

Joint Standing Committee on Electoral Matters' Report, *Administration of the 2023 NSW state election and other matters* (Report 1/58 – October 2024)

Government response

	JSCEM Recommendation	Government response	Government comment
1.	That the NSW Government considers amending the <i>Electoral Act 2017</i> to clarify that a party name cannot be registered or remain registered if it includes the word 'independent'.	Accept	The Government will introduce a Bill to give effect to this recommendation. This recommendation is supported by staff of the NSW Electoral Commission (NSWEC). The NSWEC notes that consideration will need to be given to transitional arrangements.
2.	That the NSW Government limits candidates' ability under section 49 of the <i>Electoral Act 2017</i> to request a list of electors to no later than 48 hours before the close of voting, to ensure that this information is only used for election-related purposes.	Accept	The Government will introduce a Bill to give effect to this recommendation. This recommendation is supported by the NSWEC.
3.	That the NSW Government clarifies the funding consequences of late dis-endorsement of a candidate by a party.	Accept	The Government will introduce a Bill to give effect to this recommendation. This recommendation is supported by the NSWEC.
4.	That the NSW Government clarifies the provisions for advance payments in relation to elections, to make clear whether candidates and parties who fail to lodge declarations or annual financial statements under the <i>Electoral Funding Act 2018</i> are eligible to receive advance payments.	Accept	The Government supports measures that seek to promote transparency and accountability in electoral funding. Consistent with this recommendation, and the NSWEC's submissions to the JSCEM, the Government will introduce a Bill that seeks to clarify that parties and candidates are not eligible for any payment, including advance payments, under Part 4 of the <i>Electoral Funding Act 2018</i> in respect of a general election or a by-election while any failure to lodge a declaration under Part 3 (Political donations and electoral expenditure) or any annual financial statements under Part 6 (Obligations of registered parties and

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			<p>senior office holders) for a past period continues in respect of the party or candidate (or of any group of which the candidate is a member).</p> <p>This will ensure consistency between the treatment of advance payments and final payments from the Election Campaigns Fund.</p> <p>This recommendation is supported by the NSWEC.</p>
5.	That the NSW Government amends the <i>Electoral Funding Act 2018</i> to provide that the lead candidate of a group of independent candidates is responsible for the disclosures of all candidates in the group.	Accept	<p>The Government will introduce a Bill to give effect to this recommendation.</p> <p>This recommendation is supported by the NSWEC.</p>
6.	That the NSW Electoral Commission publishes the locations of early voting centres and voting places well before the 2027 state election, where possible.	This recommendation is directed to the NSW Electoral Commission	<p>The NSWEC has been consulted on and supports this recommendation in principle.</p> <p>The NSWEC notes that it aims to publish the name of early voting and election day locations by the close of roll date. If the NSWEC was required to publish locations much earlier, however, there is a high risk that a published early list would be inconsistent with the final locations. This risk arises because suitable venues must be temporarily leased in each district from private property owners and those negotiations are not always able to be finalised by the close of roll date.</p> <p>Further, while the NSWEC endeavours to publish the list of declared facilities by the close of roll, the days and hours of visits are subject to change at late notice due to the unique challenges posed by declared facilities. Declared facility visits are also managed at a local level by election managers using a manual process, rather than through NSWEC's centralised systems for managing its other voting venues. It is important to retain this flexibility at a local level for declared facilities.</p>

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7.	That the NSW Government amends the <i>Electoral Act 2017</i> to require electoral material distributed during the early voting period to be registered by the Electoral Commissioner, consistent with the requirements for electoral material distributed on election day.	Accept	<p>The Government will introduce a Bill to give effect to this recommendation.</p> <p>This recommendation is supported in-principle by the NSWEC.</p> <p>The NSWEC notes that any additional review and registration activities to be carried out by the NSWEC during the early voting period would require additional resources.</p> <p>Any budget impacts arising from this recommendation will be considered as part of the Budget process.</p>
8.	That the NSW Government prohibits political participants from distributing and collecting postal vote applications.	Accept	<p>The Government will introduce a Bill to give effect to this recommendation.</p> <p>This recommendation is supported by the NSWEC. The NSWEC notes that the current practice of party-issued postal vote applications creates risks of delay in issuing postal vote packs to electors and raises concerns in relation to elector privacy and election integrity.</p>
9.	That the NSW Government enables postal votes to be received by an election official located overseas by a prescribed date and time, and for these votes to be forwarded to the NSW Electoral Commission by courier.	Accept	<p>The Government will introduce a Bill to give effect to this recommendation.</p> <p>The NSWEC supports this recommendation, noting that receipt of postal votes in Australian Government missions overseas relies on Commonwealth support.</p>
10.	That the NSW Government ensures that changes to postal voting for the 2023 state election in relation to specific printing requirements are made permanent.	Accept	<p>The Government will introduce a Bill to give effect to this recommendation.</p> <p>This recommendation is supported by the NSWEC.</p>
11.	That the NSW Government permits absent declaration voting for all electoral districts, at all voting centres that are appointed outside	Accept	<p>The Government will introduce a Bill to give effect to this recommendation.</p> <p>This recommendation is supported by the NSWEC.</p>

