning that unless the eligible voter takes the time to properly consider the electoral options available to Australians going overseas, and acts appropriately, he or she may have their name removed from the roll, and that this in turn could lead to a loss of the right to vote for the rest of the period they remain abroad. Individuals should be referred to the AEC website for the latest versions of relevant forms and related instructions.

1.1 Brochure Dissemination

The "Going Overseas?" AEC brochure should be made available at:

- The AEC website
- All Australian Post Offices alongside passport application forms
- Counters where International Driving Permits are issued (NRMA, RAASA, RACV, RACQ, RACWA, RACT, AANT)
- Public libraries
- Government shopfronts
- Student Union areas at all Australian universities and other higher education institutions
- Youth and other community centres and clubs
- Travel fairs and international job expos

1.2 Liaison with and Dissemination of Brochure via Pre-Departure Service Providers

In addition, the AEC should liaise with:

- the consular authorities in Australia from the main countries to which Australians travel, with a view to having the brochure provided to any adult Australian who is issued a visa or passport by those authorities
- the Australian Federation of Travel Agents (AFTA) with a view to having the brochure included by all travel agents with international airline tickets that are issued to adult Australian citizens, and links to the brochure on the AEC website displayed on the major online travel retail sites
- the Australian International Movers Association (AIMA) and the Australian Furniture Removers Association (AFRA) with a view to having all removal companies include the AEC brochure in the documentation they provide to Australian clients moving abroad
- the Australian Human Resources Institute (AHRI), with a view to having HR professionals in the private sector provide the brochure to Australians going abroad on intra-company transfers
- the Recruitment and Consulting Services Association Ltd (RSCA) with a view to recruitment agents distributing the brochure to Australians for whom they provide international job placement services
- Youth Hostel Association of Australia (YHA), with a view to having the brochure distributed to Australians joining YHA or renewing their membership
- STA Travel, as the major issuer of International Student Identity Cards (ISIC), International Teacher Identity Cards (ITIC) and International Youth Identity Cards (IYIC) in Australia, to the extent not already covered through AFTA
- The Board of Airline Representatives of Australia (BARA) with a view to having international airlines operating to and from Australia provide the brochure in hard copy or electronic form when they issue paper tickets or e-tickets to Australian citizens in Australia without travel agent intermediaries

Many of the abovementioned trade associations will have newsletters or magazines in which articles/advertisements could be placed to alert the providers of pre-departure services to Australians of important information they should be passing on to their clients. The AEC may also be able to place website advertising on the websites of these trade associations and many of their member companies.

1.3 AEC/DFAT Co-operation

The AEC "Going Overseas?" brochure should be available wherever passport application forms are available, both in Australia and abroad. DFAT or Post Office staff conducting the initial passport interview should be trained to check that the applicant has a copy of the AEC brochure and to stress its importance. The brochure should be included with all passports issued by DFAT.

Liaison should occur between the AEC and DFAT to amend the section on voting in the DFAT brochure entitled *Living and Working Overseas*¹ to emphasise:

- The three-year EOE registration limitation
- The "Use it or lose it" conditions of EOE registration, despite the fact voting is technically voluntary as an EOE
- The fact that conscious removal from the electoral roll at the time of departure for tax status or other reasons will mean that the person cannot re-enrol from abroad after three years from the date of departure
- That it is essential to consult the AEC website on the electoral options available to overseas Australians at the earliest possible stage to avoid the possibility of disenfranchisement or fines

Similarly, the information in the current version of the DFAT booklet *Hints for Australian Travellers*² issued with all passports presently has only a few lines on voting overseas:

Contact your local office of the Australian Electoral Commission (AEC) about voting overseas. Further information is available on the AEC website at www.aec.gov.au

This could be expanded to transmit the basic message that voting is voluntary while abroad, but that people are nevertheless encouraged to vote, although this may not be necessary if a separate, more comprehensive AEC brochure is indeed provided with all new passports.

¹ www.smartraveller.gov.au/tips/working_os.html

² www.smartraveller.gov.au/hints/hints4aust-travellers0106.pdf

2. Electoral Education at the Point of Departure

It will probably be appropriate to develop a slightly different AEC brochure to that used during the pre-departure weeks and months described above. The brochure for distribution solely at international departure terminals could address the fact that the person is about to leave the country, and could include a short message from a non-political but respected figure, such as the Governor-General, wishing the person an enjoyable and safe trip, and stressing that voting from abroad is an important way of contributing to Australia's future even while away.

