

**Submission
No 35**

**ADMINISTRATION OF THE 2023 NSW STATE ELECTION AND OTHER
MATTERS**

Name: Mr Ethan du Toit

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I would like to comment on the method of election used in the NSW Legislative Council elections.

Currently, in these elections, preferences are distributed via random sampling of ballots that contributed to the election of elected candidates. This method has serious issues, including a possibility for non-reproducible election results. This is an atavistic throwback to the days when Legislative Council ballots were counted manually, and better methods were costly and difficult to implement.

Currently, all ballots are entered into a computerised system to be counted. There is no technical reason, therefore, why a better method should not be implemented. I urge the Government of NSW to implement the Weighted Inclusive Gregory method for the distribution of preferences in Legislative Council elections.

This is the method that was chosen for NSW local government elections, after it was correctly determined that random sampling was unacceptable. I quote the 2017 report of the Joint Standing Committee on Electoral Matters on this: "random sampling creates issues of reproducibility and undermines public confidence in the electoral system."

The one obstacle to rectifying this issue is the enshrining of the use of random sampling in Schedule 6 of the NSW constitution. As it is connected with the election of the Legislative Council, a referendum would be required to change this. However, historically, referenda in NSW on similar issues have very often passed, as they have usually been uncontroversial. (The one exception is the failed referendum to abolish the Legislative Council.) I see no reason why a referendum on this issue should be different. In addition, if held in conjunction with the next general election, the cost should be minimal.