



PARLIAMENT OF AUSTRALIA

Conduct of the 2022 federal election and other matters

Final report

Joint Standing Committee on Electoral Matters

November 2023

CANBERRA

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Foreword

Australia's electoral system is widely respected, trusted and robustly independent, and it is in the best interests of our community and our elected representatives that it remains so.

Across the western world, we are seeing a drift from democracy when people lose faith in their country's electoral system. That's why it is so important we take steps now to ensure the ongoing strength of our electoral system and our democracy.

Every parliamentary term, the Joint Standing Committee on Electoral Matters holds an inquiry into the preceding election and makes recommendations to ensure that Australia's electoral system remains relevant, appropriate and fit for purpose. Across this final report and the interim report issued in June, the Committee has recommended reforms to some key elements of our system. I encourage not only the Government but all of those with an interest in Australia's electoral system to take these recommendations seriously.

Through submissions and public hearings, the Committee has heard evidence about the need for Australia's electoral system to keep up with community expectations in areas including transparency of donations, the influence of big money on elections, the rise of misinformation and disinformation, participation and enfranchisement, and representation.

The recommendations in this report are made in addition to those made in the Committee's interim report, and are focussed on making improvements in these areas.

Transparency – with lower disclosure thresholds and real-time disclosure requirements, so that Australians know who is funding election campaigns.

Limiting the influence of big money – with the introduction of spending and donation caps, so that elections remain a contest of ideas, rather than who has the deepest pockets.

Responding to the rise of misinformation and disinformation through the introduction of truth in political advertising legislation.

Encouraging participation and enfranchisement – ensuring that all Australians can vote in ways appropriate to their needs, including Aboriginal and Torres Strait Islander peoples, people with disabilities, older Australians and Australians overseas.

Improving representation – by recommending increased Senate representation for the two territories and requesting a specific inquiry reference into increasing the size of the House of Representatives.

The Committee received more than 1500 submissions, held 11 public hearings and has made 36 recommendations. In addition to drawing on the evidence the Committee received, we have also drawn on the experience of electoral systems across Australia's states and

territories, where some of these approaches have already been introduced and shown to improve the electoral system.

On behalf of the Committee, I extend my thanks to the many submitters and witnesses who took the time to engage with this inquiry and provide us with the evidence and ideas that have informed the Committee's findings and recommendations. I also thank my fellow committee members for their collegial participation in this inquiry and our secretariat for all of their work.

Ms Kate Thwaites MP
Chair



Members

Chair

Ms Kate Thwaites MP Jagajaga, VIC

Deputy Chair

Senator the Hon James McGrath LNP, QLD

Members

Senator Ross Cadell NATS, NSW

Ms Kate Chaney MP Curtin, WA

Hon Darren Chester MP Gippsland, VIC

Senator Karen Grogan ALP, SA

Ms Tania Lawrence MP Hasluck, WA

Hon Shayne Neumann MP Blair, QLD

Senator the Hon Marise Payne (until 10.10.2023) LP, NSW

Mr Sam Rae MP Hawke, VIC

Senator the Hon Linda Reynolds CSC (from 20.10.2023) LP, WA

Senator Marielle Smith ALP, SA

Ms Anne Stanley MP Werriwa, NSW

Mr James Stevens MP Sturt, SA

Senator Larissa Waters AG, QLD

Participating Members

Senator Penny Allman-Payne, Senator Alex Antic, Senator Wendy Askew, Senator Ralph Babet, Senator Catryna Bilyk, Senator the Hon Simon Birmingham, Senator Andrew Bragg, Senator Slade Brockman, Senator the Hon Matthew Canavan, Senator the Hon Michaelia Cash, Senator Claire Chandler, Senator Raff Ciccone, Senator the Hon Richard Colbeck, Senator Dorinda Cox, Senator Perin Davey, Senator Patrick Dodson, Senator the Hon Jonathon Duniam, Senator Mehreen Faruqi, Senator the Hon David Fawcett, Senator Nita Green, Senator Pauline Hanson, Senator Sarah Hanson-Young, Senator the Hon Sarah Henderson, Senator Hollie Hughes, Senator the Hon Jane Hume, Senator Kerryne Liddle, Senator Susan McDonald, Senator the Hon Bridget McKenzie, Senator Nick McKim, Senator Andrew McLachlan, Senator Jacinta Nampijinpa Price, Senator Deborah O'Neill, Senator

Matt O'Sullivan, Senator James Paterson, Senator Fatima Payman, Senator Barbara Pocock, Senator David Pocock, Senator Helen Polley, Senator Louise Pratt, Senator Gerard Rennick, Senator Janet Rice, Senator Malcolm Roberts, Senator the Hon Anne Ruston, Senator Paul Scarr, Senator Tony Sheldon, Senator David Shoebridge, Senator Dean Smith, Senator Jordon Steele-John, Senator Glenn Sterle, Senator Jana Stewart, Senator Lidia Thorpe, Senator Anne Urquhart, Senator David Van, Senator Jess Walsh, Senator Peter Whish-Wilson, Senator Linda White



Terms of reference

That the Committee inquire into and report on all aspects of the 2022 federal election and related matters, including consideration of:

- a. reforms to political donation laws, particularly the applicability of 'real-time' disclosure and a reduction of the disclosure threshold to a fixed \$1,000;
- b. potential reforms to funding of elections, particularly regarding electoral expenditure caps and public funding of parties and candidates;
- c. the potential for 'truth in political advertising' laws to enhance the integrity and transparency of the electoral system;
- d. encouraging increased electoral participation and lifting enfranchisement of First Nations People;
- e. the potential for the creation of a single national electoral roll capable of being used for all federal, state and territory elections in Australia;
- f. encouraging increased electoral participation and supporting enfranchisement generally, and specifically in relation to:
 - i. accessibility of enrolment and voting for persons with a disability;
 - ii. voting rights of Australians abroad;
 - iii. Australian permanent residents and new Australian citizens; and
 - iv. New Zealand citizens residing in Australia; and
- g. proportional representation of the states and territories in the Parliament, in the context of the democratic principle of 'one vote, one value'.

List of recommendations

Recommendation 1

- 1.67** The Committee recommends the Government consider asking the Committee to inquire into increasing the size of the House of Representatives to reduce malapportionment and improve the ratio of electors to MPs.

Recommendation 2

- 1.105** The Committee recommends that the representation of the territories in the Senate be increased from two to four Senators each.

Recommendation 3

- 2.179** The Committee recommends that the Commonwealth Electoral Act 1918 is amended to permit on-the-day enrolment for federal elections and referendums.

Recommendation 4

- 2.187** The Committee recommends the Australian Electoral Commission continue to develop close relationships with relevant community organisations in addressing barriers to Aboriginal and Torres Strait Islander electoral participation, particularly in remote areas, with a focus on the following initiatives:
- locally-engaged workforces
 - community-staffed voting centres
 - voter education programs
 - appropriate communication.

Recommendation 5

- 4.193** The Committee recommends the repeal of subsections 93(8)(a) and 118(4) of the Commonwealth Electoral Act 1918.

Recommendation 6

4.197 The Committee recommends that the AEC co-design independent, secure and accessible voting options with disability advocacy organisations and people within the disability community.

Recommendation 7

4.202 The Committee recommends that the AEC:

- expand the accessibility standards for both pre-poll and polling centres
- standardise its voting material in accessible formats
- ensure staff in polling centres are appropriately trained in options for assisting people with disability to vote.

Recommendation 8

4.206 The Committee recommends that the Government expand Part XVB of the Commonwealth Electoral Act 1918 to enable more people to vote via telephone, including:

- people with disability (beyond the Electoral Act's existing provision for blind and low-vision voters)
- Australians overseas but otherwise eligible to vote
- people in remote communities without access to a remote polling station.

Recommendation 9

4.208 The Committee recommends the AEC continue to run its mobile polling program for older Australians living in aged care.

Recommendation 10

4.213 The Committee recommends that the administrative burden of voting overseas is reduced.

Recommendation 11

4.217 The Committee recommends that the Australian Government continue to support people who wish to become Australian citizens and take up their associated voting franchise to do so.

Recommendation 12

4.222 The Committee recommends that the Australian Government consider ways to strengthen civics education programs in Australian schools to better equip and prepare the next generation of voters to cast their first vote.

Recommendation 13

5.58 The Committee recommends that charities registered under the Australian Charities and Not-for-profits Commission be exempt from the donation caps recommended in the Committee's interim report into the 2022 federal election, but that these caps be applied to political parties and candidates, along with associated entities, other third parties and significant third parties.

Recommendation 14

5.59 The Committee recommends that the Australian Government amend the Commonwealth Electoral Act 1918 to provide clarity around the following terms:

- 'electoral matter', which relates to material specifically supporting or opposing one or more parties or candidates in a federal election, and which carries the appropriate authorisation;
- 'electoral expenditure', to ensure that only expenditure for authorised electoral matter, funded out of a Commonwealth Campaign Account, is captured;
- 'third party', to clarify that an organisation qualifies as a third party if 'the amount of electoral expenditure incurred by or with the authority of the person or entity during the financial year is more than \$20,000', noting the definition of 'electoral expenditure' above.

Recommendation 15

5.85 The Committee recommends that contingent on the Australian Government introducing truth in political advertising laws, that the media blackout, known as the relevant period in the Broadcasting Services Act 1992, be removed.

Recommendation 16

5.111 The Committee recommends that the Australian Government ensure that the Australian Electoral Commission is resourced to employ staff at the appropriate level to facilitate elections to the high standard expected by the Australian community.

Recommendation 17

5.112 The Committee recommends that the Australian Government amend section 35 of the Commonwealth Electoral Act 1918 to enable the Australian Electoral Commission to employ senior electoral officers on a more permanent basis.

Recommendation 18

5.115 The Committee recommends that the Australian Electoral Commission expand its recruitment drive to employ staff for selected polling places who can speak the targeted language(s) for those communities.

Recommendation 19

5.129 The Committee recommends that the Australian Government engages with the Australian community to determine contemporary expectations of standards in order to address all matters of qualification and disqualification for Parliament through legislation under sections 34 and 44 of the Constitution.

Recommendation 20

5.157 The Committee recommends that section 184AA of the Commonwealth Electoral Act 1918, application forms for postal votes, be amended or removed, so that postal vote applications can no longer be included with other material.

Recommendation 21

5.158 The Committee recommends that section 184 of the Commonwealth Electoral Act 1918 be amended to clarify that postal vote applications must be sent directly to the Australian Electoral Commission's nominated addresses.



Interim report recommendations

Recommendation 1

Committee recommends that the Australian Government lower the donation disclosure threshold to \$1,000.

Recommendation 2

The Committee recommends that the Australian Government introduce 'real time' disclosure requirements for donations to political parties and candidates.

Recommendation 3

The Committee recommends that the Australian Government gives consideration to amending the definition of 'gift' in the Electoral Act to ensure it meets community expectations of transparency in political donations.

Recommendation 4

The Committee recommends that the Australian Government introduce donation caps for federal election donations.

Recommendation 5

The Committee recommends that the Australian Government introduce expenditure (also known as spending) caps for federal elections.

Recommendation 6

The Committee recommends that donation caps and expenditure caps apply to third parties and associated entities.

Recommendation 7

The Committee recommends the Australian Government introduce a requirement that all political parties, members of Parliament, candidates, associated entities and third parties be required to establish a Commonwealth Campaign Account for the purpose of federal elections, to better allow for disclosure and monitoring.

Recommendation 8

The Committee recommends the Australian Government introduces a new system of administrative funding to recognise the increased compliance burden associated with a reformed system.

Recommendation 9

The Committee recommends the Australian Government introduce a new system of increased public funding for parties and candidates, recognising the impact changes a reformed system will have on private funding in elections.

Recommendation 10

The Committee recommends the Australian Government provide the Australian Electoral Commission with additional resources to support, implement and enforce these reforms.

Recommendation 11

The Committee recommends that the Australian Government develop legislation, or seek to amend the Commonwealth Electoral Act 1918, to provide for the introduction of measures to govern truth in political advertising, giving consideration to provisions in the Electoral Act 1985 (SA).

Recommendation 12

Committee recommends that the Australian Government consider the establishment of a division within the Australian Electoral Commission, based on the principles currently in place in South Australia, to administer truth in political advertising legislation, with regard to ensuring proper resourcing and the need to preserve the Commission's independence as the electoral administrator.

Recommendation 13

The Committee recommends that, providing the Committee receives a reference to conduct a review of the next federal election, consideration of the new framework be included in terms of reference to the Committee. Such consideration could include the effectiveness of the revised arrangements, and identification of any further improvements.

Recommendation 14

Consistent with the recommendation made in this Committee's Advisory report on the Referendum (Machinery Provisions) Amendment Bill 2022, the Committee recommends that the Australian Government strengthen the opportunities for electoral enfranchisement and participation to allow the Australian Electoral Commission to support increased enrolment and participation, particularly of Aboriginal and Torres Strait Islander people, including in remote communities.

Recommendation 15

The Committee recommends the Government resource the Australian Electoral Commission to work directly with Aboriginal and Torres Strait Islander community organisations to increase Indigenous enrolment and participation, particularly in remote communities.



1. Proportional representation - 'one vote, one value'

Introduction

- 1.1 This final report follows the Joint Standing Committee on Electoral Matters' (JSCEM's) interim report on the conduct of the 2022 election, tabled in June 2023. The interim report focused on Terms of Reference a), b) and c) (broadly, political donations, electoral funding and 'truth in political advertising', respectively), with early consideration of d) (encouraging electoral participation and enfranchisement of First Nations People).
- 1.2 The interim report's recommendations can be found at Appendix C. Responding to the strong evidence received, the Committee made 15 recommendations, designed to strengthen and support Australia's electoral system. In line with the focus of that report, the key recommendations:
 - Prioritised increased transparency in the financial side of Australia's electoral system, including by recommending a lowering of the donations disclosure threshold and the introduction of 'real time' disclosure requirements and donation caps;
 - Sought to ensure that Australian elections remain a contest of ideas rather than money, by recommending the introduction of spending caps for elections and increased public funding to reduce parties' and candidates' reliance on donations;
 - Addressed concerns around the rise in misinformation and disinformation by recommending the development of 'truth in political advertising' legislation and equipping the Australian Electoral Commission (AEC) to oversee these standards; and
 - Recognised the need to increase Aboriginal and Torres Strait Islander people's electoral enfranchisement and participation by recommending further resourcing for the AEC to work directly with communities to address this.
- 1.3 This report therefore relates to the remaining Terms of Reference (see p. xi). As with the issues addressed in the interim report, the Committee received evidence suggesting that while Australia's electoral system remains world-leading, there are areas where reform should be considered. This includes:
 - The size of Australia's federal parliament and the representation provided;
 - Further barriers to participation and enfranchisement affecting Aboriginal and Torres Strait Islander people;

- Other groups facing barriers to electoral participation, including Australians with disability, Australians living overseas and older Australians, particularly those in aged care facilities; and
- Additional to the recommendations in the Committee's interim report, Australia's system for regulating electoral spending requires further amendment; election media blackout laws require updating and there is clear community sentiment in favour of revising Australia's postal vote application process.

Conduct of the inquiry and structure of this report

- 1.4 The interim report included information on the inquiry to that point, and background information on the 2022 federal election.
- 1.5 Overall, the Committee received nearly 1500 submissions (listed in Appendix A) and held 12 public hearings (Appendix B). The Committee again thanks the many Australians who contributed to the inquiry in either of those ways and recognises that this level of engagement demonstrates the importance with which Australians hold their electoral system.
- 1.6 This report consists of five chapters:
- Chapter 1: Proportional representation and 'one vote, one value'
 - Chapter 2: Aboriginal and Torres Strait Islander participation in elections
 - Chapter 3: A single national electoral roll
 - Chapter 4: Electoral participation and supporting enfranchisement
 - Chapter 5: Strengthening Australia's electoral system

Proportional representation and 'one vote, one value'

- 1.7 As part of its inquiry, the Committee was asked to consider:
- proportional representation of the states and territories in the Parliament, in the context of the democratic principle of 'one vote, one value.'
- 1.8 A discussion of this term of reference involves six variables, the first two of which are proportional representation and one vote, one value. While proportional representation and one vote, one value are often discussed together in Australia, they do not mean the same thing. Proportional representation is a voting method and one vote, one value is an objective, and as this chapter will demonstrate, it is possible to have some form of one without the other.
- 1.9 The different electoral systems used in House of Representatives elections and Senate elections are another set of variables to consider. The Australian Senate is elected using a type of proportional representation in which a whole state or territory

is the electorate, but is intentionally structured to prevent one vote, one value across Australia.¹ On the other hand, House of Representatives Electoral Divisions (divisions) are distributed so as to get as close as possible to one vote, one value for each division within a state or territory. However, divisions are single member electorates, which disadvantage candidates and smaller political parties with widely distributed support, such as the Greens or One Nation.²

- 1.10 The final two variables concern the legal framework under which federal elections are held: part of the legal framework for Senate and House of Representatives elections is in the Constitution, and part in the *Commonwealth Electoral Act 1918* (the Electoral Act). The part of the legal framework set out in the Constitution can only be changed by referendum, while the part set out in the Electoral Act can be changed through legislation.³
- 1.11 This chapter discusses proportional representation and one vote, one value, first in relation to House of Representatives elections and then in relation to Senate elections.

House of Representatives elections

- 1.12 A discussion about representation in the House of Representatives must start with an explanation of the legal framework for House of Representatives elections to provide context to the discussion of this issue.

House of Representatives elections legal framework

- 1.13 The process for electing members of the House of Representatives (MPs) involves a combination of provisions from the Constitution and the Electoral Act.

Constitutional provisions

- 1.14 The Constitution's provisions in relation to the House of Representatives mandate the direct election of MPs and set out a mechanism for ensuring that each state⁴ elects members proportionate to its population. In brief the provisions are:
- MPs must be 'directly chosen' by the people of the Commonwealth
 - the number of MPs shall be as nearly as possible twice the number of senators
 - the number of MPs elected in each state shall be 'in proportion' to the number of people in each state.⁵

¹ The Samuel Griffith Society, *Submission 366*, p. 3.

² Mr Malcolm Baalman, *Submission 348*, p. 10.

³ *The Constitution*, Chapter I, Parts II and III.

⁴ The legal framework for House of Representatives elections in the territories is contained in the *Commonwealth Electoral Act 1918* only.

⁵ *The Constitution*, section 24.

- 1.15 The number of MPs for each state is determined by a calculation, part of which is detailed in section 24 of the Constitution, and part of which is in the Electoral Act.⁶ The calculation as set out in the Constitution is as follows:
- using the latest available statistics, the population of the Commonwealth⁷ is divided by twice the number of senators to obtain a quota for the number of people each MP will represent
 - the quota is then divided by the population of each state to determine the number of MPs each state is entitled to
 - in the event the calculation results in a state with a remaining partial quota that is greater than one half of a quota, one more MP will be chosen in the state.⁸
- 1.16 Notwithstanding this calculation, the Constitution mandates that no state shall choose less than five MPs.⁹
- 1.17 Section 27 of the Constitution states that, subject to the Constitution's provisions, the Parliament may make laws for increasing or diminishing the number of MPs.¹⁰

Commonwealth Electoral Act

- 1.18 Section 24 of the Constitution specifically permits the Parliament to change the calculation used to determine the number of MPs each state is entitled to.¹¹ However the Electoral Act augments and clarifies the Constitution's provisions, rather than replacing them.

Number of divisions for each state and territory

- 1.19 The Electoral Act sets out the following in relation to determining the number of MPs for each state and territory:
- the process for determining the number of MPs for each state and territory occurs once a Parliament, taking place twelve months after the first sitting day of a new House of Representatives following an election¹²
 - on that day, the Australian Electoral Commissioner (the Electoral Commissioner) ascertains the populations of each state and territory using the most up to date population statistics published by the Australian Bureau of Statistics¹³

⁶ *The Constitution*, section 24 and the *Commonwealth Electoral Act 1918*, Part IV.

⁷ The reference in the Constitution to using 'the latest available statistics' means that the number of members each state is entitled to is calculated using the entire population, of which the number of electors is only a subset.

⁸ *The Constitution*, subsections 24(i.) and 24(ii.).

⁹ *The Constitution*, section 24.

¹⁰ *The Constitution*, section 27.

¹¹ *The Constitution*, section 24.

¹² *Commonwealth Electoral Act 1918*, subsection 46(1).

¹³ *Commonwealth Electoral Act 1918*, subsection 46(1B).

- 1.20 Subsection 48(2) of the Electoral Act requires the Electoral Commissioner to determine the number of MPs for each state using the method set out in the Constitution.¹⁴
- 1.21 Determining the number of MPs for the territories is more complex:
- both the Northern Territory (NT) and the Australian Capital Territory (ACT) are entitled to at least one MP each¹⁵
 - the Electoral Commissioner determines the number of MPs for each territory using the same calculation used for the states¹⁶
 - for territories that are not the NT or the ACT, if the result of the calculation for a territory is less than or equal to half a quota, then that territory is not entitled to a MP.¹⁷
- 1.22 The result is that the NT and ACT have at least one MP, and Australia's other territories do not. The Electoral Act requires that the populations of unrepresented territories are allocated to either the NT or the ACT for the purposes of determining the number of MPs the NT and the ACT are entitled to.¹⁸
- 1.23 For the ACT and the NT, there may be another step in the process of determining how many MPs each territory will elect to the House of Representatives. If the number of MPs for either territory is determined to be more than one and less than three, then the number of MPs each territory will have is calculated using formula called the 'harmonic mean.'¹⁹
- 1.24 If the determination of the number of MP for either the ACT or the NT requires the use of the harmonic mean, the following outcomes are possible:
- up to and including 1.3332 quotas – 1 MP
 - from 1.3333 up to and including 2.39 quotas – 2 MPs
 - from 2.40 quotas and higher – 3 MPs.²⁰

Electoral divisions

- 1.25 From this point on, the process of establishing single member electoral divisions is set out in the Electoral Act only. Because the Electoral Act postdates the Constitution, the Act is drafted on the basis that divisions within each state and territory already exist.

¹⁴ *Commonwealth Electoral Act 1918*, subsection 48(2).

¹⁵ *Commonwealth Electoral Act 1918*, subsection 48(2B).

¹⁶ *Commonwealth Electoral Act 1918*, subsection 48(2A).

¹⁷ *Commonwealth Electoral Act 1918*, subsection 48(2A).

¹⁸ *Commonwealth Electoral Act 1918*, subsection 48(2C).

¹⁹ *Commonwealth Electoral Act 1918*, paragraph 48(2A)(ba).

²⁰ Australian Electoral Commission, 'Calculating the representation entitlements of states and territories,' viewed 21 August 2023, <www.aec.gov.au/Electorates/Redistributions/calculating-entitlements.htm>.

- 1.26 If the Electoral Commissioner determines under section 48(1) of the Electoral Act that it is necessary to alter the number of MPs for a state or territory, then that state or territory will undergo a redistribution of divisions.²¹ In addition, the Electoral Act sets out two other triggers for a redistribution:
- When it appears to the Electoral Commissioner that one third of a state or territory's divisions have been malapportioned for more than two months.²² A malapportioned division is defined in subsection 59(10) of the Electoral Act as a division in which the number of enrolled electors differs by more than one tenth from the average enrolment for a division in that state or territory.²³
 - When seven years have elapsed since the previous redistribution of a state or territory.²⁴
- 1.27 When a redistribution is triggered, the Electoral Commissioner calculates the 'redistribution quota' for the relevant state or territory. The redistribution quota is the sum of electors of the state or territory on the day the redistribution is called divided by the new number of MPs to be elected by the state or territory.²⁵
- 1.28 It is important to note that the redistribution of divisions in the Electoral Act uses enrolled elector statistics (that is, the number of people entitled to vote) for redistribution calculations rather than population statistics, which are used to determine the number of MPs each state and territory are entitled to.
- 1.29 The process for redistributing the divisions of a state or territory from this point is complex and takes many factors into consideration, but for the purposes of determining the number of electors in each division, only one of the factors is important. The redistribution is required to, as far as practicable, redistribute the divisions so that, three years and six months after the redistribution, the number of electors in each redistributed division will not be less than 96.5 per cent or more than 103.5 per cent of the redistribution quota for the state or territory.²⁶
- 1.30 In other words, the Electoral Act requires that when a state or territory is redistributed, the number of electors in each new division is as near as possible to the redistribution quota at a time in the future within one or two electoral cycles.

One vote, one value in the House of Representatives

- 1.31 The mechanism for determining each state and territory's representation in the House of Representatives results in a limited form of one vote, one value – each elector within a given state or territory can in principle be assured their vote is worth about the same as any other elector in the state or territory at any given time.²⁷ It

²¹ *Commonwealth Electoral Act 1918*, paragraph 59(2)(a) for states and paragraph 59(7)(aa) for territories.

²² *Commonwealth Electoral Act 1918*, paragraph 59(2)(b) for states and paragraph 59(7)(a) for territories.

²³ *Commonwealth Electoral Act 1918*, subsection 59(10).

²⁴ *Commonwealth Electoral Act 1918*, paragraph 59(2)(c) for states and paragraph 59(7)(b) for territories.

²⁵ *Commonwealth Electoral Act 1918*, section 65.

²⁶ *Commonwealth Electoral Act 1918*, section 66.

²⁷ Mr Malcolm Baalman, *Submission 348*, p. 8; Mr Ben Raue, *Submission 265*, p. 8.

follows that discussions about the mechanism for determining each state and territory's representation in the House of Representatives focus on the limitations suggested in that statement. Inquiry participants discussed two limitations in particular: malapportionment between the states and territories; and the implications of the steady increase in the number of electors in each division.

Malapportionment

1.32 Table 4.1 demonstrates the degree of malapportionment across the states and territories using the average number of electors per division in each state and territory at the 2022 election.

Table 1.1 Elector average and number of divisions - states and territories – 2022 federal election

State or territory	Elector average by division	Number of divisions
New South Wales	116,436	47
Victoria	111,390	39
Queensland	116,787	30
Western Australia	118,265	15
South Australia	127,205	10
Tasmania	80,466	5*
Australian Capital Territory	104,776	3
Northern Territory	72,969	2**

* In accordance with section 24 of the Constitution, Tasmania, as an originating State, is entitled to five members of the House of Representatives if the determination of the number of members to be chosen in Tasmania under section 24 is five or less.

** Under section 48A of the Electoral Act, two members were to be chosen by the Northern Territory at the 2022 federal election.

Source: Calculated using statistics from Parliament of Australia, 'Infosheet 8 – Elections for the House of Representatives,' www.aph.gov.au/About_Parliament/House_of_Representatives/Powers_practice_and_procedure/00_-_Infosheets/Infosheet_8_-_Elections_for_the_House_of_Representatives, viewed 23 August 2023; and Australian Electoral Commission, 'Size of electoral roll and enrolment rate for the 2022 federal election,' www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/national/2022.htm, viewed 23 August 2023.

1.33 The table shows that malapportionment in the House of Representatives is not significant between New South Wales (NSW), Victoria, Queensland, Western Australia and to a lesser extent the Australian Capital Territory (ACT). However, divisions in Tasmania and the Northern Territory have significantly smaller enrolment numbers, which results in electors in Tasmania and the NT being overrepresented in the House of Representatives, while divisions in South Australia are larger than average, resulting in South Australian being somewhat underrepresented.²⁸

1.34 In Tasmania, the enrolment numbers for each division at the 2022 federal election were 74,697 for Clark, 79,322 for Bass, 80,243 for Franklin, 82,424 for Braddon and

²⁸ Dr Kevin Bonham, *Submission 405*, p. 9; Mr Malcolm Mackerras AO, *Submission 5.1*, p. 2.

85,166 for Lyons.²⁹ According to Malcolm Baalman, absent the constitutionally mandated minimum number of divisions, the number of enrolled electors in Tasmania would entitle the State to 3.3 divisions.³⁰

- 1.35 The Northern Territory’s two divisions had the lowest number of enrolled electors in the country at the 2022 federal election. Solomon had 71,843 enrolled electors while Lingiari had 74,008.³¹
- 1.36 The malapportionment of the Northern Territory in the 2022 election was the result of the Electoral Act being amended in 2020 to prevent the Northern Territory losing its second division, despite the Electoral Commissioner’s calculation under section 48(2) of the Electoral Act following the 2019 federal election for the Northern Territory resulting in an entitlement to a single division.³²

Increase in electors per division

- 1.37 An increase in the number of electors in a division over time incrementally reduces the value of each elector’s vote and capacity to engage in the political process. The extent to which an elector can actively engage in the political process is a measure of the health of a democracy, and one of the best avenues for engagement is through their elected representative. The elector’s ability to do so is in part determined by the simple arithmetic of the ratio of electors to MPs. As the number of electors in a division increases over time, an MP’s capacity to effectively engage with their electors diminishes.
- 1.38 The increase in the ratio of electors to MPs in Australia has been ameliorated twice in the past by increasing the number of House of Representatives divisions, prior to the 1949 federal election (to 123 divisions), and the 1984 federal election (to 148 divisions).³³ Table 4.2 details the history of both the increase in the number of divisions and the average number of electors in each division for selected years since federation.

Table 1.2 Average number of electors per divisions, selected years

Election year	Enrolment	Divisions	Electors per division
1901	907,658	75	12,102
1946	4,744,017	75	63,254
1949	4,913,654	123	39,948

²⁹ Mr Malcolm Mackerras AO, *Submission 5.1*, p. 2.

³⁰ Mr Malcolm Baalman, *Submission 348*, p. 8. See also the Samuel Griffith Society, *Submission 366*, p. 5.

³¹ Mr Malcolm Mackerras AO, *Submission 5.1*, p. 2.

³² The Samuel Griffith Society, *Submission 366*, pp 5-6; Mr Malcolm Baalman, *Submission 348*, p. 8. This is at least the second time legislation has been used to guarantee the Northern Territory two members in the House of Representatives. The *Commonwealth Electoral Amendment (Representation in the House of Representatives) Act 2004* set aside a 2003 Electoral Commissioner’s determination that the Northern Territory was entitled to one seat in the House of Representatives.

³³ Mr Jeffrey Waddell, *Submission 297*, p. 5; Mr Ben Raue, *Submission 265*, p. 7.

1983	9,373,580	125	74,989
1984	9,866,266	148	66,664
2001	12,636,631	150	84,244
2010	14,086,869	150	93,912
2013	14,723,385	150	98,156
2016	15,676,659	150	104,511
2022	17,228,900	151	114,099

Source: Ben Raue, *Submission 265*, p. 7; AEC, 'Size of electoral roll and enrolment rate 2022,' viewed 11 September 2023; <www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/national/2022.htm>.

- 1.39 Ben Raue pointed out that it has been almost four decades since the size of the House of Representatives increased.³⁴ In that time, the number of electors has increased from 9.9 million to 17.2 million – an increase of 74%. Small changes resulting from the vagaries of the redistribution process aside, the number of divisions has remained roughly the same, while the average number of electors per division has increased from 66,664 in 1984 to 113,996 in 2022.³⁵
- 1.40 Even with the best of intentions and hard work, an MP and their staff would be hard pressed to effectively engage with electors in divisions with roughly 114,000 electors, let alone the residents who are not entitled to enrol.³⁶ MPs in regional, rural and remote divisions face the added burden of the size of electorates impeding political engagement.³⁷
- 1.41 This Committee's immediate predecessor discussed the problem of the ratio of electors to MPs in its *Report on the conduct of the 2019 federal election and matters related thereto*, tabled in December 2020. The Committee found that:
- The number of voters per Member of Parliament is growing to an extent where it is challenging for members to service constituent workloads.³⁸
- 1.42 The ratio of electors to MPs in Australia compares unfavourably with similarly sized democracies. Amongst countries within the Organisation for Economic Co-operation and Development (OECD), Poland and Canada, with 37-38 million people as of 2019, had lower houses with 460 and 338 members respectively. On the other hand, countries less populous than Australia, like Chile, Netherlands and Belgium all had lower houses of 150-155 members.³⁹

³⁴ Mr Ben Raue, *Submission 265*, p. 7.

³⁵ Mr Ben Raue, *Submission 265*, p. 7. See also Mr Jeffrey Waddell, *Submission 297*, p. 5. The end date for statistics contained in Ben Raue's submission is 2022.

³⁶ Mr Geoffrey Robin, *Submission 15 to the Joint Standing Committee on Electoral Matters' Inquiry into the conduct of the 2019 federal election and matters related thereto*, p. 2; Mr Jeffrey Waddell, *Submission 297*, p. 5.

³⁷ The Australia Institute, *Committee Hansard*, 26 October 2022, p. 3.

³⁸ Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2019 federal election and matters related thereto*, December 2020, paragraph 8.60.

³⁹ Mr Ben Raue, *Submission 265*, p. 9.

1.43 Table 4.3 compares the ratio of electors to MPs in Australia, with similar Commonwealth countries – the United Kingdom, Canada and New Zealand.

Table 1.3 Ratio of electors to members by country and year

Country	Election Year	Electors	Members	Average number of electors per member
Australia	2022	17,228,900	151	114,099
United Kingdom	2019	47,074,800	650	72,423
Canada	2019	27,373,058	338	80,985
New Zealand	2020	3,549,564	120	29,580

Source: Malcolm Mackerras AO, *Supplementary Submission 5.1*, p. 4.

1.44 Evidence that the ratio of electors to MPs is having an impact on political engagement in Australia was provided in the form of a national poll conducted by The Australia Institute. The poll demonstrated that only a very small proportion of electors had any direct engagement with their MP. The survey results indicated that:

- Fifteen per cent of electors had spoken to their MP either directly or on the phone in the past, while 17 per cent of electors had written to their MP;
- Only 27 per cent of electors felt confident that they could raise a concern about a political issue with their MP; and
- Only 37 per cent of electors could name their MP.⁴⁰

1.45 Without some change to the ratio of electors to MPs, the capacity of MPs to engage effectively with electors, and the extent of political engagement, is likely to continue to decline, with detrimental impacts on the health of democracy in Australia.

Options for reform

1.46 Malapportionment and the ratio of electors to MPs in Australia could be resolved using either constitutional change through a referendum, or through legislative change by amending the Electoral Act. The Committee has limited its consideration of options to those that can be made by amending the Electoral Act because the barriers to change using this method are lower than those that would involve a constitutional change. Participants in the inquiry explored two avenues for using legislation to change the House of Representatives election process to improve one vote, one value. The suggested changes are:

- using proportional representation to elect multiple member divisions
- expanding the number of members of the House of Representatives.

⁴⁰ The Australia Institute, *Submission 412*, p. 43.

Proportional representation

- 1.47 The House of Representatives has, with the exception of Australia's first federal election, been elected using single members divisions,⁴¹ which has been legislated for in section 57 of the Electoral Act.⁴²
- 1.48 Nothing in the Constitution specifically precludes the use of proportional representation in the House of Representatives.⁴³ In fact, section 29 of the Constitution states that in the absence of a state making a law about how MPs were chosen before the Commonwealth Parliament made its own laws for electing MPs, that state 'shall be one electorate.'⁴⁴
- 1.49 Changes to introduce proportional representation as the mechanism for electing members of the House of Representatives have been considered and recommended on a number of occasions. For example, the 1973-85 Constitutional Convention proposed that the House of Representatives be elected using proportional representation.⁴⁵
- 1.50 While no inquiry participant put forward a full proposal for how proportional representation in the House of Representatives might work, the Proportional Representation Society of Australia suggested that:
- Without altering the Constitution, proportional representation (PR) could be provided for in the House of Representatives by using mostly 5-member divisions, although certain provisions in the Constitution would require a few divisions to have a slightly different district magnitude.⁴⁶
- 1.51 Ben Raue and Malcolm Baalman both argued that a proportional representation-based electoral system for House of Representative elections would bring the House more in line with one-vote, one-value principles, including:
- reducing the over-representation of major political parties in the House of Representatives that is a consequence of single member divisions⁴⁷
 - enabling the representation of developing political movements⁴⁸
 - enabling candidates with significant minority support to be elected, and for that candidate's supporters to be represented in the House of Representatives.⁴⁹

⁴¹ Australian Parliament, 'For peace, order and good governance: The first Parliament of the Commonwealth of Australia,' viewed 25 August 2023, <www.exhibitions.senate.gov.au/pogg/election/first_election.htm>.

⁴² *Commonwealth Electoral Act 1918*, section 57.

⁴³ The Australia Institute, *Submission 412*, p. 50.

⁴⁴ *The Constitution*, section 29.

⁴⁵ House of Representatives Standing Committee on Constitutional Change, *Constitutional Change: Select sources on constitutional change in Australia 1901-1997*, 24 March 1997, p. 16.

⁴⁶ Proportional Representation Society of Australia, *Submission 323*, p. 3.

⁴⁷ Mr Ben Raue, *Submission 265*, p. 11.

⁴⁸ Mr Malcolm Baalman, *Submission 348*, pp. 10; Mr Ben Raue, *Submission 265*, p. 12.

⁴⁹ Mr Malcolm Baalman, *Submission 348*, p. 9.

- reducing the difference in the value of votes between ‘safe’ and ‘marginal’ divisions.⁵⁰
- enabling the composition of the decision making and policy formulation bodies of political parties to be more geographically representative.⁵¹

Increasing the size of House of Representatives

1.52 As discussed above, increasing the number of divisions in the House of Representatives was discussed in the Committee’s *Report on the conduct of the 2019 federal election and matters related thereto*, including a recommendation that:

The Committee recommends that the Government consider asking the Committee to inquire into the size of the House of Representatives, with consideration to the growing average size of electorates and growing demands of the electorate.⁵²

1.53 The Committee did not receive a Government Response to that report.

1.54 The process for increasing the number of MPs in the House of Representatives is set out in the Constitution. Section 27 of the Constitution permits the Parliament to change the number of MPs, while section 24 of the Constitution states that the number of MPs be as nearly as possible twice the number of senators.⁵³ In relation to the number of senators elected, section 7 of the Constitution states that:

Until the Parliament otherwise provides there shall be six senators for each Original State. The Parliament may make laws increasing or diminishing the number of senators for each State, but so that equal representation of the several Original States shall be maintained and that no Original State shall have less than six senators.⁵⁴

1.55 In other words, using legislation alone, the number of MPs in the House of Representatives can be increased by increasing the representation of the states in the Senate. Increasing the number of MPs in the House of Representatives without increasing the number of senators would require a referendum to remove the link between the number of senators and the number of MPs in section 24 of the Constitution. This constitutional amendment was put to a referendum in 1967 and was not successful.⁵⁵

1.56 Increasing the size of the House of Representatives could reduce or resolve the malapportionment between the states and territories by ensuring every state and

⁵⁰ Mr Malcolm Baalman, *Submission 348*, p. 9.

⁵¹ Mr Malcolm Baalman, *Submission 348*, p. 9.

⁵² Joint Standing Committee on Electoral Matters, *Report on the conduct of the 2019 federal election and matters related thereto*, December 2020, paragraphs 8.54-8.63 and 8.65.

⁵³ *The Constitution*, section 24.

⁵⁴ *The Constitution*, section 7.

⁵⁵ House of Representatives Standing Committee on Constitutional Change, *Constitutional Change: Select sources on constitutional change in Australia 1901-1997*, 24 March 1997, pp. 92-93.

territory would have the number of MPs which its population entitles it to.⁵⁶ For the first time since Federation, every state and territory could have the number of MPs which its population entitles it to, and the House of Representatives could meet at least one of the definitions of one-vote, one value every federal seat would have roughly the same number of electors.⁵⁷

- 1.57 Governments could also benefit from an increase in the size of the House of Representatives because a government would have a larger pool of MPs from which ministers and parliamentary secretaries can be drawn.⁵⁸

Extent of increase

- 1.58 Inquiry participants held a range of views as to how many additional divisions would be desirable. Opinions generally ranged between the House of Representatives having between 175 and 200 divisions, which would require an increase in the number of Senators per state of between 12 or 16.⁵⁹ Table 4.4 sets out the number of divisions and the average number of electors per division for each state and territory if the size of the House of Representatives were to increase to 175 divisions and 200 divisions.