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	Australia by the NSW Electoral Commissioner.		
12.	That the NSW Government provides the NSW Electoral Commissioner with the authority to appoint election officials for overseas voting centres based on their skills and experience.	Accept	The Government will introduce a Bill to give effect to this recommendation. This recommendation is supported by the NSWEC.
13.	That the NSW Government considers amending the eligibility requirements for election officials at section 81 of the <i>Electoral Act 2017</i> to better facilitate overseas voting.	Accept	The Government will consider, in consultation with the NSWEC, what amendments to the eligibility requirements for election officials at section 81 of the <i>Electoral Act 2017</i> are most appropriate to better facilitate overseas voting, whilst also continuing to safeguard the integrity of the electoral process. The Government will introduce a Bill including those amendments. This recommendation is supported by the NSWEC.
14.	That the NSW Government adopts provisions similar to those for overseas voting, for interstate voting.	Accept	The Government will introduce a Bill to give effect to this recommendation. This recommendation is supported by the NSWEC.
15.	That the NSW Government amends the <i>Electoral Act 2017</i> to clarify how the NSW Electoral Commission is to conduct an election in the case of a major disruption such as a pandemic or natural disaster that may lead to a failure of the election. This amendment should state that the Commission is to consult with candidates prior to any significant decision being made.	Accept in principle	The Government supports in principle legislative amendments to clarify how the NSW Electoral Commissioner is to conduct an election in the case of a major disruption such as a pandemic or natural disaster that may lead to a failure of the election, and will introduce a Bill to give effect to this recommendation. In developing the amendments, consideration will need to be given to any constitutional implications and the potentially limited capacity of the Electoral Commissioner to undertake consultation in the event of a major disruption. The NSWEC also supports the recommendation, noting that it would be preferable for the mode of consultation to be developed by the NSWEC, rather than prescribed. In an emergency there may not be time for the Electoral Commissioner to consult with candidates,

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			however the Electoral Commissioner would provide updates/communications where possible.
16.	That the NSW Government amends the <i>Electoral Act 2017</i> to clarify the power of an election official to make a direction to maintain safety at a polling place in circumstances that are not caused by a person, such as fire, flash flooding or COVID-19.	Accept	The Government will introduce a Bill to give effect to this recommendation. This recommendation is supported by the NSWEC.
17.	That the NSW Government amends the <i>Electoral Act 2017</i> to permit the opening of ballot boxes from early voting centres from 4pm on election day to process ballot papers only, with counting to start from 6pm.	Accept	The Government will introduce a Bill to give effect to this recommendation. This recommendation is supported in-principle by the NSWEC. The NSWEC notes that this would have resourcing implications for the NSWEC which would need to be funded appropriately. Consideration may need to be given to introducing ancillary offence provisions prohibiting scrutineers from disclosing information during this period and a mechanism for the Commissioner/election official to approve other third-party presence if appropriate (e.g. media, auditors). See, by way of analogy, s 110J of the <i>Electoral Act 2002</i> (Vic) which applies during the early processing of ballot papers in Victoria and s 218(2B) of the <i>Commonwealth Electoral Act 1918</i> (Cth) which applies to scrutineer presence during the early opening and sorting of pre-poll ballot papers before the close of the poll on polling day (and see similarly s 90(3) of the <i>Referendum (Machinery Provisions) Act 1984</i> (Cth)). Funding for NSWEC activities and functions will be considered by the Government as part of usual budget processes.
18.	That the NSW Electoral Commission prioritises counting Legislative Assembly ballot papers from early voting centres, and	This recommendation is directed to the NSW Electoral Commission	The NSWEC has been consulted on and supports this recommendation in principle, noting that any resourcing implications for the NSWEC would need to be funded appropriately.

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	considers not counting Legislative Council ballot papers from early voting centres on election night.		
19.	That the NSW Government amends section 207 of the <i>Electoral Act 2017</i> to put beyond doubt that not knowing that an election was being conducted is not a defence to the offence of failing to vote.	Accept	The Government will introduce a Bill to give effect to this recommendation. This recommendation is supported by the NSWEC.
20.	That the NSW Government amends the <i>Electoral Act 2017</i> to better protect the security of election information that the NSW Electoral Commissioner must provide under section 222.	Accept	The Government will introduce a Bill to give effect to this recommendation. This recommendation is supported by the NSWEC.
21.	That the NSW Government provides additional funding to enable education programs such as Vote Talk to be rolled out to a broader range of culturally and linguistically diverse communities for the 2027 state election.	Noted	Funding for NSWEC activities and functions will be considered by the Government as part of usual budget processes. The NSWEC supports this recommendation in-principle, noting that it would need to be funded appropriately.
22.	That the NSW Electoral Commission provides additional resources for culturally and linguistically diverse voters at polling places for the 2027 state election.	This recommendation is directed to the NSW Electoral Commission	The NSWEC has been consulted on and supports this recommendation in principle, noting that it would need to be funded appropriately. Funding for NSWEC activities and functions will be considered by the Government as part of usual budget processes.
23.	That the NSW Electoral Commission promotes its easy-read materials and information to people with disability more widely, including through social media.	This recommendation is directed to the NSW Electoral Commission	The NSWEC has been consulted on and supports this recommendation in principle, noting that it would need to be funded appropriately. Funding for NSWEC activities and functions will be considered by the Government as part of usual budget processes.

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24.	That the NSW Government ensures that the NSW Electoral Commission is adequately resourced to provide co-designed disability awareness training to staff working at elections.	Accept in principle	Funding for NSWEC activities and functions will be considered by the Government as part of usual budget processes. The NSWEC supports this recommendation in-principle.
25.	That the NSW Government considers measures to strengthen the NSW Electoral Commission's capacity to take action against misinformation and disinformation about electoral processes during election campaigns.	Accept	Under the Electoral Act, the NSWEC may promote public awareness of electoral matters that are in the general public interest by means of education and information programs. The Government will continue to support the use of appropriate measures to address misinformation and disinformation about electoral processes during election campaigns. This is considered to be an important activity to help maintain voters' confidence in the integrity of our electoral system. The NSWEC has been consulted on and supports this recommendation in principle.
26.	That the NSW Government considers increasing existing penalties under the <i>Electoral Act 2017</i> for offences relating to non-complying electoral material.	Accept	The Government will introduce a Bill to give effect to this recommendation.