



The Hon. Don Harwin MLC

Leader of the Government in the Legislative Council

Special Minister of State

Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts

Vice-President of the Executive Council

Ref: A4599820

Ms Helen Minnican
Clerk of the Legislative Assembly
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Ms Minnican

I refer to Report No 1/57 of the Joint Standing Committee on Electoral Matters entitled 'Administration of the 2019 NSW State Election' dated October 2020.

In accordance with Legislative Assembly Standing Order No. 303A, I wish to present the enclosed Government response to the Clerk.

I have written separately to the Clerk of the Legislative Council to present the Government's response in accordance with Legislative Council Standing Order No. 233.

Yours sincerely

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28 APR 2021



REPORT OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS – ADMINISTRATION OF THE 2019 NSW ELECTION (REPORT 1/57 – OCTOBER 2020)

GOVERNMENT RESPONSE

A resolution was passed in the Legislative Assembly on 18 June 2019 and in the Legislative Council on 19 June 2019 that the Joint Standing Committee on Electoral Matters (the **Committee**) inquire into the administration of the 2019 NSW State election and related matters. The Committee released its report (**Report**) on 28 October 2020.

The Government accepts, accepts in part or accepts in-principle, 44 of the 54 recommendations made by the Committee. The Government does not accept one of the Committee's recommendations and notes the remaining nine.

The Government's position on each of the Committee's recommendations is set out in **Attachment A**.

The NSW Electoral Commission was consulted on the Committee's recommendations and its views have been carefully considered in preparing this response.

The NSW Electoral Commission advised that its support for the Committee's recommendations, as noted in the response, is contingent on adequate resources being available to implement the recommendations.

In addition, the NSW Electoral Commission advised that it may be difficult to implement some of the accepted recommendations before the 2023 State election. This is due to the shortened period between the 2021 local government elections and the 2023 State general election and limited relevant subject matter expertise within the NSW Electoral Commission. In these circumstances it would be difficult to implement major election system changes prior to the 2023 State general election.

	JSECM RECCOMENDATION	GOVERNMENT RESPONSE	COMMENT
1.	<p>That the NSW Government consider legislative amendments to delay the start of the early voting period to allow parties and candidates more time between the ballot draw and the start of early voting to register campaign materials:</p> <ul style="list-style-type: none"> the early voting period should start on the Saturday, seven days prior to election day, and early voting centres should be open 8am to 6pm during this period except for the Thursday when they should be open 8am to 9pm. 	Accept in part	<p>The Government recognises the difficulties caused by the limited period available to parties and candidates to register voting material before the start of early voting.</p> <p>For example, for the 2019 NSW State election there was only a period of three days between the ballot draw and the start of the early voting period.</p> <p>Accordingly, the Government supports providing parties and candidates with more time to register campaign materials. The Government will consider the best approach for achieving this, in consultation with the NSW Electoral Commission.</p> <p>To maintain sufficient flexibility, the NSW Electoral Commission considers that the particular days and hours during which individual early voting venues operate should remain an operational decision for the Commission (as provided for in section 114 of the <i>Electoral Act 2017</i>).</p>
2.	<p>That the NSW Government consider providing funding to the NSW Electoral Commission to allow information supplied to the Commission by candidates, as part of the registration process under the <i>Electoral Funding Act 2018</i>, to be integrated with the Commission's online nominations system.</p>	Noted	<p>The Government supports measures to make the electoral process more efficient and convenient. The Government will work with the NSW Electoral Commission to examine options for implementing this recommendation.</p> <p>Funding for NSW Electoral Commission activities and functions is considered by the Government as part of usual budget processes.</p>
3.	<p>That the NSW Government amend the <i>Electoral Act 2017</i> and/or the <i>Electoral Regulation 2018</i> to provide that where nomination papers are lodged electronically with the NSW</p>	Accept in principle	<p>The Government accepts this recommendation in principle as it aims to improve the convenience and efficiency of the electoral process.</p>