Table 1.4 Average electors per division, 175 and 200 divisions, 2022 Federal Election enrolment numbers

State/ Territory	2022 divisions	Average electors per division	175 divisions*	Average electors per division	200 divisions*	Average electors per division
New South Wales	47	116,436	55	99,499	63	86,865
Victoria	39	111,390	45	96,358	51	85,181
Queensland	30	116,787	35	100,103	40	87,590
Western Australia	15	118,265	18	98,554	20	88,698
South Australia	10	127,205	12	106,004	15	84,803
Tasmania	5	80,466	5**	80,466	5**	80,466

⁵⁶ The Australia Institute, *Submission 412*, p. 42; Dr Kevin Bonham, *Committee Hansard*, 23 June 2023, p. 14; Mr Ben Raue, *Submission 265*, p. 8.

⁵⁷ The Australia Institute, *Submission 412*, p. 42.

⁵⁸ The Australia Institute, *Submission 412*, p. 42; Mr Ben Raue, *Submission 265*, p. 8.

⁵⁹ Mr Malcolm Baalman, *Submission 348*, pp 8-9, The Australia Institute, *Submission 39 to the Joint Standing Committee on Electoral Matters' Advisory report on the Commonwealth Electoral Amendment (Ensuring Fair Representation of the Northern Territory) Bill 2020*, p. 12; Mr Jeffrey Waddell, *Submission 297*, p. 6; Dr Kevin Bonham, *Submission 405*, p. 9; Mr Ben Raue, *Submission 265*, p. 9.

Australian Capital Territory	3	104,776	3	104,776	4	78,582
Northern Territory	2	72,969	2	72,969	2	72,969
Australia	151	114,099	175	98,451	200	86,145

* State and territory division entitlement calculated using the population statistics contained in the *Notification of Determination: section 49 Certificate - Commonwealth Electoral Act 1918* of 3 July 2020, which, with the exception of the amendment to section 48A of the Electoral Act by the *Electoral Amendment (Territory Representation) Act 2020*, which gave the NT an additional division, determined the number of divisions for each state and territory at the 2022 Federal Election.

** Tasmania's calculated entitlement in a 175 and 200 seat House of Representatives would be 4.

Source: AEC, 'Size of electoral roll and enrolment rate 2022,' viewed 11 September 2023, <www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/national/2022.htm>; Australian Electoral Commissioner, *Notification of Determination: section 49 Certificate - Commonwealth Electoral Act 1918*, 3 July 2020.

- 1.59 The Table shows that a significant increase in the size of the House of Representatives, to something like 200 MPs would be needed bring the ratio of electors to MPs down to a level equivalent to the international comparisons listed in paragraph 4.36 above.
- 1.60 A less substantial increase to 175 MPs would not quite reflect one vote, one value and the number of electors in each division could still be a factor in inhibiting political engagement.

Committee comment

- 1.61 The Committee was fortunate in attracting a range of considered opinions on the subject of malapportionment in the House of Representatives and the impact of the growth in the number of electors has on the political engagement.
- 1.62 The Committee recognises that introducing proportional representation would bring House of Representatives elections closer to one vote, one value principles. However, absent an increase in the number of MPs in the House of Representatives, proportional representation would not resolve the existing malapportionment of the House, nor improve the ratio of electors to MPs.
- 1.63 The Committee notes that introducing such a system would be a significant departure from established practice in Australia. Great care would be necessary in its introduction to avoid a substantial increase in informal voting and voter confusion. The Committee concurs with Bill Browne of The Australia Institute, who noted:
- ... any switch to proportional representation would require extensive consultation and consideration ...⁶⁰
- 1.64 Increasing the size of the House of Representatives, unlike the introduction of proportional representation into the method of electing the House, would have the

⁶⁰ The Australia Institute, *Committee Hansard*, 26 October 2022, p. 1.

immediate effect of aligning the House with the principle of 'one vote, one value'. It would also bring Australia into line with similar countries in terms of the ratio of MPs to electors. As multiple witnesses noted, Australians' representation in the House of Representatives has fallen significantly in the past few decades, with no significant change in the number of representatives over a period in which the number of enrolled voters has almost doubled.

1.65 However, consideration of increasing the size of the House of Representatives is not amendable to a discreet part of a bigger inquiry, attracting a small but high-quality base of evidence. Rather, what the evidence before the Committee has demonstrated is the complexity of the issues involved.

1.66 Therefore, noting the significance of the issue, and the importance of encouraging public debate, the question of whether the size of the House of Representatives should be increased to reduce malapportionment and improve the ratio of electors to MPs should be considered in a stand-alone inquiry that garners a greater degree of attention and enables a greater sampling of the views of the Australian public.

Recommendation 1

1.67 The Committee recommends the Government consider asking the Committee to inquire into increasing the size of the House of Representatives to reduce malapportionment and improve the ratio of electors to MPs.

The Senate

The Senate currently

1.68 Like the House of Representatives, elections to the Senate involve a combination of provisions from the Constitution and the Electoral Act.

The Constitution

1.69 Constitutional provisions applying to Senate elections are as follows:

- Section 7 states that the Senate shall be composed of senators from each state and be directly elected by the people. Laws made by the Parliament of the Commonwealth for the election of Senators shall be uniform for all states⁶¹
- Until the Parliament of the Commonwealth changed the representation of states in the Senate, each state had six senators elected for a period of six years.⁶²

⁶¹ *The Constitution*, section 7.

⁶² *The Constitution*, section 7.

The Commonwealth Electoral Act

- 1.70 Proportional representation in Senate elections was introduced in 1949.⁶³ However, the Electoral Act contains no specific provision stating that Senate elections are conducted using proportional representation. Rather, the form of proportional representation for the Senate is set out in a number of places in the Electoral Act, including Part XIV (Nominations), Part XVI (The polling), and Part XVIII (The scrutiny).
- 1.71 The mechanism for electing Senators using proportional representation has been complicated by various amendments since proportional representation was introduced. The current mechanism for electing Senators is summarised below to draw attention to how the process works, and so should not be considered a complete explanation of the Senate election process.
- 1.72 There is a range of options for nominating as a candidate for a Senate election:
- sitting independent senators can be nominated by a single individual entitled to vote in the election⁶⁴
 - independent candidates for a Senate election must include the names and signatures of at least 100 eligible electors to nominate⁶⁵
 - two or more candidates for the Senate without party affiliations may make a joint request that their names be grouped on the ballot paper together and in a specified order⁶⁶
 - Senate candidates who have requested that they be grouped will have their names printed on the ballot paper in the order they have specified⁶⁷
 - a political party can request its candidates be grouped on the ballot paper in a requested order⁶⁸
 - grouped candidates will be printed on the ballot paper before the names of candidates who have not nominated to be part of a group⁶⁹
 - each nominated Senate candidate will have a box printed next to their name, and candidates who have nominated to be grouped will have a box printed above the line at the top of their group⁷⁰
 - where a group of Senate candidates has been nominated by a political party, the name or abbreviation of that political party will be placed next to the box above the line on the Senate ballot paper, along with the logo of the political party.⁷¹

⁶³ The Australia Institute, *Submission 412*, p. 50.

⁶⁴ *Commonwealth Electoral Act 1918*, subsection 166(1C).

⁶⁵ *Commonwealth Electoral Act 1918*, subparagraph 166(1)(b)(i).

⁶⁶ *Commonwealth Electoral Act 1918*, subsection 168.

⁶⁷ *Commonwealth Electoral Act 1918*, paragraph 210(1)(a).

⁶⁸ *Commonwealth Electoral Act 1918*, section 169.

⁶⁹ *Commonwealth Electoral Act 1918*, paragraph 210(1)(a).

⁷⁰ *Commonwealth Electoral Act 1918*, paragraph 210(1)(f).

⁷¹ *Commonwealth Electoral Act 1918*, subsection 210A(5) and subsection 214(2).

1.73 A voter in a Senate election must either:

- mark the ballot paper below the line by numbering the boxes next to candidates of their choice, at least numbering from 1 to 12⁷²
- mark the ballot paper above the line by numbering the boxes next to the groups for which they intend to vote at least numbering from 1 to 6.⁷³

One vote, one value in the Senate

1.74 As noted above, while one vote, one value and proportional representation are often considered together, they do not mean the same thing. The Senate is a perfect example of the difference between these two concepts.

1.75 It is not possible to apply the principle of one vote, one value to the Senate because all the original states were given the same number of Senators as a compromise to bring smaller states into the Federation at the time the Constitution was framed. According to James Bushell and others, the compromise permitted the Senate to balance the legislative power of the House of Representatives and implicitly also the Executive.⁷⁴ The Samuel Griffith Society noted that this compromise was an essential element of the federal compact embodied by the Constitution.⁷⁵

1.76 In other words, while there is an increasing disparity between the number of electors in more populous states compared to less populous states, making Senate elections increasingly malapportioned, the drafters of the Constitution had precisely this disparity in mind when deciding on the representative structure of the Senate.⁷⁶

1.77 Senator Pocock argued that this means that:

The fact that party loyalties trump State interest for many Senators should not alter the original purpose of the Senate, namely, to protect the interests of smaller jurisdictions.⁷⁷

1.78 Kevin Bonham pointed out that in reality the relatively high degree of malapportionment in the Senate has so far not had that much impact on the functioning of the Parliament.⁷⁸ The Accountability Round Table concurred with this point:

If voters in Senate elections voted on state lines or if there were significant differences in the votes for parties in large and small states, then this would be a

⁷² If there are less than 12 candidates, then all candidates should be numbered consecutively in accordance with the voter's intentions. See *Commonwealth Electoral Act 1918*, section 239.

⁷³ If there are less than six boxes above the line, then all boxes should be numbered consecutively in accordance with the voter's intentions. see *Commonwealth Electoral Act 1918*, section 239.

⁷⁴ Mr James Bushell, *Submission 270*, p. 2; Dr Brendan Long, *Submission 404*, p. (4); Senator David Pocock, *Submission 416*, p. 8; and Mr Ben Raue, *Submission 265*, p. 10.

⁷⁵ The Samuel Griffith Society, *Submission 366*, p. 3.

⁷⁶ The Samuel Griffith Society, *Submission 366*, p. 7; FamilyVoice Australia, *Submission 396*, p. 6.

⁷⁷ Senator David Pocock, *Submission 416*, p. 9.

⁷⁸ Dr Kevin Bonham, *Submission 405*, p. 8; Mr Ben Raue, *Committee Hansard*, 26 June 2023, p. 17.

real issue. However, Australia has remarkably homogeneous state electorates and show nothing of the regional variations found in UK, US, Canada and Italy (and, to a lesser extent, Germany and France).⁷⁹

- 1.79 Senator David Pocock also argued that the extent to which senators elected in a particular state represent the interests of that state in the Senate has diminished considerably over time as senators from major political parties prioritise party discipline rather than state representation. However, he also pointed out that in recent years that senators from micro-parties from a single state have been:

... voting in their State's interest, for example Jacqui Lambie having Tasmania's social housing debt waived in 2019.⁸⁰

- 1.80 The principle of one vote, one value could be applied to the Senate by using Australia as a single electorate with Senators elected by proportional representation. This mechanism would align proportional representation as a method of electing Senators with the goal of one vote, one value, resulting in a more representative system.⁸¹ The Accountability Round Table argued that:

The fact that federation would not have been possible without equal numbers of senators for the states does not mean we should not reconsider this now.⁸²

- 1.81 However, the Committee considers that, because a constitutional change would be required, this proposal would be unlikely to succeed.⁸³

Representation for the territories

- 1.82 The question as to whether the territory representation in the Senate ought to be increased attracted a degree of attention from inquiry participants.

- 1.83 As there were no territories at the time of Federation, the Constitution did not provide for their representation in the Australian Parliament.⁸⁴ The mechanisms for election of Senators for the territories was included in the Electoral Act as a result of the passage of the *Senate (Representation of Territories) Act 1973*, which allowed for two senators each from the Northern Territory and the ACT in the 1975 election and subsequent elections.⁸⁵

- 1.84 According to Professor Anne Twomey:

The current formula for providing representation of the territories in the House of Representatives is set out in s 48(2A) of the *Commonwealth Electoral Act 1918*

⁷⁹ Accountability Round Table, *Submission 343*, p. 13.

⁸⁰ Senator David Pocock, *Submission 416*, pp 8-9.

⁸¹ Mr James Bushell, *Submission 270*, p. 6.

⁸² Accountability Round Table, *Submission 343*, p. 13.

⁸³ Mr James Bushell, *Submission 270*, p. 6.

⁸⁴ Mr Patrick Corr, *Submission 289*, p. (1).

⁸⁵ Professor Kim Rubenstein, 'The grass is greener in Ginninderra NSW,' *Canberra Times*, 22 September 2022.

(Cth). The formula is based upon the quota applied to representation in the States (excluding the minimum guarantees set out in the Constitution for original States).⁸⁶

- 1.85 Section 40 of the Electoral Act states that the ACT and NT are to be represented in the Senate by two senators each, directly chosen by the people. Other territories are not entitled to representation in the Senate unless those territories gain representation in the House of Representatives.⁸⁷
- 1.86 Section 41 of the Electoral Act provides that sections 16 (qualifications of a senator), 19 (resignation of a senator), 20 (senator causes vacancy as a result of absence from the Senate), and 42-48 (rules concerning the entitlement of a person to be elected or remain elected) of the Constitution apply to senators elected by the territories.⁸⁸
- 1.87 Territory senators are elected for the life of a single parliament.⁸⁹

Increasing territory Senate representation

- 1.88 A number of inquiry participants argued that the increase in the populations of the territories since they were granted representation in 1974 warrants an increase in representation in the Senate. Ben Raue pointed out that the population of the ACT is now roughly 81.5% of the population of Tasmania, but Tasmania elects six times as many senators as the ACT.⁹⁰
- 1.89 The ACT Government also focussed on this difference in its argument that the ACT's representation in the Senate be increased:
- The state of Tasmania is represented in the Federal Parliament by five Members of the House of Representatives and 12 Senators at approximately 7.5% of overall representation of the Parliament, compared to the ACT's three Members of the House of Representatives and 2 Senators, approximately 2.2% of the overall representation of the Parliament. Tasmania, as a consequence, has 3.4 times the representation in the Federal Parliament than that of the ACT, despite having a population which is only 1.2 times larger than that of the ACT.⁹¹
- 1.90 Other inquiry participants opposed an increase in the number of territory Senators.⁹²

⁸⁶ Professor Anne Twomey, *Submission 407*, p. (7).

⁸⁷ *Commonwealth Electoral Act 1918*, section 40.

⁸⁸ *Commonwealth Electoral Act 1918*, section 41.

⁸⁹ *Commonwealth Electoral Act 1918*, section 42.

⁹⁰ Mr Ben Raue, *Submission 265*, p. 10. See also Professor Kim Rubenstein, 'Mature, democratic ACT on a quest for electoral justice,' *Canberra Times*, 3 August 2021.

⁹¹ Australian Capital Territory Government, *Submission 422*, p. 9.

⁹² Dr Kevin Bonham, *Submission 405*, p. 8; The Nationals, *Submissions 361*, p. (5); Dr Kevin Bonham, *Committee Hansard*, 23 June 2023, p. 14.

1.91 A number of these arguments are also based on population statistics – in this case, the size of each territory’s population as a proportion of the Australian population. Malcolm Baalman pointed out that territory representation in the Senate is already higher than the territories’ proportion of the Australian population would entitle them to,⁹³ or, as the Liberal Party of Australia put it:

It is false to present the consideration of extra senators for the territories in the context of 'one vote, one value'. To illustrate:

- The ACT currently has more senators per capita than three states, and approximately the same proportion as one state.
- The NT has more senators per capita than five states.
- Were NSW to have the same number of senators per capita as the ACT currently has, the number of senators from NSW would need to rise to 24.
- Were Victoria to have the same number of senators per capita as the ACT currently has, the number of senators from Victoria would need to increase to 20.
- Were Queensland to have the same number of senators per capita as the ACT currently has, the number of senators from Queensland would need to increase to 15.⁹⁴

1.92 Kevin Bonham argued that, in the case of the ACT:

The danger in increasing the number of Territory Senators ... is that given the ACT’s strong leftward leaning, this could lead to routine 3-1 left-right results which would significantly skew the political balance of the Senate and could be seen as akin to deliberate malapportionment.⁹⁵

1.93 However, Senator Pocock pointed out that arguments concerning population were not at the forefront of the initial granting of territory representation in the Senate:

Rather than considering what baseline level of representation for the Territories should be in comparison to the existing small States, a political decision was made in 1975 granting the two major Territories two Senators each. The number of Senators had no real basis but was a political decision that effectively gave both major parties two additional Senators (one from each Territory) ... The debate did not seek to answer the question: what is a baseline level of democracy that is appropriate for small (non-Original State) jurisdictions?⁹⁶

⁹³ Mr Malcolm Baalman, *Submission 348*, p. 8.

⁹⁴ Liberal Party of Australia, *Submission 382*, p. (8).

⁹⁵ Dr Kevin Bonham, *Submission 405*, p. 9.

⁹⁶ Senator David Pocock, *Submission 416*, p. 9.

- 1.94 Similarly, as noted by the Samuel Griffith Society, the drafters of the Constitution specifically intended the Senate to act as a check on the power of the more populous states:

... the Senate exists to preserve the rights of the states – particularly the less populous states, whose interests are more vulnerable to majoritarianism. This compromise was an essential element of the federal compact embodied by the Constitution.⁹⁷

- 1.95 From this perspective, having already agreed that territories ought to be represented in the Senate, the question for the Commonwealth Parliament becomes the extent to which territorians deserve the same representation as the less populous states. As Ben Raue put it:

We don't impose expectations of 'one vote one value' on the state Senators who make up the vast bulk of the Senate, and I don't think we should apply that logic to the Territories ...

This discrepancy – where “equal representation” applies as far as Tasmania, but no further – cannot be morally or politically justified. We know that Tasmania's position is guaranteed under the Constitution, and the territories have no such guarantee, but that does not prevent the Parliament from bringing the territories closer to the states in terms of representation.⁹⁸

- 1.96 The question of whether territorian interests are vulnerable to the views of parliamentarians from other jurisdictions is not a theoretical one. In 1996, the Parliament passed the *Euthanasia Laws Act 1996* to prevent the NT from implementing *Rights of the Terminally Ill Act 1995* (NT) and prohibiting the ACT from passing similar legislation.⁹⁹ In 2006, the Federal Government overturned the ACT's same sex civil union laws.¹⁰⁰ On 14 September 2023, Senator Michaelia Cash introduced the *Australian Capital Territory Dangerous Drugs Bill 2023*, which, if passed, would have the effect that the *Drugs of Dependence (Personal Use) Amendment Act 2022 (ACT)* 'has no force or effect from the day after it receives the Royal Assent'.¹⁰¹

- 1.97 Senator Pocock, Professor Kim Rubenstein and Dr Brendan Long argue for an increase in territory representation in the Senate on the basis that territory representation should reflect the principle that the Senate protects the rights of electors from smaller jurisdictions.¹⁰²

⁹⁷ The Samuel Griffith Society, *Submission 366*, p 3.

⁹⁸ Mr Ben Raue, *Submission 265*, p. 10.

⁹⁹ Parliamentary Library, 'Bills Digest: Euthanasia Laws Bill 1996,' viewed 14 September 2023, <www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd2223a/23bd005#_ftn10>.

¹⁰⁰ Senator David Pocock, *Submission 416*, p. 10.

¹⁰¹ Australian Capital Territory Dangerous Drugs Bill 2023, Explanatory Memorandum, p. 2.

¹⁰² Senator David Pocock, *Submission 416*, p. 10; Professor Kim Rubenstein, *Committee Hansard*, 2 August 2023, p. 4; and Dr Brendan Long, *Submission 404*, p. (5).

1.98 Views on the extent to which territory representation in the Senate should be increased varied amongst inquiry participants. The ACT Government argued that territory representation should be increased from two to four on the basis that:

It is important that smaller jurisdictions have critical mass in the Federal Parliament to represent their constituents, and jurisdiction, effectively.¹⁰³

1.99 Professor Kim Rubenstein argued in part that since territory representation was introduced, state representation in the Senate had grown by two from 10 to 12, and that consequently territory representation should be increased accordingly.¹⁰⁴

1.100 Senator Pocock argued that:

... a standard be established whereby the number of Territory Senators be maintained at a level that is more than one-third, but less than two-thirds of the number of State Senators. This maintains a level of flexibility between State and Territory numbers while ensuring a base level of representation for the Territories.¹⁰⁵

Committee comment

1.101 While the principle of 'one vote, one value' is an important concept in representative democracies, it should be noted that Australia's Senate was explicitly *not* established on that basis. Rather, the House of Representatives reflects 'one vote, one value', whereas the Senate was designed as a States' House and retains that function, while also serving as a House of Review whose composition differs from the House of Representatives through their different voting methods.

1.102 The Committee is of the view that the discussion about territory representation in the Senate based on population statistics is based on the assumption that the intent of the *Senate (Representation of Territories) Act 1973* was to grant territory representation based on population, and that this assumption sits at odds with the Senate's role. State representation in the Senate is not based on population, and it is unconvincing to argue that territory representation in the Senate should be.

1.103 The Committee considers that territory representation should reflect the intent of the Constitution such that territory representation should be considered on a similar basis to the representation of the smaller states in the Senate. The Federal Parliament's ability to over-rule territory legislation further highlights the need for the two territories to be appropriately represented in the Parliament.

1.104 Consequently, the Committee recommends that the representation of the territories in the Senate be increased to four Senators, elected for a period of three years.

¹⁰³ Australian Capital Territory Government, *Submission 422*, p. 9.

¹⁰⁴ Professor Kim Rubenstein, *Committee Hansard*, 2 August 2023, p. 3.

¹⁰⁵ Senator David Pocock, *Submission 416*, p. 11.

Recommendation 2

1.105 The Committee recommends that the representation of the territories in the Senate be increased from two to four Senators each.



2. Aboriginal and Torres Strait Islander participation in elections

- 2.1 The Committee's interim report tabled on 19 June 2023 provided an overview of the evidence received to date in relation to electoral participation and lifting enfranchisement of Aboriginal and Torres Strait Islander people.
- 2.2 The Committee's interim report examined several themes including voter engagement, barriers faced by Aboriginal and Torres Strait Islander people to enrol and vote, current initiatives for enrolment and participation, and on the day and direct enrolment. The Committee made two recommendations aimed at strengthening electoral participation.
- 2.3 This chapter re-examines the evidence received throughout the inquiry, including on current initiatives for enrolment and participation, concerns raised by submitters with the services provided in remote areas, and suggestions for improvement. Notably, the weight of the evidence regarding current barriers to electoral participation pertains to Aboriginal communities in the Northern Territory (NT).

Aboriginal and Torres Strait Islander enrolment and turnout

- 2.4 According to the AEC, 'the Indigenous roll is in the best shape it's ever been'; the estimated unenrolled Aboriginal and Torres Strait Islander population has dropped below 50,000 for the first time in Australia's history.¹ The AEC noted:
- ... there are more First Nations citizens enrolled at the moment than there have ever been in the history of the electoral roll, and that's as a result of the work of the AEC over the last decade—the last five years in particular. The last 12 months saw the biggest increase in Indigenous enrolment in the roll's history. So, whilst we've got a long way to go, there have been some incredibly good outcomes.²
- 2.5 Table 2.1 illustrates the estimated growth in Aboriginal and Torres Strait Islander enrolment rates from 74 per cent in 2017 to 94 per cent in 2023.

¹ Australian Electoral Commission, *Committee Hansard*, 6 September 2023, p. 5.

² Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 9.

Table 2.1 Estimated Aboriginal and Torres Strait Islander enrolment rates

Period	National	WA	NT	QLD	NSW	VIC	SA	ACT	TAS
30 June 2017	74.7%	62.8%	67.1%	70.0%	85.9%	73.6%	67.9%	76.2%	83.3%
30 June 2022	81.7%	70.5%	74.1%	79.8%	89.3%	82.5%	77.9%	85.4%	89.8%
31 Dec 2022	84.5%	74.1%	76.7%	83.2%	91.3%	85.3%	82.0%	87.9%	91.6%
30 June 2023	94.1%	86.9%	87.0%	95.3%	97.5%	95.5%	92.7%	95.8%	97.7%

Source: Australian Electoral Commission, Indigenous Enrolment Rate, viewed 26 September 2023, https://www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/performance/indigenous-enrolment-rate.htm.

- 2.6 It is the first time in Australia’s history that the national estimated enrolment rate for this demographic is above 90 per cent. Furthermore, the national rate is slightly behind the overall estimated national enrolment rate of 97.5 per cent. With a margin of 3.7 per cent, compared to difference of 21.6 per cent in 2017, ‘the gap has been closing quickly’ according to the AEC.³
- 2.7 The AEC attributed the surge between December 2022 and June 2023 to the expansion of the Federal Direction Enrolment and Update (FDEU) program and other initiatives, which are further explored in this chapter.⁴
- 2.8 As noted in the Committee’s interim report, however, the enrolment rate is only half the picture and ‘many submitters have noted that turnout of Aboriginal and Torres Strait Islander people is likely to be significantly lower than the enrolment rate, particularly where a seat encompasses remote areas.’⁵
- 2.9 The AEC stated that it is the remoteness of the population that accounts for the differences in enrolment levels between the states and territories⁶:

New South Wales has the highest Indigenous population in Australia, but it also has probably the more urbanised Indigenous population; therefore they’re closer to services and they’re more likely to have previously been the focus of our

³ Australian Electoral Commission, New Indigenous enrolment record: An in-depth look, viewed 25 September 2022, <https://www.aec.gov.au/media/2023/08-03.htm#:~:text=In%20NSW%2C%20the%20estimated%20Indigenous,current%20overall%20national%20enrolment%20rate>.

⁴ Australian Electoral Commission, New Indigenous enrolment record: An in-depth look, viewed 25 September 2022, <https://www.aec.gov.au/media/2023/08-03.htm#:~:text=In%20NSW%2C%20the%20estimated%20Indigenous,current%20overall%20national%20enrolment%20rate>.

⁵ Joint Standing Committee on Electoral Matters, *Conduct of the 2022 federal election and other matters Interim Report*, June 2023, p. 110.

⁶ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 3.

FDEU programs. It is the remoteness element that is the factor that we are trying to overcome here.⁷

- 2.10 For the 2022 federal election, the turnout rates told a different story. Table 2.2 illustrates the correlation between electorates with significant Aboriginal and Torres Strait Islander populations and a low voter turnout.

Table 2.2 Table 1: Voter turnout for electorates with significant ATSI populations

Electorate	ATSI population	Estimated enrolment rate	2022 federal election turnout
Lingiari, NT	43%	75-80%	67%
Durack, WA	17%	80-85%	81%
Leichhardt, Qld	17%	90-95%	84%
Kennedy, Qld	14%	90-95%	85%
Solomon, NT	9%	95-98%	80%
Grey, SA	7%	90-95%	90%
O'Connor, WA	6%	90-95%	87%
Maranoa, QLD	6%	95-98%	88%
Australia	3%	97%	90%

Source: Australia Institute, *Submission 412*, p. 30.

- 2.11 Lingiari particularly stands out: voter participation was the lowest in Australia, at a record low of 66.83 per cent. For the 2019 federal election, this figure was 72.85 per cent.⁸ According to the Northern and Central land councils, Lingiari consistently has the lowest turnout of enrolled voters⁹, and has the highest number of unenrolled voters in Australia.¹⁰
- 2.12 For context, 77 per cent of Aboriginal people in the NT live in remote or very remote areas¹¹, and all of the NT's remote Aboriginal communities are in Lingiari¹², which is the second largest electoral division in the country.¹³ This cohort is the most disenfranchised in terms of electoral participation.¹⁴ Lingiari also has some of the highest levels of poverty, as well as the widest gap in employment.¹⁵
- 2.13 Estimates also suggest that the turnout for very remote areas (with predominantly Aboriginal populations) were even lower: 49.4 per cent of all enrolled voters voted in

⁷ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 4.

⁸ Central Land Council, *Submission 478*, p. 5.

⁹ Northern Land Council, *Submission 423*, p. 2.

¹⁰ Central Land Council, *Submission 478*, p. 6.

¹¹ Northern Land Council, *Submission 423*, p. 2.

¹² The Australian Institute, *Submission 412*, p. 31.

¹³ Central Land Council, *Submission 478*, p. 4.

¹⁴ Northern Land Council, *Submission 423*, p. 2.

¹⁵ Central Land Council, *Submission 478*, p. 4.

the 2022 election.¹⁶ According to the Central Land Council (CLC), turnout was as low as 25 per cent in some communities.¹⁷

- 2.14 This turnout pattern is not exclusive to federal elections. For the NT elections in 2020, several remote Aboriginal communities had turnout rates around 50 per cent.¹⁸
- 2.15 The Northern Territory Electoral Commission (NTEC) stated that of the 25 Legislative Assembly division in the NT, seven are remote divisions. The table below illustrates the average voter turnout across these seven divisions for the past four Territory elections.

Table 2.3 Voter turnout in remote NT divisions

General election	2008	2012	2016	2020
Turnout	62.5%	62%	59.1%	62.1%

Source: Northern Territory Electoral Commission, *Submission 369*, p. 2.

- 2.16 According to the NTEC, for local government elections, participation is even lower.¹⁹
- 2.17 Nonetheless, the Northern Land Council (NLC) asserted that ‘more than anywhere else in Australia, the Aboriginal population of remote NT has the potential to have electoral power.’²⁰

Additional statistics

- 2.18 According to Drs Morgan Harrington and Francis Markham, ‘relatively little is known about Indigenous participation in elections’.²¹ This is due to the absence of an Indigenous identifier on the Australian electoral roll and a shortage of independent research on the issue.²²
- 2.19 When discussing Aboriginal and Torres Strait Islander electoral participation, Dr Markham explained the value in distinguishing between enrolment, turnout, and formality. Turnout is whether an enrolled voter attends a polling place and is marked off the roll, and formality is whether the vote cast is actually counted as a formal vote.²³

Enrolment

- 2.20 Aboriginal and Torres Strait Islander enrolment rates are produced by matching the electoral roll with administrative data from Services Australia, in order to correlate

¹⁶ Central Land Council, *Submission 478*, p. 7.

¹⁷ Central Land Council, *Submission 478*, p. 5.

¹⁸ The Australia Institute, *Submission 412*, p. 31.

¹⁹ Northern Territory Electoral Commission, *Submission 369*, p. 2.

²⁰ Northern Land Council, *Submission 423*, p. 2.

²¹ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 5.

²² Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 5.

²³ Dr Francis Markham, Private capacity, *Committee Hansard*, 3 November 2022, p. 34.

who has identified as Aboriginal or Torres Strait Islander.²⁴ The number of enrolled Aboriginal and Torres Strait Islander people is then compared to projections of the voting-age Indigenous population from the Australian Bureau of Statistics (ABS) to generate an estimated enrolment rate.²⁵

- 2.21 It was highlighted that the ‘while the denominator (ABS Indigenous voting-age population estimates) will be updated every five years to account for the changing propensity of people who identify as Indigenous in the Census, the Services Australia data (the numerator) is less likely to reflect such a change.’²⁶ This means that ‘there is a likelihood that the numerator and denominator will measure increasingly different populations.’²⁷
- 2.22 Drs Harrington and Markham recommended that the AEC update their method of estimating Aboriginal and Torres Strait Islander enrolment rates to account for this cohort’s population increase ‘over-and-above the natural increase’ predicted by the ABS and the ‘differential propensity to identify as Indigenous in different data sources.’²⁸ This was also espoused by the CLC.²⁹

Turnout

- 2.23 According to Drs Harrington and Markham, the AEC ‘have not attempted to provide’ Aboriginal and Torres Strait Islander turnout rates, because ‘this information is not available at the individual elector level’. This was deemed ‘surprising’, given that on election day, the AEC mark off voters against the roll and identify who has and has not voted.³⁰
- 2.24 Drs Harrington and Markham suggested that the AEC report on ‘any legal or administrative impediments they face in producing [these] estimates’, that identified impediments be removed, and that the AEC ‘produce and publish estimates of Indigenous voter turnout by electoral division after every Federal election.’³¹
- 2.25 The latter recommendation was echoed by the CLC, who also suggested the inclusion of regional breakdowns:

Given the size and diversity of the division of Lingjari, the provision of further regional breakdowns would assist with addressing issues and barriers to participation at the local level.³²

²⁴ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 5.

²⁵ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 5.

²⁶ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 5.

²⁷ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 5.

²⁸ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 9.

²⁹ Central Land Council, *Submission 478*, p. 7.

³⁰ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 7.

³¹ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 9.

³² Central Land Council, *Submission 478*, p. 8

Formality

- 2.26 There is little quantitative data available on Aboriginal and Torres Strait Islander ballot formality. Accordingly, Drs Harrington and Markham examined rates of formality at the polling place level for booths with large Aboriginal and Torres Strait Islander cohorts in their catchments, and identified a relationship between the proportion of Aboriginal and Torres Strait Islander voters at a booth and informality rates.³³
- 2.27 For a 'hypothetical all-Indigenous polling place', they extrapolated an informality rate of roughly 15.8 per cent, significantly higher than the informality rate of 5.2 per cent for all votes cast in the 2022 federal election.³⁴ From this, it was determined that 'the complexity of casting a formal ballot for the House of Representatives does present a barrier to Indigenous electoral participation.'³⁵
- 2.28 Drs Harrington and Markham also theorised that their observed variation in formality rates among remote Aboriginal and Torres Strait Islander booths 'may be due to variation in the levels of assistance offered to votes at different polling places rather than differences in the literacy and civic education of voters.'³⁶
- 2.29 To address the issue of high informality rates, Drs Harrington and Markham suggested 'stronger savings provisions' to boost effective electoral participation.³⁷ This was also supported by the CLC.³⁸
- 2.30 In response to some of the matters raised by submitters, the AEC noted the difficulty in accurately measuring turnout and formality:
- Estimating AEC franchise metrics for First Nations people are subject to many assumptions as it involves indirect modelling with inherent uncertainties due to the absence of an Indigenous identifier on the electoral roll.³⁹
- 2.31 The AEC also said it 'values the contributions of researchers and academics whose work in this important area assists us to better understand First Nations experiences in the context of elections' and was willing to continue to work with institutions to support improvements to the franchise.⁴⁰

³³ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 8.

³⁴ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 8.

³⁵ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 8.

³⁶ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 8.

³⁷ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 8.

³⁸ Central Land Council, *Submission 478*, p. 8.

³⁹ Australian Electoral Commission, *Submission 330.2*, p. 2.

⁴⁰ Australian Electoral Commission, *Submission 330.2*, p. 2.

Current initiatives and strategies to increase enfranchisement

2.32 This section explores current initiatives and strategies to increase electoral enrolment and participation generally, particularly through the Indigenous Electoral participation Program (IEPP), as well as those used during the 2022 federal election.

Indigenous Electoral Participation Program

2.33 In 2010, the IEPP was introduced by the Federal Government with the goal of closing the gap in Aboriginal and Torres Strait Islander disadvantage in electoral participation.⁴¹ Through this, the AEC work and collaborate with 'Indigenous led organisations and other service providers to identify culturally and regionally appropriate opportunities to enable electoral participation.' For 2021-22, the budget for the national program was \$2.5 million.⁴²

2.34 \$5.6 million in additional funding was also allocated over four years from 2020-21 'to support the recruitment of a permanent Australian Electoral Officer and an expanded AEC presence' in the NT.⁴³

2.35 At present, the IEPP has five full-time staff and two full-time staff employed at the NT and Western Australia (WA) offices, respectively. The National Office, State Office and Territory Office staff also support the IEPP program.⁴⁴

IEPP Partnerships

2.36 The AEC has 87 partnerships with Aboriginal and Torres Strait Islander organisations across Australia who are 'trusted service delivery providers for the community'.⁴⁵

2.37 IEPP partners 'lead, co-design, and champion localised, culturally appropriate engagement in their communities.' This involves 'collaboration with the AEC on the development of programs, outreach events, and the creation and dissemination of engagement materials'.⁴⁶

2.38 Many of these partnerships specifically target areas with high unenrolment rates, such as Dubbo in New South Wales (NSW), Cape York, the Kimberley, the Pilbara and many parts of the NT.⁴⁷ This partnership approach has also received the support of the CLC.⁴⁸

⁴¹ Central Land Council, *Submission 423*, p. 9.

⁴² Australian Electoral Commission, *Submission 330*, p. 33.

⁴³ Australian Electoral Commission, *Submission 330.5*, p. 5.

⁴⁴ Australian Electoral Commission, *Submission 330.5*, p. 5.

⁴⁵ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 3.

⁴⁶ Australian Electoral Commission, *Submission 330.10*, p. 8.

⁴⁷ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 3.

⁴⁸ Central Land Council, *Submission 478*, p. 10.

2.39 In the lead up to the 2022 federal election, the AEC's IEPP activities centred on 'establishing partnerships with organisations who have reach into and are trusted by communities' to foster collaborate initiatives to increase electoral participation.⁴⁹ The AEC stated:

One of the key results is the number of partnerships we've got with Indigenous organisations or organisations trusted by Indigenous people—well over 80 of these partnerships, which are really producing great results for us. I'd also point out that at the last election we had more Indigenous staff working for us than we've ever had at any other election.⁵⁰

2.40 During the 2022 election period, the AEC managed 82 partnerships through the IEPP nationally. Of these partnerships, 21 were solely based in the NT and 16 were based in WA.⁵¹

2.41 These 82 partners championed culturally and locally tailored engagement in their communities, and worked with the AEC to:

- create in-language education materials
- attend community events (focused on enrolment, formality, and temporary election workforce employment opportunities)
- deliver voter education workshops
- promote electoral participation through digital engagement activities
- deliver targeted youth engagement initiatives.⁵²

2.42 The AEC also stated that a number of their partnerships are with Aboriginal health organisations that are trusted by the community, employ local Aboriginal people and provide their services in the local language. The AEC explained:

We'll go along and say, 'Hey, are you interested in working with us, so that when you're out in community you can provide a bit of education around enrolment and even undertake some enrolment activities for us—deliver education around how to complete a formal ballot paper?' A number of them are also helping us to recruit people to become part of our temporary election workforce.⁵³

2.43 For example, the AEC engaged with the Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara (NPY) Women's Council, which is based in Central Australia. In the lead up to the 2022 federal election, NPY provided electoral awareness and education, information on how to vote, and completed over 100 enrolment forms.⁵⁴

⁴⁹ Australian Electoral Commission, *Submission 330*, p. 24

⁵⁰ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 10.

⁵¹ Australian Electoral Commission, *Submission 330.5*, 6.

⁵² Australian Electoral Commission, *Submission 330*, p. 24

⁵³ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 4.

⁵⁴ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, pp. 4-5.

2.44 The AEC also has a longstanding partnership with DriveSafe NT and Northern Territory Births, Deaths and Marriages.⁵⁵ For many Aboriginal people in remote communities, a lack of identification is a significant issue and barrier to electoral enrolment. To address this, the IEPP works with these agencies to provide community members birth certificates, access to driver training and electoral enrolment. This initiative was welcomed by the NLC.⁵⁶

Communication

2.45 The AEC is 'focused on its in-language information offerings as appropriate for the needs of First Nations voters'.⁵⁷

2.46 Founded on consultation and an 'evidence-based approach of communication requirements', the AEC have expanded their materials in-language, and have produced a series of in-language videos on subjects such as how to enrol and cast a formal vote, and temporary election workforce opportunities with the AEC.⁵⁸

2.47 For the 2022 federal election, the AEC focused on the provision of 'accessible and inclusive information to support localised engagement'.⁵⁹ This included:

- the production of videos in 24 Aboriginal and Torres Strait Islander languages
- the advertisement for the Remote Area Mobile Polling Program in 20 languages⁶⁰, and
- the first-time engagement of the National Indigenous Television (NITV) under a media partnership whereby a microsite, television commercials, social posts, digital banners, and advertorials were used.⁶¹

2.48 Additionally, through the program, the AEC sent email and SMS prompts to enrol before the 2019 and 2022 federal elections and since June 2020 for state and territory elections. From this, 200,000 Aboriginal and Torres Strait Islander people received prompts; more than 7,000 enrolled.⁶²

Federal Direct Enrolment and Update program

2.49 In 2012, the *Commonwealth Electoral Act 1918* (Electoral Act) was amended to enable the Federal Direct Enrolment and Update (FDEU) program to improve the AEC's capacity to maintain an accurate electoral roll.⁶³

⁵⁵ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 3.

⁵⁶ Northern Land Council, *Submission 423*, p. 8.

