

**Submission
No 33**

**PROPOSALS TO INCREASE VOTER ENGAGEMENT, PARTICIPATION AND
CONFIDENCE**

Organisation: The Greens NSW

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The Greens NSW submission to the Joint Standing Committee on Electoral Matters

Inquiry into proposals to increase voter engagement, participation, and confidence



Seamus Lee, Registered Officer
The Greens NSW

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Terms of Reference

1. That the Joint Standing Committee on Electoral Matters inquire into and report on proposals to increase voter engagement, participation and confidence, including reforms to:
 - a. Maintain confidence in the integrity of electoral processes.
 - b. Strengthen the security and integrity of the electoral system.
 - c. Reduce barriers to participation, in particular for voters with disabilities and voters from groups with historically lower enrolment and turnout rates.
 - d. Implement options for technology assisted voting (TAV) as set out in the NSW Electoral Commission's November 2023 report on TAV.
 - e. Improve systems for political donations, electoral funding and party governance, including as recommended in the Independent Commission Against Corruption's report on political donations facilitated by Chinese Friends of Labor in 2015 (Operation Aero).
 - f. Amend electoral laws in relation to electoral funding and political parties, including in relation to:
 - i. Allowable Administrative Fund expenditure under section 84 of the *Electoral Funding Act 2018*;
 - ii. Residence requirements for political party officials; and
 - iii. Expenditure of the Election Campaigns Fund within New South Wales.
 - g. Any other related matters.
2. That the Committee report by 30 June 2025.

Submission

The Greens NSW welcome the opportunity to make a submission to this inquiry. The Greens NSW believe that there are a number of ways that parliament could improve voter engagement, confidence and participation in the civic processes.

1. Extending enrolment and voting to those 16 years of age and older

The Greens NSW believe that it is important to try and enfranchise as many possible voters as possible, and that consequentially, the right to vote should be extended to persons aged 16 and older. The Greens NSW also believe that between 16 and 18 it not be compulsory to enrol or vote but that enrolment and voting remain compulsory from age 18.

Many young people have a well-developed interest in politics and society well before the age of 18. They have as much stake in the democratic process as older voters, noting that there is not (and should not be) a competence test for voting other than by a certification by a medical practitioner that a voter is no longer capable.

At 16 years old, a person in NSW can work full time, pay taxes, open a bank account, learn to drive, consent to sex and medical procedures. They can even be criminally charged as an adult and go to prison, or join the armed forces. They can join a political party, but cannot cast their own vote in NSW elections.

The decision to reduce the voting age from 21 to 18 in 1973 was considered a radical step by some at the time, while a proposal to return it to 21 now would be widely condemned.

The right to vote from 16 exists in a number of other jurisdictions, including Austria, Argentina, Brazil, Malta, Scotland, Germany and Wales, and is under consideration in the United Kingdom and Canada

2. Reducing administrative burdens on candidates either at state and local government elections

The Greens NSW believe in the importance of maximising voter turnout, but also that the breadth of candidates able to contest elections is just as important. We believe that there are at least two areas that could be improved to reduce barriers to candidacy.

First, as mentioned in our submission to the 2023 NSW Election, we believe there should be a review of the eligibility for most public sector employees (teachers, nurses, firefighters etc) to run for election without having to resign or take leave without pay. While some senior management roles may have an actual or perceived conflict of interest as candidates, and should be required to separate from state employment, the vast amount of the public service is no more subject to such conflicts of interest than any other citizen.

Second, we think the Candidate Information Sheet for local government elections is unnecessarily burdensome by virtue of the requirement to make a statutory declaration. Successful nomination requires a prospective candidate to find a Justice of the Peace, a lawyer or a notary to witness their form. Most of the questions on the form are optional and many candidates leave them blank.

During Covid the list of authorised witnesses was temporarily expanded to include the Commonwealth authorised witness list which is much longer. The Greens NSW do not believe that this document should be required to be a statutory declaration. We are not aware of any candidate ever being prosecuted for making a false declaration.

Finally, the requirement on number of candidates in a group to obtain an “above the line” voting box is a barrier to participation and also to fair representation. Absence of a voting box above the line or being in the ungrouped column when other groups have a box is a significant disadvantage and largely unnecessary.