	JSCEM RECCOMENDATION	GOVERNMENT RESPONSE	COMMENT
	Electoral Commission electronic signatures are sufficient and there is no requirement for written signatures.		<p>The Government will work with the NSW Electoral Commission to determine how this recommendation could be implemented.</p> <p>The Government will also consider, in consultation with the Children’s Guardian, whether it is appropriate for child protection declarations which must accompany a nomination form to be signed electronically.</p>
4.	That the NSW Government consider amending the <i>Electoral Act 2017</i> to require registered parties to provide one set of contact details for its endorsed candidates to be published on the NSW Electoral Commission’s website, thereby removing the need for candidates of this class to provide their contact details on their nomination form.	Accept	<p>The Government accepts this recommendation as it aims to improve the convenience and efficiency of the electoral process.</p> <p>The Government will consider how this recommendation could be implemented in consultation with the NSW Electoral Commission.</p> <p>The NSW Electoral Commission notes that for operational purposes the Commission would still require an individual candidate’s personal contact details to be provided, in addition to the published contact details. The additional contact details are required to enable the Commission to engage with the candidate on administrative issues regarding the nomination process and on legislative requirements under the <i>Electoral Funding Act 2018</i>.</p>
5.	That the NSW Government amend the <i>Electoral Funding Act 2018</i> so that a registered party no longer has disclosure obligations in respect of a candidate that it has dis-endorsed, once it has advised the NSW Electoral Commission of that dis-endorsement in writing.	Accept in principle	<p>The <i>Electoral Funding Act 2018</i> sets out who is required to make the electoral expenditure and political donations disclosures required under the Act. In the case of a candidate or elected member who is a member of a registered party, the party agent of that registered party is responsible for making disclosures.</p> <p>The Government acknowledges concerns that these requirements result in a party agent being responsible for the disclosures of a candidate even in circumstances where the candidate has been</p>

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			<p>dis-endorsed by a party. The Government accepts, in principle, that a party agent should not continue to be responsible for disclosure obligations in respect of a candidate that has been dis-endorsed by the party but still remains a member of the party. It would be reasonable in those circumstances for the disclosure obligation to fall upon the candidate, as is currently the case with candidates who are not members of a political party.</p> <p>The Government will work with the NSW Electoral Commission to examine options for implementing this recommendation.</p>
6.	<p>That the NSW Government amend the <i>Electoral Funding Act 2018</i> to provide that the applicable cap for electoral expenditure by third party campaigners for State election campaigns is:</p> <ul style="list-style-type: none"> • \$1,288,500 for those registered under the Act before the capped state expenditure period, and • \$644,300 in any other case, <p>with these amounts to be adjusted for inflation as provided for in Schedule 1 of the Act.</p>	<p>Noted</p>	<p>The Government believes that expenditure caps support our system of representative and responsible government by:</p> <ul style="list-style-type: none"> • reducing demand for donations to candidates and parties • reducing actual or perceived undue or hidden influence being exerted on the political process, and • promoting between parties and candidates a fair contest of ideas and policies rather than a contest of fundraising capacity, thereby promoting equality of opportunity to participate in the political process. <p>Appropriate expenditure caps for third-party campaigners are necessary to ensure that the voices of candidates and parties are not overwhelmed by the expenditure of third-party campaigners.</p> <p>The Government intends to progress amendments to the <i>Electoral Funding Act 2018</i> in relation to third party campaigner expenditure caps prior to the 2023 State election. The Government will consider the Committee’s recommendation in developing these amendments.</p>

	JSCEM RECCOMENDATION	GOVERNMENT RESPONSE	COMMENT
7.	That the NSW Government consider amending the <i>Electoral Funding Act 2018</i> so that travel and accommodation expenses are not captured as 'electoral expenditure' for the purposes of the electoral expenditure caps for NSW State election campaigns.	Noted	The Government recognises that campaigning in regional electorates can involve significant travel and accommodation costs. As such, the Government will consider the proposed recommendation noting that travel and accommodation expenses constitute a significant portion of costs associated with campaigning. Excluding those costs could potentially give well-resourced campaigners an unfair advantage.
8.	That the NSW Electoral Commission review the reliability of the electronic mark-off system before the next NSW State election and make any necessary changes.	Accept	The Government appreciates the importance of having a reliable and secure roll mark-off system during an election. In preparation for the 2021 local government elections, the NSW Electoral Commission has already carried out infrastructure upgrades to provide a more robust electronic mark-off system. The NSW Electoral Commission advises that it intends to undertake further infrastructure upgrades before the next State general election, subject to the availability of adequate resources. The NSW Electoral Commission anticipates that these upgrades need to be extensive.
9.	That at every polling place in NSW that uses electronic mark-off for State elections, the NSW Electoral Commission implements a back-up system, such as a paper roll, to cover potential breakdowns of the electronic mark-off system.	Accept	<p>The Government supports measures to ensure the continued accessibility of voting in the event of disruptions to electronic mark-off systems. The Government will ask the NSW Electoral Commission to consider appropriate back-up systems which could be implemented in the event of disruption to the electronic mark-off system.</p> <p>The NSW Electoral Commission advises that it will be providing paper rolls to each early voting venue as a back-up measure for the 2021 local government elections. The NSW Electoral Commission is also currently enhancing security features on voting centre laptops to allow for a back-up roll to be loaded on each laptop.</p>