⁵⁷ Australian Electoral Commission, *Submission 330.10*, p. 8.

⁵⁸ Australian Electoral Commission, *Submission 330.10*, p. 8.

⁵⁹ Australian Electoral Commission, *Submission 330*, p. 24.

⁶⁰ Australian Electoral Commission, *Submission 330.10*, p. 8.

⁶¹ Australian Electoral Commission, *Submission 330*, p. 24.

⁶² Australian Electoral Commission, *Submission 330*, p. 33.

⁶³ Northern Land Council, *Submission 423*, p. 6.

- 2.50 The amendment allowed the AEC to enrol an unenrolled person using trusted third-party data to identify, automatically update or enrol people on the electoral roll.⁶⁴ Third parties included Centrelink, Services Australia, the Australian Taxation Office, and the National Exchange of Vehicle and Driver Information Service.⁶⁵
- 2.51 According to the NLC, the program proved to be successful, as it accounted for more than 278,00 new enrolments between the 2013 and 2016 elections.⁶⁶
- 2.52 Nonetheless, the FDEU did not extend to people in communities with a single address – called ‘mail exclusion zones’. This automatically excluded the majority of people in remote communities where mail is sent to a sole address.⁶⁷ This was criticised by a number of submitters, including the Law Council of Australia (LCA) and the Human Rights Law Centre (HRLC).⁶⁸
- 2.53 The NLC stated that this decision ‘excluded most remote Aboriginal communities in the NT’, because such communities have their mail often delivered to post office boxes or in a single community mail bag.⁶⁹ Similarly, the NTEC remarked on how this decision negatively impacts Aboriginal voters:
- The limits of the FDEU program particularly disadvantages Aboriginal electors in the Northern Territory. According to AEC figures, as at the 30 June 2020, of the estimated 52,847 voting age Aboriginal electors in the Territory, 16,527 were not enrolled to vote. The majority of Aboriginal Territorians live in regional and remote areas not covered by the FDEU program. Data also indicates that remote Aboriginal Territorians do not enrol, face-to-face engagement remains the most effective manner to stimulate enrolment in remote areas. The under representation of enrolment of remote Aboriginal Territorians not only impacts election results, it also affects electoral boundaries.⁷⁰
- 2.54 The CLC stated that the effect of this policy is evident, highlighting that ‘while enrolment rates across all of Australia have steadily increased, in the Northern Territory enrolment jumps in the lead up to an election, and drops between elections.’⁷¹
- 2.55 There was strong support for its expansion, with the CLC stating that it ‘must be rolled out across all remote communities.’⁷² Drs Harrington and Markham noted the potential this program has for enfranchising remote Indigenous communities:

⁶⁴ Human Rights Law Centre, *Submission 418*, p. 21.

⁶⁵ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 11.

⁶⁶ Northern Land Council, *Submission 423*, p. 6.

⁶⁷ Central Land Council, *Submission 478*, p. 11.

⁶⁸ Human Rights Law Centre, *Submission 418*, p. 22, Law Council of Australia, *Submission 1379*, pp. 7-8.

⁶⁹ Northern Land Council, *Submission 423*, p. 6.

⁷⁰ The Australia Institute, *Submission 412*, p. 33.

⁷¹ Central Land Council, *Submission 478*, p. 11.

⁷² Northern Territory Electoral Commission, *Committee Hansard*, 23 November 2022, p. 9; Central Land Council, *Submission 478*, p. 11.

The FDEU has significantly increased rates of enrolment across Australia to the point that the roll is now the most complete it has ever been. There is every reason to expect that the extension of this program to remote parts of Australia will do the same. Applying the FDEU to everyone is the single most effective change that could be made to increase Indigenous enrolment in discrete Indigenous communities across Australia.⁷³

- 2.56 Significantly, two community leaders from Arnhem Land lodged an official complaint in 2021 to the Australian Human Rights Commission (AHRC) claiming that the failure to apply the FDEU in remote communities represented a Breach of the Racial Discrimination Act,⁷⁴ and that the FDEU ‘suppressed or inhibited’ Aboriginal people living on their homelands from voting. This complaint is still before the AHRC.⁷⁵
- 2.57 The AEC has trialled the use of direct enrolment communication via email and community mailbags in WA, NT and Queensland (QLD).⁷⁶ In this trial, the AEC contacted roughly 800 Indigenous electors across 63 communities in the aforementioned states who are not on the roll and live in communities that receive mail via community mail bags.⁷⁷
- 2.58 Additionally, the AEC also added a new data set of Aboriginal and Torres Strait Islander voters, writing to over 14,000 people who self-identify as such and were not on the roll.⁷⁸
- 2.59 These two trials resulted in the automatic enrolment of roughly 16,000 Aboriginal and Torres Strait Islanders⁷⁹, and due to this success, the AEC decided in February 2023 that ‘they will become a regular feature’ of the FDEU program.⁸⁰
- 2.60 Even more significantly, in the overall 2022-23 financial year, the FDEU program saw roughly 62,300 Aboriginal and Torres Strait Islander people added to the electoral roll.⁸¹
- 2.61 The AEC also informed the Committee that they intend to trial the FDEU program in correctional settings and have contacted correctional facilities in the NT, SA, and WA.⁸²

⁷³ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 11.

⁷⁴ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 11.

⁷⁵ Human Rights Law Centre, *Submission 418*, p. 21.

⁷⁶ Human Rights Law Centre, *Submission 418*, p. 22.

⁷⁷ Australian Electoral Commission, *Committee Hansard*, 28 September 2022, p. 2.

⁷⁸ Australian Electoral Commission, *Committee Hansard*, 28 September 2022, p. 2.

⁷⁹ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 2.

For those communities of the 63 that had mailbags, the AEC wrote to their mailbags and automatically enrolled just under 800 people. For the same 63 communities – where the AEC had email data – those residents were emailed, and another 800 individuals were automatically enrolled.

⁸⁰ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 2.

⁸¹ AEC, *Submission 330.10*, p. 7.

⁸² Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 3.

Mobile polling

- 2.62 Although not a legislated requirement, mobile voting teams visiting remote communities has 'long been an essential part of the AEC's delivery of electoral events.'⁸³ Mobile polling is spread through a range of different divisions, but the majority are within remote WA, NT, SA and Far North QLD.⁸⁴
- 2.63 'Unique and complex', the logistics behind the delivery of remote services can be 'impacted by changes in community advice, unexpected weather events and premises availability.'⁸⁵ For every election, providing this service to remote communities involves a 'small number of permanent staff buttressed by a large number of temporary staff.'⁸⁶
- 2.64 For the 2022 federal election, the AEC had 38 mobile teams visiting 348 locations, issuing 21,620 votes.⁸⁷ This level of service was 'equivalent to that of the 2019 federal election.'⁸⁸
- 2.65 Moving forward, the AEC intend to expand their remote area mobile polling, stating they are aware of the unique challenges remote communities face and the logistical difficulties that come with ensuring people in such places can vote:
- Our aim is to try to provide as much opportunity for people to vote as is possible, given that this is a difficult logistical area for us. We are trying to expand on what we are already doing. We are well aware of the challenges that these remote communities face.⁸⁹
- 2.66 According to the AEC, there is a 'huge amount of work occurring to increase the remote service offering' compared to the 2022 federal election, and they 'are hopeful that we will see quite a large increase in the number of locations.'⁹⁰ There is at least 100 additional locations that the mobile polling teams intend to visit; however, the AEC acknowledged that there remains 'a lot of work to ascertain the feasibility and suitability of the communities that we've included in that list.'⁹¹

Other federal initiatives

- 2.67 The AEC also stated that they have simplified the enrolment process, to allow those without an accepted identity document to complete their application online.⁹²

⁸³ AEC, *Submission 330.10*, p. 6.

⁸⁴ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 9.

⁸⁵ AEC, *Submission 330.10*, p. 6.

⁸⁶ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 9.

⁸⁷ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 10.

⁸⁸ AEC, *Submission 330.10*, p. 7.

⁸⁹ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 10.

⁹⁰ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 10.

⁹¹ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 10.

⁹² Australian Electoral Commission, *Submission 330.8*, p. 2.

2.68 Additionally, in February 2023, Medicare cards were introduced as a valid form of accepted identification for Australian citizens to enrol to vote or update their enrolment.⁹³ According to the AEC, this will ensure that that all Australians, including Indigenous Australians, can enrol easily.⁹⁴ In the first four months after this change, close to a third of all enrolment transactions occurred with the use of a Medicare card.⁹⁵

Barriers to electoral participation

2.69 This section will explore the general and broader barriers Aboriginal and Torres Strait Islander voters have historically faced as well as those ascribed to the 2022 federal election.

A checkered history – frequent underfunding and abolition of programs

2.70 According to the CLC, many federal programs geared towards increasing Aboriginal and Torres Strait Islander education on and engagement with voting have either been abolished or defunded over the last three decades.⁹⁶

2.71 The HRLC stated that the ‘disparity between Aboriginal and Torres Strait Islander enrolment and electoral participation is due in part to decisions taken by successive federal governments over a number of years.’⁹⁷

2.72 As previously discussed, the IEPP was introduced by the Federal Government with the goal of closing the gap in electoral participation.⁹⁸ Nonetheless, the CLC highlighted that the program has undergone repeated and significant funding cuts between 2017 and 2021⁹⁹, with staffing in the AEC’s Darwin office reduced from sixteen to three following the 2017 Federal Budget. This included the ‘axing’ of four staff that were working on Aboriginal participation and voter education.¹⁰⁰ The NLC noted that this occurred ‘despite a report on the 2016 Federal election identifying that the division of Lingiari had the lowest voter turnout in Australia at every House of

⁹³ Australian Electoral Commission, New Indigenous enrolment record: An in-depth look, viewed 25 September 2022, <https://www.aec.gov.au/media/2023/08-03.htm#:~:text=In%20NSW%2C%20the%20estimated%20Indigenous,current%20overall%20national%20enrolment%20rat>.

⁹⁴ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 2.

⁹⁵ Australian Electoral Commission, New Indigenous enrolment record: An in-depth look, viewed 25 September 2023, <https://www.aec.gov.au/media/2023/08-03.htm#:~:text=In%20NSW%2C%20the%20estimated%20Indigenous,current%20overall%20national%20enrolment%20rat>.

⁹⁶ Central Land Council, *Submission 423*, p. 8.

⁹⁷ Human Rights Law Centre, *Submission 418*, p. 21.

⁹⁸ Central Land Council, *Submission 423*, p. 9.

⁹⁹ Central Land Council, *Submission 423*, p. 9.

¹⁰⁰ Central Land Council, *Submission 423*, p. 9.

Representatives election since 2001.¹⁰¹ Given the goal of the IEPP, the NLC remarked that the reduction of its services in the NT was disappointing.¹⁰²

- 2.73 In relation to the 2017 budget cuts, the AEC stated that the staffing reduction in the Darwin office did not impact on interpreter services and was reversed in a subsequent budget decision in 2022, with the office returning to at least thirteen workers, and is 'functional and running and doing great work.'¹⁰³
- 2.74 The CLC, although acknowledging and welcoming the reinstatement of 'modest funding for the IEPP', remarked that in recognising 'the need to make up for decades of under-investment and the under-provision of electoral information and education, and enrolment and voting support to remote communities, this funding should be not just maintained but increased over time.'¹⁰⁴

The Aboriginal Electoral Education Program

- 2.75 In 1979, the Aboriginal Electoral Education Program was established to increase the enrolment of Indigenous people. The various iterations of the program over the years provided education and materials regarding voting in Aboriginal and Torres Strait Islander languages, and 'included significant outreach effort and harnessed the opportunity for job creation through the roles of Aboriginal Community Electoral Assistants.'¹⁰⁵
- 2.76 The program aimed for Aboriginal and Torres Strait Islander self-management in electoral matters and the increase in Aboriginal and Torres Strait Islander voter registration.¹⁰⁶
- 2.77 In 1996, the program - then known as the Aboriginal and Torres Strait Islander Election Education and Information Service - was abolished,¹⁰⁷ and the AEC did not operate a major program targeting Aboriginal and Torres Strait Islander electors for 13 years.¹⁰⁸
- 2.78 In addition to being a factor in 'declining Indigenous electoral education'¹⁰⁹, the end of this program holistically meant that 'almost two generations of Indigenous people have missed out on culturally-appropriate education about voting and government.'¹¹⁰

¹⁰¹ Northern Land Council, *Submission 423*, p. 4.

¹⁰² Northern Land Council, *Submission 423*, pp. 4-5.

¹⁰³ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 11.

¹⁰⁴ Central Land Council, *Submission 423*, p. 9.

In 2022, the Federal Government reinstated funding of \$9.4 million over four years and \$1.3 million after that, with the majority of the funding allocated from 1 July 2022.

¹⁰⁵ Central Land Council, *Submission 423*, p. 8.

¹⁰⁶ Human Rights Law Centre, *Submission 418*, p. 21.

¹⁰⁷ Central Land Council, *Submission 423*, p. 8.

¹⁰⁸ Human Rights Law Centre, *Submission 418*, p. 21.

¹⁰⁹ The Australia Institute, *Submission 412*, p. 33.

¹¹⁰ Central Land Council, *Submission 423*, p. 9.

The Australia Institute remarked that ‘it is still probably having an impact ... cuts in voter education can take decades to work through.’¹¹¹

Aboriginal and Torres Strait Islander Commission

- 2.79 Submitters also highlighted the work of the Aboriginal and Torres Strait Islander Commission (ATSIC), which encouraged electoral participation.
- 2.80 Through the *Aboriginal and Torres Strait Islander Commission Act 1989*, ATSIC was created as a ‘statutory authority to both represent, and deliver services to, Aboriginal and Torres Strait Islander people.’¹¹²
- 2.81 ATSIC held elections, facilitated by the AEC, where voters elected its commissioners and members of its seventeen regional councils. According to the CLC, these elections had a positive effect on the voter turnout of Aboriginal voters in the sparsely populated areas in central Australia, where the interest and participation in these elections was higher in comparison to densely settled areas.¹¹³
- 2.82 This increased participation was correlated to ‘ATSIC’s prominent role in funding and providing services and employment in the remote areas of central and northern Australia and the higher number of polling booths.’¹¹⁴
- 2.83 The ATSIC also ran promotional and educational campaigns regarding voting, such as ‘The Right to Be Heard’ campaign in 2002, which encouraged Aboriginal and Torres Strait Islander people to participate in ATSIC elections as both voters and candidates. Significantly, in the 2002 ATSIC elections, voter turnout increased by 11.1 per cent, and over 1150 people nominated as candidates.¹¹⁵
- 2.84 Nonetheless, in 2005, ATSIC was also abolished, which, according to the CLC, ‘further eroded Indigenous enfranchisement.’¹¹⁶

Lack of voter education

- 2.85 According to Drs Harrington and Markham, a lack of awareness about elections and government, and unfamiliarity with the enrolment and voting process means that many Aboriginal and Torres Strait Islander people ‘are unaware of the purpose of elections and their responsibility to vote.’¹¹⁷

¹¹¹ The Australia Institute, *Submission 412*, p. 34.

¹¹² Parliament of Australia, Former Aboriginal and Torres Strait Islander Australian Government representative and advisory bodies: a quick guide, viewed 3 October 2023, https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/rp/rp2223/Quick_Guides/FormerAboriginalandTorresStraitIslanderRepresentativeBodies.

¹¹³ Central Land Council, *Submission 423*, p. 9.

¹¹⁴ Central Land Council, *Submission 423*, p. 9.

¹¹⁵ Central Land Council, *Submission 423*, p. 9.

¹¹⁶ Central Land Council, *Submission 423*, p. 9.

¹¹⁷ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 14.

- 2.86 The NLC highlighted the consequences that long-term under-provision of electoral education, engagement and information has had on remote communities:

... there are generations of community members who have never received adequate – or any – electoral or civic education services. This is not due to lack of interest. Research into electoral engagement and education in three remote Aboriginal communities in the NLC’s region ... found that: ‘A good majority of those interviewed see participation in electoral processes as an important aspect of being an Aboriginal Australian’. It also noted: ‘Voters’ concerns around how to better understand the purpose of voting, the “underneath stories” of parties and policies and how to effectively judge the achievements of past or incumbent politicians, emerged as just as significant as concerns around literacy and numeracy at the ballot box.’¹¹⁸

- 2.87 The Kavanagh Report, which was commissioned by the NPY Women’s Council to investigate enrolment and participation in the 2022 federal election, found that ‘most people have little understanding of the processes of participatory rights and obligations around voting as Australian citizens.’¹¹⁹

- 2.88 The report noted that they ‘had to explain concepts such as the three tiers of government and take time to help people understand words such as enrolling, voting, Parliament House and even Prime Minister.’¹²⁰

- 2.89 The report also found that ‘the majority of young people in particular had little awareness that an election was taking place. They did not understand how the voting system works - let alone how voting can impact your life. Older people were generally more knowledgeable.’¹²¹

- 2.90 The NLC highlighted that within the context of their role of representing the interests of more than 50,000 Aboriginal people across seven regions, they are not funded to deliver civics education. They stated:

We are not funded to fix this problem. ... We are here today because the agencies that are resourced and mandated to actively manage the electoral roll and deliver targeted education and public awareness programs have obviously, self-evidently and shamefully failed.¹²²

- 2.91 Mr Matthew Ryan, Mayor of Maningrida in Arnhem Land, emphasised how ‘lacking’ voter education and awareness has been for remote communities and called for a need to engage with the relevant community stakeholders to address this:

Back in the eighties, they used to talk about how to enrol and when to vote. There used to be how-to-vote cards at schools. That’s lacking through the

¹¹⁸ Northern Land Council, *Submission 423*, p. 5.

¹¹⁹ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 14.

¹²⁰ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 14.

¹²¹ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 14.

¹²² Northern Land Council, *Submission 423.1*, p. 1.

system, right across the Northern Territory. I speak for all and as an individual as well, and I've seen that lacking. It's a big failure. We have interpreter services and, like I said, the stakeholders in our communities, but we can do better. All we need to do is work together in terms of the processes, and we have the land councils that will support this. We have the Aboriginal Peak Organisation that will support this as well. It's about engaging the right stakeholder group within our areas, regardless of where you're from or where you are.¹²³

Mobile polling challenges

2.92 As previously noted, the delivery of remote voter services can be hindered by a variety of logistical challenges such as changing community advice and weather events.¹²⁴ Stakeholders suggested that greater cultural awareness when delivering this service is also necessary.

Poorly timed

2.93 Despite remote communities' reliance on mobile polling booths, limited resources means that 'booths provided by the AEC can be present for as little as a single hour during an entire election period.'¹²⁵

2.94 During the 2022 Federal Election, of the 205 remote polling booth locations in Lingiari, remote area polling teams were present at 154 locations for four hours or less. Of that figure, 95 of those locations had polling booths present for only a single hour.¹²⁶

2.95 The NLC remarked on this in the lead up to the election, stating:

This short window for voting does not take into account daily life in remote communities where people have other commitments, including work, childcare, travel as rangers and so on, as well as important cultural obligations.¹²⁷

2.96 An example of this was in the small homeland of Donydji, where Aboriginal men who were occupied with a men's initiation ceremony were turned away from polling booths because they arrived outside of the prescribed voting time. The NT Government explained:

Some of the men came out of the men's initiation ceremony to vote. Because it was outside the prescribed time that was advertised, even though the AEC staff were still there, the officer in charge at that particular booth did not allow the men who came out of the men's site to vote that day. There are stories like that of

¹²³ Matthew Ryan, Private capacity, *Committee Hansard*, 23 November 2022, p. 1.

¹²⁴ AEC, *Submission 330.10*, p. 6.

¹²⁵ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 13.

¹²⁶ Northern Land Council, *Submission 423*, p. 8.

¹²⁷ Northern Land Council, *Submission 423*, p. 8.

disenfranchisement in that East Arnhem pocket alone attached to Nhulunbuy as the regional hub.¹²⁸

- 2.97 Similarly, the CLC also noted the ‘poorly timed’ visits by the AEC’s remote polling teams to communities, highlighting that for one community, the day the polling team visited, most of its residents had travelled to a neighbouring community for a funeral.¹²⁹
- 2.98 An additional factor that compounds this narrow opportunity to vote is distance. The Central Desert Regional Council (CDRC) highlighted the feedback they received from residents, whereby it was noted that ‘voting windows were unrealistic’, and that the ‘tyranny of distance between communities and outstations made it a challenge for residents to travel within the stipulated voting window’.¹³⁰
- 2.99 Although highlighting the minimal length of time polling booths are available in remote communities as a ‘really big problem’, Dr Harrington also acknowledged the ‘geographic challenge’ in providing this service considering ‘Australia is a very big country and there are a lot of very small and remote communities dotted throughout it’.¹³¹
- 2.100 In determining how long mobile polling booths stay in communities, the AEC stated that it depends on the communities’ size. The AEC explained that ‘each community will be entirely different. It depends. Sometimes it is for a day, sometimes for longer than that and sometimes for a couple of hours.’¹³²
- 2.101 According to the AEC, it is a challenge to balance extending a mobile polling booth’s time in a community against the need to attend other locations:
- ... one of the challenges is in communities where there are, for instance, around 10 voters. That’s usually the threshold we use to attend a community. Our ability to get to an increased number of locations also means we need to be very pointed in how long we spend in a community. Spending longer may mean we’re unable to reach other locations. There is a balance to be struck.¹³³
- 2.102 In some communities during the election, mobile polling booths ran late which required voters to wait, therefore impacting their day-to-day duties:
- Other places had late running booths. It was then exacerbated throughout that day. People were told a certain day and had been hanging around to vote and maybe an hour later the set-up time had been completely off. People had important work, business or travel delayed. It’s just fortunate that in some small places people really count their vote as an important right so they stayed around

¹²⁸ Northern Territory Government, *Committee Hansard*, 23 November 2022, p. 6.

¹²⁹ Central Land Council, *Submission 423*, p. 10.

¹³⁰ Central Desert Regional Council, *Submission 333*, p. 2.

¹³¹ Dr Morgan Harrington, Research Fellow, Centre for Aboriginal Economic Policy Research, Australian National University, *Committee Hansard*, 3 November 2022, p. 37.

¹³² Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 10.

¹³³ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 10.

before they went out to do some of their duties, particularly ranger groups, who try to get out early in the morning when they're out on country in 40-degree heat. There are those types of frustrations.¹³⁴

2.103 There were also additional logistical problems. Due to exceptional issues with a helicopter, Raymangirr and Gurrumuru in East Arnhem - two homelands that were due to be serviced for the 2022 federal election – initially missed out. The NT Government stated that shortly following this, the AEC staff who were stationed at the two-day mobile polling booth at Gapuwiyak were sent to service Raymangirr and Gurrumuru. However, it was unclear as to 'how many people were actually able to vote a couple of days later from what was advertised—or maybe not advertised, because we saw a lack of materials and communication.'¹³⁵

2.104 According to Drs Harrington and Markham, rescheduling these services 'presented significant difficulties because of limited resources and existing schedules.'¹³⁶ The Aboriginal Peak Organisations (APO) NT echoed this, and expressed how frustrating the lack of communication was for community members:

There were quite a few homelands where they didn't turn up. People are very busy out there and they have their own business to sort out. A lot of our people do want to vote; they wait around for the teams and they didn't turn up. Apparently one of the helicopters ran out of fuel, so they couldn't turn up. There was no contact with the communities. No-one from the AEC or the team contacted the communities to say they couldn't turn up. Then they were looking at rescheduling. This is a big problem about how the AEC engages with these communities to make sure these polls are set up, that people know what is going on.¹³⁷

2.105 The Kavanagh Report found that while mobile polling booths were 'a critical factor in getting people from remote communities to vote,' little notice is provided before they are available, and that 'the period of time the booths are open in the communities gives people a limited opportunity to vote.'¹³⁸

2.106 There is also an element of unpredictability to remote polling booths, because although schedules are published online and in community offices weeks before an election, 'many community members do not know which day the remote polling team will be visiting remote communities.' The NPY Women's Council report found that 'most people told us they did not know voting was happening until they saw AEC staff setting up'.¹³⁹

2.107 The CLC stressed that such a barrier underlines the importance of the AEC cultivating strong relations with local communities and organisations to obtain 'local

¹³⁴ Northern Territory Government, *Committee Hansard*, 23 November 2022, p. 6.

¹³⁵ Northern Territory Government, *Committee Hansard*, 23 November 2022, p. 6.

¹³⁶ Dr Morgan Harrington and Francis Markham, *Submission 430*, p. 13.

¹³⁷ Aboriginal Peak Organisations NT, *Committee Hansard*, 23 November 2022, p. 4.

¹³⁸ Dr Morgan Harrington and Francis Markham, *Submission 430*, p. 13.

¹³⁹ Dr Morgan Harrington and Francis Markham, *Submission 430*, p. 13.

intelligence'.¹⁴⁰ It also highlights the importance of voter education to ensure that people are aware of the opportunities to vote, 'including via postal vote, and importantly given Aboriginal mobility, absentee voting.'¹⁴¹

- 2.108 Furthermore, the need for flexibility was raised when catering for remote voters. Mr Gosford from the NLC referenced his own experience working in elections and catering for remote voters' unique needs:

I did two federal elections back in the nineties, one as a team member and one as a team leader in a remote community. We did have a day or so of training in Darwin beforehand, but on the ground it quickly became apparent that there was a need to be flexible. In some communities you might expect that 200 people would turn up, and for whatever reason there'd be 400 people who turned up. So the decision we made on the ground was, 'Well, if there are people there lined up to vote, regardless of what the notified opening and closing times are, then we just stay there until we get every vote, regardless.'¹⁴²

- 2.109 According to the NT Government, in some mobile polling booths, there have been officers-in-charge 'who were very reasonable, very conscious of the environment that they're operating in and were quite adjusting.'¹⁴³

The importance of certified and trusted interpreters

- 2.110 The issue of available mobile polling booths was compounded by the lack of interpreters at polling centres.¹⁴⁴

- 2.111 The reported absence of accredited interpreters impacted on Aboriginal and Torres Strait Islander enrolment, turnout, and voting formality on homelands¹⁴⁵, with the NLC stating that the 'majority of people were confused and wanted someone to sit with them to explain the system.'¹⁴⁶ Additionally, the Committee heard that during the recent federal election, iPad[s] or video in Indigenous languages were not available at polling places despite their use in the past.¹⁴⁷

- 2.112 According to Mr Ryan, the absence of interpreters leads to confusion for Aboriginal voters, particularly when there is also a lack of civics education and communication from the AEC:

In my community there was no interpreter ... we need interpreters in all our communities. ... There's a lack of education, lack of communication and lack of transparency. People are confused. I've seen people lined up, not knowing what to do. At one stage I had to assist some of my fellow countrymen—my people. I

¹⁴⁰ Central Land Council, *Submission 423*, p. 10.

¹⁴¹ Central Land Council, *Submission 423*, p. 10.

¹⁴² Northern Land Council, *Committee Hansard*, 23 November 2022, p. 7.

¹⁴³ Northern Territory Government, *Committee Hansard*, 23 November 2022, p. 6.

¹⁴⁴ Northern Land Council, *Submission 423*, p. 8.

¹⁴⁵ Human Rights Law Commission, *Submission 418*, p. 22.

¹⁴⁶ Northern Land Council, *Submission 423*, p. 8.

¹⁴⁷ Aboriginal Peak Organisations NT, *Committee Hansard*, 23 November 2022, p. 3.

didn't want to be influential, but at least I told them to number from 1 to whatever. ... Again, it's a failure of the Electoral Commission itself. Prior to the election, they should be out in the communities and start engaging. That's the big word, 'engagement'—in the community.¹⁴⁸

2.113 APO NT also remarked on the difficulty in obtaining properly trained interpreters (and local electoral staff) for the mobile polling booths:

I have worked on many mobile polling teams in the past during several Northern Territory and local government elections and they are not set up for Aboriginal people. We don't have interpreters. There are no interpreters who are part of the team. Trying to get local assistance has been really difficult and when you do get them you get them on the day, so they are not trained up. The Electoral Commission should be doing ongoing education and training with communities to ensure we can encourage people to work during the election period in the lead-up to the election and during the election.¹⁴⁹

2.114 Although Aboriginal interpreter services are engaged 'wherever that is possible', the AEC conceded that there is a shortage of such interpreters across communities:

I think that has been experienced for a while. I think it has been exacerbated, regrettably, by COVID, or the demand may have increased as a consequence of COVID. Access to those very scarce but very valuable interpreter services is difficult to obtain, particularly sometimes with very short notice. So that is one thing that we do, but we are limited by their capacity to service us.¹⁵⁰

2.115 Furthermore, the AEC explained the taxing process required to correctly translate material, which requires engaging an external service:

Many Indigenous languages in particular are oral, not written. We can only use certified translators. The way the process works is you've got to have a certified translator and then you've got to have a certified assurer, and quite often you can't just translate directly, you have to prepare a concept of what's being translated and then translate that. So, the concept then has to be quality controlled. It's a huge process for us. We don't have that internal capability and we rely on external contractors.¹⁵¹

2.116 To supplement the shortage of interpreters, the AEC recruit local Aboriginal and Torres Strait Islander temporary election workers from communities who speak the language and can provide that interpreter service as part of their duties. For the 2022 election, the AEC had 518 identified positions at polling stations around Australia,

¹⁴⁸ Matthew Ryan, Private capacity, *Committee Hansard*, 23 November, p. 4.

¹⁴⁹ Aboriginal Peak Organisations NT, *Committee Hansard*, 23 November 2022, p. 3.

¹⁵⁰ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 10.

¹⁵¹ Australian Electoral Commission, *Committee Hansard*, 6 September 2023, pp. 8-9.

and stated that they 'did our very best to try and fill all of those positions with local Aboriginal and Torres Strait Islander people who can speak the language.'¹⁵²

2.117 These temporary workers who are providing interpreter services are paid \$23 dollars an hour, compared to professional interpreters who are paid \$60 dollars an hour. In explaining this disparity, the AEC stated that such individuals are not specifically employed as interpreters; rather, they were they were employed as temporary workers that 'brought the added value of their language skills, just like temporary workers do from culturally and linguistically diverse communities in Western Sydney and Western Melbourne.'¹⁵³

2.118 The AEC stated that they recruit people as temporary workers and 'if they bring those added language skills, that is an absolute bonus' but they 'then rely on external specific professional interpreter services if required.'¹⁵⁴ When asked whether these temporary workers should be paid as interpreters, the AEC stated:

All over Australia there will be incidents in polling places where people with a native ability might have an individual interaction with someone who comes into the polling place where they speak in language because someone might have English as a second language. That is not just restricted to Indigenous Australians; that is right across the board. We benefit occasionally from people's native language skills. We provide a separate interpreter service, which we contract and pay for, and I'm sure they pay at whatever rate interpreters are paid at. But the tasks we are asking people to fulfil in the polling place are largely temporary election workforce tasks and that's what they are paid for.¹⁵⁵

2.119 According to the Australian Greens, however, these local interpreters – unlike certified interpreters - have 'little training in electoral processes or obligations of confidentiality or impartiality.'¹⁵⁶

2.120 The significance of employing certified interpreters who are both equipped with the relevant linguistic skills and are familiar and trusted by these communities was also highlighted. Dr Harrington stated:

The limited research that is available on this issue shows that it's about having not simply interpreters and people who have the linguistic ability but people who are known and trusted by the community. There is a lot of distrust and historical problems that have lead First Nations people to disengage from government. Having on-the-ground community members who they know and trust is really essential to bridging that gap to encourage civic participation.¹⁵⁷

¹⁵² Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 10.

¹⁵³ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 10.

¹⁵⁴ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 10.

¹⁵⁵ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 11.

¹⁵⁶ The Australian Greens, *Submission 432*, p. 10.

¹⁵⁷ Dr Morgan Harrington, Research Fellow, Centre for Aboriginal Economic Policy Research, Australian National University, *Committee Hansard*, 3 November 2022, p. 37.

- 2.121 Similarly, APO NT remarked more broadly on this, commenting that polling booth staff are not equipped with local knowledge and do not understand the unique community landscape they were working in:

Even the members of the remote polling teams need to have a good understanding of the local people, language and all of those things. The AEC brings up people from down south who have no idea about our communities. They have no idea about the cultural aspects, and they find it really difficult to provide a service to our mob—trying to look for names on their system and so forth.¹⁵⁸

Suggested improvements and solutions

- 2.122 Engagement with Aboriginal and Torres Strait Islander communities and extensive review and assessment must underpin any avenues of reform and the development of strategies geared to improving enfranchisement. Dr Markham stated:

... the AEC really needs to be working in partnership with Indigenous representative bodies in regional and remote Australia to develop these strategies and figure out the best way to implement them, rather than trying to cook up some strategies here in Canberra which may or may not be effective.¹⁵⁹

- 2.123 In addition, the evidence received also supported a variety of other initiatives, including on-the-day enrolment, community voting centres, voter education, additional accredited interpreters and the development of a local Aboriginal and Torres Strait Islander workforce that would facilitate and strengthen the delivery of many of these initiatives and services.

Multilateral engagement and local workforces

- 2.124 According to Drs Harrington and Markham, strategies geared towards increasing electoral participation ‘should be developed with the substantial input of Indigenous voters and non-voters’, as this cohort is ‘best placed to know what strategies would support them to enrol, and what would encourage them to turn out to vote’.¹⁶⁰ They added that a ‘bottom-up’ and participatory approach should be implemented through partnerships with local organisations.¹⁶¹

- 2.125 The CLC echoed this, recommending that any such strategies or initiatives ‘are co-designed with and endorsed by Indigenous communities and organisations’.¹⁶²

¹⁵⁸ Aboriginal Peak Organisations NT, *Committee Hansard*, 23 November 2022, p. 4.

¹⁵⁹ Dr Francis Markham, Private capacity, *Committee Hansard*, 3 November 2022, p. 38.

¹⁶⁰ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 10.

¹⁶¹ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 10.

¹⁶² Central Land Council, *Submission 478*, p. 10.

2.126 The notion of multi-lateral partnerships between the AEC, the NTEC and local Aboriginal and Torres Strait Islander community organisations and land councils was widely espoused.

2.127 Rather than bilateral engagement from the AEC, the NLC expanded on multi-organisational engagement, a prospect they had previously proposed, stating:

Rather than just the NLC and the AEC, which now engage in a partnership of indeterminate quality and effectiveness, greater effectiveness could be achieved from a multilateral, multi-organisational working party or something. We proposed that late last year. It hasn't proceeded.¹⁶³

2.128 Mr Ryan cautioned against a 'siloed working group' and encouraged multi-organisation engagement:

I would encourage the land councils to work together. APO NT, the AEC, the Northern Territory Electoral Commission should come together ASAP to see where we are at and how we can do it moving forward.¹⁶⁴

2.129 The CLC determined that the primary way for the AEC to work through the IEPP should be 'a partnership approach' that includes the 'resources of local community partners'.¹⁶⁵ They also emphasised the importance of ensuring that enfranchisement efforts are informed by local expertise and staff:

It is important that all efforts to increase the electoral participation of Aboriginal people in remote communities are sustained, designed with communities, informed by local expertise and enhanced by the trust engendered through local staff and relationships. We note that there is substantial opportunity to create both short and long-term job opportunities for local people to support ongoing electoral participation efforts and staffing during election periods.¹⁶⁶

2.130 Significantly, the Kavanagh Report 'identified the need for bespoke services that recognise and are tailored to the particular cultural, linguistic and demographic circumstances of Aboriginal communities.' Through multilateral partnerships and engagement, local community organisations would act as 'cultural brokers' for the AEC and would provide tailored and informed assistance.¹⁶⁷

2.131 This is echoed by research from Charles Darwin University, which identified that although effective electoral engagement varied in each community, this engagement was underpinned by the 'involvement of local people and local solutions.' The report recommended that local electoral assistants are employed to provide, in local languages, voter education days or weeks before polling¹⁶⁸:

¹⁶³ Northern Land Council, *Committee Hansard*, 23 November 2022, p. 3.

¹⁶⁴ Matthew Ryan, Private capacity, *Committee Hansard*, 23 November, p. 3.

¹⁶⁵ Central Land Council, Submission 478, p. 10.

¹⁶⁶ Central Land Council, *Submission 478*, p. 10.

¹⁶⁷ Northern Land Council, *Submission 423*, p. 5.

¹⁶⁸ Northern Land Council, *Submission 423*, p. 5.

This expanded role may include senior people engaged on the basis of their cultural authority, and their ability to work across and through different governance traditions in engaging community members around electoral participation and voting. That the NTEC (and AEC) employ local voter education teams through local research organisations or language centres, and engage them for a few hours a week for a couple of months to alert people to forthcoming elections.¹⁶⁹

- 2.132 Both the NLC and CLC supported the development of locally employed electoral workforces,¹⁷⁰ with the CLC recommending that the ‘provision of short and long-term employment opportunities for local Aboriginal people should be a key goal of the IEPP’ and that the AEC should ‘in the first instance, attempt to recruit, train and appropriately remunerate local Aboriginal people as Electoral Engagement Officers.’¹⁷¹

Locally employed and culturally aware accredited interpreters

- 2.133 The CLC and HRLC both recommended that priority is given to properly resourcing the provision of accredited interpreters in remote areas, with the latter also recommending that these interpreters should be employed locally.¹⁷²

- 2.134 The NT Government’s Aboriginal Interpreter Service has trained and certified professional interpreters who assist with ‘the voting process and the access of that democratic right.’ Notably, the effectiveness of these interpreters was due to their familiarity with the region and community, with the NT Government’s Minister for Aboriginal Affairs stating:

I often saw—and the NTEC did this really well in previous elections—people who were employed previously, or who worked in and around the region, knew family names and groups. It was: ‘Oh, yes. Your name’s Nundhirribala’—bang, off they went, typing it in. There was that smooth process of people getting their names ticked off when they were voting, whereas the AEC were basically looking around on the day trying to find community members in some of the polling places that I was at and signing people up on the spot.¹⁷³

- 2.135 The NT Government stated that they have a ‘whole professional resource around interpreters’ and, noting that the AEC are lacking in this regard, offered a memorandum of understanding between them so that the process is ‘smooth on the ground and also prepared, engaged early—and resourced well.’¹⁷⁴

¹⁶⁹ Northern Land Council, *Submission 423*, p. 6.

¹⁷⁰ Northern Land Council, *Submission 423*, p. 6; Central Land Council, *Submission 478*, p. 10.

¹⁷¹ Central Land Council, *Submission 478*, p. 10.

¹⁷² Human Rights Law Centre, *Submission 418*, p. 23; Central Land Council, *Submission 478*, p. 8.

¹⁷³ Northern Territory Government, *Committee Hansard*, 23 November 2022, p. 7.

¹⁷⁴ Northern Territory Government, *Committee Hansard*, 23 November 2022, p. 7.

Longer timeframes for voting

- 2.136 To address the timeframe issues attached to mobile polling booths, Drs Harrington and Markham recommended extending ‘the provision of voting services for federal elections that would provide access to the ballot box over a period of weeks in areas with low turnout.’¹⁷⁵
- 2.137 A testament to having longer and more flexible timeframes to vote is the experience of Wadeye, a town in the NT electorate of Daly and the second-largest Aboriginal community in the NT. In the 2022 Daly by-election, the Wadeye booth was open for five full days, ‘which meant that there was a larger voter turnout across that period of time’. According to the NT Government’s Minister for Aboriginal Affairs, allowing further days to vote, ‘made a huge difference in terms of the ability to access voting and voting booths and people turning out to actually vote.’¹⁷⁶
- 2.138 One way of allowing for larger timeframes is through community-staffed voting centres as they would ‘provide access to ballot boxes over a period of weeks’.¹⁷⁷ This would ‘ensure residents of remote community and outstations have a better chance of casting a vote.’¹⁷⁸
- 2.139 There is precedent for such an initiative. Drs Harrington and Markham explained that the NTEC ‘has partnered with six local councils to employ their staff to run all aspects of elections except for the count.’ At these ‘Community Voting Centres’, staff from local councils were trained as electoral officers and ‘tasked with encouraging people to vote using ballot papers and boxes provided by the NTEC.’¹⁷⁹
- 2.140 For the 2021 local Government elections, this initiative led to 37 voting booths in remote communities open for voting on and prior to election day and translated to 1,000 additional hours of voting for remote communities.¹⁸⁰ According to Drs Harrington and Markham, ‘this was the difference between having four hours to vote, and four days to vote.’¹⁸¹
- 2.141 The CDRC explained their experience with their ‘service delivery centres operating as voting centres’: they had nine voting centres with over 20 polling officers covering 282,093km². The CDRC’s polling officers also travelled to surrounding homelands and outstations to reach the majority of their residents registered on the roll.¹⁸²
- 2.142 In explaining the success of this initiative, the CDRC highlighted the following contributing factors:

¹⁷⁵ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 13.