This brochure should be handed to departing Australians at check-in and briefly explained when they receive their boarding pass and Outgoing Passenger Card.

It should include a detachable (and improved) version of the AEC's "Overseas Notification Form" that can be filled in on the spot and deposited in appropriately placed collection boxes, e.g. in the immigration area, and at gate lounges and Customs GST refund counters. It should also be franked with an international reply paid freepost stamp so that if people do not put it in a collection box, it can be posted back without complication from overseas.

Collection boxes should be placed in front of large AEC posters and be readily visible.

3. Ongoing Outreach Efforts into the Diaspora

3.1 Reaching Expatriate Australians via Australians at Home

Overseas Australians can at least in part be reached through their parents, siblings, other relatives and friends in Australia. As a matter of policy, any AEC campaigns directed at the resident Australian population should always include a message along the lines:

If you have an Australian-citizen family-member or friend currently living overseas, you should alert them to check the AEC website about their electoral rights and responsibilities as an expatriate Australian.

This message should in particular be part of all domestic campaigns that the AEC intends to conduct prior to the next election to alert people to the date of roll closure.

3.2 Welcoming Overseas Australians on the AEC's Home Page

The home page of the AEC website should permanently carry a prominent link directed at those abroad or about to go abroad to take them directly to the information they need.

3.3 Permanent Provision of Information in Public Areas of all Australian Missions Overseas

As a matter of policy, the public areas/foyers/reading rooms of all Australian diplomatic posts abroad should permanently display a poster aimed at overseas eligible voters, placed close to a stock of AEC brochures. These would then be available for any Australians who went to the post for any reason: e.g. to obtain a new passport, to register a child born abroad, to have documents witnessed, to attend social drinks nights or other local functions held at the post.

3.4 Advertisements in Foreign Newspapers, In-Flight Magazines and Expatriate Publications

At an appropriate interval before an expected election, sufficiently in advance of the date of roll closure, the AEC should place advertisements in major national newspapers and expatriate publications in those countries where there is a large number of Australian citizens in residence. The advertisement should carry advice on enrolment and postal vote arrangements. They would need to cover both EOE's, and short term travellers and tourists.

The AEC should also place material, either in the form of advertisements or inlays, in the in-flight magazines of the airlines that carry the greatest numbers of Australians abroad, e.g. Qantas, British Airways, etc.

3.5 E-mail Bulletins to Expatriate Australians

The AEC should use the e-mail addresses provided by overseas Australians on EOE forms and Overseas Notification Forms to provide timely information at low cost. Although not all applicants provide an e-mail address, many do. Perhaps AEC forms could encourage the giving of web-based addresses, such as hotmail, yahoo and gmail.

Overseas Australians could be encouraged to sign up to a special mailing list for expatriates on the AEC website.

At the time that the AEC places advertisements in overseas newspapers, an e-mail bulletin could be sent out to this subscriber list setting out the matters covered in the newspaper advertisements.

DFAT's register of overseas Australians should also be used to e-mail people during the pre-election phase but before an election is called, so as to allow time for enrolment updates.

Spam blockers applied by many internet service providers (ISPs) and/or organizations within which overseas Australians are employed or studying may block messages transmitted to many addressees at the same time. Recipients will need to be aware that they should take action to ensure that AEC messages are not classified as spam.

3.6 Enhanced and Constant Co-operation with Australian Expatriate Organisations

The AEC should adopt a policy of maintaining a current list of e-mail addresses for Australian expatriate organisations around the world in order to send those organisations e-mails on legislative changes, forthcoming elections, postal voting procedures, etc, or at least directing the attention of the organisation, and through them their members, to the location of the information on the AEC website.

These organisations should be provided with copies of AEC material to put out at all their local functions, and asked to include updates in their electronic and hard-copy newsletters and on their websites.

Australian university alumni organisations should also be liaised with in view of the fact that many of their former Australian-citizen students are part of alumni organisations. Various

Australian professional organisations such as CPA Australia also have substantial expatriate alumni numbers.