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10.	That the NSW Government make legislative amendments so that where there is unauthorised use or disclosure of enrolment information collected under Part 5 of the <i>Electoral Act 2017</i> , individuals to whom the information relates are informed.	Accept in principle	<p>The <i>Electoral Act 2017</i> contains strong offence provisions and significant penalties as a deterrence to misusing enrolment information. The Government notes that instances of electoral information being used in contravention of those offence provisions is rare. Where this may occur, the Government supports advising affected individuals.</p> <p>The Government will consider, in consultation with the NSW Electoral Commission and the Privacy Commissioner, what amendments may be appropriate in these circumstances, noting the need to balance competing considerations of transparency, privacy and procedural fairness.</p>
11.	That the NSW Electoral Commission collect data on the number of people issued with failure to vote notices following NSW State elections who in fact voted.	Accept in principle	<p>The Government agrees that information regarding failure to vote notices is useful to indicate whether electronic and manual mark-off systems are working correctly, and whether there are any failures in these systems which may need to be addressed.</p> <p>A number of failure to vote penalty notices are withdrawn on the basis of claims by an elector that they voted. While those claims may be accepted and be sufficient for the purpose of withdrawing a penalty notice, they may not necessarily establish that a person did in fact vote.</p> <p>While the NSW Electoral Commission collects data on the number of penalty notices which are withdrawn on the basis of an elector <i>claiming</i> to vote, it is not possible to collect data on the number of people issued with failure to vote notices who <i>actually</i> voted.</p> <p>For the 2019 State election, 384,879 penalty notices were issued for apparent failure to vote. Of those issued, 150,064 penalty</p>

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			notices were withdrawn, with 10.5% of the notices withdrawn on the basis the elector claimed to have voted.
12.	That the NSW Government amend the <i>Electoral Act 2017</i> to require party logos to be included on the ballot papers for the Legislative Assembly and the Legislative Council.	Accept in principle	<p>The Government agrees with the Committee that party logos on ballot papers would assist voters to identify their preferred party or candidate. In particular, it would assist with distinguishing between parties that may have similar names. It may also be of benefit to voters with disability and voters from a culturally and linguistically diverse background.</p> <p>The Government will work with the NSW Electoral Commission to progress necessary amendments to the <i>Electoral Act 2017</i> to require party logos to be included on ballot papers. The NSW Electoral Commission advises that implementing this change would have significant cost and systems implications which may make it difficult to deliver ahead of the next State general election.</p>
13.	That the NSW Electoral Commission conduct a review of the number and location of early voting centres in NSW prior to the 2023 State election to ensure an appropriate level of accessibility.	Accept	The NSW Electoral Commission supports the recommendation and notes that accessibility is one its main priorities when selecting any voting centre. At the 2019 State election, 66% of districts had at least one “accessible” voting centre and 90% of those districts had at least one voting centre that was “fully accessible”.
14.	The NSW Electoral Commission publish a finalised list of declared facilities, and the dates they will be visited, on its website, prior to the start of the early voting period.	Accept in part	<p>The NSW Electoral Commission has been consulted on and supports this recommendation in part, noting that it currently publishes the location of declared facilities on its website.</p> <p>The NSW Electoral Commission notes that it is not possible to publish, prior to the start of the early voting period, confirmed dates on which visits by election officials to the declared facilities will take place. Declared facility visits are managed at a local election manager level directly with the facility and the agreed</p>