¹⁷⁶ Northern Territory Government, *Committee Hansard*, 23 November 2022, p. 11.

¹⁷⁷ Northern Land Council, *Submission 423*, pp. 8.

¹⁷⁸ Central Land Council, *Submission 478*, p. 12.

¹⁷⁹ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 13.

¹⁸⁰ Central Land Council, *Submission 478*, p. 12.

¹⁸¹ Northern Land Council, *Submission 423*, p. 8.

¹⁸² Central Desert Regional Council, *Submission 333*, pp 2 – 3.

- advertising of the upcoming elections and discussion through local authority meetings occurred at least 6 months before the elections
- local residents were familiar with the polling officers as they were council workers
- due to this familiarity, there was increased confidence in asking questions, seeking clarity and even getting on the roll
- voting was open for two weeks which provided residents who were travelling between communities sufficient time to return to their registered location to vote
- the two-week voting period allowed for 'cultural flexibility in respect to cultural business' that occurred during this period
- the ability of their polling officers to travel to surrounding homelands and outstations enfranchised the majority of outstation residents who are elderly and do not have reliable transportation to travel between communities.¹⁸³

2.143 The NTEC's approach with these community voting centres was deemed as a 'useful model' by the NLC.¹⁸⁴

Provision of electoral information in culturally appropriate and accessible ways

2.144 The NLC stressed the importance of ensuring that electoral material is culturally appropriate, accessible and specifically crafted to meet the needs of remote communities.¹⁸⁵ According to the CLC, priority should be given to 'funding the development of voter educational materials in Plain English and Aboriginal languages'.¹⁸⁶

2.145 The NLC noted, however, that since English is often a second, third or even sixth language, and literacy levels may be lower compared to those in urban areas, the delivery of this material should be done in alternative formats, such as oral and visual representations.¹⁸⁷

2.146 Providing electoral education is also important for those Aboriginal and Torres Strait Islanders in prison, who may 'struggle with basic literacy and numeracy', and may have disabilities and mental health issues. The distribution of flyers or facts sheet is, therefore, 'not going to help those people understand how to vote because they cannot read the information presented.'¹⁸⁸

2.147 Accordingly, the Victorian Aboriginal Legal Service stated that engaging in mediums such as yarning circles and visiting these prisoners to assist them through and break down the voting process is 'really beneficial.'¹⁸⁹

¹⁸³ Central Desert Regional Council, *Submission 333*, p. 3.

¹⁸⁴ Northern Land Council, *Submission 423*, p. 8.

¹⁸⁵ Northern Land Council, *Submission 423*, p. 6.

¹⁸⁶ Central Land Council, *Submission 479*, p. 8.

¹⁸⁷ Northern Land Council, *Submission 423*, p. 6.

¹⁸⁸ Victorian Aboriginal Legal Service, *Committee Hansard*, 3 November 2022, p. 37.

¹⁸⁹ Victorian Aboriginal Legal Service, *Committee Hansard*, 3 November 2022, p. 37.

Increasing electoral presence in remote communities

- 2.148 APO NT highlighted that neither the AEC or the NTEC have an office in Lingiari, which they deemed ‘a real concern’ as it is ‘really important for that area to have some presence on the ground’ and suggested this be remedied.¹⁹⁰ The CLC also recommended that the NT Government and Federal Government ‘jointly fund an AEC and NTEC office in Alice Springs.’¹⁹¹
- 2.149 The secondment of AEC staff to work in these remote regions was also raised. Both the NLC and APO NT support this, with AEC staff being ‘on the ground’¹⁹², working on field-related tasks.¹⁹³ APO NT stated:
- But we really emphasise the importance of partnership with the AEC and we would similarly welcome opportunities for secondment or additional resourcing for local people to be on the ground and supporting people to participate more meaningfully and over a longer period. APO NT has historically released staff to play really important role in encouraging that participation and raising awareness for people on the ground. It takes time and resources, and we would welcome a commitment to that.¹⁹⁴

Electronic communication

- 2.150 Submitters suggested using established forms of communication such as BushTel and electronic notification.
- 2.151 At the Territory level, BushTel is used to keep voters informed on relevant election matters.¹⁹⁵ A communications resource that has live data about the community, government services, and organisations as well as the key contact details of these organisations, BushTel is a ‘central point for information about the remote communities’ in the NT.¹⁹⁶ Rather than reinventing the wheel, the NT Government recommended the AEC utilise this live and current resource.¹⁹⁷
- 2.152 Electronic notification by email or text was also suggested by Mr Ryan as a way to notify remote Aboriginal and Torres Strait Islander residents of direct enrolment.¹⁹⁸
- 2.153 Referencing the COVID-19 pandemic, Mr Ryan highlighted that this experience demonstrated that ‘many Aboriginal people in remote communities can readily be contacted by email or text message’.¹⁹⁹

¹⁹⁰ Aboriginal Peak Organisations NT, *Committee Hansard*, 23 November 2022, p. 11.

¹⁹¹ Central Land Council, *Submission 478*, p.10.

¹⁹² Aboriginal Peak Organisations NT, *Committee Hansard*, 23 November 2022, pp. 2-3.

¹⁹³ Northern Land Council, *Committee Hansard*, 23 November 2022, p. 2.

¹⁹⁴ Aboriginal Peak Organisations NT, *Committee Hansard*, 23 November 2022, p. 3.

¹⁹⁵ Northern Territory Government, *Committee Hansard*, 23 November 2022, p. 7.

¹⁹⁶ Northern Territory Government, BushTel, viewed 10 October 2023, <https://aboriginalaffairs.nt.gov.au/resources-and-news/bush-tel>.

¹⁹⁷ Northern Territory Government, *Committee Hansard*, 23 November 2022, p. 7.

¹⁹⁸ JSCem Opening Statement Matthew Ryan, *Submission 1492*, p. 2.

¹⁹⁹ JSCem Opening Statement Matthew Ryan, *Submission 1492*, p. 2.

2.154 Mr Ron Levy noted the benefit of using electronic notification, particularly in NSW, and questioned whether the AEC is prepared to utilise it:

If, on the other hand, it's believed that, at least in some situations, electronic communication can and should be used, as New South Wales certainly did at least up until 2015—which was sending default notices by text message or email—we want to know whether the AEC is prepared to do that. They've got that power. If they are prepared to do it, the pandemic experience just shows that it's possible. All of us, including many Aboriginal people who I know and who Mr Ryan can talk to, received electronic notifications from the respective departments of health about COVID. It worked really well. It's the third decade of the 21st century. It's an electronic world. It would seem that that should be seriously explored, subject to what the AEC believe.²⁰⁰

2.155 The NTEC explained that for electronic engagement, they utilise the roll maintained by the AEC which includes data such as mobile numbers and email addresses to contact people. Significantly however, the NTEC observed that there is a disparity between urban and remote voters in terms of the provision of this data:

When we look at the data, it's very clear that, in urban areas, there's a greater percentage of electors that provide these details. In remote communities, it would probably be closer to maybe 20 or 30 per cent of electors who have these details. So in terms of a penetration into the market, into that cohort of electors, it's certainly less effective because we don't have that same amount of data.²⁰¹

Voter education

2.156 A number of submitters highlighted the need for voter education – particularly in remote communities – and suggested that is rolled out in schools and in the lead up to an election to better inform and prepare future and current voters.

2.157 According to Drs Harrington and Markham, voter education increases the understandings of 'the process of registering to vote, the process of filling out and casting a formal ballot, the differences in Australia's three levels of government, and the connection between casting a ballot and practical outcomes.'²⁰²

2.158 Increased education on electoral democracy and the voting process is, therefore, a 'necessity in remote communities'²⁰³ particularly before people leave high school and turn eighteen, and in the lead up to elections.²⁰⁴ The HRLC supports such an

²⁰⁰ Ron Levy, Selby Street Barrister, *Committee Hansard*, 23 November 2022, p. 5.

²⁰¹ Northern Territory Electoral Commission, *Committee Hansard*, 23 November, p. 5.

²⁰² Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, pp. 14-15.

²⁰³ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 14.

²⁰⁴ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 14.

initiative²⁰⁵, as does the CLC, who advocated for ‘education and resources targeted at the generations that missed out on Indigenous voter education initiatives.’²⁰⁶

2.159 Accordingly, in drawing attention to those community members not yet eligible to enrol, the NLC supports the rolling out of services and programs targeted to 12 to 15 and 15 to 18-year-old cohorts.²⁰⁷

2.160 Similarly, APO NT discussed the need for both voter education in, and the provision of electoral material at, schools, to ensure that once young people turn eighteen, they are enrolled, informed and prepared:

I do think that should be something that’s in the curriculum. That’s where you can capture these young people. Once they turn 16 or over, they should be filling out forms—and also filling offices out in some of these remote communities. They should have the applications on their campuses. I just think the material is not out there. When the polling centre turns up, they need to actually apply, because a lot of our people don’t go online; they don’t have access to the internet and all that sort of stuff ...I just think there needs to be more access to the education but also to the forms so young people can apply and then be ready, once they’re 18, to vote. At the moment, they’re all getting turned away and getting disheartened by the process.²⁰⁸

2.161 Drs Harrington and Markham recommended, however, that the AEC should trial such voter education initiatives in randomly selected remote communities and test ‘for their efficacy in boosting enrolment, turnout and formality in comparison with non-selected communities who do not receive education efforts.’²⁰⁹

On-the-day enrolment

2.162 Since it ‘could be an effective way of increasing participation’²¹⁰, amending the Electoral Act to permit on-the-day enrolment for elections administered by the AEC is supported by a number of submitters.²¹¹

2.163 Notably, this is already being done in the NT. The NT’s *Electoral Act 2004* was amended in 2019 in response to funding cuts to the IEPP and the FDEU’s failure to capture remote communities.²¹² This amendment allowed unenrolled voters who attend a voting centre to cast a declaration vote and have their enrolment assessed

²⁰⁵ Human Rights Law Centre, *Submission 418*, p. 23.

²⁰⁶ Central Land Council, *Submission 478*, p. 10.

²⁰⁷ Northern Land Council, *Submission 423*, p. 5.

²⁰⁸ Aboriginal Peak Organisations NT, *Committee Hansard*, 23 November 2022, p. 10

²⁰⁹ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 15.

²¹⁰ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 12.

²¹¹ Northern Land Council, *Submission 423*, p. 7; Central Land Council, *Submission 478*, p. 12; Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 12.

²¹² Northern Land Council, *Submission 423*, p. 7.

and processed during the scrutiny/count period.²¹³ Those voters who are found eligible are enrolled and their vote accordingly admitted to the count.²¹⁴

2.164 Previously, this was not the case: their vote would be rejected, and the individual would have to wait for the following election for their vote to count.²¹⁵ The NT is currently unique in this provision. In some other jurisdictions, if a voter is found to be unenrolled, their enrolment is updated but their vote is rejected²¹⁶, and they must wait for the next election for their vote to count.²¹⁷

2.165 On-the-day enrolment was first applied at the 2020 Territory Election and, following similar amendments to the *Local Government Act 2019*, it was also implemented for the NT 2021 Local Government elections. According to the NTEC, the 'main motivation for the legislative changes was to address the inadequate enrolment of Aboriginal people in remote areas of the NT.'²¹⁸

2.166 The efficacy of allowing individuals to enrol on the day and cast a declaration vote is demonstrated by the following statistics:

- In the 2020 Territory Election, this process resulted in 1,741 of 2,150 (81 per cent) declaration votes cast being accepted and admitted to the count, with the same number of enrolments added to the NT roll. 58.8 per cent of these admitted declaration votes were from the 7 remote divisions.
- In contrast, only 16.1 per cent and 12.8 per cent of declaration votes were admitted to the count for the 2016 and 2012 Territory elections, respectively.
- In the 2021 Local Government elections, this process resulted in 1,197 of 1,339 (89.4 per cent) declaration votes cast being accepted and admitted to the count, with the same number of enrolments added to the NT roll.²¹⁹

Monitoring and evaluating electoral participation strategies and initiatives

2.167 A number of submitters expressed support for the rigorous and transparent monitoring and evaluation of electoral participation strategies and initiatives.²²⁰

2.168 Significantly, the efficacy of many past initiatives geared towards improving participation is unclear:

... strategies to increase Indigenous electoral participation should be trialled and transparently evaluated. The history of electoral administration directed towards

²¹³ Northern Land Council, *Submission 423*, p. 7.

²¹⁴ Northern Land Council, *Submission 423*, p. 7.

²¹⁵ Northern Territory Electoral Commission, *Submission 369*, p. 3.

²¹⁶ Northern Land Council, *Submission 423*, p. 7.

²¹⁷ Northern Territory Electoral Commission, *Submission 369*, p. 3.

²¹⁸ Northern Territory Electoral Commission, *Submission 369*, p. 3.

²¹⁹ Northern Territory Electoral Commission, *Submission 369*, p. 3.

²²⁰ Central Land Council, *Submission 478*, p. 10; Northern Land Council, *Submission 423*, p. 7; Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 10.

Indigenous citizens is littered with well-intentioned initiatives, the effectiveness of which is unknown. We do not know which ones worked, and which didn't.²²¹

- 2.169 Accordingly, Drs Harrington and Markham recommended the pursuit of 'experimental and innovative strategies' to improve electoral participation 'so long as these experiments are rigorously and transparently evaluated and endorsed by Indigenous partner organisations.'²²²
- 2.170 The NLC stressed transparency, stating that any methodologies utilised by the AEC in the development, monitoring and assessment of programs – such as the FDEU program - should be publicised by the AEC.²²³

Committee comment

- 2.171 The Committee's interim report recommended the Government resource the AEC to work directly with Aboriginal and Torres Strait Islander community organisations to increase Indigenous enrolment and participation, particularly in remote communities.
- 2.172 The Committee is pleased to see positive signs of change. The increased enrolment rate for Aboriginal and Torres Strait Islander people, driven by the roll out of the use of FDEU and changes the Government has made to enrolment requirements, is positive. In light of the significant disadvantages many face, it is crucial that their views be represented in Australia's parliament.
- 2.173 Increasing enrolment rates for Aboriginal and Torres Strait Islander people are only a portion of the overall picture. Such rates mean little if voters in remote communities find voting inaccessible. This picture is further complicated when the rates of informal voting are included.
- 2.174 There is no single approach to lifting the enfranchisement of Aboriginal and Torres Strait Islander people. Improving electoral outcomes for First Nations Peoples relies on community-based solutions, and Aboriginal and Torres Strait Islander organisations and the AEC working together.
- 2.175 It is unfortunate that unenrolled Aboriginal and Torres Strait Islander voters have turned up to vote and, although are able to enrol, are unable to have their vote counted for that election. This situation causes disappointment and frustration.
- 2.176 Overcoming this and enfranchising these voters is relatively straightforward and the Committee is heartened by the experience of the NT's own elections, which clearly demonstrated the efficacy of allowing individuals to enrol on the day and cast a declaration vote.

²²¹ Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 10.

²²² Dr Morgan Harrington and Dr Francis Markham, *Submission 430*, p. 10.

²²³ Northern Land Council, *Submission 423*, p. 7.

- 2.177 Additionally, this amendment is supported by both the Northern and Central land councils, who are better placed to identify what is required to meet the needs of the people in their regions.
- 2.178 To increase electoral participation for remote Aboriginal and Torres Strait Islander voters, the Committee considers that permitting this is a viable option, and therefore recommends that the Electoral Act is amended accordingly.

Recommendation 3

2.179 The Committee recommends that the *Commonwealth Electoral Act 1918* is amended to permit on-the-day enrolment for federal elections and referendums.

- 2.180 The Committee agrees that any initiatives or strategies geared towards increasing electoral participation must be co-designed and endorsed by Aboriginal and Torres Strait Islander organisations and communities.
- 2.181 The Committee recommends that the AEC collaborate and engage with community. This will lead to the development and exchange of strong policies, initiatives and strategies that are underpinned by culturally tailored and informed advice.
- 2.182 Building a local workforce is a practical and long-term solution, as it will empower and more effectively engage community members into the electoral process. The local intelligence of staff will strengthen the delivery of electoral services through roles such as Electoral Engagement Officers and certified interpreters.
- 2.183 Indeed, a local-employed and properly trained workforce may help mitigate the current shortage of certified interpreters. Although the Committee understands that to accommodate for this the AEC enlisted temporary election workers as a short-term solution during the 2022 federal election, it is still important to have certified interpreters who are trained in electoral processes and can provide quality control and assurance of translated materials.
- 2.184 The Committee commends the efforts of the AEC during the 2022 federal election to provide electoral services for remote communities, whilst also acknowledging the frustration some voters felt towards the AEC's visits and information provided. Servicing every remote community and allowing for flexibility to accommodate cultural needs and logistical challenges in light of resourcing constraints can prove challenging.
- 2.185 Since it would ensure those in remote areas have a far better chance of casting a vote, community-staffed voting centres that provide access to the ballot box for an extended and appropriate amount of time is a practical solution that should be considered by the AEC, in collaboration with communities.
- 2.186 The Committee acknowledges the long-term consequences of the under-provision of electoral education, engagement and information, especially on remote communities, and encourages increased voter education.

Recommendation 4

2.187 The Committee recommends the Australian Electoral Commission continue to develop close relationships with relevant community organisations in addressing barriers to Aboriginal and Torres Strait Islander electoral participation, particularly in remote areas, with a focus on the following initiatives:

- **locally-engaged workforces**
- **community-staffed voting centres**
- **voter education programs**
- **appropriate communication.**

3. Single national electoral roll

Introduction

- 3.1 This chapter considers whether a single nation electoral roll, capable of being used for federal, state and territory elections, would be useful and practical. The chapter:
- describes the evolution of the Commonwealth electoral roll (from here on referred to as ‘the roll’)
 - establishes the extent of current cooperation between the Australian Electoral Commission (AEC) and its state and territory counterparts
 - examines the some of the complexities of enrolment that a single roll for federal, state, and territory elections would need to encompass.

Background

- 3.2 The electoral roll is a fundamental tool of enfranchisement.¹ In most established democracies, political parties and candidates invest significant resources and time in enrolling electors and getting out the vote. Australian political parties and candidates are spared this investment because professional electoral administrators in independent government authorities at the Commonwealth, state and territory levels perform this task.²
- 3.3 Australia’s unusual approach to enrolment stems from compulsory enrolment and voting. Compulsory enrolment and voting imposes an obligation on people who are eligible to enrol and vote. Consequently, Australian governments must ensure that the barriers to meeting those obligations are minimised. Ron Levy, a barrister from Selby Street Chambers, summarised this reasoning as follows:

Because the AEC is an independent entity with a mandate in a system of mandatory enrolment and mandatory voting, it wants to have people on the roll.³

Electoral roll discrepancies

- 3.4 Australia is a federation with Commonwealth, state and territory jurisdictions that have:

¹ Senator Nita Green, *Submission 371*, p. (2).

² Climate 200, *Committee Hansard*, 3 November 2022, pp. 41-42.

³ Mr Ron Levy, Barrister, Private capacity, *Committee Hansard*, 23 November 2022, p. 8.

... over time established their own agencies to oversee their electoral systems, compile and administer voter rolls, conduct elections or redistributions, and enforce electoral laws.⁴

3.5 Separate jurisdictions administering their own rolls under their own laws can result in discrepancies between electoral rolls compiled by the AEC and counterpart state or territory electoral authorities.

3.6 For example, in 2009, New South Wales (NSW) state electoral legislation was amended to allow the NSW Electoral Commission to enrol or amend elector details on the NSW electoral roll without electors needing to submit a form.⁵ This was called 'direct enrolment,' and its introduction in NSW resulted in a rapid and significant discrepancy between the AEC's roll and the NSW state electoral roll because at the time electors had to submit an application to enrol or change their enrolment details for the AEC's roll.⁶ As a result:

... within a year, there were an extra 50,000 or 60,000—something along those lines—on the roll in New South Wales.⁷

3.7 The proportion of persons eligible to enrol and vote on the AEC's roll:

... had slipped [as a percentage] to the low 90s or possibly high 80s ... which, in our system, is of great concern because it's a mandatory enrolment and mandatory voting system.⁸

3.8 Discrepancies such as this can mean that some electors are unable to meet their legal obligations to vote. A single national electoral roll could prevent this from happening if existing mechanisms are not able to control discrepancies between the AEC's roll and state and territory rolls.

Evolution of the Commonwealth electoral roll

3.9 The AEC's process for updating and amending the roll has evolved over time. Prior to 1999, the AEC engaged in habitation reviews, essentially doorknocking, every two years, updating the roll by adding new electors and amending the enrolment of existing electors through face-to-face contact.⁹

3.10 In 1999, the AEC introduced a process called Continuous Roll Update (CRU). The AEC used data obtained from various government agencies, utilities, and other sources to match against data on the roll. Data matching identified potential new

⁴ Real Republic Australia, *Submission 401*, p. 18.

⁵ Mr Ian Brightwell, *Submission 294*, p. 2.

⁶ Australian Electoral Commission, *Direct Enrolment and Direct Update: The Australian Experience*, September 2012, p. 11.

⁷ Mr Ron Levy, Barrister, Private capacity, *Committee Hansard*, 23 November 2022, p. 8.

⁸ Mr Ron Levy, Barrister, Private capacity, *Committee Hansard*, 23 November 2022, p. 8.

⁹ Australian Electoral Commission, *Direct Enrolment and Direct Update: The Australian Experience*, September 2012, p. 5.

electors or electors who might have changed their address. These electors were then sent enrolment forms which upon return result in an addition, deletion or amendment to the roll.¹⁰

- 3.11 The effectiveness of CRU as a tool for updating and amending the roll varied from poor initial results (the return rate from the initial mailouts of enrolment forms in 1999 was 32.3 per cent) to a measure of success (the rate in 2004-2005 was 55 per cent) followed by a decline (the rate in 2012 was between 15 and 20 per cent)..¹¹
- 3.12 Meanwhile, in 2007, JSCEM recommended that the AEC use information obtained from the sources used for CRU to directly amend the roll, rather than wait for returned enrolment applications, if the elector concerned had consented for the source information to be used for that purpose. The recommendation would enable the AEC to directly update the roll if an elector consented to data sharing when they, for example, obtained a driver's licence.¹²
- 3.13 Shortly thereafter, NSW and Victoria implemented direct enrolment programs for their state electoral rolls. The NSW model was comprehensive, permitting any addition, deletion, or amendment to the roll to be made directly.¹³ Victoria opted for a model limited to directly enrolling electors when they turned 18 using data from the Victorian Curriculum and Assessment Authority.¹⁴
- 3.14 Amendments to the *Commonwealth Electoral Act 1918* (Electoral Act) followed in 2012, permitting the AEC to directly enrol and update the roll using data provided to the AEC from the same sources used for CRU.¹⁵ The program was called the Federal Direct Enrolment and Update (FDEU). The AEC explains that the FDEU program:
- ... is used to assist some Australians meet their enrolment obligations by applying trusted third party information directly, without the need for that person to complete an enrolment application.¹⁶

Federal Direct Enrolment and Update

- 3.15 As discussed above, the AEC collects information from other government agencies to match against the roll.¹⁷ Data can include an individual's surname, given name(s), date of birth, and address. At present, the most reliable data sources are Centrelink,

¹⁰ Australian Electoral Commission, *Direct Enrolment and Direct Update: The Australian Experience*, September 2012, p. 5.

¹¹ Australian Electoral Commission, *Direct Enrolment and Direct Update: The Australian Experience*, September 2012, pp. 5-6.

¹² Australian Electoral Commission, *Direct Enrolment and Direct Update: The Australian Experience*, September 2012, p. 6.

¹³ Mr Ian Brightwell, *Submission 294*, p. 2.

¹⁴ Australian Electoral Commission, *Direct Enrolment and Direct Update: The Australian Experience*, September 2012, p. 11.

¹⁵ *Electoral and Referendum Amendment (Protecting Elector Participation) Act 2012*, Schedule 1.

¹⁶ Australian Electoral Commission, 'Direct Enrolment and Update,' viewed 30 August 2023, <www.aec.gov.au/Enrolling_to_vote/About_Electoral_Roll/direct.htm>.

¹⁷ Australian Electoral Commission, 'Direct Enrolment and Update,' viewed 30 August 2023, <www.aec.gov.au/Enrolling_to_vote/About_Electoral_Roll/direct.htm>.

the Australian Tax Office, the National Exchange of Vehicle and Driver Information Systems, and the Department of Home Affairs. In many instances, the matched data provides sufficient information for the roll to be updated directly.¹⁸

3.16 Subsections 103A(3)-103A(5) and 103B(3)-103B(5) of the Electoral Act allow the Electoral Commissioner to either enrol or change the address of an elector when the Electoral Commissioner is satisfied that:

- the elector who needs to be added to the electoral roll is entitled to enrol and has lived at an address for more than a month
- the elector whose enrolment is to be changed has moved from their enrolled address and now lives at another address.¹⁹

3.17 The AEC is required to advise the elector concerned when the Electoral Commissioner makes a change to their enrolment under subsection 103A(2) or subsection 103B(2). This is done by letter. The letter will advise the elector concerned that if the proposed change to their enrolment is correct, they do not need to respond to the letter, and their enrolment details will be changed accordingly. If the details are incorrect, the elector concerned has 28 days to respond before any change to the roll is made.²⁰

Roll accuracy

3.18 Currently there are three mechanisms for enrolment or amending the roll: FDEU, online transactions,²¹ and paper forms. The table below shows AEC enrolment transactions by state and territory and enrolment type for July 2023 (the latest available figures at the time of writing).

Table 3.1 Enrolment transactions by state/territory and type, July 2023

State/Territory	FDEU	Online	Other	total
NSW	28,908	27,763	1,930	58,596
VIC	23,422	25,300	1,605	50,327
QLD	26,110	26,780	1,751	54,641
WA	10,509	10,706	803	22,018
SA	5,530	6,179	758	12,485
TAS	1,977	2,188	308	4,473
ACT	1,484	2,309	121	3,911
NT	921	922	148	1,991

¹⁸ Australian Electoral Commission, *Committee Hansard*, 6 September 2023, p. 4.

¹⁹ *Commonwealth Electoral Act 1918*, subsections 103A(3)-103A(5) and 103B(3)-103B(5).

²⁰ *Commonwealth Electoral Act 1918*, sections 103A(2) and 103B(2).

²¹ To be clear, online transactions are initiated by a person wishing to be added to or amend their listing on the electoral roll.

National	98,856	102,162	7,424	208,442
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Source: Australian Electoral Commission, 'Transactions by source and enrolment type for the month ending 31 July 2023,' www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/type/2023/07.htm, viewed 1 September 2023.

- 3.19 The table shows that the bulk of enrolment transactions are split relatively evenly between FDEU and online transactions. Only a small number of enrolment forms are submitted in hard copy.
- 3.20 Evidence presented to the Committee indicates that the mechanisms used to update the roll at the moment are effective. Ron Levy advised the Committee that the roll accuracy as a percentage of eligible electors has been in the high 90s at recent elections, after slipping to the low 90s or high 80s at the time the Electoral Act was amended to introduce FDEU.²²

Cooperation with states and territories

- 3.21 Commonwealth, state and territory electoral authorities²³ have a long history of cooperation when it comes to electoral roll management. Between 1924 and 1994, each of Australia's state and territory electoral authorities signed a Joint Roll Arrangement (JRA) with the AEC and its predecessor agencies to provide a single point of enrolment.²⁴ JRAs only provide for the maintenance of electoral rolls for federal, state and territory, and local government elections using a single point of enrolment.²⁵ For example, the NSW *Electoral Act 2017* describes the JRA between the NSW Government and the Commonwealth Government in the following terms:

Arrangement with Commonwealth

- 1 The Governor may arrange with the Governor-General of the Commonwealth for any one or more of the following—
 - a a joint enrolment process,
 - b the exchange of information necessary for, or the carrying out of any procedure relating to, the preparation and maintenance of rolls or electoral information registers,

under this Act and the Commonwealth Act.²⁶

- 3.22 In other words, JRAs do not prevent state and territory governments from establishing and maintaining separate electoral rolls. NSW did so when it introduced direct enrolment in the late 2000s.²⁷ Currently, Victoria's electoral act requires that

²² Mr Ron Levy, Barrister, Private capacity, *Committee Hansard*, 23 November 2022, pp. 8-9.

²³ Electoral commissions are a relatively recent development in Australian electoral administration. The AEC for example, came into being in 1984.

²⁴ Australian Electoral Commission, *Direct Enrolment and Direct Update: The Australian Experience*, September 2012, p. 5; Australian Electoral Commission, 'Managing the Commonwealth Electoral Roll,' viewed 30 August 2023, <www.aec.gov.au/Enrolling_to_vote/About_Electoral_Roll/>.

²⁵ Electoral Council of Australia, *Electoral Systems of Australia's Parliaments and Local Government*, 2021, p. (1).

²⁶ *Electoral Act 2017* (NSW), section 56.

²⁷ Mr Ron Levy, Barrister, Private capacity, *Committee Hansard*, 23 November 2022, p. 8.

the Victorian Electoral Commission maintain a separate roll for state and local government elections.²⁸ At the time of writing, all other state and territory electoral commissions use the AEC's roll for state and territory elections,²⁹ and the Australian Electoral Commissioner, Tom Rogers, stated that he was 'comfortable with the relationships we have with each of the commissions at the moment.'³⁰

- 3.23 In practice, this means that the rolls used for Commonwealth, state and territory elections are, currently, with the exception of Victoria, all but the same, and discrepancies between the rolls are kept at a minimum. Maintaining the current arrangements between the Commonwealth, and state and territory rolls does rely on cooperation of the relevant electoral commissions; it could be affected if any change in either the eligibility provisions for enrolment and voting or legislative changes to the way electoral rolls are maintained by Commonwealth, state or territory governments occurs.

Complexities of a common electoral roll

- 3.24 The evidence provided to the Committee demonstrates that in practical terms, electoral rolls for Commonwealth, state and territory contain only minor discrepancies at present. JRAs and a healthy cooperative environment between the various electoral commissions means that disparities between electoral rolls are kept to a minimum.
- 3.25 There are nevertheless differences, albeit minor, between the processes of enrolment and the eligibility requirements between the jurisdictions. Any common electoral roll needs to be flexible enough to accommodate these differences now and in the future, while maintaining the integrity and accuracy of a common electoral roll.³¹ There are also some other complexities involved in ensuring an accurate roll that need to be taken into account in a common electoral roll.
- 3.26 Evidence provided to the Committee identified a number of these differences, including:
- electors in remote communities (discussed in the preceding chapter)

²⁸ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 1.

²⁹ NSW Electoral Commission, 'Enrolment,' <www.elections.nsw.gov.au/voters/enrolment>, viewed 31 August 2023; Electoral Commission Queensland, 'Update your enrolment,' viewed 31 August 2023, <www.ecq.qld.gov.au/enrolment/enrol-or-update-your-enrolment>; Western Australian Electoral Commission, 'Enrol,' viewed 1 September 2023, <www.elections.wa.gov.au/enrol>, (Note that the Western Australian Electoral Commission does not explicitly state that it uses the AEC's electoral roll, but all links to enrolling connect the AEC enrolment page); Electoral Commission South Australia, 'Enrol to vote or update my details,' viewed 31 August 2023, <www.ecsa.sa.gov.au/enrolment/enrol-to-vote-or-update-my-details>; Tasmanian Electoral Commission, 'About the TEC,' viewed 31 August 2023, <www.tec.tas.gov.au/Info/About_the_TEC.html#our-role>; Elections ACT, 'Enrolment,' viewed 31 August 2023, <www.elections.act.gov.au/electoral_enrolment>; and Northern Territory Electoral Commission, 'About enrolment,' viewed on 1 September 2023, <ntec.nt.gov.au/enrolment/about-enrolment>.

³⁰ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 1.

³¹ Professor Kim Rubenstein, *Submission 375*, p. 2; Australian Capital Territory Government, *Submission 422*, p. 6.

- Aboriginal and Torres Strait Islander naming conventions
- existing differences in eligibility rules between jurisdictions
- local government elections

Aboriginal and Torres Strait Islander names

3.27 Address difficulties was not the only issue associated with enrolling Aboriginal and Torres Strait Islander electors. GetUp pointed out that many Aboriginal and Torres Strait Islander electors were removed from the electoral roll as a result of cultural name changes.³² In addition, the Central Desert Regional Council found that community members' names had been misspelled and changes to names had not been updated.³³

3.28 The Central Land Council, representing communities in Central Australia, describes the naming conventions in the communities it represents in the following terms:

Aboriginal people may have a number of names. For example, a person may have a European first name and surname, a bush name, a skin name and maybe even a nickname. Personal names are used less among relatives and community members than when the person is addressed by most non-Aboriginal people. Conversely, in some community organisations such as clinics, skin names have been frequently used like surnames. This can be a source of much confusion, heightened if a range of spellings are used.³⁴

3.29 As the previous chapter canvassed, 'on the day enrolment' may help address some of these concerns. As the NT Electoral Commission explained:

That provision allows people who are not on the roll, but who are entitled to be on the roll, to complete a declaration vote. That vote, obviously, is placed in the declaration envelope and that envelope is checked. If that is a valid enrolment, then that vote is admitted to the count.

So I think the reality, in terms of providing enrolment services out to remote communities being difficult, is that the day that electoral commissions have the most resources in a community is when they do mobile polling, so it kind of makes sense if the message can be, 'Just come to the voting centre.' Under a regime where people can enrol on the day, it means, particularly with young electors, that they can attend the voting centre, they can enrol and they can have their vote counted.³⁵

³² GetUp, *Submission 394*, p. 16.

³³ Central Desert Regional Council, *Submission 333*, p. (3).

³⁴ Central Land Council, 'Kinship systems,' viewed 6 September 2023, <www.clc.org.au/our-kinship-systems/>.

³⁵ Northern Territory Electoral Commission, *Committee Hansard*, 23 November 2022, p. 7.

Existing differences in eligibility rules

3.30 While for the most part eligibility requirements for enrolment and voting across Commonwealth, state and territory jurisdictions are the same, there are some small differences that would need to be incorporated into any common electoral roll. Tom Rogers, Australian Electoral Commissioner, noted that:

... whenever there is even a small gap in legislation, state and federal, as you know, there is room for some confusion ...³⁶

3.31 The following two categories of electors are subject to slightly different eligibility requirements between the Commonwealth, state and territory jurisdictions:

- prisoners:
 - for Commonwealth, Queensland, Tasmanian and NT elections, all otherwise eligible prisoners can enrol, but prisoners serving a sentence of three years or more cannot vote³⁷
 - in NSW and WA, all otherwise eligible prisoners can enrol, but prisoners serving a sentence of 12 months or more cannot vote³⁸
 - in Victoria, otherwise eligible prisoners serving a sentence of less than five years can enrol and vote³⁹
 - in South Australia and the ACT, all otherwise eligible prisoners are entitled to enrol and vote⁴⁰
- electors younger than 18 who can provisionally enrol:
 - otherwise eligible electors who are 16 years of age can be provisionally enrolled on the Commonwealth, NSW, Queensland, Tasmania, South Australia, ACT and NT rolls⁴¹

³⁶ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 2.

³⁷ *Commonwealth Electoral Act 1918*, subsection 93(8AA); Electoral Commission Queensland, 'Update your enrolment,' viewed 31 August 2023, <www.ecq.qld.gov.au/enrolment/enrol-or-update-your-enrolment>; Northern Territory Electoral Commission, 'Enrol or update your enrolment,' viewed on 1 September 2023, <<https://ntec.nt.gov.au/enrolment/enrol-or-update-your-enrolment>>; *Electoral Act 2004* (Tasmania), section 31.

³⁸ *Electoral Act 2017* (NSW), subsection 30(4); Western Australian Electoral Commission, 'Special enrolment categories,' viewed 31 August 2023, <www.elections.wa.gov.au/enrol/special-enrolment-categories#PrisonerElector>.

³⁹ Victorian Electoral Commission, 'Other ways to enrol,' viewed 31 August 2023, <www.vec.vic.gov.au/enrolment/enrol-to-vote/other-ways-to-enrol>.

⁴⁰ Elections ACT, 'FAQ – Enrolment,' viewed 8 November 2023, <https://www.elections.act.gov.au/electoral_enrolment/faq_-_enrolment>. There are no prohibitions on prisoners voting in the relevant South Australian legislation, the *Electoral Act 1985* (South Australia).

⁴¹ *Commonwealth Electoral Act 1918*, section 100; NSW Electoral Commission, 'Enrolment,' viewed 31 August 2023, <www.elections.nsw.gov.au/voters/enrolment>; Electoral Commission Queensland, 'Update your enrolment,' viewed 31 August 2023, <www.ecq.qld.gov.au/enrolment/enrol-or-update-your-enrolment>; Tasmanian Electoral Commission, 'Enrolment,' viewed 31 August 2023, <<https://www.tec.tas.gov.au/info/Enrolment.html>>; *Electoral Act 1985* (SA), subsection 29(2); Elections ACT, 'FAQ – Enrolment,' viewed 8 November 2023, <https://www.elections.act.gov.au/electoral_enrolment/faq_-_enrolment>; Northern Territory Electoral Commission, 'About enrolment,' viewed on 1 September 2023, <ntec.nt.gov.au/enrolment/about-enrolment>.

- otherwise eligible electors who are 17 years of age can be provisionally enrolled on the Victorian and WA.⁴²
- 3.32 People who apply for Australian citizenship are provisionally enrolled for all jurisdictions provided they meet all other enrolment criteria.⁴³

Local government elections

- 3.33 All state jurisdictions use the roll for local government elections, but in a number of cases, the franchise for local government elections is extended to a number of other persons. In NSW, for example, people who own property within a local government area but are not resident in that area are entitled to enrol as a non-resident. Corporations are also entitled to enrol as non-residents for local government elections.⁴⁴
- 3.34 Eligibility requirements for local government elections are not consistent across the states. In South Australia, the following persons can enrol to vote in local government elections:
- persons living at residential addresses who are not eligible to enrol for federal or state elections.
 - persons who own an organisation or business
 - persons who own a holiday home
 - persons who own a property
 - persons who are landlords of a property.⁴⁵
- 3.35 All states that have different eligibility requirements for local government elections either keep a supplementary roll of electors who meet the expanded criteria for enrolment, or require each local government to do so.⁴⁶

Views in favour or against a common roll

- 3.36 Most inquiry participants discussing a common electoral roll focussed on the technical aspects of such a roll. Views in favour or against such a proposal were not as common.

⁴² Victorian Electoral Commission, 'Enrol to vote,' viewed 31 August 2023, <www.vec.vic.gov.au/enrolment/enrol-to-vote>; Western Australian Electoral Commission, 'Enrol,' viewed 31 August 2023, <www.elections.wa.gov.au/enrol>.

⁴³ *Commonwealth Electoral Act 1918*, section 99B.

⁴⁴ NSW Electoral Commission, 'Non-residential enrolment,' viewed 31 August 2023, <elections.nsw.gov.au/voters/enrolment/other-enrolment-categories/non-residential-enrolment>.

⁴⁵ Electoral Commission South Australia, 'Council voters roll,' viewed 31 August 2023, <<https://www.ecsa.sa.gov.au/enrolment/council-voters-roll>>.

⁴⁶ See for example Victorian Electoral Commission, 'Enrolling for local council elections,' viewed 31 August 2023, <www.vec.vic.gov.au/enrolment/enrol-to-vote/enrolling-for-local-council-elections>.

3.37 Supporters of a common electoral roll argued that it would overcome the problem of divergence between Commonwealth, state and territory rolls. The Australian Labor Party pointed out that:

We recognise that the AEC has made significant progress in tackling entitlement and procedural divergences between the Commonwealth and State & Territory electoral rolls.