The introduction of voting reform in the Australian Senate, particularly the requirement to number a certain number of boxes above the line, has improved the conformance of voter preference to elected outcomes, without placing an undue burden on voters. The Greens NSW advocate for this approach be adopted for NSW Legislative Council and Local Government elections.

3. Strengthening the integrity and security of elections:

The Greens NSW believe several measures could be progressed to improve the integrity and security of elections in NSW. The NSW Electoral Commission do a generally excellent job running elections but there are some areas that The Greens NSW believe should be reformed to further enhance integrity.

a. Prohibiting Political Parties from handling Postal Vote Applications (PVA)

This item we raised in our submission in regards to the 2023 NSW election but it is also worth repeating here. The Greens NSW believe that postal vote applications should be handled only by the NSWEC. Voters are often confused between the concept of the Postal Vote Application and the Postal Vote itself and when they see a return envelope that doesn't go back to the electoral commission there is a concern that parties might be somehow influencing the process. This is incorrect but the easiest way would be for the parliament to change the legislation to only allow the NSWEC to handle the postal vote applications.

We are also concerned about the privacy implications of political parties (or others) handling sensitive personal information of voters when postal vote applications are received. In many cases the parties fail to include any statement indicating what use may be made of the voter's information.

b. Removing the ability for Councils to appoint a private electoral provider for their elections

Since the 2012 Local Government elections, Councils could choose to run their own elections and outsource to their own preferred provider for elections. This has generally meant that the privately owned Australian Electoral Company has run the elections. We do not suggest there are concerns about the integrity or competency of the private provider, but The Greens NSW believe that the NSWEC should be responsible for all elections to civic office in this state.

This may mean that the government might need to provide additional funding to ensure that all councils can be adequately served but uniformity would assist voters and other participants by ensuring that there was an independent body in charge of running the elections without any perception of a conflict of interest.

The Greens NSW also believe that there should be a general JSCEM inquiry into the conduct of the 2024 local government elections, particularly as no inquiry with public hearings was held after the 2021 elections.

4. Improved Systems for handling of donations and response in regards to Operation Aero

The Greens NSW welcome most of the suggestions from ICAC in regards to their operation Aero.

The Greens NSW believe that coming up with a set of standards for all parties to adhere to is a worthwhile endeavour however parliament should be cognisant of the fact that all parties structure themselves differently. So forcing parties to just be a one-size-fits-all model would not necessarily be constructive or effective.

The Greens NSW still believe that the current bans on political donations for certain entities is correct and as we mentioned in our submission to the 2023 state general election believe that mining interests should be included in the list of banned donors given the perception of undue influence on government. While we understand the ICAC's view that there should be a shift more towards appropriate conflicts of interest disclosures, we believe that the current set of entities with the inclusion of mining is important because of documented instances where there has been more than just a perceived conflict of interest.

Further the Greens NSW support the need for real-time donations reporting being implemented sooner. We know that in the run up to a state general election that there is a requirement for parties to disclose when a reportable political donation comes in within 21 days, we believe that should be ongoing.

The Greens NSW note the implications of the current S302CA of the Commonwealth Electoral Act which might permit donors such as property developers to contribute to the Federal Account of a Registered Political Party. This would then allow that registered political party to transfer an equivalent amount of money, say from their AEC return into their State or Local accounts which is an authorised source of funds effectively by-passing the restrictions on direct State and Local Funding.

The Greens NSW would renew calls for a reimbursement model for Local Government Elections. At the moment Local Government is the only level of government without any public funding in NSW. Both at state and federal elections there is a reimbursement model. A reimbursement model, perhaps with some upfront payment would assist parties and groups in becoming less dependent on receiving donations for funding their electoral campaigns.

The Greens NSW also believe that modest individual membership fees should become an acceptable source of funds to use in State and Local Government Election campaigns. At the moment party membership fees are essentially quarantined under the act and only able to be used for Issues campaigns and for the party administration.

5. Technology assisted voting

The Greens NSW retain general concerns with Technology Assisted Voting (TAV). We acknowledge the TAV Review undertaken by the NSW Electoral Commission, the 2023 report from the Electoral Commissioner and the submissions to the review and the inquiry into the 2023 NSW Election and note the shared concerns around the significant expansion of internet voting.