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			dates may change due to circumstances at an individual facility. Visit dates are also subject to late changes, for example, in response to health issues at the facilities.
15.	That the NSW Government consider funding the NSW Electoral Commission for the development of an online portal for the submission and tracking of postal vote applications.	Noted	<p>The Government supports in principle measures to improve and streamline the processing of postal vote applications. The NSW Electoral Commission has been consulted on this recommendation and supports the development of a self-service portal similar to that operated by the Australian Electoral Commission, noting that additional funding would be required to do so.</p> <p>Accordingly, the Government will work with the NSW Electoral Commission to consider whether this reform can be implemented, noting that the development of the online funding and disclosure system is a priority.</p> <p>Funding for NSW Electoral Commission activities and functions is considered by the Government as part of usual budget processes.</p>
16.	That the NSW Electoral Commission review its guidelines and systems for processing postal vote applications, and communicate clearly with stakeholders about the requirements for submitting applications, to avoid any processing errors occurring in the future.	Accept	The NSW Electoral Commission has been consulted on and supports this recommendation. The NSW Electoral Commission notes that implementing a self-service tracking system (in line with recommendation 15) would greatly assist in improving communications in this area.
17.	That the NSW Electoral Commission facilitate a thorough review, upgrade and testing of the iVote system well in advance of the 2023 NSW State election, in consultation with all relevant stakeholders to ensure optimal security, reliability and accessibility.	Accept	The NSW Electoral Commission has been consulted on and supports this recommendation.

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18.	<p>That the NSW Government consider amending the <i>Electoral Act 2017</i> to make the iVote development process for the 2023 NSW State election subject to independent oversight by a panel of technology experts, that has power to publicly recommend against the system’s use if it fails to meet pre-determined security and reliability requirements. The panel of technology experts would report directly to the Joint Standing Committee on Electoral Matters.</p>	<p>Not accepted</p>	<p>While the Government recognises the importance of adequate oversight mechanisms to ensure the security of the iVote system, it does not support the recommended measure.</p> <p>Under section 156 of the <i>Electoral Act 2017</i>, the Electoral Commissioner is already required to engage an independent auditor to audit the information technology used in technology assisted voting. The independent auditor can make recommendations to reduce or eliminate any risks that could affect the security, accuracy or secrecy of technology assisted voting. Further, under section 162 of the <i>Electoral Act 2017</i>, the NSW Electoral Commissioner can determine that technology assisted voting is not to be used at an election.</p> <p>These oversight functions in relation to technology assisted voting are appropriate as the NSW Electoral Commissioner is independent from the Government and is under a duty to exercise his functions in a manner that is not unfairly biased against or in favour of any particular parties, groups, candidates or other persons, bodies or organisations.</p> <p>The Government and the NSW Electoral Commission consider that the measures proposed by the Committee would undermine the independence of the Electoral Commissioner and potentially threaten public trust in the integrity of the NSW electoral system.</p> <p>Accordingly, the Government will not implement this measure but will work closely with the NSW Electoral Commission to consider the adequacy of existing oversight mechanisms in the <i>Electoral Act 2017</i> and whether additional mechanisms should be established.</p>

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19.	That the NSW Electoral Commission make the iVote source code available for interested members of the public to test at least six months prior to the relevant election, and limit any associated non-disclosure agreement to that necessary for security reasons.	Accept	<p>The NSW Electoral Commission has been consulted on and supports this recommendation.</p> <p>The iVote source code was made publicly available after the 2019 State election and it has remained available since that time. The NSW Electoral Commission proposes to continue making the source code available by updating the source code repository with new updates as they are introduced to the production environment after testing.</p>
20.	That in future the verification system that iVoters can use to confirm that their vote has been recorded correctly be delivered by a provider other than the provider with whom iVoters have cast their vote.	Accept in principle	<p>The Government notes that there is no suggestion of malfeasance in relation to the verification system used for the 2019 State general election. However, the Government agrees in principle that verification of iVote votes (i.e. checking whether votes have been accurately recorded) should, if possible, be carried out by a company other than the company with whom iVoters cast their vote. This would contribute to a more transparent and robust system of verification.</p> <p>The NSW Electoral Commission will explore options to develop a new verification application, using a provider other than the provider with whom iVoters cast their vote.</p>
21.	That all voters who use the iVote system be provided with a hyperlink to each party's registered How-To-Vote.	Accept in principle	<p>The NSW Electoral Commission has been consulted on and supports this recommendation in principle but notes that implementation will depend on the availability of additional resources. The NSW Electoral Commission notes that during the 2019 State general election the iVote website included a link to the NSW Electoral Commission website landing page for the registered electoral material website.</p>