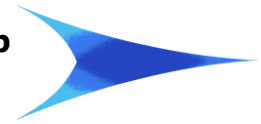
3.7 AEC Presence at Major Overseas Events with High Expatriate Interest

In overseas locations where the density of resident Australians is significant (e.g. London, New York, Hong Kong, New Zealand), the AEC should aim to be present at major events where large number of Australians, particularly Australian youth are going to be in attendance. Similar to the “Rock Enrol” initiative in conjunction with Triple J in 2004, it would be possible to encourage enrolment and registration as an EOE at such events. They would include:

- Sporting events abroad where Australia is playing (the Ashes, the World Cup, Rugby, etc)
- Cultural events where Australia is showcased (e.g. the Toast event in London)
- ANZAC Day and Australia Day events abroad in major centres
- Rock concerts and other performances abroad by leading Australian artists

3.8 AEC Telephone Information Line Accessible from Overseas

From some countries, the AEC’s 13 23 26 information line may not be accessible simply by putting the international +61 code in front of the number. From those countries where there are the greatest numbers of expatriate Australians, it should be possible to call the AEC for the cost of a local call, and this help line should be open not just during Australian business hours but 24 hours.



About Voting in Australia While You Live Overseas

Australia's next federal election will probably be held by early December 2007. Now is the time to think about making sure that you preserve your democratic right to vote in that election, future elections, and any federal referenda that might occur while you are living outside Australia. In the October 2004 federal election only 68,544 votes were issued to Australians overseas, although there are at least 650,000 Australian citizens overseas who are of voting age. Are you fully aware of the rules about voting from overseas? Do you know whether you still have the right to vote in Australia? Here is some important information.

- You cannot vote unless you are on the Electoral Roll. Many Australians who move overseas end up being deleted from the Electoral Roll. So the trick is to stay on the Roll the whole time you are away. The catch is that if you get wiped off, and it's more than three years since you moved overseas to live, you won't be able to re-enrol from abroad. If you can't enrol, you're effectively disenfranchised.
- When you leave Australia to live abroad for any period, you should inform the Australian Electoral Commission (AEC).
- If you're only going to be away for one year or less, you can be abroad and remain on the Electoral Roll with what's called "**temporarily absent**" status, as long as you intend to return to your enrolled address when you move back to Australia. But you should inform the AEC and ask to be kept on the Electoral Roll in your absence.
- If you are going to be away for more than a year, and/or you do not intend to return to your enrolled address when you move back to Australia, then, if you qualify, you should register with the AEC as an **Eligible Overseas Elector** (EOE). This is different to "temporarily absent" status.
- If you have been deleted from the Electoral Roll at any time since you left Australia, you can only re-enrol from overseas within three years of the date you left Australia to live abroad.
- If you are on the Electoral Roll when you leave Australia, and you expect to be away for more than one year and/or do not intend to return to your enrolled address when you move back to Australia, you only have three years in which to tell the Australian Electoral Commission (AEC) you want to be registered as an EOE.
- If you are overseas, not on the Electoral Roll anymore, and you left Australia more than three years ago, you are permanently disenfranchised while ever you remain living abroad. Re-enrolment would only be possible if you go back to Australia and are resident at an address in Australia for one month or more.

Check whether you are still on the Electoral Roll now. The AEC has an online enrolment verification facility at <https://oevf.aec.gov.au>. Type in your details and it will tell you if you are on the electoral roll. Or send an e-mail to info@aec.gov.au stating your full name, date of birth, and address or addresses for which you have been enrolled previously. AEC staff can then confirm or deny your enrolment. You can also phone the AEC on +61 2 6271 4411. Visit the AEC website, at www.aec.gov.au for further information.

If you are still on the Roll, then you need to decide whether it's appropriate for you to be treated by the AEC as "temporarily absent" (see above) **OR** as an Eligible Overseas Elector. Either way, you'll need to get in touch with the AEC. Otherwise, there's a very good chance the AEC will discover you no longer live at your enrolled address in Australia and in the absence of anything from you, remove you from the Electoral Roll. It's the AEC's job to make sure that the Electoral Roll is always as accurate and up-to-date as possible.

Become an Eligible Overseas Elector. If you're away for a period exceeding one year, then EOE status is probably the most appropriate for you. You should send the AEC a completed "Application for Registration as an Overseas Elector" available from www.aec.gov.au if it is under three years since you ceased to reside in Australia.

If you are no longer on the Roll, then you can enrol afresh from overseas, but only if it is under three years since you left Australia to live abroad. Use the "Application for Enrolment From Outside Australia" form available from www.aec.gov.au.