The last use of iVote in 2019 resulted in around 5% of votes being cast this way, much more than is envisaged in the review for people with blindness or low vision (approximately 5,000 voters). Nonetheless, some access to internet voting would enhance availability for interstate or overseas voting which was cited as the reason for iVote applications in 2019 of 160,025 (interstate), and 47,977 (overseas). The Electoral Act limits online voting to those with vision impairment, those residing more than 20km from a polling place and those who declare they will be “outside NSW on polling day.” Anecdotal evidence suggests that many of the users of iVote may have used the “outside NSW” declaration to avoid the hassle of voting in person at pre-poll or on election day, or of accessing a postal vote.

The Greens NSW retain a general concern about the security implications of the adoption of any form of online/electronic voting (including the use of kiosks), some of which arise from the intrinsic conflict between proper scrutiny of the process, both by electors and by parties and candidates, and the maintenance of secrecy of individual votes. Nonetheless, the benefits of increasing participation rates and, potentially, from improvements to ease of use may justify limited use of the technology.

We note that the ACT has made the online voting software it uses open-source so that it can be checked for flaws. We believe that open access to source code should be a requirement of any future system used in NSW and should replace s159(2) of the NSW Electoral Act 2017 which mandates the secrecy of the source code.

The Greens have concerns with the continuing trend away from almost universal participation of voters in voting on election day and its impact on the perceived significance of the electoral process. With over 40% of electors in 2023 voting pre-poll or by post, further investigation into the causes and consequences are warranted.

6. Election integrity and truth in political advertising

Some media outlets and political candidates spread false or misleading information about other parties or candidates to damage their credibility and hence their vote. These statements can be made in print, on the radio, on television and particularly on social media websites. The existing provision to discourage this is largely ineffectual. Where this does occur, there is little that the victim of such misrepresentations can do in the time scale of an election period.

The provisions of the electoral act which deals with publishing false information is far too narrow being confined to the misleading of a voter “in relation to the casting of his or her vote” which has been interpreted by the courts as being confined to false or misleading information influencing a voter in the act of numbering a ballot paper.

Legislation along the lines of the South Australian model that prohibits false or misleading statements being made about a party or candidate whether it be by an individual or a media outlet are needed to enhance democracy. The South Australian Electoral Commissioner is empowered to request withdrawal of the material, require a publication to be retracted, and take court action. A special election tribunal could also fill this role particularly if constituted by members of the public and legal professionals to provide a broad spectrum view of the legal and practical effect of such conduct.

The penalties for breach of the provisions should be sufficiently punitive to deter the behaviour, with adjudication on the truth of a statement being prompt so that public announcements before the election could be made and appropriate penalties imposed.

7. Assurance of automated vote counting as integrity measure

The data entry (including by scanning) and automated counting and preference distribution of both Legislative Assembly and Legislative Council ballot papers have become established in NSW and within other Australian jurisdictions. While there are safeguards around the data entry process and some opportunities for scrutineers to monitor the process, the handling of ballot paper data is not generally able to be subject to scrutiny or audited for accuracy.

In 2021 the S273 of the Commonwealth Electoral Act was amended to require an independent security risk assessment of automated systems used to scrutinise (data entered) votes. The risk assessment requirement should go further and specifically require a clear, public, statistical audit that compares a random sample of paper ballots with the digitised preferences to establish a specified high level of confidence.

An audit of this kind would allow scrutineers and the public to verify that the data entry error rate is low enough to support the announced election result or to ask for more investigation if the rate of discrepancies seems high.

8. Electoral funding legislation and parties

The Greens NSW believe that Administrative and Election Campaign Fund expenditure should be directly and primarily related to the activities of the party within NSW. Production of materials may occur elsewhere as long as the materials are related to and used within NSW. There needs to be a provision to ensure that transfer pricing does not occur when the supplier of goods or services is a related party.

The Greens NSW would also support amendments that would ensure that there is some requirement for the party and its officers to be able to be subject to the NSW jurisdiction for enforcement purposes.