	JCEM RECOMMENDATION	GOVERNMENT RESPONSE	COMMENT
22.	<p>That the NSW Government amend the <i>Electoral Act 2017</i> to:</p> <ul style="list-style-type: none"> • require the NSW Electoral Commission to translate registered how-to-vote cards into formats accessible to persons who are blind or have low vision; and • require the NSW Electoral Commission to publish these accessible versions on its website, where possible. 	Noted	<p>The Government supports appropriate measures to increase access to electoral material for persons who are blind or have low vision.</p> <p>The Government notes the concerns of the NSW Electoral Commission that its independence could be compromised if it was to be responsible for altering how-to-vote cards or other electoral material.</p> <p>The NSW Electoral Commission prefers that registered parties and candidates be responsible for translating how-to-vote cards into accessible formats. The Government will work with the NSW Electoral Commission on an appropriate way forward.</p>
23.	<p>That the NSW Electoral Commission disseminate information about iVote to disability advocacy groups well in advance of the relevant NSW State election to ensure that it reaches their members in time.</p>	Accept	<p>The Government supports the timely distribution of iVote information to disability advocacy groups to ensure their members have the information they need to access the iVote system.</p> <p>The NSW Electoral Commission has been consulted on and supports this recommendation.</p>
24.	<p>In future the NSW Electoral Commission employ specialised staff at its elector call centre, with appropriate qualifications and training to provide iVote users with technical support.</p>	Accept in principle	<p>The NSW Electoral Commission has been consulted on and supports this recommendation in principle.</p> <p>The NSW Electoral Commission advises that additional training programs will be delivered to support all call centre staff to provide more iVote system and process support during elections.</p>
25.	<p>In future, the NSW Electoral Commission provide disability awareness and confidence training to all staff working at its elector call centre.</p>	Accept	<p>The NSW Electoral Commission has been consulted on and supports this recommendation.</p>

	JSECM RECCOMENDATION	GOVERNMENT RESPONSE	COMMENT
26.	That the NSW Electoral Commission conduct the Legislative Assembly first preference count, and the Legislative Assembly two candidates preferred count on election night as a matter of priority.	Accept	<p>The NSW Electoral Commission has been consulted on and supports this recommendation.</p> <p>The NSW Electoral Commission notes that the recommended count process was used for the 2019 State general election and will be used in 2023.</p>
27.	That the Legislative Council count not take place until the Legislative Assembly first preference count, and the Legislative Assembly two candidate preferred count, have been completed.	Accept	<p>The NSW Electoral Commission has been consulted on and supports this recommendation.</p> <p>The NSW Electoral Commission notes that the recommended count process was used for the 2019 State general election and will be used in 2023.</p>
28.	That the NSW Electoral Commission stop sorting Legislative Assembly ballot papers into single preference and multi preference ballot papers before conducting the two candidates preferred count.	Accept	<p>The NSW Electoral Commission has been consulted on and supports this recommendation.</p> <p>The NSW Electoral Commission notes that the recommended count process was used for the 2019 State general election and will be used in 2023.</p>
29.	That in the counting of declaration and postal votes for the Legislative Assembly, the NSW Electoral Commission prioritise ballot papers for electoral districts that are closely contested.	Accept	<p>The NSW Electoral Commission has been consulted on and supports this recommendation. The NSW Electoral Commission notes that as an operational matter, the counting process is subject to the timing of ballot paper deliveries to count centres. As a result, votes from electoral districts in regional areas may take more time to reach a count centre than votes from metropolitan areas.</p>
30.	That the NSW Electoral Commission examine ballot paper scanning to replace the manual Legislative Council ballot paper check count and data entry processes, and report	Accept	<p>The NSW Electoral Commission has been consulted on and supports this recommendation. The NSW Electoral Commission is exploring the implementation of ballot paper scanning of</p>