Voting is not compulsory for Australian citizens outside Australia on polling day. But if you are on the Roll, and you don't vote in a federal election or referendum held while you are away, either in person or by post, even if you are registered with the AEC as an Eligible Overseas Elector, the AEC might well consequently take your name off the Roll. If this happens, the time limitation on re-enrolment from overseas may mean you become disenfranchised for the rest of the time you live abroad. In other words, "use it, or lose it".

Act now. Don't wait until the election is called – it may be too late. In June 2006 Australian electoral law changed so that for future elections, you will have virtually no time after an election is called to get your enrolment in order. Once the writ is issued for an election (usually the day after the election is called by the Prime Minister), the Roll will close at 8pm Australian time on the third working day after the issue of the writ for people currently enrolled but who need to update their details. But if you are enrolling afresh from outside Australia, the Roll will close at 8pm on the day on which the writ is issued. **Get your enrolment organised now so that you don't miss out once the election is called.**

Postal Vote applications are available from the AEC web site once an election has been announced. The application must be printed off from the AEC web site, completed and then either faxed or posted to your nearest overseas polling place, if you can't get to an Australian mission overseas in person to vote. Your ballot papers will then be sent to you.

If you are disenfranchised, the Southern Cross Group is campaigning to help you.

What's the SCG doing? We argued our position extensively before the Joint Standing Committee on Electoral Matters (JSCEM) in Canberra in 2002/2003 as part of the JSCEM's Inquiry into the Conduct of the 2001 Federal Election. Over one hundred disenfranchised overseas Australians also made individual submissions to that inquiry.

The SCG continues to advocate that the three-year time limitation should be removed from the law, and that enrolment from overseas and registration as an EOE should be possible at any time, regardless of how long ago a citizen departed Australia.

The SCG is not advocating that voting should be made compulsory for overseas Australians. But it is arguing that as a matter of principle, all overseas Australians should have the right to vote, so that they can exercise that right if they choose to. The SCG reiterated its arguments to the Senate's Legal and Constitutional References Committee in its primary submission to the Senate's Inquiry into Australian Expatriates in February 2004. In its resulting March 2005 Inquiry Report, the Senate Committee recommended various legislative changes, which, if they had been acted upon by the Government, would have re-enfranchised many, but not all, overseas Australians. However in December 2006, in its response to the Senate Inquiry's 2005 report, the Government rejected those recommendations.

In June 2006, the SCG made a major submission and later gave oral evidence to the JSCEM's Inquiry into Civics and Electoral Education, arguing that the AEC must engage in greater active efforts to educate departing Australians and those already abroad of their rights and responsibilities as overseas Australians under Australia's electoral laws. The basic premise of the SCG's advocacy during this inquiry was that even if the law is not amended, much can be done to prevent Australians who go abroad now and in the future from losing their right to vote. In June 2007 the JSCEM tabled its report in that inquiry, but the issues the SCG raised were not canvassed.

If you are a disenfranchised overseas Australian, you are not alone. We estimate that there are in excess of half a million such citizens abroad. We'd like to hear from you: [**info@southern-cross-group.org**](mailto:info@southern-cross-group.org)

One final word, on Australian taxation. Many expats report to the SCG that their accountant or tax advisor in Australia told them to take themselves off the Electoral Roll before going overseas, in order to make sure that the Australian Tax Office (ATO) treats them as non-resident for taxation purposes. In almost all cases, the tax professional concerned did not inform the intending expat of the longer-term implications of this step, i.e. that it would result in their disenfranchisement for the entire period of residence abroad due to the limitations on enrolment from overseas under the law. The SCG raised this issue with the JSCEM in 2002/2003. The ATO told the JSCEM in its March 2003 submission to that Inquiry that other independent factors are used to determine residency status for taxation purposes, and that a person's inclusion on the Electoral Roll or otherwise is almost never a determining factor. There is no need to disenfranchise yourself for Australian taxation reasons.

More information about overseas voting and the SCG's other activities is available on the SCG website, and make sure you visit [**www.aec.gov.au**](http://www.aec.gov.au) for all government information on enrolment and voting.

To stay abreast of the SCG's advocacy efforts on this and other diaspora issues and to receive information important for you as an Australian expat, sign up to receive our free occasional communications using the button on our website, or send us an e-mail.

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