However, our analysis suggests that substantial incidences of roll divergence continue in New South Wales and Victoria.⁴⁷

3.38 In the same vein, Real Republic Australia supported a common electoral roll because, 'A single roll would remove any inconsistencies among federal, state, and territory voter rolls'.⁴⁸

3.39 The Electoral Reform Society of South Australia supported a common electoral roll on the basis that enrolment should be made as easy and simple as possible.⁴⁹

3.40 Other supporters of a common electoral roll pointed out the economies of scale that might be achieved. The ACT Government supported identifying efficiencies that could streamline administrative processes for electoral commissions across Australia.⁵⁰

3.41 On the other hand, the Nationals were concerned that a single national roll might require more resources.⁵¹

3.42 The Nationals and the NSW Nationals were hesitant to support the creation of a single national electoral roll based on concerns about the accuracy of the data used to manage the electoral roll provided by states, territories and other bodies, and the potential risks to the security of personal information on the roll.⁵²

Committee comment

3.43 The Committee appreciates the comprehensive exploration of the issues involved in a common electoral roll provided by participants to the inquiry. The Committee does not believe there has been sufficient evidence presented as part of this inquiry about whether a common electoral roll is desirable.

3.44 In considering whether a common electoral roll is established, local governments will need to be involved as stakeholders who use the electoral roll but with a particular set of unique circumstances.

⁴⁷ Australian Labor Party, *Submission 363*, p. (3).

⁴⁸ Real Republic Australia, *Submission 401*, p. 18.

⁴⁹ The Electoral Reform Society of South Australia, *Submission 392*, p. (6).

⁵⁰ Australian Capital Territory Government, *Submission 422*, p. 6; Real Republic Australia, *Submission 401*, p. 18.

⁵¹ The Nationals, *Submission 361*, p. (4).

⁵² The Nationals, *Submission 361*, p. (4); The National Party of Australia – NSW, *Submission 399*, p. (4).

3.45 Consequently, if the idea of a common electoral roll is to be further explored, a focused investigation should be undertaken. Given that a common electoral roll will require Commonwealth, state and territory involvement, the Committee believes the appropriate forum for taking a common electoral roll forward is the National Cabinet.



4. Electoral participation and supporting enfranchisement

Voter enfranchisement

- 4.1 With compulsory voting, Australia boasts one of the highest levels of electoral participation in the world. This is justly recognised as one of the key elements of Australia's electoral system, and more broadly Australia's political environment.
- 4.2 However, submitters have highlighted the struggle certain groups experience when exercising their right to cast a ballot. This chapter explores how to better enfranchise and strengthen the electoral participation of the following cohorts in the Australian community:
- people with a disability
 - older Australians, particularly those living in aged care
 - Australian permanent residents
 - New Zealand citizens living in Australia
 - Australians overseas
 - young Australians.
- 4.3 Further, this chapter identifies and considers the barriers these groups generally face when participating in Australia's electoral system, and those specifically ascribed to the 2022 federal election and the COVID-19 pandemic, as well as suggested solutions and avenues of reform.

Enfranchising those with a disability

- 4.4 According to the Human Rights Law Centre (HRLC), those with a disability currently face too many obstacles when exercising their right to vote in federal elections.¹
- 4.5 The existence of these obstacles and the 'ongoing failure' to effectively mitigate them 'raises anti-discrimination law and constitutional concerns', considering the High Court's recognition of Australians' right to vote.²
- 4.6 Furthermore, in terms of Australia's international law obligations, there is doubt that Article 29 of the United Nations Convention on the Rights of Persons with Disabilities

¹ Human Rights Law Centre, *Submission 418*, p. 23.

² Human Rights Law Centre, *Submission 418*, p. 23.

(CRPD) – which states that people with disability must be guaranteed the opportunity and right to vote on an equal basis with others³ - is currently being met in Australia.⁴

- 4.7 This section will review the current and unique barriers people with a disability are facing when exercising their right to vote both before and on polling day, and identify and explore any avenues to improve and strengthen their enfranchisement.

The ‘unsound mind’ provision

- 4.8 Section 93(8)(a) of the *Commonwealth Electoral Act 1918* (Electoral Act) provides that ‘by reason of possessing an unsound mind’, a person is therefore ‘incapable of understanding the nature and significance of enrolment and voting’.⁵
- 4.9 This is actioned by way of any person submitting an objection to enrolment which must be accompanied by a certificate from a medical practitioner citing the above reasoning, pursuant to subsection 118(4). The Electoral Commissioner must then provide notice of the objection to the ‘challenged elector’⁶, and from there, the matter is determined by the Electoral Commissioner as soon as practicable after:
- the receipt by the Electoral Commissioner of the challenged elector’s response; or
 - the end of 20 days after giving notice of the objection.⁷
- 4.10 If the Electoral Commissioner determines that the elector is of unsound mind, they are removed from the electoral roll.⁸ If a person is removed, they may re-enrol with the provision of a certificate from a medical practitioner, stating that the person is no longer ‘by the reason of unsound mind, incapable of understanding the nature and significance of enrolment and voting’.⁹
- 4.11 The ‘unsound mind’ provision has been labelled ‘archaic’, ‘offensive’¹⁰, ‘discriminatory and contrary to international law’¹¹; its language both ‘derogatory and stigmatising’.¹² Indeed, Vision Australia made the following assessment:

Obviously, it has its most egregious impact on people with cognitive impairments. But in general, the language and the provision are relics of a bygone era and are certainly not consistent with the current thinking around the social model of disability that we use in Australia.¹³

³ Inclusion Australia, *Submission 340*, p. 4.

⁴ Human Rights Law Centre, *Submission 418*, p. 23.

⁵ Law Council of Australia, *Submission 1379*, p. 13.

⁶ Law Council of Australia, *Submission 1379*, p. 13.

⁷ Law Council of Australia, *Submission 1379*, pp. 13-14.

⁸ Law Council of Australia, *Submission 1379*, p. 14.

⁹ Australian Electoral Commission, *Submission 330.10*, p. 2.

¹⁰ Inclusion Australia, *Submission 340*, p 4; Human Rights Law Centre, *Submission 418*, p. 27.

¹¹ Law Council of Australia, *Submission 1379*, p. 27.

¹² Law Council of Australia, *Submission 1379*, p. 27.

¹³ Vision Australia, *Committee Hansard*, 27 April 2023, p. 4.

- 4.12 It was also deemed ‘incongruous’ that someone with an intellectual disability is restricted from voting, but those who do not possess such a disability yet ‘do not understand the significance of voting are still able to vote’.¹⁴
- 4.13 As well as undermining the constitutionally protected right to vote¹⁵, it was also highlighted that the ‘unsound mind’ provision goes against Australia’s obligations under the CRPD¹⁶, to which Australia is a signatory.¹⁷ Articles 5 and 29 were singled out in this regard, with the former prohibiting discrimination on the basis of disability.¹⁸
- 4.14 Witnesses argued that this provision has a ‘disproportionate, disenfranchising impact¹⁹’ on people with intellectual disabilities and cognitive impairments, and is preventing some Australians from exercising their ‘most fundamental democratic freedom’, ‘leaving them subject to a violation of their right to vote.’²⁰
- 4.15 The HRLC pointed data from the Australian Electoral Commission (AEC) which showed that, between 2008 and 2012, over 28,000 people were removed from the electoral roll due to this provision, with nearly half of these removals occurring in 2010 during the federal election.²¹ Yet the publicly available data does not include the circumstances in which these people were removed, and ‘it is therefore impossible to know whether people who may have the capacity to vote, with or without assistance, are being removed from the roll.’²²
- 4.16 Significantly, the HRLC also highlighted that there is no definition of ‘unsound mind’ included in the Electoral Act or in common law. Because of this, the provision is ‘vague and broad’, and could therefore be applied to persons with a suite of impairments, including intellectual and psychological disabilities, acquired brain injury or degenerative brain conditions, many of whom could, with or without assistance, vote.²³
- 4.17 Furthermore, this provision may disenfranchise people with episode mental health issues such as bipolar disorder or schizophrenia, who could be assessed by a medical practitioner as meeting the provision during some stages of their illness but could be capable of casting a vote independently on election day.²⁴
- 4.18 The AEC did, however, highlight that the provision ‘does not apply to any other medical or mental health condition or other form of disability.’²⁵

¹⁴ Australian National University Law Reform and Social Justice Research Hub, *Submission 354*, p. 3.

¹⁵ Human Rights Law Centre, *Submission 418*, p. 27.

¹⁶ Australian National University Law Reform and Social Justice Research Hub, *Submission 354*, p. 4.

¹⁷ Inclusion Australia, *Submission 340*, p. 2.

¹⁸ Australian National University Law Reform and Social Justice Research Hub, *Submission 354*, p. 4.

¹⁹ Human Rights Law Centre, *Submission 418*, p. 27.

²⁰ Inclusion Australia, *Submission 340*, p. 4.

²¹ Human Rights Law Centre, *Submission 418*, p. 28.

²² Human Rights Law Centre, *Submission 418*, p. 28.

²³ Human Rights Law Centre, *Submission 418*, p. 27.

²⁴ Human Rights Law Centre, *Submission 418*, p. 27.

²⁵ Australian Electoral Commission, *Submission 330.10*, p.2.

- 4.19 In support of the provision, it has been argued that it protects both those with intellectual disabilities from being penalised for failing to vote²⁶, and the integrity of the electoral process.²⁷
- 4.20 The latter argument was countered since there is minimal evidence of this, as the provision ‘deals with those electors who are incapable of understanding the nature and significance of enrolment and voting.’ Additionally, studies have shown that there is a tenuous link between intellectual disability and a lack of capacity to vote.²⁸
- 4.21 Since it ‘pre-emptively disqualifies persons with an intellectual disability’, the former argument was also disputed, as the ‘unsound mind’ provision was assessed as disproportionate to the object of protecting such individuals from penalty. To support the aim of preventing persons with intellectual disabilities from being penalised, it was suggested that a new section 245(4)(e) should be enacted which provides that penalties do not apply to such individuals.²⁹

Legislative reform

- 4.22 The AEC is aware of the contention surrounding the terminology of this provision, acknowledging that it ‘may unsettle, offend and distress some citizens’ and is also ‘often the subject of complaints from people who are offended and believe it is outdated language.’ Accordingly, the AEC and its Disability Advisory Committee (DAC) support legislative reform to amend this terminology.³⁰
- 4.23 There was, however, strong sentiment from submitters that the ‘unsound mind’ provision be repealed entirely.³¹
- 4.24 The Australian Federation of Disability Organisations (AFDO) remarked:
- There are definite problems with the provisions in section 93(8)(a) of the Commonwealth Electoral Act. They are blocking the ability of people with disability, particularly those with intellectual disabilities or with cognitive impairments, to be able to participate in the electoral system. We support the comments that have been made and the calls for a review of all of that, and we do need to ensure that we provide appropriate supports and undertake measures to ensure that all people are able ... to undertake their democratic rights.³²

²⁶ Australian National University Law Reform and Social Justice Research Hub, *Submission 354*, p. 4.

²⁷ Australian National University Law Reform and Social Justice Research Hub, *Submission 354*, p. 2. This is the joint judgment of High Court Justices Gummow, Kirby and Crennan JJ in *Roach v Electoral Commission* stated that s 93(8) ‘plainly is valid’ as it ‘protects the integrity of the electoral process’.

²⁸ Australian National University Law Reform and Social Justice Research Hub, *Submission 354*, p. 3.

²⁹ Australian National University Law Reform and Social Justice Research Hub, *Submission 354*, p. 4.

³⁰ Australian Electoral Commission, *Submission 330.10*, p. 2.

See paragraph 3.24 for further information on the DAC.

³¹ Human Rights Law Centre, *Submission 418*, p. 28; Australian National University Law Reform and Social Justice Research Hub, *Submission 354*, p. 4; Inclusion Australia, *Submission 340*, p. 4; Law Council of Australia, *Submission 1379*, p. 14. Professor George Williams AO, *Submission 7*, p. 2.

³² Australian Federation of Disability Organisations, *Committee Hansard*, 27 April 2023, p. 4.

- 4.25 This call for its repeal is not new. In 2014, the Australian Law Reform Commission (ALRC) published 'Equality, Capacity and Disability in Commonwealth Laws', a report into the legal barriers people with a disability face, and made a number of recommendations for legislative reform³³, including the repeal of subsections 93(8) and 118(4) of the Electoral Act.³⁴
- 4.26 Rather than a new threshold test for enrolment or voting, the report also recommended the introduction of a new exemption from compulsory voting for those who lack decision-making ability in relation to voting.³⁵
- 4.27 In terms of its replacement, HRLC also suggested that the 'unsound mind' provision be 'replaced with a provision that reflects the principles of non-discrimination, a presumption of legal capacity and supported decision-making.'³⁶
- 4.28 Similarly, Inclusion Australia also discussed how to better support such Australians, rather than make assumptions pertaining to their capacity to cast a vote:
- It is very easy to get taken off the electoral roll but quite difficult to be put back on. So the unsound mind provisions really mean that for a lot of people there are assumptions made about their capacity to vote. ... We make assumptions about people's capacity and assume that they cannot make decisions about things that are important to them. But if we are talking about the UN CRPD and human rights approach we actually come from the other direction, which is a presumption of capacity and what supports do we need to put around the person regarding that?³⁷
- 4.29 Broadly, the Law Council of Australia (LCA) recommended greater support for those with cognitive impairments and their families and/or carers regarding exercising their right to vote, as well as guidance and appropriate resources for the AEC to facilitate expert advice on cognitive impairments.³⁸

The right to a secret and verifiable ballot

- 4.30 The absence of a secret and verifiable ballot for voters with a disability was highlighted in a number of submissions.
- 4.31 A 'secret ballot' refers to any voting method whereby a voter's ballot is entirely private and only known to the voter. It is an essential feature to a fair election as it forestalls attempts to influence election outcomes through such tactics as intimidation,

³³ Inclusion Australia, *Submission 340*, p. 4.

³⁴ Law Council of Australia, *Submission 1379*, p. 14

³⁵ Law Council of Australia, *Submission 1379*, p. 14

³⁶ Human Rights Law Centre, *Submission 418*, p. 28.

³⁷ Inclusion Australia, *Committee Hansard*, 27 April 2023, p. 4.

³⁸ Law Council of Australia, *Submission 1379*, p. 14.

blackmail or vote buying.³⁹ It is a guaranteed universal human right in Article 25(b) of the ICCPR and in Article 29 of the CPRD.⁴⁰

- 4.32 Significantly, the Electoral Act does not include the term 'secret ballot'; rather, section 233(a) provides that voters are given an occupied space in which to mark their ballot paper, in private.⁴¹ Furthermore, the Act, whilst providing for assisted voting, does not require the person assisting to vote per the voter's direction, nor keep their vote a secret.⁴² The Federal Court has, however, held in *Horn v Australian Electoral Commission* that the secrecy attaching to 'secret ballot' means secrecy as to how a person has voted.⁴³
- 4.33 To fulfil the CPRD's obligation to guarantee persons with a disability the right to vote on an equal basis with others, Remedy Australia stated that voting methods must be 'equally accessible, independent, secret, secure and verifiable'.⁴⁴

Telephone voting

- 4.34 Electronically Assisted Voting is provided in the Electoral Act. The precise nature of it, however, is not specified; rather, it is left to the discretion of the Electoral Commissioner who determined to make telephone voting only available to those with visual impairments.⁴⁵
- 4.35 In highlighting that the secret ballot and electoral integrity are 'of utmost importance', the AEC explained the process of casting a vote through the telephone:
- 1 The elector calls and registers, whereby the elector provides the required personal details to be marked off the roll and is asked to select a six-digit PIN. From there, the AEC contacts the elector back with an eight-digit telephone voting registration number.
 - 2 Once this registration number is received, the elector calls again to cast their vote, where they provide the registration number and PIN (not their name) and the system then automatically marks them off the roll which allows the elector to vote anonymously.
 - 3 The AEC voting assistant records the elector's vote and the second voting assistant present ensures this vote is 'recorded as per the elector's instructions to ensure accuracy and integrity'. Once completed, the voting assistant reads the elector's ballot back to the elector to ensure its accuracy, and when the elector

³⁹ Remedy Australia, *Submission 400*, p. 15.

⁴⁰ Blind Citizens Australia, *Submission 409*, p. 5.

⁴¹ Remedy Australia, *Submission 400*, p. 15.

⁴² Remedy Australia, *Submission 400*, p. 8.

⁴³ Remedy Australia, *Submission 400*, p. 15.

⁴⁴ Remedy Australia, *Submission 400*, p. 14.

⁴⁵ Remedy Australia, *Submission 400*, p. 12.

Telephone voting is also available for electors who are working in Antarctica.

confirms so, the voting assistant places the ballot paper into an envelope that is sealed and deposited into a secure ballot box.⁴⁶

- 4.36 The AEC highlighted that both the voting assistant and second voting assistant ‘do not know who is calling’ and that they ‘do not match registration details to the name.’ Because of this, the vote remains a secret.⁴⁷
- 4.37 Nevertheless, a number of submitters stated that telephone voting is not aligned with the right to cast a vote in secret, nor is it verifiable⁴⁸, and Australia is therefore ‘failing to meet the commitments to equal political participation made in the ICCPR and CPRD.’⁴⁹
- 4.38 Remedy Australia stated that although telephone voting enables the voter to speak with an operator anonymously, ‘the act of disclosing voting intention to another person inherently lacks secrecy’ and ‘as voiceprint technology improves, a voter might be identifiable from their voice, and their ballot linked back to them.’⁵⁰
- 4.39 Vision Australia elaborated on this, arguing that telephone voting does not have the presumption of secrecy:
- ... our view is that when you have to dictate your voting preferences to someone else—even though you may have reason to believe that person that you are dictating those preferences to doesn’t know who you are—that still doesn’t feel secret. You are dictating, you are verbalising your preferences rather than keeping them in your head and using an online process, for example, to record them. So our view is that a telephone voting service that requires you to dictate your preferences can never be truly secret.⁵¹
- 4.40 Additionally, telephone voting rests on the operator accurately recording the caller’s voting intention, but does not allow the voter to verify this record. In most telephone voting systems, an operator answers the call and records the caller’s vote, but there is ‘no means by which the voter may verify whether their voting intentions have been recorded accurately’:
- Human-assisted telephone voting [is] not verifiable because you can’t be sure that what you told them is what they’ve written down, even if they say they have two people monitoring things.⁵²
- 4.41 This absence of verifiability was also highlighted by Blind Citizens Australia (BCA), who stated that telephone voting ‘does little to allow a voter who is blind or vision

⁴⁶ Australian Electoral Commission, *Submission 330.9*, p. 2.

⁴⁷ Australian Electoral Commission, *Submission 330.9*, p. 2.

⁴⁸ Vision Australia, *Submission 415*, p. 2; Remedy Australia, *Submission 400*, p. 14; Blind Citizens Australia, *Submission 409*, pp. 6-7.

⁴⁹ Blind Citizens Australia, *Submission 409*, p. 5.

⁵⁰ Remedy Australia, *Submission 400*, p. 15.

⁵¹ Vision Australia, *Committee Hansard*, 27 April 2023, p. 8.

⁵² Remedy Australia, *Submission 400*, p. 16.

impaired an opportunity to verify their ballot has been entered correctly⁵³ and it forces the voter ‘to trust that the election workers are recording their voting preferences correctly, and will not change anything before the ballot is submitted.’⁵⁴

4.42 The AEC stated that for the 2022 election, as well as their own supervisors, ‘The entire thing was open to scrutineers to be there as the vote was being taken’, to ensure privacy and accuracy of phone-based voting.⁵⁵

4.43 Furthermore, telephone voting can be inconvenient or difficult, particularly when voting below the line on the Senate ballot:

As a user of iVote in NSW I am accustomed to being able to vote below the line. To do this using the telephone voting service would have required hours of preparation and a considerable amount of time dictating my preferences to the call centre staff, with no assurance that my vote would be recorded and submitted correctly, not to mention the pressure I would have felt that I was taking up too much of their time when there were other people waiting. So I felt compelled to vote above the line, which is not how I wanted to vote.⁵⁶

4.44 Vision Australia also highlighted this and recommended a ‘refreshing around the telephone service’ which ‘include working with that co-design approach to find more effective ways to assist people who want to vote below the line to do so.’⁵⁷

4.45 In terms of general accessibility, it was also noted that telephone voting is not accessible for all Australians with a disability; it is estimated that 1 in 500 Australians have severe communication disabilities or complex communication needs, which means that for tens of thousands of Australian voters, telephone voting is not an accessible alternative.⁵⁸

4.46 Although acknowledging the additional resourcing required and the issues pertaining to the lack of secrecy and verifiability, the HRLC recommended the expansion of telephone voting as it would strengthen the accessibility of voting for many Australians with a disability.⁵⁹

4.47 The HRLC stated that this could be done through amending Part XVB of the Electoral Act to allow people with disability to vote by telephone beyond the existing provision for blind and low-vision voters.⁶⁰

4.48 Noting the temporary expansion of telephone voting for the 2022 federal election due to COVID-19, the HRLC also suggested that telephone voting be accessible to voters

⁵³ Blind Citizens Australia, *Submission 409*, p. 5.

⁵⁴ Blind Citizens Australia, *Submission 409*, p. 6.

⁵⁵ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 17.

⁵⁶ Vision Australia, *Submission 415*, p. 5.

⁵⁷ Vision Australia, *Committee Hansard*, 27 April 2023, p. 8.

⁵⁸ Remedy Australia, *Submission 400*, p. 14.

⁵⁹ Human Rights Law Centre, *Submission 418*, p. 26.

⁶⁰ Human Rights Law Centre, *Submission 418*, p. 26.

experiencing illnesses of other kinds in the period following the postal voting deadline:

Numerous respondents to our Barriers to Voting Register raised the issue that expanded telephone voting would enable people with disability, or an infectious illness other than COVID-19, to vote in a more accessible manner than existing options. For example, one respondent with a disability told us that they became severely-unwell the day after postal voting closed. ... Telephone voting was made available at scale to respond to COVID-19 in the 2022 federal election: there is no compelling reason why in future elections, voters with other infectious illnesses should not also have that option.⁶¹

- 4.49 Regarding such an expansion, the AEC argued that it should be 'tightly define[d]' as to who could use telephone voting, so as to avoid a situation 'where people are on the phone queuing for eight hours, waiting to deliver a vote':

The other thing is that, if parliament were to legislate for us to provide telephone voting at the next event for particular categories of electors, what we would urge is a really early passage of that legislation so that we can start the planning for that very complex process straightaway. ... It does seem, though, if it was really tightly limited to a small group of people, it would provide a failsafe to individuals who might not otherwise be able to vote.⁶²

- 4.50 The AEC also provided similar reasoning for the expansion of telephone voting to voters overseas, stating that although it could be a 'useful safety net for these voters', the eligibility requirements need to be 'strictly defined and enforced to ensure that it does not become a voting channel for citizens who simply do not want to attend a polling place.' Additionally, 'operational constraints such as time differences would need to be navigated.'⁶³

Electronic voting

- 4.51 Some jurisdictions in Australia offer non-phone voting by internet, whereby a voter casts their vote using an internet-enabled electronic device. The most widely used system is iVote,⁶⁴ which has been 'embraced by numerous disability advocacy groups as an accessible voting method.'⁶⁵
- 4.52 iVote was introduced in New South Wales (NSW) in 2011 to cater for blind or vision impaired voters. Voters cast their vote by internet or by telephone, and the iVote system provided blind or vision impaired voters with different options for voting that

⁶¹ Human Rights Law Centre, *Submission 418*, pp 26-27.

⁶² Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 17.

⁶³ Australian Electoral Commission, *Submission 330.10*, p. 4.

⁶⁴ Remedy Australia, *Submission 400*, p. 11.

⁶⁵ Remedy Australia, *Submission 400*, p. 14.

best suit their particular accessibility needs.⁶⁶ It was also used for a small number of voters in Western Australia's 2017 state election.⁶⁷

- 4.53 According to BCA, iVote facilitated thousands of blind or vision impaired Australians – as well as those who have other disabilities or circumstances that render it difficult to access a polling station - to exercise their right to vote independently and participate equally in NSW elections.⁶⁸
- 4.54 Indeed, after previously relying on family or carers, the experience of using this tool was deemed 'empowering' by members of BCA, and data has shown both an increase in use and a high degree of satisfaction from electors who used it.⁶⁹ Additionally, had iVote not been available, about 10 per cent of electors who used the system would have been disenfranchised.⁷⁰
- 4.55 Despite this, iVote was suspended for the 2023 NSW State Election after a series of issues during the 2021 Local Government Elections.⁷¹

Security concerns with iVote and electronic voting

- 4.56 iVote has verification problems, whereby 'there is no opportunity to independently confirm that the ballot data entered by the voter is the same data processed by the system.'⁷²
- 4.57 Due to this lack of verifiability, iVote is 'not an acceptable voting solution'. According to Dr Vanessa Teague:

If you're filling it in yourself, you see what it is you're sticking in the ballot box. But, when we start talking about accessible measures for voters with disabilities, and when we start talking about electronic voting options where you don't directly see a piece of paper, the question of whether the electronic message that gets sent or recorded matches what you asked for really becomes an important issue.⁷³

- 4.58 Additionally, iVote is vulnerable to cyberattacks and data security breaches which may not be evident to administrators or voters:

iVote's most serious problem is the risk of undetected errors or fraud leading to an election that may seem to have progressed without incident, but actually elects representatives who are not the ones chosen by the people. The main

⁶⁶ Blind Citizens Australia, *Submission 409*, p. 6.

⁶⁷ Remedy Australia, *Submission 400*, p. 11.

⁶⁸ Blind Citizens Australia, *Submission 409*, p. 6.

⁶⁹ Blind Citizens Australia, *Submission 409*, p. 6.

⁷⁰ Blind Citizens Australia, *Submission 409*, p. 6.

⁷¹ Blind Citizens Australia, *Submission 409*, p. 7.

⁷² Remedy Australia, *Submission 400*, p. 16.

⁷³ Dr Vanessa Teague, Private capacity, *Committee Hansard*, 3 November 2022, p. 51.

difficulty, which does not have a known and usable solution, is allowing voters to securely verify that their electronic vote accurately reflects their intention.⁷⁴

- 4.59 Remedy Australia asserted that because of this ‘it is foreseeable that third parties could access ballot data and invalidate or alter ballots cast validly or add ballots not cast by genuine voters.’⁷⁵
- 4.60 Broadly, iVote’s security issues are ‘not unusual among Internet voting systems’⁷⁶ and studies of similar systems have identified similar vulnerabilities.⁷⁷
- 4.61 In addition to deeming all forms of internet voting ‘inherently insecure’⁷⁸, Remedy Australia observed that there is no voting method that is entirely independent of any technology or other person. For example, a voter requesting human assistance in a polling place to fill in their ballot must depend on that person for privacy, or internet voting systems may malfunction undetectably.⁷⁹

Other avenues for electronic voting

- 4.62 Broadly, BCA urged exploration and investment in Technology Assisted Voting (TAV) that enables secret and verifiable voting, and suggested a reworked and updated model of iVote, or a new voting system developed for the AEC.⁸⁰
- 4.63 Council on the Ageing (COTA) Australia also suggested that in expanding voting technologies, that they are trialled to determine how they work for older people, including those with poor technology skills and cognitive decline.⁸¹
- 4.64 To enable voters with a disability the chance to verify their vote, Dr Teague suggested electronic voting in a polling place with a voter-verifiable paper record, whereby voters would use a poll site computer, print out their ballot and verify their vote⁸²:

I think that style of system, where people are invited to come into the polling place with everybody else and sit in a private booth like everybody else and have the assistance of a computer to produce, like everybody else, a ballot paper that then just goes into the ordinary scrutineering process with everybody else’s, is a secure and private solution that I think would work for a lot of people.⁸³

⁷⁴ Remedy Australia, *Submission 400*, pp. 15-16.

⁷⁵ Remedy Australia, *Submission 400*, p. 16.

⁷⁶ Associate Professor Vanessa Teague, *Submission 282*, p.10.

⁷⁷ Associate Professor Vanessa Teague, *Submission 282*, p.10.

⁷⁸ Remedy Australia, *Submission 400*, p. 3.

⁷⁹ Remedy Australia, *Submission 400*, p. 17.

⁸⁰ Blind Citizens Australia, *Submission 409*, p. 7.

⁸¹ Council on the Ageing Australia, *Committee Hansard*, 27 April 2023, p. 17.

⁸² Associate Professor Vanessa Teague, *Submission 282*, p. 11.

⁸³ Dr Vanessa Teague, Private capacity, *Committee Hansard*, 3 November 2022, p. 52.

4.65 Remedy Australia, cautioning against internet voting, also proposed a stand-alone, off-line ballot marking device that is available in every polling place. It has two advantages:

- it is easier to protect the voter's privacy, and
- it enables the voter the opportunity to see and verify their marked ballot paper, without depending on another person or software.⁸⁴

4.66 Similarly, Voting Solutions for all People (VSAP), is an electronic voting system used in Los Angeles, the United States of America (USA). Known as a ballot-marking device, VSAP entails electronic assistance for voters to complete a paper ballot in a polling place, whereby a voter attends a polling place and apprises a computer of their voting intention. The computer then prints their vote out, and this printout is then validated by the voter. If the voter is satisfied that the printout correctly represents their voting intention, they signal their approval, and their vote is automatically dropped into the ballot box. The important features of this system are:

- it is offline so it cannot be interfered with or hacked
- the person can verify their vote printout
- the printout is not obviously distinguishable from those filled in by pencil
- the printout is put into a ballot box without the intervention of another person.⁸⁵

4.67 Dr Teague also highlighted another voting system used in the USA whereby voters print out their ballot, which they then fill out and post:

So the idea would effectively be to make blank ballots available to people and let them print them out and either fill them in with a computer, if that were the system that they needed, or fill them in with a pencil, and stick them in the post. But, as a small thing for people who have suddenly become unwell, it strikes me as superior to phone voting for a variety of reasons. First of all, you can actually see what's going on your ballot paper, which you cannot do over the phone. Secondly, there's a much better guarantee of privacy, because you don't have to worry about whether your voice is recognisable, because you're not speaking.⁸⁶

4.68 Dr Teague acknowledged, however, that such a system is not without its limitations, as not all voters are physically able to undertake such a task, nor may have access to the Internet or a printer.⁸⁷

4.69 The AEC stated that they 'have no other plan to introduce any other form of electronic or electronic assisted voting for any category of voter':

I can tell you that at this stage we have no plans in the short, medium or long term to touch electronic voting. If and when the parliament decides that that's

⁸⁴ Remedy Australia, *Submission 400*, p. 18.

⁸⁵ Remedy Australia, *Submission 400.1*, p. 1.

⁸⁶ Dr Vanessa Teague, Private capacity, *Committee Hansard*, 3 November 2022, p. 52.

⁸⁷ Dr Vanessa Teague, Private capacity, *Committee Hansard*, 3 November 2022, p. 52.

something that we do, that will have to be trawled over in great detail, particularly the security issue for that.⁸⁸

4.70 BCA also acknowledged the security concerns in electronic voting systems, and a need to ‘work closely’ with security experts to balance those concerns with accessibility needs.⁸⁹

4.71 Similarly, Vision Australia argued that security concerns, while important, should not take precedence over the democratic right for Australians to vote:

I think the general point that we would make is that, while security is obviously important and critical to confidence in the electoral system, security should never be seen as extinguishing human rights. It is not an either/or. We should be able to design human systems that also promote human rights and we should not use security challenges as a lazy way of saying we are not going to promote human rights. ... So I think we have a challenge as a society to make sure that we progress, innovate and uphold the rights, in the context of today’s inquiry, of people with disability, while at the same time managing those cybersecurity issues.⁹⁰

Accessibility at polling places

4.72 The Committee received significant evidence from disability advocates on the current challenges people with disabilities face when casting their vote at polling places.

4.73 This section explores the current limitations and unique challenges those with both physical and intellectual disabilities face when casting their ballot and ways to improve and strengthen this accessibility.

4.74 In light of this, the Committee notes that Article 29 of the CRPD includes ‘ensuring that voting procedures, facilities and materials are appropriate, accessible, and easy to understand and use’ and ‘protecting the right of persons with disabilities to vote by secret ballot’.⁹¹

4.75 Every polling place is given an accessibility rating by the AEC, which is published on their website, as well as information regarding venue accessibility.⁹² These ratings are: wheelchair accessible, assisted wheelchair access, or not wheelchair accessible.⁹³

4.76 The AEC stated that where possible, polling premises have:

- a level, firm and obstacle-free path of travel to the polling place

⁸⁸ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 15.

⁸⁹ Blind Citizens Australia, *Committee Hansard*, 27 April 2023, p. 5.

⁹⁰ Vision Australia, *Committee Hansard*, 27 April 2023, p. 5.

⁹¹ Law Council of Australia, *Submission 1379*, p. 12.

⁹² Australian Electoral Commission, *Submission 330.9*, p. 3.

⁹³ Australian Electoral Commission, ‘Information for people with disability and mobility restrictions’, viewed 25 October 2023, <https://www.aec.gov.au/assistance/files/factsheet-disability-and-mobility-voting.pdf>.

- circulation space in the voting area for use by those using mobility devices
- clear directional signage
- access to accessible parking spaces
- easy access to public transport (ideally within 400 metres of a bus/train stop, or 800 metres to other forms of public transport)
- an alternate voting room with adjustable lighting, if possible, to make voting more accessible for people with sensory sensitivities
- a rest area between the site boundary and the polling place to support cognitive, sensory and anxiety self-regulation.⁹⁴

4.77 The AEC also stated that they aim to ensure the internal set-up has:

- accessible voting screens placed in line with other voting screens
- two-person tables with accessible voting screens to facilitate assisted voting
- other tables and chairs for seated voting.⁹⁵

4.78 In relation to assisted voting, the AEC also noted that when the polling official is assisting a voter, certain rules apply to ensure transparency. Additionally, training is also provided in relation to voter assistance - for example, queue controllers look out for people in the queue and ensure any elderly or frail voters are escorted to the front.⁹⁶

4.79 The AEC conceded that 'securing polling places is a challenging aspect of conducting an electoral event'. Due to the absence of fixed federal election dates, the AEC has a minimum of 33 days' notice to secure over 7,000 polling venues, and with the 'scale and complexity of the AEC's temporary polling operations, fully accessible venues are not always possible.'⁹⁷ For the 2022 federal election, 21.6 per cent of polling places had full disability access, 62.3 per cent had assisted access, and 16.1 per cent did not meet access requirements.⁹⁸

4.80 Notably, Remedy Australia highlighted that the Electoral Act does not require that all polling places be physically accessible to all disabled voters:

Where a voter cannot enter the polling place, a ballot paper may be brought outside to the voter, to be completed there. Beyond that, the Electoral Act does not provide for voters with physical and/or communication disabilities. Voters are permitted to request the assistance of an electoral officer or other person in filling out a paper ballot. However ... such assistance does not meet Australia's

⁹⁴ Australian Electoral Commission, *Submission 330.9*, p. 3.

⁹⁵ Australian Electoral Commission, *Submission 330.9*, p. 3.

⁹⁶ Australian Electoral Commission, *Submission 330.9*, p. 4.

⁹⁷ Australian Electoral Commission, *Submission 330.9*, p. 3.

⁹⁸ Australian Electoral Commission, *Submission 330.9*, p. 3.

obligations under CRPD Article 29, as it necessarily requires a voter to reveal their voting intention to another person.⁹⁹

4.81 Similarly, the LCA deems it 'limiting' that the AEC's own criterion for polling places' accessibility only pertains to wheelchair accessibility.¹⁰⁰ Furthermore, AEC guidance does not make reference to the provision of assistance that may be required before arrival at a polling place¹⁰¹, and therefore 'appears to assume that non-ambulant voters, or voters with restricted mobility, will be able to be driven by another person to a location close enough to the polling place for someone to attract the attention of the relevant AEC worker.'¹⁰²

4.82 COTA also highlighted the unique challenges older voters face, such as the length of walking required at polling sites:

... [it] is not just whether it is flat but how long it takes you from the school gate to get to the hall. How far is that? Some school grounds can be quite long and quite exhausting. So thinking about accessibility through the lens of being able to drive in and drop off and come back and pick up in a short distance, with somebody on a walker not having to walk that far, is another element that I think possibly could be explored by the AEC.¹⁰³

4.83 Indeed, BCA explained the wider, systemic issues on building inaccessibility, which was informed by discussions on the accessibility of polling places through the AEC's equal access to democracy reference group for people with a disability:

What we were told was quite disappointing. It was basically that because polling booths need to be found at short notice and they have a lot of requirements that they need to meet, they do have ideal standards for accessibility. However, if they can't be met, they can't be met. It's more important that they find a venue. If it doesn't meet standards but it's the only venue available, so be it. I think we have a much bigger problem here. We're talking about building accessibility, building standards and building codes, which is probably at the root of the problem. This is just a sign of how big it is that we cannot meet our accessibility needs for something that we know is going to come about every couple of years.¹⁰⁴

4.84 The LCA stated that new standards should be developed to 'take into account the accessibility of the venue by public transport and private vehicle, as well as accessibility within the venue'¹⁰⁵, and suggested that:

⁹⁹ Remedy Australia, *Submission 400*, p. 12.

¹⁰⁰ Law Council of Australia, *Submission 1379*, p. 12.

¹⁰¹ Law Council of Australia, *Submission 1379*, p. 12.

¹⁰² Law Council of Australia, *Submission 1379*, p. 12.

¹⁰³ Council on the Ageing Australia, *Committee Hansard*, 27 April 2023, p. 19.

¹⁰⁴ Blind Citizens Australia, *Committee Hansard*, 27 April 2023, pp. 13-14.

¹⁰⁵ Law Council of Australia, *Submission 1379*, p. 12.

- Information about accessibility of local polling places should be distributed to the offices of local members and candidates.
- Staff should be located at the entrance of polling venues to direct voters and to provide information and assistance, including about accessible parking, seating, and toilet facilities.
- These staff should be provided with a means of enabling ready contact with polling supervisors to arrange for ballot papers or other assistance.¹⁰⁶

Mobile Polling

- 4.85 Mobile polling booths/kiosks was highlighted as a form of accessible voting to better support voters with a variety of disabilities, including those who have a motor impaired related disability.¹⁰⁷ As well as providing greater security than iVote, many mobile kiosks are easy to transport, which benefits voters living in regional and remote areas.¹⁰⁸
- 4.86 Such kiosks have a number of accessible features including large button controllers for those unable to use touch screens; built-in printers and scanners; both audio and visual output; and a headphone jack for those who require audio instructions.¹⁰⁹
- 4.87 Although not a ‘silver bullet’, BCA asserted that mobile kiosks could be an ‘important part of the solution, especially if they were augmented with other technologies, such as electronic braille displays. That could go a long way to helping a lot of voters cast their ballot in an accessible way.’¹¹⁰
- 4.88 Mobile polling booths are also ‘commonplace at aged care homes across Australia.’¹¹¹ For the 2022 federal election, however, this service was significantly reduced. According to COTA, there are approximately 220,000 people in aged care homes, and 2,671 aged-care homes across Australia, and for the election, the AEC indicated that they visited 86. This is ‘3.2 per cent of aged-care homes, which, on the back of an envelope by proportion of residents per home, means that about 213,000 citizens didn’t have access to a polling station.’¹¹²
- 4.89 This significant reduction was due to COVID-19. The AEC explained that, having received advice from the Department of Health and Aged Care, they undertook a risk assessment to ‘determine the proposed approach to mobile polling in aged care homes’, and in December of 2022, all Chief Health Officers ‘endorsed a modest offering of mobile polling in aged care facilities.’¹¹³

¹⁰⁶ Law Council of Australia, *Submission 1379*, p. 13

¹⁰⁷ Blind Citizens Australia, *Submission 409*, p. 7.

¹⁰⁸ Blind Citizens Australia, *Submission 409*, p. 7.

¹⁰⁹ Blind Citizens Australia, *Committee Hansard*, 27 April 2023, p. 9.

¹¹⁰ Blind Citizens Australia, *Committee Hansard*, 27 April 2023, p. 9.

¹¹¹ Professor Catherine Renshaw and Dr Starla Hargita, *Submission 424*, p. 2.

¹¹² Council on the Ageing Australia, *Committee Hansard*, 27 April 2023, p. 17.

¹¹³ Australian Electoral Commission, *Submission 330.10*, p. 9.