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	back to the Committee on the accuracy, reliability and security of such a system before it is implemented.		Legislative Council ballot papers for the 2023 State general election. The Commission will be available to brief the Committee on its progress with this project prior to the election.
31.	<p>That if there were any move to ballot paper scanning to replace the manual Legislative Council ballot paper check count and data entry processes:</p> <ul style="list-style-type: none"> • paper ballots must be retained so that an audit can take place • under the auditing process randomly sampled electronic ballots should be checked against the paper ballots to see that the digitised preferences have been accurately recorded, and • candidate or party-appointed scrutineers must be included as part of the auditing process. 	Accept	<p>The Government recognises the importance of scrutineers in ensuring the integrity of ballot counts.</p> <p>If ballot scanning were to replace existing manual processes, the Government recognises that it would be important to retain paper ballots for auditing purposes. Robust auditing processes would also need to be implemented to ensure the integrity of the scanning process.</p> <p>The NSW Electoral Commission has been consulted on and supports this recommendation.</p>
32.	That the NSW Government amend the <i>Electoral Act 2017</i> to provide Voting Centre Managers, Early Voting Centre Managers and designated staff at polling places ('designated staff') discretion with regard to the enforcement of the 'six metre rule' where there are reasonable grounds.	Accept in principle	<p>Under section 198(1) of the <i>Electoral Act 2017</i>, a person must not canvass for votes on election day within six metres of an entrance to a voting centre. The Government recognises that strict compliance with this requirement can have unfortunate consequences for canvassers in certain circumstances.</p> <p>However, the NSW Electoral Commission advises that implementing this recommendation could exacerbate one of the principal sources of dispute at election venues. A prescribed distance avoids ambiguity, promotes the safe management of gatherings of people and supports consistency across the voting centres.</p> <p>The Government will consider, in consultation with the NSW Electoral Commission, whether the proposed reform could be</p>

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			implemented in a way which adequately addresses risks associated with increased discretion.
33.	That the NSW Government consider whether it is necessary to allocate additional funding to the NSW Electoral Commission to exercise such a discretion with regard to the enforcement of the 'six metre rule'.	Noted	Funding for NSW Electoral Commission activities and functions will be considered by the Government as part of usual budget processes.
34.	That the NSW Electoral Commission issue guidelines, and provide appropriate training, to Voting Centre Managers, Early Voting Centre Managers and designated staff on exercising discretion in the enforcement of the 'six metre rule'.	Accept in principle	The NSW Electoral Commission has been consulted on and supports this recommendation in principle, if a discretion were to be implemented.
35.	That the NSW Electoral Commission review the training provided to voting centre and early voting centre staff to ensure that it equips staff to: <ul style="list-style-type: none"> • appropriately regulate the centres, and • issue correct instructions on how to fill out a ballot paper. 	Accept in principle	The NSW Electoral Commission has been consulted on and supports this recommendation.
36.	That the NSW Electoral Commission conduct a review to determine what steps could be taken to increase the number of fully accessible voting centres and early voting centres for future NSW State elections.	Accept	The NSW Electoral Commission has been consulted on and supports this recommendation.
37.	That the NSW Government continue to fund programs under which the NSW Electoral Commission partners with community organisations to provide information to target communities.	Noted	Funding for NSW Electoral Commission activities and functions will be considered by the Government as part of usual budget processes.
38.	That the NSW Electoral Commission label voting centres and early voting centres in any language where it is	Accept	The NSW Electoral Commission has been consulted on and supports this recommendation.

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	assessed that a significant proportion of that electoral district speaks that language at home.		For the 2023 State general election the NSW Electoral Commission will trial the proposal for polling booths to be labelled in different languages in areas of the Sydney metropolitan where census data provides that a large proportion of the population speak a particular language other than English.
39.	That the NSW Electoral Commission partner with homelessness services to provide information to staff and clients about enrolment, elections and voting.	Accept	The NSW Electoral Commission has been consulted on and supports this recommendation.
40.	That the NSW Electoral Commission produce written materials about enrolment, elections and voting for people experiencing homelessness, similar to those produced by the Victorian Electoral Commission and: <ul style="list-style-type: none"> publish them on the NSW Electoral Commission website; provide hard copies for distribution at homelessness services. 	Accept	The NSW Electoral Commission has been consulted on and supports this recommendation.
41.	That the NSW Electoral Commission collect and publish data to allow stakeholders to evaluate the timeliness with which the Commission resolves complaints about non-compliance with electoral legislation, made during the voting period (that is, from the start of early voting until the end of election day).	Accept	The NSW Electoral Commission has been consulted on and supports this recommendation.
42.	That the NSW Government make legislative amendments to require the NSW Electoral Commission to advise complainants of the outcome of complaints they have made to the Commission about non-compliance with electoral legislation.	Accept in principle	The Government recognises that the timely resolution of complaints regarding non-compliance with electoral laws is important for the integrity of the electoral process. In addition, advising complainants of compliance outcomes where appropriate

