

Tim O'Shaughnessy

From: Peter Kramer
Sent: Thursday, 3 October 2013 3:05 PM
To: Ludlam, Scott (Senator) (Senator.Ludlam@aph.gov.au)
Subject: FW: Final - Ludlam [DLM=For-Official-Use-Only]

AECStatus: process

For-Official-Use-Only

Senator Ludlam

I refer to your request for a recount of votes in the 2013 Senate Election for WA. I note your concerns with regard to a number of risks you identify in the election process and your concern at the closeness of the candidates at various parts of the count.

Your request of October 2nd referred to the difference of only 14 votes at Count 138, variations in the vote on the Virtual Tally Room on the AEC website and particularly that of the Shooters And Fishers Party in O'Connor, the closeness of the margin of the vote in comparison to the Division Fairfax in the House of Representatives and examination of bundles of votes of a number of parties (Australian Christians, Shooters and Fishers, No Carbon Tax Climate Sceptics, Australian Fishing & Lifestyle, Australian Independents and Australian Voice). Your additional information provided on October 3rd raised issues in relation to non standard ballots and variation in votes between the Senate and the House of Representatives.

I have considered your request for a recount of the Senate. This request has been declined for the following reasons:

- During numerous counts candidates are excluded by small differences. The point worth noting is that where the AEC does have a numerical trigger as part of its recount policy, in the House of Representatives, differences of less than 100 are measured at the end of the distribution of preferences not in the middle of this process (as outlined in p60 of the Candidates Handbook). By way of reference, there were a number of points throughout the 2013 WA Senate count where exclusions occurred based on small differences and Senate Counts have a history of small vote margins at various exclusion points which then impacts on complex transfer values as defined in the Act.
- Variations in progressive results updated through the VTR on the AEC Website are not unusual and reflect the stages of fresh and further scrutiny of ordinary and declaration votes. Scrutiny is further subject to a final validation exercise to reconcile ballot papers counted. The checks conducted to validate and confirm the accuracy of the vote include verification of formality and checking correct attribution to a candidate. The VTR figures on the AEC Website are indicative only and are not final. They are displayed in the interests of transparency.
- With regard to the closeness of the count in comparison to Fairfax in the House of Representatives, the Electoral Act does not specifically reference closeness other than to give instructions regarding the management of ties in the Senate Count process. However, it is worth noting that the Recount policy refers to a margin of less than 100 votes at the end of the distribution of preferences for the House of Representatives At the end of the distribution of

preferences in the Senate count, the difference in votes between yourself and the sixth elected candidate, Louise Pratt, is considerable.

- In regards to the examination of a number of bundles of votes of specified parties, I do not see any clear issue being raised here with regard to processes or events which may otherwise have led to a different result. Group Voting Tickets of all Parties are publicly available for perusal and is a transparent element of our electoral process.
- Referencing the additional information you provided today, firstly with reference to the nonstandard ballot papers with multiple duplicate numberings, the examples you provided all fall within the scope of Section 270 (1) (a)(b)(i)(ii) which describes formality savings measures and are not irregularities.

Secondly, with reference to the variation in the number of votes cast in the House of Representatives and the Senate, the difference is largely accounted for by what we call partially admitted votes; ie: cases where the elector is issued with a declaration vote which is then found to be for the wrong division as they are enrolled for an address other than the one claimed, but is still in the right state. These can, for example be provisional or absent votes. This results in many variations where the difference between the House of Representatives and Senate Ballot paper numbers are not the same by division but are also not a result of errors in counting or bundling.

I am satisfied that valid and specific grounds have been not provided as evidence that a recount for the Senate in WA could change the result of the Senate election. Accordingly I have determined that a recount will not proceed. This is in accordance with the AEC's published policy on recounts (as outlined in the AEC Candidate's Handbook, p62) which states that a request for a recount which does not plead any valid and sufficient grounds must be refused.

If you wish to appeal my decision you may write to the Electoral Commissioner, Mr Ed Killesteyn, at Ed.Killesteyn@aec.gov.au

Peter KRAMER | Australian Electoral Officer & State Manager
Western Australia
Australian Electoral Commission
T: 08 63638020 | M: 0434326305 | F: 08 63638017



For-Official-Use-Only