- 4.90 The AEC explained that these decisions ‘were based on careful consideration of the risk of elector disenfranchisement balanced against the risk of residents, facility staff or AEC staff contracting or transmitting COVID-19.’¹¹⁴
- 4.91 According to the AEC, those aged care homes that were not serviced by mobile polling booths supported by AEC staff who ‘provided facilities with information, materials and support to ensure residents knew their voting options and were able to vote this election.’¹¹⁵
- 4.92 Additionally, in the lead up to and during the election period, all registered aged care facilities were provided with additional help to access voting services including postal voting through AEC support cells across the country.¹¹⁶
- 4.93 Nevertheless, according to Professor Catherine Renshaw and Dr Starla Hargita, ‘the social and psychological effects of being unable to vote were significant’ for some older Australians¹¹⁷ with one participant in their study stating:
- I was extremely disappointed. I wanted to vote. We were talking about it here amongst ourselves as to what was happening but obviously there was nothing happening....we were expecting something to happen.....that someone would come and say ‘we have organised something so you can vote’ but nothing happened....there was no COVID here at the time...we were open.¹¹⁸
- 4.94 The AEC confirmed with the Committee that mobile voting at residential aged-care facilities will revert to its previous rates and provided further elaboration on the COVID-related reasoning for its reduction in the first place:
- We worked very closely with residential care facilities and, indeed, state health authorities about what we were allowed to do and not allowed to do, and which centres wanted us to go in and which centres were worried about it becoming a super-spreader event. Normally, we visit a fairly large number of residential care facilities; we intend to do the same thing in the future. ... For the aged-care facilities we didn’t visit, we worked closely with the staff of those facilities to make sure residents were aware of what their options were to vote, but, again, it was a COVID-safe measure.¹¹⁹
- 4.95 Because mobile polling was reduced during the 2022 federal election, alternative forms of voting were available to some residents of aged care homes, such as posting voting, telephone voting, early voting, and attending a polling place on election day. Nonetheless, ‘these options may have unsatisfactory hurdles for this voting population’.¹²⁰

¹¹⁴ Australian Electoral Commission, *Submission 330*, p. 28.

¹¹⁵ Australian Electoral Commission, *Submission 330.10*, p. 9.

¹¹⁶ Australian Electoral Commission, *Submission 330.10*, p. 9.

¹¹⁷ Professor Catherine Renshaw and Dr Starla Hargita, *Submission 424*, p. 3.

¹¹⁸ Professor Catherine Renshaw and Dr Starla Hargita, *Submission 424*, pp. 3–4.

¹¹⁹ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 4.

¹²⁰ Professor Catherine Renshaw and Dr Starla Hargita, *Submission 424*, p. 4.

- 4.96 According to the AEC, postal voting was promoted to voters in aged care homes that were not serviced by mobile polling teams¹²¹, however, COTA deemed it ‘administratively burdensome to the point of disenfranchising voters.’¹²²
- 4.97 For example, voters with low vision, tremors and other disabilities struggled to complete the relevant forms¹²³, as that process of voting ‘can be quite tiresome for the person even if they have the physical capacity to do it themselves.’¹²⁴
- 4.98 Furthermore, it is not ‘realistically achievable’ that postal votes must be issued and returned within the last three days of the election because of slow post times and the physical requirements of returning a ballot to a post box for those with low mobility.¹²⁵
- 4.99 For some older voters with cognitive decline, the postal voting experience was also described as stressful and confusing due to the high level of coordination required involving their multiple supports like carers, family and friends.¹²⁶

Pre-poll voting centres

- 4.100 The AEC highlighted that voting prior to election day continued to grow in popularity, with pre-poll growing from 28.4 per cent in 2019 to 32.8 per cent in 2022.¹²⁷ Anticipating this, the AEC increased its number of pre-poll voting locations from 511 in the 2019 federal election, to 540 in 2022.¹²⁸
- 4.101 Early voting methods like pre-poll ‘are an important component in ensuring accessible and equitable voting services’¹²⁹, however, much like the concerns expressed regarding polling places’ accessibility and suitability, the Committee received evidence related to pre-poll venues.
- 4.102 Zali Steggall OAM MP stated that the suitability of the pre-poll voting centre in Brookvale was ‘questionable’. Her assessment stemmed from a number of reasons including its minimal accessibility for those with mobility concerns and its proximity to a major road and bus stops which generated loud noise and large foot-traffic – the latter also meant there was ‘a lack of safe pedestrian space’.¹³⁰
- 4.103 Furthermore, Dr Monique Ryan MP explained that Kooyong’s pre-poll centre was ‘in a small and narrow street with minimal parking’ and that the signage for the single disabled parking site was ‘flimsy’ and prone to falling over. Long queues and 15–20-

¹²¹ Australian Electoral Commission, *Submission 330*, p. 28

¹²² Council on the Ageing Australia, *Submission 1382*, p.1.

¹²³ Council on the Ageing Australia, *Submission 1382*, p.1.

¹²⁴ Council on the Ageing Australia, *Committee Hansard*, 27 April 2023, p. 21.

¹²⁵ Council on the Ageing Australia, *Submission 1382*, p.1.

¹²⁶ Council on the Ageing Australia, *Submission 1382*, p. 2.

¹²⁷ Australian Electoral Commission, *Submission 330*, p. 13.

¹²⁸ Australian Electoral Commission, *Submission 330*, p. 27.

¹²⁹ Australian Electoral Commission, *Submission 330*, p. 26

¹³⁰ Zali Steggall OAM MP, *Submission 1381*, p. 5.

minute wait times also proved difficult 'in a narrow street with no seating options for older and less mobile people.'¹³¹

- 4.104 Professor Renshaw referred to her experience with two unsuitable pre-polling centres when she ran as a candidate for the seat of North Sydney, stating:

One of them was utterly inaccessible for anyone with any sort of impairment whatsoever. Another was allegedly an accessible pre-poll station, but it relied on the operation of a lift that was out of order for one-fifth of the time of the whole two-week pre-polling time. Even when it was working, it put people who needed to use it in the very undignified position of having to wait in the cold and rain at the time for the operator to come and make the machine work. It was totally inadequate, yet that was the best available option. ... The effect on older persons was to make them feel like they were a burden on the system and holding up the queue.¹³²

- 4.105 Further, in her submission with Dr Hargita, it was noted that much like their experience voting at a polling place on election day, residents of residential aged care homes attending pre-poll still often require 'the assistance of a friend, relative, or staff member for transport or mobility issues.'¹³³

- 4.106 Democracy Matters also highlighted the AEC's eligibility criterion for pre-poll, stating that that voters have 'valid reasons beyond those found on the AEC eligibility list,' such as having a disability:

How might the eligibility list be amended to make these voters feel welcome in pre-polling centres? A strict observance of the eligibility list would require these people to return on election day or complete a postal vote, if there is sufficient time to do so and which they may not be confident they are completing correctly.¹³⁴

- 4.107 The AEC explained the challenge in identifying a comprehensively accessible venue in the short lead up to an election:

The choice of the pre-poll centres, and in fact the choice of polling places, is a vexed issue for us. Four weeks notice, and quite often you're hostage to whatever you can get and in some areas it's almost impossible to get anything. We really have a huge program in place to try to identify the most appropriate pre-poll and polling centres. We take into account a number of factors, including

¹³¹ Dr Monique Ryan MP, *Submission 414*, p. 4.

¹³² Professor Catherine Renshaw, Private capacity, *Committee Hansard*, 27 April 2023, p. 19.

¹³³ Professor Catherine Renshaw and Dr Starla Hargita, *Submission 424*, p. 3.

¹³⁴ Democracy Matters, *Submission 352*, p. 2.

Voters can vote early either in person or by post if on election day they: are outside the electorate where you are enrolled to vote; are more than 8km from a polling place; are travelling; are unable to leave your workplace to vote; are seriously ill, infirm or due to give birth shortly (or caring for someone who is); are a patient in hospital and can't vote at the hospital; have religious beliefs that prevent you from attending a polling place; are in prison serving a sentence of less than three years or otherwise detained; are a silent elector, or have a reasonable fear for your safety or wellbeing.

disability access, parking, et cetera. Not all of that lines up, and sometimes people get frustrated with us because they say it's a really bad polling place. Guess what? It really is, but that's the only place that we could get in the entire district that's free.¹³⁵

The overwhelming nature of polling sites

4.108 The Committee heard that polling sites can also be a 'complex, busy, rushed environment' for those with a disability¹³⁶, and can therefore trigger sensory overloads.¹³⁷

4.109 Vision Australia told the Committee how those with both intellectual and physical disabilities can experience this:

In our survey, we found that 36 per cent of respondents said that they had additional disabilities ... a number indicated that they were neurodivergent and so potentially do experience sensory overload. But also quite a substantial number of people indicated that they have a hearing impairment of various degrees. Whilst the experience of sensory overload for someone with a hearing impairment may be qualitatively different from someone who is neurodivergent, the effect is very similar in that it becomes overwhelming and it quickly becomes very difficult. If you are trying to hear someone at a polling booth and they are just overwhelmed with noise because of a hearing impairment and not being able to filter out the different sources of noise, it becomes very difficult.¹³⁸

4.110 In terms of better assisting voters who may struggle in such an overwhelming environment, it was suggested that staff at poll sites should be equipped with the relevant knowledge, awareness and experience, as well as the 'confidence to ask people how they can be helped or whether they actually do need help. It is following the 'approach, offer, ask, assist' method.'¹³⁹

4.111 Similarly, Inclusion Australia remarked on the need for polling site staff 'who are clearly identifiable, who are patient, who take the time, who understand what you need.'¹⁴⁰

4.112 For those with an intellectual disability, it is more challenging to measure accessibility requirements than those pertaining to physical accessibility.¹⁴¹ Inclusion Australia highlighted the notion of 'supportive decision-making' as a means of better supporting people with an intellectual disability when casting their votes at poll sites.¹⁴²

¹³⁵ Australian Electoral Commission, *Committee Hansard*, 6 September 2023, p. 8.

¹³⁶ Inclusion Australia, *Committee Hansard*, 27 April 2023, pp. 6-7.

¹³⁷ Blind Citizens Australia, *Committee Hansard*, 27 April 2023, p. 10.

¹³⁸ Vision Australia, *Committee Hansard*, 27 April 2023, p. 11.

¹³⁹ Blind Citizens Australia, *Committee Hansard*, 27 April 2023, p. 10.

¹⁴⁰ Inclusion Australia, *Committee Hansard*, 27 April 2023, p. 7.

¹⁴¹ Inclusion Australia, *Committee Hansard*, 27 April 2023, p. 10.

¹⁴² Inclusion Australia, *Committee Hansard*, 27 April 2023, pp. 5-6.

4.113 This would entail an individual providing ‘neutral support’ whereby they would not influence a voter’s decision; rather, they would assist in talking through and explaining it:

It is very important if someone with disability needs help, because I obviously need help because I get confused without the top line of what—to fill out the numbers. So like, when I do vote I get in a fluster and very mixed up and I have to ask my mum for support. So finding a person that people really do trust, and obviously will not influence your decision. I know who I want to vote for, but I ask mum how to do it, and what numbers I should put first, for that person. So the right support is what someone with a disability needs to have if they are getting a bit tricky.¹⁴³

4.114 Beyond staff training, in assisting those who are neurodiverse, the LCA suggested the provision of a quiet room, or a room without fluorescent lighting.¹⁴⁴ Further, to support those who are hearing-impaired, the LCA also recommended the AEC provide Auslan access by video, hearing loop systems and other supports; introduce measures to mitigate background noise and poor acoustic qualities of some venues.¹⁴⁵

Accessing information about enrolment and voting

4.115 Through its commitment to ‘greater equity to voting services’¹⁴⁶, the AEC provides the following support to voters:

- Auslan videos on access to voting
- Easy Read guides on how to enrol and vote
- videos which focus on oral explanation of voting processes
- an education program for those with a learning disability
- ReadSpeaker on the AEC website
- flipbooks at polling places which provide simple ballot formality instructions
- an Official Guide that is sent to every household before an election or referendum that is available in large print, e-text, MP3 audio files/CD, DAISY and Braille.¹⁴⁷

4.116 Additionally, the AEC says they will offer text-to-speech pens and hearing loops in a polling place in every electoral division nationally, as well as access to a virtual Auslan interpreting service in every polling place.¹⁴⁸

¹⁴³ Inclusion Australia, *Committee Hansard*, 27 April 2023, p. 6.

¹⁴⁴ Law Council of Australia, *Submission 1379*, pp. 14-15.

¹⁴⁵ Law Council of Australia, *Submission 1379*, p. 13

¹⁴⁶ Australian Electoral Commission, *Submission 330.9*, p. 3.

¹⁴⁷ Australian Electoral Commission, *Submission 330.9*, pp. 3-4.

¹⁴⁸ Australian Electoral Commission, *Submission 330.9*, p. 4.

4.117 Nevertheless, there continues to be strong support for ensuring that voting information and communication is delivered in accessible and inclusive formats.¹⁴⁹

4.118 BCA informed the Committee that its members felt that ‘more could be done to improve minimum standards’ for voting information materials,¹⁵⁰ and expressed interest in the prospect of the AEC standardising ‘how to vote’ pamphlets in an inclusive format¹⁵¹:

When we explored this issue during a consultation session, members agreed that the AEC could play a role in requiring all political parties and candidates provide all communications – including how to vote cards – in an accessible formats including large print hard copy, braille, electronic or audio.¹⁵²

4.119 The Committee also heard that it is useful for people, particularly those with an intellectual disability, to have access to information beforehand regarding the voting process and what to expect on the day.

4.120 The Easy Read documents are an example of this; however, it was noted that they are difficult to locate and are not available on polling day.¹⁵³

I think voting is very hard. They give you too many papers when you go and sign in. There is nothing in Easy Read to follow how to vote. I know people will tell you there are some instructions, but it is still confusing for me. When I go voting I am always with family. They help me slightly and make sure that I am okay. But when my family have voted, I am taking up the time. My mum comes up and gives me some help. At the start, when you walk through the car park and there are people waving their cards at you for voting, it starts getting me confused. They need to make voting easier for me and other people with disability, giving me some more time at the stand to vote.¹⁵⁴

4.121 BCA also noted that the AEC had promised voters who are blind or vision impaired could request a list of candidates in an audio, e-text, large print or braille format to be sent by calling them. However, accessing this material proved difficult:

We received multiple calls and emails from voters who had attempted to do this, but encountered phone operators who did not seem to know about the service. Some of these situations were resolved when the voter asked to speak to a manager or team leader at the call centre who was then able to assist; but other voters reported being spoken to rudely and dismissively. As one member put it: “they made me feel like I was wasting their time”.¹⁵⁵

¹⁴⁹ Blind Citizens Australia, *Committee Hansard*, 27 April 2023, p. 15; Vision Australia, *Committee Hansard*, 27 April 2023, p. 15; Australian Federation of Disability Organisations, *Committee Hansard*, 27 April 2023, p. 15.

¹⁵⁰ Blind Citizens Australia, *Submission 409*, p. 8.

¹⁵¹ Blind Citizens Australia, *Committee Hansard*, 27 April 2023, p. 7.

¹⁵² Blind Citizens Australia, *Submission 409*, p. 9.

¹⁵³ Inclusion Australia, *Committee Hansard*, 27 April 2023, p. 7.

¹⁵⁴ Inclusion Australia, *Committee Hansard*, 27 April 2023, p. 4.

¹⁵⁵ Blind Citizens Australia, *Submission 409*, p. 8.

4.122 Similarly, Vision Australia highlighted that a 'lack of [AEC] staff training and awareness in relation to voting and associated processes for people who are blind or have low vision has been a recurring theme of the feedback we have received after every federal election.'¹⁵⁶

The importance of co-designing voting methods

4.123 The Committee received a strong body of evidence on the need for engaging with people with a disability and relevant organisations when developing and improving voting methods, standards for polling places, and supporting materials.

4.124 BCA asserted that co-design 'needs to run through all aspects of any reform that is undertaken'¹⁵⁷, and Inclusion Australia argued that 'in order to develop systems, services, programs that work for people with disability, they need to be designed with people with disability.'¹⁵⁸

4.125 This sentiment also extended to older voters, whereby Professor Renshaw and Dr Hargita stated that when making key decisions in relation to voting practices, this cohort need to be engaged with:

We also recommend that future decisions relating to voting practices of older Australians be made with the active participation and involvement of the key stakeholders – older Australians themselves. This recommendation is in line with international law and constitutional law in providing accessibility, timeliness, and secrecy.¹⁵⁹

4.126 AFDO also highlighted to the Committee that co-design would 'raise the differences and the complexities of various disabilities and what the requirements might be for people with disability in those more rural, remote and regional areas', as location influences accessibility.¹⁶⁰

4.127 Inclusion Australia reiterated that due to the diversity of needs, it is important to hear from a range of people with different disabilities:

On designing models, I think probably the important thing to say is that it might look different—one model might not work for everybody. Different people need different things—and so being able to talk to lots of different people about their needs, but also being able to design and offer things in different ways and in different modes. Not everybody needs Easy Reads, but for some people it is really important.¹⁶¹

¹⁵⁶ Vision Australia, *Submission 415*, p. 8.

¹⁵⁷ Blind Citizens Australia, *Committee Hansard*, 27 April 2023, p. 5.

¹⁵⁸ Inclusion Australia, *Committee Hansard*, 27 April 2023, p. 5.

¹⁵⁹ Professor Catherine Renshaw and Dr Starla Hargita, *Submission 424*, p. 5.

¹⁶⁰ Australian Federation of Disability Organisations, *Committee Hansard*, 27 April 2023, p. 13.

¹⁶¹ Inclusion Australia, *Committee Hansard*, 27 April 2023, p. 5.

4.128 Similarly, Remedy Australia remarked that there is ‘no single existing solution that completely meets the needs of Australian voters, but there is ample opportunity for Australia to design our own, in consultation with the voters who need it.’¹⁶²

4.129 The AFDO recommended the AEC engage with representative organisations and those with a disability to develop appropriate staff training which would build stronger awareness and expertise:

From our point of view, we would like to see the AEC working closely with disability representative organisations to work on that training. ... The reason is that in our organisation and for a number of my colleagues, the training developed relates to awareness training for particular disabilities by people with disability and delivered by people with disability ... I think there’s nothing better for people who don’t have a disability to understand or gain a better understanding than to actually hear from those with lived experience of disability.¹⁶³

4.130 Of relevance is the AEC’s DAC, which serves as a mechanism to consult, collaborate and co-design with leaders and peak bodies in the disability community.¹⁶⁴

4.131 Chaired by the Deputy Electoral Commissioner, the DAC has been in existence for over a decade and serves to promote ‘greater accessibility, inclusion and participation in the electoral process by people with disability’.¹⁶⁵ The DAC convenes multiple times a year and includes members from all state and territory electoral commissions which facilitates ‘enhanced consistency across jurisdictions where feasible.’¹⁶⁶

4.132 According to the AEC, the priorities of the DAC are to:

- seek feedback from relevant Australian peak disability organisations on the services and programs that the AEC deliver
- understand new and emerging issues for those with a disability
- collaborate with their Electoral Council of Australia and New Zealand partners through the delivery of accessible electoral services across other jurisdictions, and
- learn about initiatives being developed in other sectors for people with a disability.¹⁶⁷

¹⁶² Remedy Australia, *Submission 400*, p. 17

¹⁶³ Australian Federation of Disability Organisations, *Committee Hansard*, 27 April 2023, p. 12.

¹⁶⁴ Australian Electoral Commission, *Submission 330*, p. 25; Australian Electoral Commission, *Submission 330.9*, p.1.

¹⁶⁵ Australian Electoral Commission, *Submission 330.9*, p.1.

¹⁶⁶ Australian Electoral Commission, *Submission 330.9*, p.1.

The DAC also the following disability peak bodies: Australian Federation of Disability Organisations, Australian Human Rights Commission, Blind Citizens Australia, Council for Intellectual Disability, Deaf Australia, National Disability Insurance Agency, National Ethnic Disability Alliance, and Vision Australia.

¹⁶⁷ Australian Electoral Commission, *Submission 330.9*, p.1.

Enfranchising Australian permanent residents and new Australian citizens

4.133 Expanding the franchise to Australian permanent residents received mixed responses, with a common argument from the community stemming from the belief that only citizens of Australia should vote.¹⁶⁸ This sentiment was particularly strong in relation to enfranchising New Zealand citizens living in Australia.¹⁶⁹

4.134 The Liberal Party, National Party, and the NSW Young Liberals all stated that only Australian citizens should decide who governs Australia¹⁷⁰, with the latter stating:

The distinction between an Australian permanent resident and an Australian citizen in large part is defined by the right to vote. To remove this distinction would abrogate a significant incentive for citizenship and the commitments it entails.¹⁷¹

4.135 Section 93 of the Electoral Act generally requires citizenship for the ability to vote in federal elections, however, Professor Joo-Cheong Tham asserted that this is 'deeply flawed', and that a 'better approach is to treat citizenship as a sufficient condition for voting rights but not a necessary requirement'.¹⁷²

4.136 Indeed, a number of submitters refuted the notion that citizenship is a core requirement since it also has no basis in the Australian Constitution.¹⁷³ Within this vein, Dr Elisa Arcioni stated:

Citizenship is not required constitutionally as a basis for eligibility to vote ... The Parliament has the choice to extend the vote beyond citizens to other persons who are substantively part of the Australian community and so with a claim to membership of the electorate. In order to determine when a person is 'truly' a member of the community is a matter of degree and judgement. Permanent residency is a good proxy for such membership, which avoid individual applications or arduous factual disputes.¹⁷⁴

4.137 The concept of community membership and contribution was emphasised, in that many permanent residents work and pay taxes, and should therefore have the opportunity to vote.¹⁷⁵

¹⁶⁸ Greg Smith, *Submission 1273*, p. 1; Kevin Doyle, *Submission 1455*, p. 1; Name withheld, *Submission 353*, p. 1; Name withheld, *Submission 398*, pp. 1-2; Stella Young, *Submission 347*, p. 1; Alan Dormer, *Submission 1194*, p. 1; Vote Australia Incorporated, *Submission 305*, p. 4.

¹⁶⁹ Thomas Derum, *Submission 1229*, p. 1; Jeremy Buxton, *Submission 315*, p. 1; Martin Cole, *Submission 1313*, p. 1; Sebastian Ferrando, *Submission 670*, p. 1.

¹⁷⁰ The National Party of Australia, *Submission 399*, p. 5; Andrew Hirst Liberal Party of Australia, *Submission 382*, p. 7; NSW Young Liberals, *Submission 374*, p. 1.

¹⁷¹ NSW Young Liberals, *Submission 374*, p. 2.

¹⁷² Professor Joo-Cheong Tham, *Submission 377*, p. 1.

¹⁷³ Professor Joo-Cheong Tham, *Submission 377*, p. 2; Dr Elisa Arcioni, *Submission 215*, pp. 1-2.

¹⁷⁴ Dr Elisa Arcioni, *Submission 215*, pp. 1-2.

¹⁷⁵ Human Rights Law Centre, *Submission 418*, p. 36; Electoral Reform Society of South Australia, *Submission 392*, p. 6.

4.138 Professor Tham considers social membership as the ‘basis for the ability to vote in federal elections’. His assertion is based on a theory of social membership that seeks to address when membership of society arises:

The answer, according to this theory, rest upon the connections a person has to their place of residence, their sense of belonging to the society in which they live — ‘the relationships, interests, and identities that connect people to the place where they live’. The theory advances length of residence as a proxy for these dense connections.¹⁷⁶

4.139 Furthermore, Professor Tham highlighted that the original Commonwealth Franchise Bill had ‘one ground only, as giving a right to vote, and that is residence in the Commonwealth for six months or over by any person of adult age’.¹⁷⁷

4.140 The Liberal Party referred to sections 7 and 27 of the Australian Constitution, which require that parliamentarians for both houses are directly chosen by ‘the people’.¹⁷⁸

4.141 However, as noted by Professor Luke Beck:

The Constitution requires that parliament be directly chosen by the people of the Commonwealth and, for the Senate, by the people of the states. But the Constitution doesn’t really tell us who or what ‘the people’ are. Very plainly, Australian citizens are part of the people, and Australian citizens can vote. There’s then a question of whether or not ‘the people’ is a broader concept than just citizens, how far that might extend and whether it includes long-term permanent residents et cetera. That’s a legal question where there are question marks.¹⁷⁹

4.142 Similarly, Professor Kim Rubenstein also noted that at the time of Federation, ‘the people’ were not Australian citizens as there was no concept of it’.¹⁸⁰

4.143 The Australia Institute noted that there should be no concerns regarding citizens of hostile powers voting in Australian elections, stating ‘I think we’ve seen that permanent residents and citizens who have immigrant backgrounds have always put Australia’s interests first, and there haven’t been issues there’.¹⁸¹

Historical precedence

4.144 There is an existing precedent of non-citizens voting in Australia; permanent residents can vote in Tasmanian, Victorian and South Australian local government elections.

¹⁷⁶ Professor Joo-Cheong Tham, *Submission 377*, p. 3.

¹⁷⁷ Professor Joo-Cheong Tham, Private capacity, *Committee Hansard*, 17 October 2022, p. 5.

¹⁷⁸ Andrew Hirst Liberal Party of Australia, *Submission 382*, p. 7.

¹⁷⁹ Professor Luke Beck, Private capacity, *Committee Hansard*, 17 October 2022, p. 5.

¹⁸⁰ Professor Kim Rubenstein, *Submission 375*, p. 5.

¹⁸¹¹⁸¹ The Australia Institute, *Committee Hansard*, 26 October 2022, p. 6.

4.145 Additionally, existing laws enfranchise British subjects (citizens of a Commonwealth country) who were enrolled in a federal electoral division in Australia prior to 26 January 1984.¹⁸² This included Canadians, the British and – relevantly – New Zealanders.¹⁸³ Professor Anne Twomey summarised this below:

The concept of permitting people to vote in Australia if they live here, even though they are not Australian citizens, is a long-standing one, albeit tied to a notional allegiance to a shared monarch.¹⁸⁴

4.146 Despite the voting qualification being changed in 1984 to require Australian citizenship, ‘there was grandfathering of those British subjects who were already on the electoral roll’.¹⁸⁵ This meant there were and are still people who enrolled before then and are therefore still entitled to vote in Australian elections, despite remaining permanent residents.¹⁸⁶

The barriers on the path to citizenship

4.147 In its submission to the inquiry, the HRLC highlighted the difficulty in taking up citizenship. Some permanent residents are from countries that do not allow dual citizenship meaning that to vote in Australia they would be forced to renounce their citizenship of their country of birth.

4.148 Furthermore, administrative delays in processing citizenship indirectly serve as a barrier to voting. For example, increasing processing times obstruct ‘the voting rights of members of the community who would otherwise be eligible to vote.’¹⁸⁷

4.149 Professor Beck informed the Committee that ‘Constitutionally a very safe pathway forward would be to make the pathway to citizenship easier.’¹⁸⁸

4.150 The Australian Greens voiced support for this prospect, stating that they ‘would like to see pathways to citizenship, and associated voting rights, made easier for all Australian residents.’¹⁸⁹

4.151 The Committee notes that as of October 2023, for those who have applied for Australian citizenship by conferral, 90 per cent of applications are processed within 10 months and 90 per cent of approved applicants will have the opportunity to attend

¹⁸² Human Rights Law Centre, *Submission 418*, p. 38.

Foreign citizens who were enrolled prior to the aforementioned date are allowed to vote in federal and local government elections as well as referendums.

¹⁸³ Professor Anne Twomey, *Submission 407*, p. 5.

¹⁸⁴ Professor Anne Twomey, *Submission 407*, p. 5.

¹⁸⁵ Professor Anne Twomey, *Submission 407*, p. 6.

¹⁸⁶ Professor Anne Twomey, *Submission 407*, p. 6.

¹⁸⁷ Human Rights Law Centre, *Submission 418*, p. 37.

¹⁸⁸ Professor Luke Beck, Private capacity, *Committee Hansard*, 17 October 2022, p. 5.

¹⁸⁹ Australian Greens, *Submission 432*, p. 12.

a ceremony within 6 months of approval. Additionally, the wait time is significantly less for those applying for citizenship by descent.¹⁹⁰

Reciprocation with New Zealand

- 4.152 Since 1975, New Zealand has granted any permanent resident who has lived in the country for more than twelve months the right to vote.¹⁹¹ In light of this, several submitters referred to the prospect of reciprocation.¹⁹²
- 4.153 The Liberal Party, however, warned that ‘Extending the right to vote in Australian elections to the citizens of just one other country, would appear to introduce a discriminatory element to our electoral system.’¹⁹³
- 4.154 To avoid ‘selecting any particular country for special treatment’¹⁹⁴, the Australia Institute floated the broader idea that voting rights be extended ‘on a reciprocal basis to permanent residents who are citizens of countries that allow Australians to vote in their national elections.’¹⁹⁵
- 4.155 The Liberal Party also warned of constitutional and legal risk if New Zealanders are enfranchised:

There are over half a million New Zealand-born people living in Australia. An addition to the electoral roll of this size where there are uncertainties as to the validity of New Zealand citizens’ right to vote as people of the relevant State, or of the Commonwealth, could create significant constitutional and legal risk for election results.¹⁹⁶

- 4.156 The aforementioned difficulty in obtaining Australian citizenship is also particularly acute for New Zealanders. The HRLC highlighted that the Trans-Tasman Travel Arrangement which enables New Zealand citizens to work, live and study in Australia indefinitely, ‘does not provide clear and accessible pathways’ to obtain permanent residence and Australian citizenship.¹⁹⁷
- 4.157 Professor Beck discussed how the path to citizenship can be quite challenging for New Zealanders:

The mechanism for New Zealanders to become an Australian citizens is quite complex and expensive in some cases, so it’s actually very difficult for these people to become citizens. If we made it easier for these people to become citizens, then that’s a very simple pathway forward. If you are an Australian

¹⁹⁰ Department of Home Affairs, Citizenship processing time, viewed 14 September 2023, <https://immi.homeaffairs.gov.au/citizenship/citizenship-processing-times/citizenship-processing-times>.

¹⁹¹ Travis Jordan, *Submission 245*, p. 20.

¹⁹² Human Rights Law Centre, *Submission 418*, p. 39; Accountability Roundtable, *Submission 343*, p. 13; FUSION Science, Pirate, Secular, Climate Emergency, *Submission 304*, p. 5.

¹⁹³ Andrew Hirst Liberal Party of Australia, *Submission 382*, p. 8.

¹⁹⁴ The Australia Institute, *Committee Hansard*, 26 October 2022, p. 6.

¹⁹⁵ The Australia Institute, *Submission 412*, p. 3.

¹⁹⁶ Andrew Hirst Liberal Party of Australia, *Submission 382*, p. 7.

¹⁹⁷ Human Rights Law Centre, *Submission 418*, p. 38.

citizen, not only can you vote but you must vote. If there is a desire to expand the franchise, then I think what you might be getting at is making it easier for these people to become Australian citizens.¹⁹⁸

- 4.158 Significantly, the Committee noted the Department of Home Affairs' recent announcement of a direct pathway to Australian citizenship. As of 1 July 2023, New Zealand citizens who have been living in Australia for four years or more are now eligible to apply directly for Australian citizenship, and will no longer be required to first apply for and be granted a permanent visa.¹⁹⁹

Enfranchising Australians abroad

- 4.159 Currently, there is no legislative requirement for the AEC to open overseas voting centres.²⁰⁰ Nonetheless, in addition to postal voting, the AEC provides in-person voting services for Australians overseas.
- 4.160 In-person voting services are provided through cooperation between the AEC, the Department of Foreign Affairs and Trade (DFAT) and Austrade. Voting services 'are dependent on the local environment and may be subject to many constraints including security, health and logistic challenges.'²⁰¹
- 4.161 Voting in a federal election is also not compulsory for Australians overseas.²⁰² The AEC stated that current electoral legislation 'acknowledges the specific difficulty of overseas voting by rendering absence from Australia on voting day as one of the few valid and sufficient reasons for not voting.'²⁰³
- 4.162 To be eligible to enrol to vote overseas, an individual must be an Australian citizen aged 18 years or older and intending to return to Australia within six years.²⁰⁴ An eligible overseas elector may remain overseas longer if an extension is applied for and approved. According to the AEC, an 'unlimited number of one-year extensions of registration may be approved if the elector originally intended to resume residing in Australia not later than six years after ceasing to reside in Australia, and they still intend to return to reside in Australia in the future.'²⁰⁵
- 4.163 The AEC undertake monthly reviews of eligible overseas electors to identify whose registration expiration date is nearing (a reminder email is sent), whose registration

¹⁹⁸ Professor Luke Beck, Private capacity, *Committee Hansard*, 17 October 2022, p. 5.

¹⁹⁹ Department of Home Affairs, Direct pathway to Australian citizenship for New Zealand citizens, viewed 20 October 2023, <https://immi.homeaffairs.gov.au/news-media/archive/article?itemId=1085>.

²⁰⁰ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 14.

²⁰¹ Australian Electoral Commission, *Submission 330.10*, p. 3.

²⁰² Australian Electoral Commission, *Submission 330.10*, pp. 2-3.

²⁰³ Australian Electoral Commission, *Submission 330.10*, p. 4.

Unique circumstances that can hinder a person from voting can include those in transit overseas, travelling city to city, or cruising on the water.

²⁰⁴ Australian Electoral Commission, *Submission 330.10*, pp. 2-3.

²⁰⁵ Australian Electoral Commission, *Submission 330.10*, p. 4.

has expired and have not requested an extension (these electors' enrolment is cancelled). Cancellation decisions are not reviewable under the Electoral Act.²⁰⁶

4.164 A number of submitters highlighted concerns with this '6-year intention rule'. The Australian Greens noted that such intentions for many are either unknown or may change²⁰⁷, and similarly, ALP Abroad highlighted the fact that when applying for an overseas vote, Australians overseas must indicate when they are planning to return, which is 'something many voters have no idea of when they leave Australia.'²⁰⁸

4.165 Professor George Williams noted that other countries do not limit their citizens' right to vote in this way:

The UK has just removed its limit on expats voting, and we've got this really unfortunate and convoluted approach where, if you intend to come back to Australia within six years, you can vote, but who knows what they intend to do? It's a really difficult test. We're disenfranchising our own citizens in ways other countries don't.²⁰⁹

4.166 Furthermore, ALP Abroad asserted that Australians abroad are 'discriminated against' by sections 94 and 94A of the Electoral Act, as the rules for enrolling differ for them:

- Australians need to enrol as overseas voters if they are going overseas for an extended period.
- There is a three year limit on enrolling to vote as an overseas voter from overseas when leaving Australia.
- Once off the electoral roll, Australians overseas cannot get back on the roll unless they return to Australia for at least 1 month.²¹⁰

4.167 ALP Abroad also highlighted that the requirement to re-enrol every year to vote as an overseas voter and the fact that overseas voting is not mandatory are 'designed to discourage' Australians from exercising their right to vote:

Australians raised in a culture of universal compulsory voting assume that they will always be able to vote when overseas and are unaware that they have to take special steps to keep their vote and when they become aware find it difficult to keep themselves enrolled. Australian citizens have a fundamental right to be enrolled to vote in elections taking place in their country and the law needs to be changed to enshrine that right. The current system has effectively restricted the franchise of overseas Australian citizens to those who can overcome the barriers to voting currently in place.²¹¹

²⁰⁶ Australian Electoral Commission, *Submission 330.10*, p. 4.

²⁰⁷ Australian Greens, *Submission 432*, p. 12.

²⁰⁸ ALP Abroad, *Submission 338*, p. 5.

²⁰⁹ Professor George Williams, Private capacity, *Committee Hansard*, 17 October 2022, p. 21.

²¹⁰ ALP Abroad, *Submission 338*, pp. 4-5.

²¹¹ ALP Abroad, *Submission 338*, p. 5.

- 4.168 In light of this, ALP Abroad recommended that the Electoral Act be amended so that Australian citizens can enrol as an overseas voter at any time, that this enrolment remain valid and subject to the same provisions as other enrolled voters and that compulsory voting extends to overseas voters.²¹²
- 4.169 Similarly, Professor Williams recommended that voting rights be extended to Australians living overseas²¹³, and Professor Rubenstein stated that the Electoral Act should be amended to allow Australians overseas ‘their continued entitlement to vote without any restrictions.’²¹⁴

The impact of COVID-19 on overseas voting

- 4.170 Due to the pandemic and other international security concerns, the AEC conducted a joint risk assessment with the Department of Foreign Affairs and Trade and Austrade which resulted in 19 in-person overseas voting centres and an additional 88 overseas embassies and consulates serving as postal vote collection centres.²¹⁵
- 4.171 Usually, the AEC relies on standard post, but due to the reduction of in-person services²¹⁶, the AEC, for the first time, engaged a contracted courier to deliver postal votes directly to overseas voters.²¹⁷ Postal votes could be returned to overseas missions where they were included in the diplomatic post back to Australia.²¹⁸
- 4.172 The Committee received, however, personal submissions from Australians overseas expressing frustration at the difficulty in casting their vote via mail.²¹⁹

The closure of voting stations

- 4.173 For the 2019 federal election, 85 overseas posts operated, and 60,710 votes were cast overseas. For the 2022 federal election, however, only 19 overseas posts operated, and 41,615 Australians voted from overseas.²²⁰
- 4.174 The closure of voting stations was deemed as ‘adversely affecting voters in the 2022 election’²²¹, and drew particular concern from the major political parties:
- The Liberal Party deemed this an unwelcome development, stating that ‘Administering in-person voting services for Australian elections is one of the core functions of our overseas missions’.²²²

²¹² ALP Abroad, *Submission 338*, p. 5.

²¹³ Professor George Williams AO, *Submission 7*, p. 2.

²¹⁴ Professor Kim Rubenstein, *Submission 375*, p. 2.

²¹⁵ Australian Electoral Commission, *Submission 330*, p. 28.

²¹⁶ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 12.

²¹⁷ Australian Electoral Commission, *Submission 330*, p. 28.

²¹⁸ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 5.

²¹⁹ Adrian McMahon, *Submission 1380*, p. 1; Laura Phillips, *Submission 6*, p.1.

²²⁰ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 12.

²²¹ Law Council of Australia, *Submission 1379*, p. 15.

²²² Liberal Party of Australia, *Submission 382*, p 1.

- The Australian Greens urged that the number of polling places be re-considered for future elections to improve enfranchisement of those abroad²²³, and
- ALP Abroad stated that the AEC ‘failed in its duty to Parliament’.²²⁴

4.175 In explaining why there was such a significant drop in overseas voting stations, the AEC stated:

We worked with DFAT constantly during that period to see what we could possibly do because we were subject not only to our own health orders but to whatever the health orders were in the countries where we offered the vote. In 2019 we offered the vote in, I think, 85 overseas missions and this time it was down to 19. It was purely based on COVID. We had to work with DFAT and whatever the local rules were.²²⁵

4.176 Nonetheless, the AEC stated that it is their intention – assuming there is not a further or ongoing pandemic – to return to previous levels of overseas voting locations²²⁶:

The intention at the next election—and I’ve already met the relatively new head of DFAT—is to return to full service delivery overseas, with voting in whatever missions we can actually get into at that point, depending on what’s occurring globally.²²⁷

Lower vote count

4.177 The significant disparity between 2019 and 2022’s overseas vote count drew subsequent attention, with the Australian Greens calling this drop in numbers ‘a significant concern’.²²⁸

4.178 In response to this discrepancy, the AEC reiterated the complexity of facilitating overseas voting in the pandemic environment, the reliance on a third party to deliver votes, and that there were fewer voters overseas – a high number of Australians had returned to Australia for that period.²²⁹

4.179 Furthermore, the AEC also noted that overseas voting, irrespective of the circumstances, does entail unique challenges:

... for each election, regardless of the pandemic, there are voters overseas who will miss out because they are not close to an overseas post, an embassy or a high commission or their postal vote doesn’t arrive in time. It’s very challenging,

²²³ Australian Greens, *Submission 432*, p. 11.

²²⁴ ALP Abroad, *Submission 338*, p. 5.

²²⁵ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, pp. 4-5.

²²⁶ Australian Electoral Commission, *Committee Hansard*, 28 September 2022, p. 9.

²²⁷ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 5.

²²⁸ Australian Greens, *Submission 432*, p. 11.