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			<p>would improve transparency and enhance trust in the NSW Electoral Commission's approach to compliance and enforcement.</p> <p>The Government will work with the NSW Electoral Commission to examine options for implementing this recommendation.</p>
43.	<p>That the NSW Government amend the <i>Electoral Funding Act 2018</i> so that:</p> <ul style="list-style-type: none"> quarterly payments of administration funding are made in advance, not in arrears, and any unused portion of the quarterly payment can be carried over to the subsequent quarter within a calendar year. 	Accept	<p>The Committee agreed with submissions made during the inquiry that payments from the administration fund made in arrears may disadvantage smaller parties, and potentially independent members of Parliament, which may lack working capital. The Committee also agreed that entitlements to administration funding should be calculated on an annualised basis so that funding can be spread across the year, accounting for the fact that some quarters are busier than others.</p> <p>The Government supports measures which promote effective and sustainable participation in the electoral system. The Government notes that during the inquiry the NSW Electoral Commission advised that it did not expect implementation of this recommendation would create any significant administrative issues.</p>
44.	<p>That the NSW Government consider amending the <i>Electoral Funding Act 2018</i> so that claims from the Electoral Campaigns Fund are paid to eligible parties and candidates in two instalments following an interim claim and a financial claim.</p>	Accept in principle	<p>The Government supports in principle measures to streamline the process of claiming public funding from the Electoral Campaigns Fund for election campaigns.</p> <p>The Government will consider this recommendation, in consultation with the NSW Electoral Commission.</p>
45.	<p>That the NSW Government consider amendments to the <i>Electoral Funding Act 2018</i> so that party membership subscription fees can be used for campaign purposes if the</p>	Noted	<p>The Government acknowledges that current restrictions on the payment of party subscriptions into the State campaign account of a party may disadvantage smaller parties who receive a significant</p>

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	<p>party chooses, with appropriate quarantining so that subscription fees from prohibited donors cannot be so used.</p>		<p>proportion of their funding through subscription fees rather than donations.</p> <p>The Government notes, however, that the current restrictions are important to ensure that prohibited donors cannot use subscription fees to circumvent prohibited donor restrictions. In addition, if the restrictions were removed, parties could potentially raise supplementary campaign funds through donors becoming nominal party members, potentially subverting political donation caps.</p> <p>The Government will consider whether the recommendation could be implemented in a manner which does not subvert political donations caps and prohibited donor restrictions.</p>
46.	<p>That the NSW Government consider amending the <i>Electoral Act 2017</i> and/or the <i>Electoral Regulation 2018</i>:</p> <ul style="list-style-type: none"> • to make it clear that there is no requirement for each individual post of online electoral material to be authorised, and • to make it clear that it is sufficient for the authorisation to appear in a prominent place on a webpage or a social media page to certify that everything posted to the page is authorised. 	Accept in principle	<p>The Government notes that the purpose underlying the authorisation of electoral material is to inform people viewing the material of its origins.</p> <p>The Government will consider, in consultation with the NSW Electoral Commission, whether existing provisions in the <i>Electoral Regulation 2018</i> should be amended to clarify or simplify authorisation requirements in relation to electoral material published online, including on social media.</p>
47.	<p>That the NSW Government amend the <i>Electoral Act 2017</i> to provide that the NSW Electoral Commission may, from time to time, determine and issue guidelines not inconsistent with the Act or regulations about the location and method of authorisation for online electoral material.</p>	Accept in principle	<p>The Government agrees in principle that, given the range of platforms used to post electoral material, and the desire of some electoral participants for greater clarity, it may be helpful if the Electoral Commission could issue guidelines about the location and method of authorisation for online electoral material.</p>

	JSCEM RECCOMENDATION	GOVERNMENT RESPONSE	COMMENT
			The Government will work with the NSW Electoral Commission to examine options for implementing this recommendation.
48.	<p>That the NSW Government consider amending the <i>Electoral Funding Act 2018</i>:</p> <ul style="list-style-type: none"> • to remove the need to submit separate returns to claim funding from the Election Campaigns Fund on the one hand, and to disclose electoral expenditure on the other, • to provide that these returns could instead be filed as one. <p>However, the option to submit two separate returns, if desired, should remain.</p>	Accept in principle	<p>The Government supports measures to reduce the compliance burden on electoral participants and increase the efficiency of the electoral system.</p> <p>The Government notes that a claim for payment from the Election Campaign Fund is only made in respect of a State general election (every four years). This is in contrast to electoral expenditure disclosures which must be made more regularly and which are for a different purpose. Further, the NSW Electoral Commission notes that there are a number of other factors which result in the information contained in electoral expenditure disclosures being different to the information required for claims from the Elections Campaign Fund. Any legislative amendments allowing eligible parties or candidates to meet their disclosure obligation through a claim from the Elections Campaign Fund would need to address those differences.</p> <p>The Government will work with the NSW Electoral Commission to consider options for implementing this recommendation.</p>
49.	That the NSW Government amend the <i>Electoral Funding Act 2018</i> to change the claim period for the New Parties Fund from a calendar year to a financial year.	Accept	<p>The Government accepts that changing the claim period from a calendar year to a financial year may make claims for funding from the New Parties Fund easier.</p> <p>The NSW Electoral Commission noted during the inquiry that it does not anticipate that significant administrative issues would be associated with changing the claim period in this way, provided that suitable transitional provisions are made.</p>