²²⁹ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 12.

given the short time frames for voting. That happens at elections, regardless of the circumstances.²³⁰

Young Australians

4.180 The Committee also received evidence from a number of submitters on extending the franchise to 16- and 17-year-olds.²³¹

4.181 It was noted that arguments against the enfranchisement of this cohort often stems from their perceived lack political maturity and knowledge on how government works.²³² Such issues, however, are not contained to just one cohort; rather, a lack of political engagement or knowledge can be found across all Australian age groups.²³³ Furthermore, the HRLC observed that young people today 'have extraordinary access to information, and are more engaged than ever before on issues that affect them and the world that they live in'.²³⁴

4.182 The HRLC also noted that neurological and psychological evidence has indicated that 'the type of decision-making engaged in deciding who to vote for in elections is mature by age 16'.²³⁵

4.183 A number of submitters highlighted the fact that at 16, young people can - among other responsibilities - work, drive, pay taxes, and yet they cannot cast a vote²³⁶, with Professor Williams stating:

Voting at 16 would be consistent with other changes and opportunities at this age. People under 18 can leave school, get a job, drive a car and pay taxes. They can also enlist in the Australian defence forces, become a parent and, in exceptional circumstances, get permission to marry. If the law permits them to undertake these activities, it is hard to see why they cannot also vote.²³⁷

4.184 There is international precedence with voting in national or local elections occurring from age 16 in Switzerland, Scotland, Germany, Austria, the Philippines, Argentina, Ecuador, Brazil, Norway, and Nicaragua.²³⁸

²³⁰ Australian Electoral Commission, *Committee Hansard*, 8 March 2023, p. 12.

²³¹ Mr Ben Raue, Private capacity, *Committee Hansard*, 23 June 2023, p. 20; Professor George Williams AO, *Submission 7*, p. 3; Human Rights Law Centre, *Submission 418*, pp. 32-36; Stephen Bates MP, *Submission 368*, pp.1-3; Australian Greens, *Submission 432*, pp. 11-12; NSW Council for Civil Liberties, *Submission 359*, p. 5; Dr Monique Ryan MP, *Submission 414*, p. 5; Thomas Maxwell, *Submission 2*, p. 2.

²³² Professor George Williams AO, *Submission 7*, p. 3.

²³³ Professor George Williams AO, *Submission 7*, p. 3; Mr Ben Raue, Private capacity, *Committee Hansard*, 23 June 2023, p. 20.

²³⁴ Human Rights Law Centre, *Submission 418*, p. 34.

²³⁵ Human Rights Law Centre, *Submission 418*, p. 33.

²³⁶ Professor George Williams AO, *Submission 7*, p. 3; Stephen Bates MP, *Submission 368*, p. 2; Australian Greens, *Submission 432*, p. 11; NSW Council for Civil Liberties, *Submission 359*, p. 5; Dr Monique Ryan MP, *Submission 414*, p. 5; Human Rights Law Centre, *Submission 418*, p. 33.

²³⁷ Professor George Williams AO, *Submission 7*, p. 3.

²³⁸ Professor George Williams AO, *Submission 7*, p. 3.

- 4.185 There is also historical precedence, whereby in 1973, Australia lowered the voting age to 18, with bipartisan support. This was in line with a number of other countries, including the United Kingdom and the USA, enfranchising 18-year-olds.²³⁹
- 4.186 In terms of the benefits of enfranchising this cohort, the HRLC remarked that it would induce greater political participation and engagement because it ‘provides a practical foundation for an interest in politics and a willingness to vote, which in turn increases feelings of empowerment and ameliorates a lack of interest in political matters.’²⁴⁰
- 4.187 One suggestion is that, were 16- and 17-year-olds to be given the right to vote, it could be done on a voluntary basis.²⁴¹ Voluntary voting would serve as an introduction to participating in Australian democracy²⁴², and would be strengthened when combined with civics education at school.²⁴³
- 4.188 Nonetheless, there was concern that voluntary voting would not accurately capture the views of this demographic, and that enabling voluntary voting for only one group of voters would ‘erode the bedrock of compulsory voting in Australia.’²⁴⁴ Indeed, Mr Ben Raue noted how comprehensively embedded compulsory voting is in Australia’s culture and how this view on voting could be affected if it was initially voluntary:

People in this country are culturally trained to vote from the start. We’ve had compulsory voting since before my grandparents were born. I talk to people overseas and it’s so embedded in this country. None of us remember a time when we didn’t have it. Maybe that would be a problem about people when they’re first starting not being compulsory. I think we do rely a lot on just people doing it without really being forced to, even though we have it on the books. There is evidence from other countries that, when they try and induce compulsory voting and they don’t have that culture, it’s a lot harder to do because we can’t enforce it against everyone. We mostly rely on the fact that people know that it’s a duty. ... I think that is a legitimate concern, and something worth bearing in mind.²⁴⁵

- 4.189 Mr Raue also noted how the nature of Australia’s three-year electoral cycles minimally affects 16- and 17-year-olds:

I would also say about the people who are 16 and aren’t excited about this that in the end we’re really talking about half an electoral cycle. I was a 16-year-old living in Werriwa. There was no federal election while I was 16 and 17. I got to vote when I was 18. In the end, these people are going to have to vote a couple of years later anyway. It doesn’t really make a tremendous difference to them.

²³⁹ Stephen Bates MP, *Submission 368*, p. 1.

²⁴⁰ Human Rights Law Centre, *Submission 418*, p. 35.

²⁴¹ Professor George Williams AO, *Submission 7*, p. 2.

²⁴² Mr Ben Raue, Private capacity, *Committee Hansard*, 23 June 2023, p. 20; Human Rights Law Centre, *Submission 418*, p. 35.

²⁴³ Professor George Williams AO, *Submission 7*, p. 3. Human Rights Law Centre, *Submission 418*, p. 35.

²⁴⁴ Human Rights Law Centre, *Submission 418*, p. 35.

²⁴⁵ Mr Ben Raue, Private capacity, *Committee Hansard*, 23 June 2023, pp. 23-24.

Maybe it's one more federal election where they're forced to trudge down to the polling booth and they're not very enthusiastic about it. They're going to have to do it anyway in a couple of years.²⁴⁶

Committee comment

- 4.190 Ensuring that every Australian can freely and fully exercise their right to participate in this country's democratic process is the bedrock of Australia's democracy. This experience of casting a vote, however, often varies, person to person, cohort to cohort, depending on their individual situation.
- 4.191 Submitters have raised numerous suggestions to improve the franchise and in doing so help support every Australian to have the opportunity to vote.
- 4.192 The 'unsound mind' provision of the Electoral Act is archaic, discriminatory and arbitrary, and it disenfranchises vulnerable Australians. Such a provision has no place in modern Australian society and the Committee recommends its repeal before the next federal election. This is a view that was shared by a number of submitters.

Recommendation 5

- 4.193 The Committee recommends the repeal of subsections 93(8)(a) and 118(4) of the *Commonwealth Electoral Act 1918*.**
- 4.194 The Committee recognises the work the AEC has been doing with its Disability Advisory Committee to improve voting experiences for people with disability.
- 4.195 There is further work that could be done to provide people with disability with independent, secure and accessible voting options and the Committee believes this work is most likely to be successful when it is informed by the views, expertise and experience of the disability community.
- 4.196 The Committee also notes the complexity and difficulty in identifying a voting method that is truly independent, verifiable and secret. In this regard, the Committee acknowledge the promise that electronic voting holds, with new technologies emerging that can better serve a wide range of disabilities. Nonetheless, due to security concerns, it requires further exploration and deliberation.

Recommendation 6

- 4.197 The Committee recommends that the AEC co-design independent, secure and accessible voting options with disability advocacy organisations and people within the disability community.**

²⁴⁶ Mr Ben Raue, Private capacity, *Committee Hansard*, 23 June 2023, p. 24.

- 4.198 In light of the diversity of needs in the disability community and of older voters, the AEC's current physical accessibility criteria for polling places is limited and requires expansion.
- 4.199 Furthermore, the Committee acknowledges the importance of accessible voting material, and believes the AEC is best placed to standardise such material into accessible formats.
- 4.200 The Committee notes that efforts to improve accessibility should be supplemented by AEC poll-site staff who are appropriately trained in disability awareness and support.
- 4.201 Staff training modules, the expansion of accessibility criterion and the standardisation of voting material should all be co-designed with the disability community to ensure accuracy and suitability.

Recommendation 7

4.202 The Committee recommends that the AEC:

- **expand the accessibility standards for both pre-poll and polling centres**
- **standardise its voting material in accessible formats**
- **ensure staff in polling centres are appropriately trained in options for assisting people with disability to vote.**

- 4.203 Although the Committee acknowledges that telephone voting does not align with the principles of being a fully verifiable and secret vote like a paper ballot does, the Committee agrees with the HRLC's assessment that its expansion would strengthen the accessibility of voting for many Australians with a disability.
- 4.204 Notwithstanding the welcome return of overseas voting centres to their previous numbers, the Committee considers the expansion of telephone voting a potentially suitable alternative to strengthen accessible voting for Australians overseas when in-person voting is not feasible. In acknowledgement of the AEC's comments and the complexity in rolling this voting method out, the Committee recommends that the AEC be exploring and canvassing policy and legislative options for telephone voting overseas.
- 4.205 Although the Committee did not receive a large body of evidence pertaining to the expansion of telephone voting to remote communities, the Committee acknowledges the difficulties such communities face when casting a ballot, particularly when pre-polling centres are inaccessible. Enfranchising remote communities generally is further explored in Chapter 2 within the context of Aboriginal and Torres Strait Islander voters.

Recommendation 8

4.206 The Committee recommends that the Government expand Part XVB of the *Commonwealth Electoral Act 1918* to enable more people to vote via telephone, including:

- **people with disability (beyond the Electoral Act's existing provision for blind and low-vision voters)**
- **Australians overseas but otherwise eligible to vote**
- **people in remote communities without access to a remote polling station.**

4.207 The Committee acknowledges the disappointment many older Australians felt towards the general absence of this program during the 2022 federal election due to COVID-19, and therefore welcomes the AEC's commitment to its reinstatement to pre-pandemic levels for the next federal election.

Recommendation 9

4.208 The Committee recommends the AEC continue to run its mobile polling program for older Australians living in aged care.

4.209 The Committee notes that the COVID-19 pandemic presented unique challenges for the AEC in the providing Australians abroad the opportunity to vote in the 2022 federal election and acknowledges the AEC's effort in adapting to this challenging global landscape.

4.210 The Committee also welcomes the AEC's intention to return to its pre-pandemic levels of overseas voting locations. It is important that Australians overseas are offered as many options as feasible to exercise their right to vote and participate in our democracy, regardless of their location.

4.211 Broadly, the administrative burden of voting overseas is an ongoing issue that can induce frustration for this cohort and indirectly disenfranchise them. The 6-year intention rule, for example, is impractical and the Committee agrees that it should be removed.

4.212 Although voluntary, the Committee considers that voting overseas should be accessible, explicit and seamless, and therefore recommends that the AEC reduce the administrative burden that overseas voters encounter.

Recommendation 10

4.213 The Committee recommends that the administrative burden of voting overseas is reduced.

4.214 The Committee notes the large body of submissions received expressing open concern and opposition towards the enfranchisement of permanent residents.

- 4.215 The Committee also acknowledges that historically, permanent residents have been allowed to vote, and some continue to do so, despite their lack of citizenship. The citizenship qualification is relatively new in Australia's history.
- 4.216 The Committee believes that in general the desire of people who have chosen to make Australia their home to be able to vote in elections is a positive thing, and that supporting this participation is best achieved by the Australian Government ensuring there are clear pathways to citizenship and associated voting franchise.

Recommendation 11

4.217 The Committee recommends that the Australian Government continue to support people who wish to become Australian citizens and take up their associated voting franchise to do so.

4.218 The Committee is pleased by the engagement and passion shown by young Australians towards the democratic process, and acknowledges that some desire the lowering of the voting age to sixteen.

4.219 Nonetheless, the Committee is also aware that the latter sentiment is not universal amongst this cohort.

4.220 Furthermore, the Committee is also concerned about the introduction of an 'opt-in' voting system for young Australians at sixteen, given the potential for this to undermine Australia's long-standing compulsory voting system and warp the expectations of young Australians about enrolling and voting over their lifetime.

4.221 The Committee is keen to see young Australians equipped with knowledge on Australia's elections and democratic institutions to support them in making an informed vote and believes an enhanced civics education program would best facilitate this.

Recommendation 12

4.222 The Committee recommends that the Australian Government consider ways to strengthen civics education programs in Australian schools to better equip and prepare the next generation of voters to cast their first vote.



5. Strengthening Australia's electoral system

- 5.1 The Committee's interim report noted that it would further explore themes in evidence received in this final report. The Committee has given consideration to several additional reform proposals, which are examined in this chapter.

Donation and expenditure reforms applying to third parties

- 5.2 The Committee's interim report examined reforms to political donation laws and the implementation of expenditure/spending caps. Submitters were by and large supportive of political donation reform at the federal level and advocated for the introduction of real time disclosure of political donations and lowering the donation disclosure threshold. In its interim report the Committee noted concerns raised by submitters about how political donation reforms might apply to third parties and noted that it would further explore this question. The Committee remains committed to improving transparency in Australia's political and electoral systems, while recognising the unique position of some third party groups within those systems.
- 5.3 Third parties raised concerns that amending the electoral laws to improve transparency around money – including donation caps and disclosure thresholds – could have unintended consequences, particularly for charities and not-for-profits, on the basis that applying them to their sector would considerably inhibit their work.
- 5.4 Organisations such as the Centre for Public Integrity (the Centre); Hands Off Our Charities Alliance; Human Rights Law Centre (HRLC); Australian Democracy Network (ADN); Australian Conservation Foundation (ACF); and Australian Council of Trade Unions (ACTU) provided evidence on the potential for third parties, civil society organisations, small community groups and donors to be inhibited by increased compliance and regulatory burdens.
- 5.5 The Centre emphasised the importance of political participation of smaller organisations and civil society groups, arguing that the health of democracy depends on donations and electoral expenditure of these groups.¹

¹ Centre for Public Integrity, *Submission 351*, p. 16.

Donation disclosure threshold

- 5.6 The ACTU emphasised the impact that a lower disclosure threshold could have on smaller organisations in terms of increased compliance and reporting burdens.²
- 5.7 The Hands Off Our Charities Alliance highlighted the compliance burden that increased disclosure requirements would have for charities, as well as the potential for some people being discouraged from donating to charities if their details would be made public. The Alliance suggested that a threshold of around \$2,500 for donation disclosure would alleviate the administrative burden on charities and not-for-profits.³
- 5.8 Some submitters argued that these points also applied more broadly than only to charities and not-for-profit third parties. For instance, the NSW Nationals agreed that a lower threshold could potentially increase the administrative burden on political participants such as political parties and deter possible donors from participating in elections and democracy.⁴
- 5.9 Mr Travis Jordan argued that the administrative burden of greater disclosure would be felt by smaller organisations more than larger ones, and suggested that:
- Investment in information management systems and providing a single point-of-service for disclosure across Commonwealth, state and territory regimes will not only create a more transparent disclosure regime, but reduce the overall administrative burden of managing multiple contradictory compliance systems.⁵
- 5.10 However, the experience of independent candidates has demonstrated that transparent reporting of donations is not necessarily a significant burden. Curtin Independent Pty Ltd, the campaign entity for Kate Chaney for the 2022 Federal Election, commented on the ease with which they implemented and maintained real-time voluntary donation disclosure on their website:
- This was set up in approximately one week despite the lack of experience in the campaign.
- Throughout the campaign, Kate Chaney ensured that real-time disclosure of each and every financial donation was made with the only variable being that a donor could elect to appear as "anonymous" rather than being named. Approximately 90% of people elected to be named. More than \$900,000 was raised and disclosed on the donor wall in real-time and prior to the opening of voting. It was neither difficult nor expensive. It used off-the-shelf software and required no expertise to implement or maintain.⁶
- 5.11 Other independents have stated publicly that they disclose donations well before the required legislated timeframe requires. Dr Helen Haines MP discloses anything

² Australian Council of Trade Unions, *Submission 357*, p. 1.

³ Hands Off Our Charities alliance, *Submission 341*, p. 3

⁴ The National Party of Australia - NSW, *Submission 399*, p. 2.

⁵ Mr Travis Jordan, *Submission 245*, p. 22.

⁶ Curtin Independent Pty Ltd, *Submission 403*, pp. 2-3.

above the threshold within five days and anything above \$1,000 every financial quarter on her website.⁷ Ms Zoe Daniel MP also discloses any donation above the threshold on her website weekly.⁸

- 5.12 Several other members of parliament voluntarily disclosed the aggregated amount of donations that they received during the 2022 federal election campaign, or have committed to introducing a donor list of every monetary donation during their term in Parliament soon.⁹

Donations and expenditure caps

- 5.13 The HRLC argued that the recommendation to cap donations to third parties and associated entities would effectively stifle ‘a lot of community groups and charities that rely on large donations to do their advocacy in the lead-up to an election’, and added:

We believe that this recommendation is discriminatory. It is, in fact, anti charity and it is anti community groups. The reason is that, if you only cap donations to third parties, you only impact third parties that receive donations. Most or many third parties don't rely on donations.¹⁰

- 5.14 The ADN agreed that while ‘caps are very important for political parties and candidates... they should not apply to third parties.’¹¹
- 5.15 The ACF and the HRLC suggested that a cap on electoral expenditure, rather than donations, could potentially make a ‘fair playing field and make elections a contest of ideas, not a contest of money.’¹² The HRLC elaborated:

I think our starting position is that the only non-discriminatory way of regulating third parties is to regulate their expenditure. Spending caps is the preferable reform. If donation caps are to be applied to third parties then caps also need to be applied to membership fees, levies, subscriptions and investment income. It needs to be capped across the board, otherwise you're effectively just singling

⁷ Dr Helen Haines MP, ‘Donations’, viewed 14 September 2023, <<https://www.helenhaines.org/donate/>>

⁸ The Age, ‘Millions flow into Goldstein campaign but the source is not all clear’, viewed 12 September 2023, <<https://www.theage.com.au/politics/federal/millions-flow-into-goldstein-campaign-but-the-source-is-not-all-clear-20220419-p5aekf.html>>

⁹ Dr Sophie Scamps MP, ‘Dr Sophie Scamps: Donations status 3rd May 2022’, viewed 14 September 2023, <<https://www.sophiescamps.com.au/sophie-scamps-donations-update-2022-05-03>>; Ms Zali Steggall OAM, MP, ‘Donation Disclosure Statement 2022’, viewed 14 September 2023, <https://www.zalisteggall.com.au/https_www_zalisteggall_com_au_donation_disclosure_statement_2022_2>; Dr Monique Ryan MP, ‘Let 1000 Campaign Signs Bloom!’, viewed 14 September 2023, <https://www.moniqueryan.com.au/let_1000_campaign_signs_bloom>; Ms Kylea Tink MP, Transparency Donations, viewed 14 September 2023, <<https://www.kyleatink.com.au/transparency>>

¹⁰ Human Rights Law Centre, *Committee Hansard*, 23 June 2023, p. 1.

¹¹ Australian Democracy Network, *Committee Hansard*, 23 June 2023, p. 2.

¹² Australian Conservation Foundation, *Committee Hansard*, 23 June 2023, p. 2; Human Rights Law Centre, *Committee Hansard*, 23 June 2023, p. 3.

out one type of third party for pretty significant limitations on their ability to engage in advocacy.¹³

- 5.16 The HRLC added that they ‘support lower spending caps for third parties than for political parties and candidates.’¹⁴
- 5.17 The Grattan Institute was of the view that donation caps would unduly impact donors while expenditure caps would affect political parties:
- Donations caps would also impose a regulatory burden on donors. Donors would need to keep track of their payments to political parties, know whether they are a donation or receipt, and be aware of when they have reached the cap. In contrast, an expenditure cap puts the regulatory burden on the parties. Recent challenges associated with regulating foreign donors show how restricting the supply of donations can easily result in unintended consequences.¹⁵
- 5.18 Charities are regulated in Australia by the Australian Charities and Not-for Profits Commission (ACNC), who noted that ‘the purpose of promoting or opposing a political party or candidate for office’ is a disqualifying purpose for a charity.¹⁶ Charities registered with the ACNC are required to publish details about their activities, including a link to the AEC’s Transparency Register if they have incurred electoral expenditure.¹⁷

Expenditure disclosure thresholds and the definition of third party and significant third party

- 5.19 Relevant groups highlighted the challenges they face in complying with the provisions introduced in the *Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Act 2018* (EFDR Act), which was subsequently further amended in 2021 (2021 EFDR Act).
- 5.20 The EFDR Act introduced new or amended definitions for the categories of associated entities, political campaigners (subsequently renamed significant third parties in the 2021 EFDR Act), third parties, electoral matter and electoral expenditure:
- associated entity (expanded definition) – entities that have some kind of connection with registered political parties (such as being controlled by or operating for the benefit of a registered political party).
 - political campaigner/significant third party – a person or entity that incurs political expenditure of \$250,000 or more in a financial year. (In the 2018 EFDR Act, this figure was \$500,000 in a year, or \$100,000 in the current year and more than two-

¹³ Human Rights Law Centre, *Committee Hansard*, 23 June 2023, p. 4.

¹⁴ Human Rights Law Centre, *Committee Hansard*, 23 June 2023, p. 5.

¹⁵ Grattan Institute, *Supplementary Submission 367.1*, p. 66.

¹⁶ Australian Charities and Not-for-profits Commission, *Submission 278*, p. 2.

¹⁷ Australian Charities and Not-for-profits Commission, *Submission 278*, p. 1.

thirds of their revenue on electoral expenditure in the previous year; the 2021 EFDR Act renamed ‘political campaigners’ to ‘significant third parties’ and, following amendments in the Parliament, lowered the threshold to \$250,000.)

- third party – a person or entity that incurs electoral expenditure of more than the disclosure threshold (\$13,800 indexed) in a financial year and the person or entity is not required to be, and is not, registered as a political campaigner under section 287F for the year.
- electoral matter – matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in a federal election of a member of the House of Representatives or of Senators for a State or Territory, including by promoting or opposing a political entity, to the extent that the matter relates to a federal election; or a member of the House of Representatives or a Senator.
- electoral expenditure – expenditure incurred for the dominant purpose of creating or communicating electoral matter.¹⁸

5.21 Not-for-profits and civil society organisations have expressed concern over the amended definition since the Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2018 (the Bill) was introduced in the 45th Parliament. The Committee conducted two inquiries into the Bill in 2018 and a review of the EFDR Act on the second anniversary of Royal Assent, where submitters commented on the additional administrative burden placed on charities and not-for-profits in complying with the EFDR Act’s requirements.¹⁹

5.22 During the course of this inquiry charities and not-for-profits continued to caution against enacting legislation that would impose what they perceived would be excessive administrative burdens which could potentially disadvantage charities. The ACF argued that changes to the significant third party provisions under the Electoral Act had negatively impacted charitable organisations and added to red tape.²⁰

5.23 The ACF, ADN and HRLC were all of the view that the changes should be wound back so that the definition of a significant third party reverts to the pre-2021 threshold of an entity that spent over \$500,000 in a year on election-related expenditure, and that the definitions of ‘electoral matter’ and ‘electoral expenditure’ should not be overly broad.²¹

¹⁸ *Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Act 2018* (Cth).

¹⁹ Joint Standing Committee on Electoral Matters, *Advisory report on the Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2017*, April 2018; Joint Standing Committee on Electoral Matters, *Advisory report on the Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2017*, October 2018; Joint Standing Committee on Electoral Matters, *Review of the Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Act 2018*, May 2021.

²⁰ Australian Conservation Foundation, *Submission 411*, p. 3; Australian Conservation Foundation, *Submission 411*, p. 7.

²¹ Australian Democracy Network, *Committee Hansard*, 23 June 2023, p. 2; Human Rights Law Centre, *Committee Hansard*, 23 June 2023, p. 3.

- 5.24 The definition of 'electoral expenditure' is crucial because it determines if an entity is a significant third party: under the current threshold, an entity spending over \$250,000 in a financial year on 'electoral expenditure' is a significant third party.²²
- 5.25 HRLC described the definition of 'electoral expenditure', as amended in 2021, as 'so broad that it is virtually impossible to comply with'.²³ This amendment broadened the definition of 'electoral expenditure' to include any expenditure by a relevant entity 'in relation to an election'.²⁴
- 5.26 The Electoral Act defines third party as 'a person or entity (except a political entity or a member of the House of Representatives or the Senate) is a third party during a financial year if the amount of electoral expenditure incurred by or with the authority of the person or entity during the financial year is more than the disclosure threshold' (\$15,200 till 30 June 2023; \$16,300 till 30 June 2024).²⁵
- 5.27 The ADN cautioned that the definition of 'third party' needs to be decoupled from proposals to lower the disclosure threshold, to avoid capturing too many organisations with limited involvement in elections:
- At the moment, the definition of 'third party' is linked to the disclosure threshold. If we lower the disclosure threshold significantly to \$1,000, as is proposed—we actually support a lower disclosure threshold—it must be decoupled from the definition of 'third party'; otherwise you wind up with entities that are barely participating in elections becoming categorised as third parties, and we don't think that's a good outcome.²⁶
- 5.28 The HRLC agreed with the ADN's views to decouple the definition of 'third party' and suggested introducing a new threshold 'for becoming a third party if the disclosure threshold is lowered across the board'.²⁷

Definition of associated entity

- 5.29 Some submitters believed it was also important to ensure that that associated entities are included in reforms to the electoral finance system, and recommended that the definition also be amended to include these entities.
- 5.30 The HRLC were of the view that an 'associated entity's expenditure should be counted toward the candidate or political party's electoral expenditure, as is done in

²² *Commonwealth Electoral Act 1918*, section 287F.

²³ Human Rights Law Centre, *Submission 418*, p. 13.

²⁴ *Commonwealth Electoral Act 1918*, section 287AB (3).

²⁵ *Commonwealth Electoral Act 1918*, section 287; Australian Electoral Commission, Disclosure threshold, viewed 1 September 2023, <https://www.aec.gov.au/parties_and_representatives/public_funding/threshold.htm>

²⁶ Australian Democracy Network, *Committee Hansard*, 23 June 2023, p. 2.

²⁷ Human Rights Law Centre, *Committee Hansard*, 23 June 2023, p. 3.

Queensland, to prevent the proliferation of associated entities and circumvention of the spending cap.²⁸ They suggested amending the definition:

...the definition of “associated entity” in s. 287H of *the Commonwealth Electoral Act 1918* (Cth) (the Electoral Act) needs to be amended to capture only those entities that genuinely operate for the benefit of a political party — not those that simply have voting rights as members. Having voting rights within a political party is too tenuous a link to suggest their election spending should be treated the same.²⁹

5.31 The HRLC added that ‘the cap should be extended to donations to entities that coordinate with, or operate to a significant extent to support or oppose, a political party or candidate.’³⁰

5.32 The Centre suggested using the definition of associated entities in the *Electoral Funding Act 2018* (NSW) as a potential model so as not to circumvent any expenditure cap:

...to account for entities which operate ‘solely for the benefit of one or more registered parties or elected members or is controlled by one or more registered political parties’. Expenditure by associated entities so-defined should be captured for the associated party’s expenditure cap. Associated entities previously captured by the Commonwealth’s broad definition should now be subject to the third party expenditure cap and closely monitored for violations of the anti-circumvention offence.³¹

5.33 They suggest that anti-circumvention offence should be inserted into the Act and apply to all parties involved in the electoral process:

Such an offence would penalise any attempt by a regulated entity to exceed their cap in concert with another entity. This provision would be particularly important with a narrower definition of associated entity than is currently maintained at the Commonwealth level. As considered by Edelman J in *Unions NSW v New South Wales*, such an offence, if it is to be constitutional, must extend to all actors attempting to circumvent their applicable cap – not only third parties.³²

5.34 Ms Nicolette Boele, an independent candidate in the 2022 election, agreed that any campaign expenditure caps should be accompanied by ‘anti-circumvention measures, so that entities cannot just create new organisations and spend through them.’³³

²⁸ Human Rights Law Centre, *Submission 418*, p. 8.

²⁹ Human Rights Law Centre, *Submission 418*, p. 8.

³⁰ Human Rights Law Centre, *Submission 418*, p. 8.

³¹ Centre for Public Integrity, *Submission 351*, p. 14.

³² Centre for Public Integrity, *Submission 351*, p. 17.

³³ Ms Nicolette Boele, Private capacity, *Submission 364*, p. 12.

- 5.35 As noted above, submitters were of the view that the Queensland and New South Wales legislations provided more comprehensive definitions of what constituted an associated entity, particularly as it relates to their electoral expenditure. Electoral Acts in other jurisdictions such as South Australia and Victoria also have expanded definitions compared to the federal Electoral Act which include associated entities' and third parties' electoral expenditure.
- 5.36 Under the *Electoral Act 1992* (Qld) associated entities are treated as part of a registered political party or a candidate in an election. The Queensland Electoral Act defines associated entity as one that is controlled by either a party, group of endorsed candidates of the party, or candidate; or operates wholly, or to a significant extent, for the benefit of the party or a group of endorsed candidates of the party, or candidate in the election, or operates for the dominant purpose of promoting the party in elections, or promoting a group of endorsed candidates of the party, or candidate in an election.³⁴ Electoral expenditure incurred by a third party is electoral expenditure if the dominant purpose for which the expenditure is incurred is a campaign purpose.³⁵
- 5.37 The *Electoral Funding Act 2018* (NSW) defines associated entity as a corporation or another entity that operates solely for the benefit of one or more registered parties or elected members.³⁶ Electoral expenditure includes expenditure that is incurred for the dominant purpose of promoting or opposing a party or the election of a candidate or candidates or influencing the voting at an election.³⁷
- 5.38 The definition in the *Electoral Act 1985* (SA) includes associated entities that have a financial interest in a registered political party:
- an entity that is controlled by 1 or more registered political parties; or
 - an entity that operates wholly, or to a significant extent, for the benefit of 1 or more registered political parties; or
 - an entity that is a financial member of a registered political party; or
 - an entity on whose behalf another person is a financial member of a registered political party; or
 - an entity that has voting rights in a registered political party; or
 - an entity on whose behalf another person has voting rights in a registered political party.
- 5.39 Political expenditure also has a broader definition in the South Australian Electoral Act including:

³⁴ *Electoral Act 1992* (Qld), s. 204-204(A).

³⁵ *Electoral Act 1992* (Qld), s. 199.

³⁶ *Electoral Funding Act 2018* (NSW), s. 4.

³⁷ *Electoral Funding Act 2018* (NSW), s. 7.

- for the purposes of the public expression of views on a political party, a candidate in an election or a member of the House of Assembly or the Legislative Council by any means; or
- for the purposes of the public expression of views on an issue in an election by any means; or
- for the purposes of the production of any political material (not being material referred to in paragraph (a) or (b)) that is required under section 112, 115A or 116 to include the name and address of the author of the material or of the person who takes responsibility for the publication or authorisation of the material (as the case requires); or
- for the purposes of the carrying out of an opinion poll, or other research, relating to an election or the voting intentions of electors; or
- for any other prescribed purpose.³⁸

5.40 An associated entity is deemed to be a third party under South Australian legislation once it has incurred political expenditure of more than \$10,000 (indexed) during the designated period of the election.³⁹

5.41 The *Electoral Act 2002* (VIC) contains the same definition of associated entity as the South Australian Electoral Act.⁴⁰ Political expenditure under the Victorian Electoral Act ‘means any expenditure for the dominant purpose of directing how a person should vote at an election, by promoting or opposing the election of any candidate at the election; or a registered political party; or an elected member.’⁴¹

5.42 Political expenditure for associated entities and third-party campaigners ‘occurs during the election campaigning period outside the election campaign when information refers to a candidate or registered political party and how a person should vote.’⁴²

5.43 Third parties also highlighted several other areas in which they believed reform was required, including:

- not supporting real-time disclosure for third parties or significant third parties⁴³
- capping membership fees, levies and subscription fees to political parties⁴⁴

³⁸ *Electoral Act 1985* (SA), s. 130A.

³⁹ Electoral Commission South Australia, *Part 13A Electoral Act 1985 (SA), Funding, Disclosure & Registration, Associated Entities*, p. 13.

⁴⁰ *Electoral Act 2002* (VIC), s. 206.

⁴¹ *Electoral Act 2002* (VIC), s. 206.

⁴² Victorian Electoral Commission, ‘Funding glossary’, viewed 14 September 2023, <<https://www.vec.vic.gov.au/candidates-and-parties/funding/funding-glossary#political-expenditure>>

⁴³ Human Rights Law Centre, *Committee Hansard*, 23 June 2023, p. 3.

⁴⁴ Human Rights Law Centre, *Committee Hansard*, 23 June 2023, p. 1.

- encouraging lobbying reform and limiting the influence of ‘big money’ – particularly on the tobacco, fossil fuels and gambling industries⁴⁵
- addressing ‘dark money’ in the political system.⁴⁶

Committee comment

- 5.44 Electoral finance is one of the most complicated components of Australia’s electoral system. The Committee, in its recommendations in both its interim report and this final report on the 2022 election, has prioritised the key principles of increasing transparency around donations, and curbing the potentially corrupting influence of big money on elections.
- 5.45 In its interim report the Committee recommended that ‘the Australian Government lower the donation disclosure threshold to \$1,000.’⁴⁷ Many charitable organisations that provided evidence to the inquiry were supportive of lowering the donation disclosure threshold.
- 5.46 The Committee notes that independent MPs have publicly stated that they found it relatively simple to set up a website to disclose their donations in real time with very little administrative burden.
- 5.47 The Committee has given careful consideration to the additional evidence provided by charities on the financial and resource implications lowering the donation disclosure threshold could potentially have on their work, in particular to the concern that a lower threshold could place an additional administrative burden on their advocacy work. In this context, the Committee reiterates its recommendation from this inquiry’s interim report that the Government should ensure that the AEC is appropriately resourced to support, implement and enforce these reforms.
- 5.48 The Committee also recommended that ‘the Australian Government introduce expenditure (also known as spending) caps for federal elections.’⁴⁸ The Committee continues to support the introduction of expenditure caps for federal elections and is of the view that they should apply to associated entities and third parties in a proportionate way.
- 5.49 The Committee also recommended the introduction of donation caps. The Committee acknowledges that donation caps have the potential to add further complexity to the operating environment of participants in the electoral system. It is not the Committee’s intention to stifle civil society voices.

⁴⁵ Australian Democracy Network, *Committee Hansard*, 23 June 2023, p. 7; Human Rights Law Centre, *Committee Hansard*, 23 June 2023, p. 7.

⁴⁶ Australian Democracy Network, *Committee Hansard*, 23 June 2023, p. 2.

⁴⁷ Joint Standing Committee on Electoral Matters, *Conduct of the 2022 Federal election and other matters, Interim Report*, June 2023, p. 65.

⁴⁸ Joint Standing Committee on Electoral Matters, *Conduct of the 2022 Federal election and other matters, Interim Report*, June 2023, p. 67.

- 5.50 As much as possible, there should be clarity and consistency in how political donations and electoral expenditure are regulated, with all involved in the electoral process being treated as fairly as possible. Creating multiple sets of rules for separate groups will inevitably lead to a more complex regulatory environment and raise the real possibility of different rules being used to circumvent a regulatory regime.
- 5.51 However, the existing regulatory environment for charities registered with the Australian Charities and Not-for-profits Commission (ACNC) provides adequate safeguards. For this reason, the Committee recommends that charities regulated under the ACNC should be included in the proposed caps on electoral expenditure, but not proposed donation caps.
- 5.52 For third parties and significant third parties, a large component of the confusion in electoral donations and expenditure is because the definitions of 'electoral matter' and 'electoral expenditure' are not as clear as they should be, and were broadened considerably in the 2021 amendments to the Electoral Act. There is also variation around how terms are defined and included in electoral systems at the federal and state/territory levels. As noted in the Committee's interim report, this has relevance in practical terms to regulations around spending and communication and the applications of these terms is not always clearly explained or well understood.
- 5.53 The Committee is therefore recommending that the Government revise the definitions of those terms, with a view to ensuring that they capture electoral matter and expenditure specifically related to influencing how people vote and supporting or opposing specific political parties or candidates. The establishment of a Commonwealth Campaign Account for electoral spending, as recommended in the Committee's interim report, would provide clarity in this way: expenditure from this account is, by definition, electoral expenditure and therefore subject to the recommended expenditure caps.
- 5.54 The Committee is cognisant that currently the legislation captures some third parties who have very little involvement in the electoral process. There is a disproportionate administrative burden placed on small third parties who play a minor role in the electoral process in complying with the Electoral Act's requirements and therefore third parties should be defined as people or entities that have incurred over \$20,000 in electoral expenditure in a financial year.
- 5.55 Associated entities should not be used as a way of circumventing electoral finance laws, and must be included in any reforms to the electoral finance system, to ensure that there is broadly a consistent approach taken across various forms of entities.
- 5.56 The Committee appreciates the evidence from not-for-profit organisations and charities that the significant third party provisions set out in the EFDR Act and the current definition of 'third party' have negatively impacted charitable organisations.
- 5.57 The Committee reiterates its comment from the interim report that, 'Given the need for legislation, and the time involved in ensuring that any changes can be clearly understood in the community, action should be taken now, including any necessary

further consultation, and that any actions be reviewed following the next federal election.⁴⁹

Recommendation 13

5.58 The Committee recommends that charities registered under the Australian Charities and Not-for-profits Commission be exempt from the donation caps recommended in the Committee's interim report into the 2022 federal election, but that these caps be applied to political parties and candidates, along with associated entities, other third parties and significant third parties.

Recommendation 14

5.59 The Committee recommends that the Australian Government amend the *Commonwealth Electoral Act 1918* to provide clarity around the following terms:

- 'electoral matter', which relates to material specifically supporting or opposing one or more parties or candidates in a federal election, and which carries the appropriate authorisation;
- 'electoral expenditure', to ensure that only expenditure for authorised electoral matter, funded out of a Commonwealth Campaign Account, is captured;
- 'third party', to clarify that an organisation qualifies as a third party if 'the amount of electoral expenditure incurred by or with the authority of the person or entity during the financial year is more than \$20,000', noting the definition of 'electoral expenditure' above.

Media blackout laws

5.60 The *Broadcasting Services Act 1992* (Broadcasting Services Act) sets out mandatory election blackout rules for licenced commercial, community, subscription and narrowcast television and radio broadcasters.⁵⁰ Under these laws no election ads are to be broadcast from the Wednesday before polling day until the close of the poll on the polling day.

5.61 The blackout rules only apply to a broadcaster's television and radio services licensed under the Broadcasting Services Act, and do not apply to any election advertising in print, on a broadcaster's streaming or catch-up service, on social media, or any other website or online platform.⁵¹

⁴⁹ Joint Standing Committee on Electoral Matters, *Conduct of the 2022 Federal election and other matters, Interim Report*, June 2023, p. 65.

⁵⁰ Australian Communications and Media Authority, *Submission 325*, p. 1.

⁵¹ Australian Communications and Media Authority, *Submission 325*, p. 2.

5.62 ACMA noted that, because these rules only apply to broadcasters' television and radio services, Australians continued to receive election advertising during media blackout periods, and highlighted that:

This caused some confusion for viewers during the 2022 federal election, with audiences either assuming the material they had seen breached the rules or expecting the blackout rules to cover a broader range of services than they currently do.⁵²

5.63 The Broadcasting Services Act passed prior to widespread internet access and the subsequent rise of new technology with communication platforms including websites, social media, streaming services, robocalls and SMS/MMS notifications. There are now many more options for consuming information and entertainment, and political advertising no longer exists only in print, on television and radio.⁵³

5.64 The scale of the shift can be seen in research from The Australia Institute, cited by Free TV, which found that, '[a] total of \$12.5 million was spent to run 26,945 political ads on Facebook and Instagram by parties and candidates over the two months leading up to May 21 [2022]'.⁵⁴

5.65 For the 2022 Federal Election, ACMA received 34 complaints alleging election ads were shown during the blackout period. The majority of these complaints were the result of complainants seeing an election ad while streaming content online, such as via catch-up services or on-demand apps. Ultimately, none of the relevant broadcasters were found to have broadcast the material which was the subject of complaint.⁵⁵

5.66 Free TV, who represent Australia's commercial TV networks, highlighted that the prevalence of streaming and catch-up services means that existing blackout laws are irrelevant and create confusion, and argued for 'regulatory consistency, in order to maintain transparency and trust with audiences'.⁵⁶

5.67 Free TV, like ACMA, expressed their concern that different regulation for different forms of advertising during the 2022 federal election resulted in confusion for viewers.⁵⁷ Another concern was that applying these laws to linear broadcasting were no longer 'relevant or effective, and unfairly disadvantaged commercial broadcasters' and that 'this regulatory imbalance has a commercial and competitive impact on commercial broadcasters'.⁵⁸

⁵² Australian Communications and Media Authority, *Submission 325*, p. 2.