	JSCEM RECCOMENDATION	GOVERNMENT RESPONSE	COMMENT
50.	<p>That the NSW Government amend section 15(1)(b) of the <i>Electoral Funding Act 2018</i> so that political donations covered by that section must be disclosed within six weeks after the end of the half-year within which the donation was received or made, except for political donations made or received in the half year period immediately prior to an Assembly general election for which the disclosure cut-off should continue to be four weeks after the end of that half year.</p>	<p>Accept in principle</p>	<p>The Government recognises that meeting existing timeframes for the disclosure of reportable political donations has caused difficulties for political parties. The Government agrees with the Committee that the timeframe should be extended from four weeks to six weeks, except for donations made or received in the period immediately prior to an election.</p> <p>The Government will consider how best to implement this recommendation, in consultation with the NSW Electoral Commission.</p>
51.	<p>That the NSW Government amend section 57 of the <i>Electoral Funding Act 2018</i> to raise the threshold for the exception to the aggregation rule for small donations at fundraising ventures and functions from \$50 to \$100.</p>	<p>Accept</p>	<p>The Government supports the Committee’s proposal to align the threshold for the exemption to the aggregation rule for small donations (which are often cash donations) with cash donation requirements in the <i>Electoral Funding Act 2018</i>.</p>
52.	<p>That the NSW Government amend the <i>Electoral Funding Act 2018</i> to provide that:</p> <ul style="list-style-type: none"> • where the party agent is not available, the party’s registered officer can sign documentation as required under the <i>Electoral Funding Act 2018</i> and regulations on the party agent’s behalf; and that in any such case the party agent’s obligations under the legislation pass to that registered officer and can be enforced against the registered officer; • to require registered officers to undertake the NSW Electoral Commission’s agent training program consistent with current requirements for party agents under section 102(e) of the <i>Electoral Funding Act 2018</i>. 	<p>Accept in principle</p>	<p>The Government acknowledges that existing requirements in the <i>Electoral Funding Act 2018</i> have caused difficulties for parties in circumstances where the party agent may be unavailable to sign certain documentation.</p> <p>Allowing an alternative person to exercise party agent functions in certain circumstances would address these issues.</p> <p>The Government will consider how best to implement this recommendation, in consultation with the NSW Electoral Commission.</p>

	JSCEM RECCOMENDATION	GOVERNMENT RESPONSE	COMMENT
53.	<p>That as a matter of priority, the NSW Electoral Commission implement an online system that allows the electronic lodgement and management of:</p> <ul style="list-style-type: none"> • disclosures of electoral expenditure and political donations as required under the <i>Electoral Funding Act 2018</i>, and • funding claims made pursuant to the <i>Electoral Funding Act 2018</i>. 	Accept	<p>The NSW Electoral Commission has been consulted on and accepts this recommendation.</p> <p>In 2020 the NSW Electoral Commission launched the first stage of the development and build of a new online portal for political participants that will allow them to register, lodge disclosures and apply for public funding.</p> <p>Additional functionality in the online portal for public funding claims is included in the next phase of development which is due to commence in around mid-2021. The Electoral Commission is available to brief the Committee on its progress with this project.</p>
54.	<p>That the NSW Government review the level of resourcing provided to the NSW Electoral Commission to fulfil its compliance and enforcement role and to retain relevant expertise within the organisation from election to election.</p>	Noted	<p>The Government is committed to ensuring the NSW Electoral Commission is fully equipped to fulfil its compliance and enforcement functions.</p> <p>The Government is currently considering the recommendations of the Public Accountability Committee regarding the Budget process for independent oversight bodies, including the NSW Electoral Commission, and the recommendations of the Auditor-General for NSW regarding the effectiveness of the financial arrangements and management practices of four integrity agencies, including the NSW Electoral Commission.</p>