⁵³ Parliament of Australia, *Inquiry into and Report on the conduct of the 2019 federal election and matters related thereto*.

⁵⁴ Free TV, *Submission 362*, p. 4.

⁵⁵ Australian Communications and Media Authority, *Submission 325*, p. 2.

⁵⁶ Free TV, *Submission 362*, p. 4.

⁵⁷ Free TV, *Submission 362*, p. 4., Ms Bridget Fair, Chief Executive Officer, Free TV Australia, *Committee Hansard*, Canberra, 18 October 2022, p. 25.

⁵⁸ Free TV, *Submission 362*, p. 2.

Bringing consistency to the blackout laws

- 5.68 Given this lack of consistency, two main solutions have been suggested: to extend the blackout laws to all media platforms or to remove the blackout period for all media platforms. Either of these approaches would see the same rules apply to broadcast TV and catchup services, and to social media platforms and traditional media outlets.
- 5.69 Some witnesses argued that the blackout rules should be extended to capture all media platforms.⁵⁹ This would create consistency⁶⁰ and level the playing field.⁶¹
- 5.70 Commercial Radio & Audio noted that the blackout rules were originally introduced to prevent broadcasters from influencing voters immediately prior to an election and that there was little value in limiting it to just television and radio:
- In a world where so much information is provided from other sources there is no logic for maintaining a blackout in relation to broadcasters while online platforms are free to advertise as they like.⁶²
- 5.71 Similarly, the University of Canberra's News and Media Research Centre (NMRC) stated that:
- ...politics needs to get into step with the changing media environment and having rules just for a newspaper or a television station is not the full picture.⁶³
- 5.72 The NMRC therefore argued that all platforms should be captured by the blackout rules and that it is 'crazy' that it only applies to broadcast media.⁶⁴
- 5.73 The Australian Labor Party and the NSW Nationals were both supportive of expanding the blackout to capture all paid advertising.⁶⁵
- 5.74 Alternatively, other witnesses argued that the blackout period should be removed altogether. Free TV noted that, not only are the blackout rules 'no longer serving a purpose', but that there has been a rise in pre-poll voting, with over 30 per cent of voters in the 2022 election casting their vote prior to the election blackout period commencing. For this reason, they recommended that the blackout rules be

⁵⁹ Dr Caroline Fisher, Associate Professor of Communication, News and Media Research Centre, University of Canberra, *Committee Hansard* 18 October 2022, p. 24., Dr Kerry McCallum, Director, News and Media Research Centre, University of Canberra, *Committee Hansard* 18 October 2022, p. 24

⁶⁰ Ms Creina Chapman, Deputy Chair and Chief Executive Officer, Australian Communications and Media Authority, *Committee Hansard* 18 October 2022, p. 14.

⁶¹ Digital Industry Group Inc., *Submission 378*, p. 4.

⁶² Commercial Radio & Audio, *Submission 358*, p. 3.

⁶³ Dr Kerry McCallum, Director, News and Media Research Centre, University of Canberra, *Committee Hansard* 18 October 2022, p. 24.

⁶⁴ Dr Caroline Fisher, Associate Professor of Communication, News and Media Research Centre, University of Canberra, *Committee Hansard* 18 October 2022, p. 24.

⁶⁵ Mr Paul Erickson, National Secretary, Australian Labor Party, Mr Joe Lundy, State Director, NSW Nationals, *Committee Hansard* 3 November 2022, p. 27.

removed.⁶⁶ This could be achieved by the repeal of the definition ‘relevant period’ from clause 1 of Schedule 2 to the Broadcasting Services Act.⁶⁷

5.75 Free TV expressed a number of concerns relating to the blackout laws, one being that because these rules do not extend across all platforms, political parties and candidates transfer their advertising (once the blackout period takes effect) from television to other digital media platforms that are not regulated.⁶⁸

5.76 However, the NMRC commented that if blackout rules were to be discarded because they were no longer relevant it would become ‘open slather’ and this would be ‘really dangerous’:

If the blackout rule was discarded, then there should be some kind of guard rails around how much advertising is permitted in those last days instead of this bombardment, micro targeting and splintering of information to different people.⁶⁹

5.77 Free TV were sceptical about the effectiveness of broadening the legislation to include digital services:

...the alternative suggestion of introducing election blackout regulation to digital services would not significantly contribute to meeting the objectives of the election blackout period.⁷⁰

Committee comment

5.78 Australia’s political blackout laws were legislated at a time where the media landscape was significantly smaller. With the increase in and advancement of technology there is a clear need for reform of political blackout laws. Australians are exposed to political communication through websites, social media, streaming services, robocalls and SMS/MMS notifications. There must be consistency in treatment of the various platforms and media outlets. The blackout period is clearly ineffectual if it doesn’t apply to all communication channels.

5.79 Australians are also increasingly voting early with ‘more than 7.9 million of the 15.5 million votes cast’⁷¹ prior to election day in the 2022 election, meaning many have already cast their vote before the three day blackout comes into effect.

⁶⁶ Ms Bridget Fair, Chief Executive Officer, Free TV Australia, *Committee Hansard*, Canberra, 18 October 2022, p. 25.

⁶⁷ Free TV, *Submission 362*, p. 2.

⁶⁸ Free TV, *Submission 362*, p. 4.

⁶⁹ Dr Caroline Fisher, Associate Professor of Communication, News and Media Research Centre, University of Canberra, *Committee Hansard* 18 October 2022, p. 24.

⁷⁰ Free TV, *Submission 362*, p. 4.

⁷¹ Australian Electoral Commission, *Submission 330*, p. 27.

- 5.80 The Committee notes that the application of the blackout to online media has been an ongoing issue since its report into the 2016 federal election, and that this Committee has consistently found that the rules lack consistency.⁷²
- 5.81 The intent of a blackout period is to support voters being able to make a choice that is not unduly influenced by the biggest or most persuasive advertising spend. However, for all the reasons listed above, this is not what the current blackout period is providing for.
- 5.82 The Committee notes work is underway from numerous bodies, including the Australian Communications and Media Authority, the Senate Select Committee on Foreign Interference through Social Media and the Australian Electoral Commission to address misinformation and disinformation across broadcasting, radio communications and online content.
- 5.83 In its interim report the Committee also addressed the challenge of ensuring voters can trust the information they receive in elections and recommended the Government introduce truth in political advertising legislation at the federal level. It also recommended spending caps, which would play a role in limiting the ability of parties or candidates to spend on campaign advertising.
- 5.84 Given the blackout period does not apply to all communication channels and action is being taken to address misinformation and disinformation, the advertising blackout period is consequently no longer relevant.

Recommendation 15

- 5.85 The Committee recommends that contingent on the Australian Government introducing truth in political advertising laws, that the media blackout, known as the relevant period in the *Broadcasting Services Act 1992*, be removed.**

Fixed terms for federal elections

- 5.86 In its review of the 2019 federal election the Committee recommended the need to consider four-year terms for the House of Representatives, to align the Commonwealth Parliament with the State Parliaments, and eight-year terms for the Senate.⁷³
- 5.87 The Committee heard from some submitters who were broadly in favour of fixed terms, and others who were clearly not supportive of any change to current arrangements. The Committee considers that a more detailed inquiry would be needed to fully assess the views in the community and seek expert advice. To assist in any future consideration of this issue, the Committee has agreed to present the

⁷² Parliament of Australia, *Inquiry into and Report on the conduct of the 2019 federal election and matters related thereto*.

⁷³ Parliament of Australia, *Inquiry into and Report on the conduct of the 2019 federal election and matters related thereto*.

evidence received, but making no specific conclusions about the extent of support, or likelihood of success.

5.88 Any future investigation would need to include consideration of how any change might be achieved, and to what extent there would need to be constitutional reform, and whether a referendum would be appropriate. Submitters had a range of views as to the extent of change needed, and how it might be accomplished.

5.89 Consideration might also include views on the impact of fixed terms to length and cost of campaigns, as well as on reducing the advantages currently experienced by incumbent governments. The Australian Greens noted that:

The absence of fixed terms puts the timing of elections in the control of the government, providing significant strategic advantages to those who know when it will be called, including pre-planning, booking advertising space and venues...⁷⁴

5.90 The Australian Greens also noted that fixed terms might enable the Australian Electoral Commission (AEC) to plan more efficiently for polling places which would include securing accessible venues, ensure printed materials are completed in time, as well as recruiting for the intake of temporary employees to assist with elections. The Greens noted their continued support for the adoption of fixed three-year terms for the House of Representatives, with aligned six-year terms for Senators.⁷⁵

5.91 The NSW Nationals concurred that fixed terms could provide greater certainty, particularly around campaign finance and expenditure:

If the Committee consider reforms to campaign finance to be important, it must also consider recommending fixed terms for the Commonwealth Parliament. Apart from providing certainty to the electorate, this would allow explicit time periods for matters considered above and provide political participants the opportunity to plan to accommodate reforms.⁷⁶

5.92 The Labor Party stated it was also in 'favour of fixed four-year terms in the federal arena.'⁷⁷

5.93 The Real Republic agreed that establishing 'fixed four-year and synchronised terms for both the House of Representatives and Senate' would help provide certainty around campaign costs. They elaborated on what they believed were several benefits for proposing fixed terms:

- longer terms for governments would deliver cost savings to taxpayers by having fewer elections as well as better decision-making by governments and more certainty for the community, especially business and investors

⁷⁴ The Australian Greens, *Submission 432*, p. 8.

⁷⁵ The Australian Greens, *Submission 432*, p. 12.

⁷⁶ The National Party of Australia - NSW, *Submission 399*, p. 4.

⁷⁷ Labor Party, *Committee Hansard*, 3 November 2022, p. 29.

- no excuse for lengthy election campaigns as all participants, especially the AEC, would be aware of the election date and could plan accordingly
 - a formal campaign period of a specific and appropriate number of weeks – even as short as a fortnight – could be legislated with designated activities prohibited outside the formal period
 - fewer elections and shorter campaigns would also mean less call on political parties and related entities to undertake fundraising.⁷⁸
- 5.94 Dr Monique Ryan MP stated that she had received anecdotal evidence from constituents who were in favour of ‘fixed terms with set election dates and a finite election period.’⁷⁹
- 5.95 The Australia Institute recommended three-year fixed terms, and drew on analysis of the fixed terms in Victoria and South Australia which highlighted that these provisions made blocking supply a ‘much less attractive option’.⁸⁰
- 5.96 While not providing any views on a specific length of term, Mr Ben Raue and Dr Brendan Long were both supportive of having fixed terms.⁸¹
- 5.97 The Northern Territory Electoral Commission commented on the benefits of a fixed-term election timetable, highlighting that it provided:
- ... surety in terms of when we need resources on the ground and in terms of dealing with the Aboriginal Interpreter Services and other local assistance. We can make arrangements way before the election in that regard, and there's more surety in terms of letting people know, 'Well, this is the period that we will need you'...⁸²

AEC workforce for elections

- 5.98 The AEC’s regular workforce is engaged under the *Public Service Act 1999* (Cth). For the purposes of conducting an election the AEC augments its existing workforce with temporary staff in accordance with section 35 of the Electoral Act. The AEC attracted and selected almost 105,000 temporary staff to deliver the 2022 federal election; the terms and conditions of their employment are outlined in a Collective Determination.⁸³
- 5.99 The Community and Public Sector Union (CPSU) undertook a survey of its members after the election and provided a brief summary of its results in their submission. The

⁷⁸ The Real Republic, *Submission 401*, p. 13.

⁷⁹ Dr Monique Ryan MP, *Submission 414*, p. 7.

⁸⁰ The Australia Institute, *Submission 412*, p. 54.

⁸¹ Mr Ben Raue, *Committee Hansard*, 23 June 2023, p. 24. Dr Brendan Long, *Committee Hansard*, 23 June 2023, p. 24.

⁸² Northern Territory Electoral Commission, *Committee Hansard*, 23 November 2022, p. 7.

⁸³ Australian Electoral Commission, *Annual Report 2021-22*, p. 70, *Commonwealth Electoral Act 1918*, *Collective Determination 2023/3*, 25 August 2023.

CPSU stated that its members commented on a number of issues about AEC's resources during the election including:

- unsustainable workloads
- under-resourced staffing at electorate booths, especially in regional and remote electorates
- inadequate staffing levels before and after elections causing ongoing problems by reducing the corporate knowledge and capability of the AEC to run future elections
- unsafe workloads, chaotic processes, inexperienced temporary staff, and inadequate training
- inadequate pay and conditions.⁸⁴

5.100 The CPSU argued that the AEC should be well-resourced and properly staffed before, during and after federal elections in order to 'retain an experienced workforce with the corporate knowledge needed to continue to deliver elections to a world-class standard into the future.'⁸⁵

5.101 Dr Brett Biddington AM, employed as a subject matter expert during the 2022 federal election, provided some feedback on his experience working as a temporary staff member for the AEC. Dr Biddington believed that the online training provided by the AEC required for the role was 'informative, clear and well-produced'⁸⁶ but suggested that the face-to-face training could have benefitted from improvement:

The face-to-face training that I helped to deliver was seriously compromised, in part for reasons beyond the AEC's control – especially with training staff and polling place staff reporting sick, mainly with COVID or flu, at short notice. This created enormous daily, sometimes hourly, challenges for the training operations staff.⁸⁷

5.102 Dr Biddington suggested that a greater explanation and practical experience with the more technical areas of the electoral process and an update to the training area would be beneficial.⁸⁸ He made three recommendations:

- recast the script for training courses by adding context and rationale and using the active voice and, where possible, the pronouns of inclusion and commitment
- invest in training areas that are fit for purpose – such as rooms at a university or TAFE – specifically set up for adult education with relevant facilities on tap
- revisit the selection criteria for trainers – to add a criterion about election experience/exposure and teaching/training experience as well.⁸⁹

⁸⁴ Community and Public Sector Union, *Submission 389*, pp. 1-3.

⁸⁵ Community and Public Sector Union, *Submission 389*, p. 3.

⁸⁶ Dr Brett Biddington AM, *Private capacity, Submission 14*, p. 1.

⁸⁷ Dr Brett Biddington AM, *Private capacity, Submission 14*, p. 2.

⁸⁸ Dr Brett Biddington AM, *Private capacity, Submission 14*, pp. 3-5.

⁸⁹ Dr Brett Biddington AM, *Private capacity, Submission 14*, p. 6.

5.103 Mr Richard Lenn, who also worked as a casual employee of the AEC, suggested 'employing a single polling place manager at multi-division premises' believing it would simplify 'staffing, administration and many logistical aspects of managing the venue.'⁹⁰ Mr Lenn also proposed the 'establishment of a national permanent part-time/contingent workforce of expert and experienced election officials.'⁹¹

5.104 The AEC outlined several challenges they faced in attracting and maintaining a workforce for the 2022 election: low pay rates, mobility, training, short term employment, and a challenging working environment.

5.105 In comparison with State and Territory electoral commissions, the pay rates for election staff at the federal level are 'at the very bottom.'⁹² Technical staff, such as interpreters, were employed as temporary workers and not specifically recruited as interpreters, which added to the challenge.⁹³

5.106 The AEC noted that it's difficult for them to attract the size of workforce required in a four-week period – '105,000 people, at the last election, to fill 121,000 positions' – and the complexities in moving people to the right places.⁹⁴

5.107 The AEC also noted that their electoral staff worked in a multifaceted environment which has become more polarised:

The other thing is that we are asking the staff in the modern era to go into a very complex area of service delivery that's becoming highly litigious. We saw at the last election, for the first time, people coming into the polling place and recording interactions with our staff, shouting at our staff—some fairly bizarre behaviour that we haven't seen previously. The work is also complex, and, quite frankly, in places it can be quite hard too. We're putting people in, effectively, disused factories and asking them to do hard work for a period of time.⁹⁵

5.108 The AEC suggested addressing the pay issue through seeking 'tax-free status for those workers, just like the Army Reserve.'⁹⁶ They also suggested employing Officers in Charge (OIC) of polling places and polling place liaison officers on a more permanent basis:

The second thing, though, and probably this is even more important, is that for members of the temporary workforce who are holding positions of responsibility—OICs of polling places, polling place liaison officers and others—we would like to have them attached to us on a more regular basis so we can give them better training, more assessment, more tools to assist them in doing the job. What that would look like I don't know, but a few days training maximum

⁹⁰ Mr Richard Lenn, *Private capacity, Submission 355*, p. 4.

⁹¹ Mr Richard Lenn, *Private capacity, Submission 355*, p. 5.

⁹² Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 2.

⁹³ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 10.

⁹⁴ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 2.

⁹⁵ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 2.

⁹⁶ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 2.

in each electoral cycle, where we could run assessment centres and give them some information, would make the process better. I think it would even speed up the count. It would lead to a whole range of issues where it's a better election.⁹⁷

Committee comment

- 5.109 There is no doubt that employing, training, and deploying a large (and mostly temporary) workforce in a relatively short period of time is extremely complex. The environment in which AEC employees work is becoming more challenging and staff are being exposed to environments which are becoming more polarised. The AEC does an outstanding job with the resources that it has available to them and the Committee recognises the extremely hard work that the AEC's staff, permanent and temporary, do before, during and after each election.
- 5.110 It is important that we continue to look at opportunities to strengthen the electoral workforce to make sure that they are suitably trained to make the process better. The Committee therefore agrees with the suggestion of establishing senior AEC staff on a more permanent basis. The Committee agrees that this would assist with maintaining an experienced electoral management workforce with the corporate knowledge required to continue to deliver high quality electoral services to the Australian population.

Recommendation 16

- 5.111 The Committee recommends that the Australian Government ensure that the Australian Electoral Commission is resourced to employ staff at the appropriate level to facilitate elections to the high standard expected by the Australian community.**

Recommendation 17

- 5.112 The Committee recommends that the Australian Government amend section 35 of the *Commonwealth Electoral Act 1918* to enable the Australian Electoral Commission to employ senior electoral officers on a more permanent basis.**
- 5.113 Australia has one of the most multicultural communities in the world. Over 30 percent of Australians were born overseas. According to the 2021 census, 22 percent of Australians reported using a language other than English at home. It is vitally important to ensure that all Australians are engaged in the electoral process, particularly during elections.
- 5.114 The Electoral Commission needs to be able to assign teams of qualified interpreters for electorates based on the target communities with the necessary linguistic skills,

⁹⁷ Australian Electoral Commission, *Committee Hansard*, 3 November 2022, p. 2.

subject-matter expertise, and cultural competency. Census and ABS data is key to informing this service, including by considering the size of language communities.

Recommendation 18

5.115 The Committee recommends that the Australian Electoral Commission expand its recruitment drive to employ staff for selected polling places who can speak the targeted language(s) for those communities.

Section 44 of the Australian Constitution

5.116 Australia's Constitution provides both qualifications and disqualifications for citizens to nominate for election (sections 34 and 44 respectively). Submitters to the inquiry advocated for reforming section 44 of the Australian Constitution⁹⁸ believing that it no longer reflects Australian community standards.

5.117 Professor George Williams provided several reasons as to why navigating section 44 is difficult:

- it affects a large percentage of the Australian population due to its open-ended language
- drafted in the 1890s the section is technical, written in arcane language, and especially problematic when it comes to whether a person is a citizen of a foreign power
- tracking down every possible ground of citizenship can prove an impossible task. It places a formidable barrier in the way of anyone standing for Parliament with foreign ancestry
- the High Court has held that a person is struck out if they are completely unaware that another country has conferred them with citizenship
- the High Court has also set the point of nomination as the cut-off for compliance.⁹⁹

5.118 Professor Williams and Mr Robert Irvine recommended amending the clause:

...by inserting the words 'until the Parliament otherwise provides' at the start of s 44. This would provide a means for Parliament to modernise the grounds of disqualification, and to continue to update them is required in line with community standards.¹⁰⁰

5.119 Dr Apostolos Mavroudis and Dr Ryan MP also agreed with the view that the section no longer reflected Australia's multicultural society. Noting the concerns raised by

⁹⁸ Section 44(i) of the Australian Constitution sets out that any person who 'Is under any acknowledgement of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or citizen of a foreign power...shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.'

⁹⁹ Professor George Williams AO, *Submission 7*, pp. 4-5.

¹⁰⁰ Professor George Williams AO, *Submission 7*, p. 5; Mr Robert Irvine, Private capacity, *Submission 285*, p. 1.

Professor Williams, Dr Ryan MP added that this would continue to be an issue ‘given the number of Australians born overseas or from immigrant families’ and suggested removing section 44(1) from the Constitution.¹⁰¹

- 5.120 The Australia Institute held the view that most clauses in section 44 were problematic and recommended that it ‘should be revised by a non-partisan commission and a more limited, modern and clearly-drafted amendment should be put to voters at a referendum.’¹⁰²
- 5.121 Mr Martin Gordon also believed that the language of section 44 was archaic and suggested that clause 44(v) in particular (any person who has direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth) should be addressed.¹⁰³
- 5.122 Professor Williams noted that subsection 44(v) has the potential to preclude small-business people, as beneficiaries of Commonwealth programs such as for apprenticeships, and public servants from running for parliament.¹⁰⁴
- 5.123 While not holding a particular view on amending or removing the clause, the Liberal Party believed that the section 44 qualification checklists could be ‘clearer, better structured, more thorough, and more user-friendly’ and suggested adopting the revised draft qualification checklist which was considered by the Committee in the 46th Parliament.¹⁰⁵

Committee comment

- 5.124 The Committee undertook an extensive inquiry into the impact of section 44 on Australian democracy during the 45th Parliament.¹⁰⁶ That report highlighted that potentially ‘over half of all Australians today would have barriers to nomination under section 44.’
- 5.125 According to Australian Bureau of Statistics’ (ABS) 2021 census data ‘the proportion of Australian residents that are born overseas (first generation) or have a parent born overseas (second generation) has moved above 50 per cent (51.5 per cent).’¹⁰⁷

¹⁰¹ Dr Apostolos Mavroudis, Private capacity, *Submission 275*, p. 1; Dr Monique Ryan MP, *Submission 414*, p. 5.

¹⁰² The Australia Institute, *Submission 412*, p. 4; The Australia Institute, Discussion paper, *Democracy Agenda for the 47th Parliament, Options for reform*, April 2022, pp. 34-35.

¹⁰³ Mr Martin Gordon, *Private capacity, Submission 293*, p. 2.

¹⁰⁴ Professor George Williams AO, *Committee Hansard*, 17 October 2022, p. 18.

¹⁰⁵ Liberal Party, *Submission 382*, p. 10.

¹⁰⁶ Joint Standing Committee on Electoral Matters, *Excluded. The impact of section 44 on Australian democracy*, May 2018.

¹⁰⁷ Australian Bureau of Statistics, ‘Snapshot of Australia, A picture of the economic, social and cultural make-up of Australia on Census Night, 10 August 2021’, viewed 3 August 2023, <<https://www.abs.gov.au/statistics/labour/employment-and-unemployment/employment-and-earnings-public-sector-australia/latest-release>>

- 5.126 The ABS data also shows that as at June 2022, there is an aggregate of 2,160,000 employees in the Commonwealth, state/territory, and local government sectors.¹⁰⁸
- 5.127 The Committee confirms the conclusion it recommended as part of its previous inquiry into section 44; that it ‘remains a potential deterrent for many Australians who are considering actively participating in politics.’¹⁰⁹
- 5.128 The Committee urges the Government to undertake a further examination of section 44 with a view to prepare a proposed referendum question.

Recommendation 19

- 5.129 The Committee recommends that the Australian Government engages with the Australian community to determine contemporary expectations of standards in order to address all matters of qualification and disqualification for Parliament through legislation under sections 34 and 44 of the Constitution.**

Postal vote campaigns

- 5.130 Another matter raised during this inquiry was the use of postal vote campaigns by candidates and parties.
- 5.131 The AEC’s website states that, ‘third parties, political parties and candidates are allowed to distribute their own materials with AEC postal vote application (PVA) artwork; however, it must be produced in-line with legislative requirements in the format specified by AEC guidelines.’¹¹⁰ They ‘must also email the AEC to obtain a copy of the approved PVA artwork.’¹¹¹
- 5.132 The AEC noted that, while legal, the ‘distribution and collection of PVAs by candidates and parties creates eligibility confusion and privacy concerns amongst voters’.¹¹²
- 5.133 The scale of this confusion and concern can be seen, the Electoral Commissioner explained, in that:

It is probably the No. 1 complaint we get at election-time from citizens, about that mail arriving from political parties with postal vote information. It’s confusing for citizens, and I’d prefer it didn’t occur.¹¹³

¹⁰⁸ Australian Bureau of Statistics, ‘Employment and Earnings, Public Sector, Australia, 2021-22’, viewed 3 August 2023, <<https://www.abs.gov.au/statistics/people/people-and-communities/snapshot-australia/2021>>

¹⁰⁹ Joint Standing Committee on Electoral Matters, *Excluded. The impact of section 44 on Australian democracy*, May 2018, p. 102.

¹¹⁰ Australian Electoral Commission, *Postal voting, Guidance for third parties, political parties and candidates*, viewed 8 August 2023, <<https://www.aec.gov.au/elections/candidates/third-party-pva.htm>>

¹¹¹ Australian Electoral Commission, *Postal voting, Guidance for third parties, political parties and candidates*, viewed 8 August 2023, <<https://www.aec.gov.au/elections/candidates/third-party-pva.htm>>

¹¹² Australian Electoral Commission, *Submission 330*, p. 8.

¹¹³ Australian Electoral Commission, *Committee Hansard*, 6 September 2023, p. 2.

5.134 Submitters voiced concerns around the distribution and collection of PVAs by candidates and parties. Mr Lenn provided anecdotal evidence that voters frequently spoke about their frustrations with the PVAs:

I've managed multiple large election day and early voting centres. Every single election, there are issues of frustration raised by electors regarding postal voting and very frequently it's related to the application and receiving (or not) stage of the process with conversations starting, "I received a postal vote application form in the mail...".

Both firsthand and anecdotally, very few voters know that the Commission is not the direct recipient of their ballot paper application when they use a PVA from a party / candidate. This presents scenarios related to the independence and the perception of independence of the postal voting process and in turn, the Commission.¹¹⁴

5.135 The AEC confirmed that delays caused by the indirect return of PVAs to them created concern and even difficulty voting amongst voters:

Many complaints were received from voters who experienced lengthy waits between applying via party PVA and receiving their postal vote. In some cases, the timing meant that voters were then unable to vote.¹¹⁵

5.136 Mr Lenn advocated for the AEC to be 'given the complete and sole authority, responsibility of and resourcing allowance for the management of the entire [postal voting] process'.¹¹⁶

5.137 Climate 200 were also critical of PVA programs, stating that they were 'opaque, unfair, and confusing':

In its engagement with the 2022 federal election, Climate 200 observed that some electors, particularly those with low information or education about the electoral process, or those for whom English is not a primary language, are genuinely confused by this process. Many believe that they are returning their application to a government body rather than to a political candidate or party. Some even believe that the enclosed HTV is an official instruction about the correct way to vote. Most electors likely don't realise that their registration is being processed and recorded by a party or candidate. It is concerning that a mistake in such a process could lead to electors' applications being misplaced.¹¹⁷

¹¹⁴ Mr Richard Lenn, *Private capacity, Submission 355*, p. 3.

¹¹⁵ Australian Electoral Commission, *Submission 330*, p. 8.

¹¹⁶ Mr Richard Lenn, *Private capacity, Submission 355*, p. 3.

¹¹⁷ Climate 200, *Submission 419*, pp. 11-12.

5.138 Climate 200 recommended ‘that the Committee consider a thorough review of the postal vote application process; and that the AEC be properly funded to run a postal vote application process that is independent of political parties and candidates.’¹¹⁸

5.139 The Australian Greens believed that the PVA process posed a potential risk:

The Greens have raised concerns in previous election reviews regarding the practice of political parties sending postal vote applications to voters, often accompanied by promotional material and a reply-paid envelope that sends the completed application to the candidate, rather than the AEC. While legal, this is an unjustified politicisation of applications, risks applications not being processed, and is clearly used by political parties for data collection.¹¹⁹

5.140 They recommended amending the Electoral Act to explicitly require PVAs to be sent directly to the AEC and to ‘prohibit any written material being included with postal voting application forms.’¹²⁰

5.141 At the 2022 election, 56 per cent of PVAs were sent directly to the AEC, with the remainder coming through another source.¹²¹

5.142 Another submitter argued that political parties who received PVAs prior to forwarding them to the AEC were in breach of section 184 of the Electoral Act, which states that the application for a postal vote ‘made in Australia shall be made to the Electoral Commissioner.’¹²² They elaborated:

The Act quite sensibly allows for a person (my legal advice is that by stating a person the Act means a person not an organisation) to act as an intermediary to take the postal vote application on behalf of the voter and post it or deliver it to the electoral commissioner directly. This seems to be a sensible inclusion in the Act as the voter could be impaired and unable to get the application into the post, hence the persons real need for a postal vote. What a political party has done is seen this as a loophole and attempted, I say, improperly, to inject itself into the process. I say this is not what the Act says or what was envisaged. The party would undoubtedly say that it is just assisting the democratic process.¹²³

5.143 The NSW Nationals however were generally supportive of the PVA process. They noted challenges for local campaign teams and offices submitting PVA forms in person and suggested that the AEC ‘be provided adequate funding to receive scanned postal vote applications in bulk from political participants electronically.’¹²⁴

¹¹⁸ Climate 200, *Submission 419*, p. 12.

¹¹⁹ Australian Greens, *Submission 432*, p. 12.

¹²⁰ Australian Greens, *Submission 432*, p. 12.

¹²¹ Australian Electoral Commission, *Committee Hansard*, 6 September 2023, p. 9.

¹²² Name withheld, *Submission 286*, p. 4; *Commonwealth Electoral Act 1918*, s. 184.

¹²³ Name withheld, *Submission 286*, p. 4.

¹²⁴ The National Party of Australia - NSW, *Submission 399*, p. 2.

5.144 The AEC took steps to mitigate the concerns of voters about the PVA process during the 2022 federal election, including:

- published and promoted a YouTube video explaining party PVAs to voters
- published PVA Management Guidelines for candidates and parties
- engaged with third parties regarding processes and design
- the Electoral Commissioner sent a letter to all registered parties expressing concerns that some approaches taken by candidates and parties were causing voter confusion.¹²⁵

5.145 The AEC noted that the 'Office of the Australian Information Commissioner (OAIC) in its submission to the *Privacy Act Review Discussion Paper* in December 2021, supported the removal of the political exemption.'¹²⁶

5.146 The AEC recommended legislative reform 'to mitigate the risk of data and privacy breach, to better align with community expectations'¹²⁷:

This includes considering whether the exemption for political parties enshrined in the Privacy Act still meets community expectations in relation to privacy and data security, as well as considering reform to section 184AA – which since 1998 has enabled parties and candidates to adapt, distribute and collect PVAs.¹²⁸

5.147 The AEC added that 'access to elector information should be episodically re-evaluated to ensure compatibility with community expectations and the general privacy environment' and queried whether parties, members and candidates should receive 'Commonwealth support and resourcing to protect the important data entrusted to them.'¹²⁹

5.148 Climate 200 also noted the exemption for registered political parties in the Privacy Act and suggested it was problematic:

The first is that registered parties have been able to spam Australians with unsolicited contact without the restraints provided for in the Privacy Act including accountability and unsubscribe options. The second is that political communications from registered political parties are treated differently at law than those from independent candidates, creating another benefit of incumbency.¹³⁰

5.149 Climate 200 agreed with the recommendation to amend 'the Privacy Act to remove the exemption for registered political parties.'¹³¹

¹²⁵ Australian Electoral Commission, *Submission 330*, p. 8.

¹²⁶ Australian Electoral Commission, *Supplementary submission 330.7*, p. 4.

¹²⁷ Australian Electoral Commission, *Supplementary submission 330.7*, p. 3.

¹²⁸ Australian Electoral Commission, *Supplementary submission 330.7*, p. 3.

¹²⁹ Australian Electoral Commission, *Supplementary submission 330.7*, p. 3.

¹³⁰ Climate 200, *Submission 419*, p. 10.

¹³¹ Climate 200, *Submission 419*, p. 10.

5.150 Digital Rights Watch suggested removing political exemptions from several Acts including the *Privacy Act 1998*, *Spam Act 2003* and *Do Not Call Register Act 2006*, noting two core concerns:

- The increasing availability and ubiquity of data-extractive technologies have increased the scale and scope by which harm can be caused to everyday Australians through inappropriate or invasive collection, use and disclosure of their personal information. These harms include invasions of privacy, voter manipulation, and misinformation and disinformation. This stands to weaken our democratic processes and undermine public trust. Political parties have a responsibility to exhibit best practices when it comes to handling data ethically, lawfully, and minimising digital technology facilitated harms to Australians.
- Without appropriate safeguards in place, unregulated access and use of Australians' personal information creates a concerning gap in Australia's approach to cyber security, putting not just individuals at risk, but also our digital security more broadly.¹³²

5.151 Mr Travis Jordan agreed with the view that the exemption should be removed, adding that voters should be able to opt out of mass communications.¹³³

5.152 The AEC also questioned the suitability of the PVA deadline (Wednesday 6pm prior to polling day), 'as some voters who apply in the final days do not receive their postal voting materials before election day' and suggested an 'earlier application deadline would better ensure voters receive materials in time to vote before close of polls.'¹³⁴

Committee comment

5.153 The Committee acknowledges the concerns raised by submitters and the AEC that the PVA process can be confusing for some voters and the challenges with ensuring that voters not only receive materials in time but that they are also afforded adequate time for their vote to be sent through the postal system by the deadline.

5.154 Third parties, political parties and candidates need to be vigilant in ensuring that all their communications are accurate and they are in compliance with the requirements of the Electoral Act. Third parties, political parties and candidates also need to ensure that individuals data and privacy is protected at all times and guided by the principles set out in the *Privacy Act 1998*.

5.155 The Committee agrees with the views of many submitters, including the AEC, that enabling political parties and candidates to distribute and collect Postal Vote Applications creates confusion, privacy concerns, no longer aligns with community expectations, and that legislative reform is required. The Australian Electoral

¹³² Digital Rights Watch, *Submission 246*, p. 3.

¹³³ Mr Travis Jordan, *Private capacity, Submission 245*, p. 43.

¹³⁴ Australian Electoral Commission, *Submission 330*, p. 29.

Commission should be the only authorised body that can issue or receive a postal vote application.

- 5.156 The Committee notes that this change will place a requirement on the AEC to ensure voters who have been used to receiving a postal vote application from political parties understand how they can apply for one, and to ensure postal votes are available in an accessible and timely manner.

Recommendation 20

- 5.157 The Committee recommends that section 184AA of the *Commonwealth Electoral Act 1918*, application forms for postal votes, be amended or removed, so that postal vote applications can no longer be included with other material.**

Recommendation 21

- 5.158 The Committee recommends that section 184 of the *Commonwealth Electoral Act 1918* be amended to clarify that postal vote applications must be sent directly to the Australian Electoral Commission's nominated addresses.**

Ms Kate Thwaites MP
Chair

15 November 2023



A. Submissions

- 1 *Name Withheld*
- 2 Mr Thomas Maxwell
- 3 Mr Gary Hobson
- 4 Jo Goodman
- 5 Malcolm Mackerras AO
 - 5.1 Supplementary to submission 5
- 6 Laura Phillips
- 7 Prof George Williams AO
- 8 *Name Withheld*
- 9 *Name Withheld*
- 10 *Name Withheld*
- 11 Nancy Sommerfield
- 13 *Name Withheld*
- 14 Dr Brett Biddington
- 15 Mr Damian McCrohan
- 16 Chris Curry
- 17 Shane Sullivan
- 18 Ray Cowling
- 19 Angela Munro
- 20 Rod Teale
- 21 Peter Christen
- 22 Stephen Sprada

- 23** Kathleen Robieson
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- 26** Stephen Spencer
- 27** Rosalind Butler
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- 29** Gregory Middleton
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- 31** David Leifer
- 32** Meryl & Hartley Tobin
- 33** Brynn Mathews
- 34** Suzanne Draper
- 35** Marion Hoad
- 36** Christopher Barclay
- 37** John Thompson
- 38** Warwick Sawyer
- 39** Lucy Leeming
- 40** Judith Leslie
- 41** Wayne Rogers
- 42** Tom Tabart
- 43** L Dellit
- 44** Bruce Young
- 45** Cilia O'Hagan
- 46** Anthony Mantella
- 47** Anura Sooriyabandara
- 48** Graham Wand

- 49** Marie-Louise Drew
- 50** Tony Tucker
- 51** Damien Ahchow
- 52** Andrew Heard
- 53** Cameron Muir
- 54** Bridget Payton
- 55** Merrindal Routley
- 56** Geoff Simpson
- 57** Katherine Grocott
- 58** Anne Matheson
- 59** Paul Duggan
- 60** Brian Vernon
- 61** Linda Black
- 62** Paul Foot
- 63** George Carrard
- 64** Ken Preece
- 65** Peter Franklin
- 66** Eileen Whitehead
- 67** Roger Gavshon
- 68** Simone Booth
- 69** Gary Norman
- 70** Bob Cloherty
- 71** Harry Millward
- 72** Felicity Crombach
- 73** Peter St Clair-Baker
- 74** Joan Ting

75	Jane Fernie
77	Ingrid Loewy
78	Gary Saunders
79	Steve Spangaro
80	Richard Stanford
81	Jim Edwards
82	Elizabeth Connor
83	Zoran Shelev
84	Roberta Atherton
85	Liz Kloosterman
86	Martha Knox-Haly
87	Brian Bartlett
88	Carolyn Goodall
89	Robert Simons
90	Marco Setiawan
91	Peter Lawrence
92	Helga Saunders
93	Christopher Magarey
94	Griffey Saunders
95	Robin Gardner
96	Grisel Carreira
97	Kevin Grose
98	Stephen Atkinson
99	Ken Wilkinson
100	Philip Scheul
101	Mhano Harkness

- 102** Gwen Brown
- 103** Monica O'Leary
- 104** Dr Oliver Raymond OAM
- 105** Tim Davidson
- 106** Markus Egli
- 107** Irene Small
- 108** Regina Eberle Riedl
- 109** Robert Rutkowski
- 110** Glen Philpott
- 111** Trevor Hoare
- 112** Paula Young
- 113** A R Polack
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- 115** Peter Temby
- 116** Jon Peck
- 117** Darryl Nelson
- 118** Robert Marston
- 119** Vic Lorena
- 120** David Lilja
- 121** Martin Scurrah
- 122** Michael Constable
- 123** Paul Desmond
- 124** Arthur Alchin
- 125** Martine Porret
- 126** Katharine Clarke
- 127** Peter Brown

- 128** Andrew Troedel
- 129** Abigail Hodge McAvaney
- 130** Haley Lambert
- 131** Michael Kellett
- 132** Leonard Sparkes
- 133** Jason van Tol
- 134** Kay Deaves
- 135** Tim Greenish
- 136** David Williams
- 137** Marc F
- 138** Dr Attila Nagy
- 139** Mark H
- 140** Eamonn Hennessey
- 141** Jo Whitehead
- 142** Vanessa Whitem
- 143** Christy Kelly
- 144** Des Mills
- 145** Janice Hume
- 146** Rebecca Andersen
- 147** John Mester
- 148** Anastasia Corsie
- 149** Denice Finnegan
- 150** Don Ingram
- 151** Deborah Seiler
- 152** Warwick Law
- 153** Andrew Sheldon

- 154** Neil Rasmussen
- 155** Carolyn Glascodine
- 156** Don Matthews
- 157** Jonathan Barnett
- 158** Erwin Bejsta
- 159** John Wood
- 160** Warwick Heine
- 161** Bill Cutcliffe
- 162** Alan Peterson
- 163** Irena Boydell
- 164** Beth Hall
- 165** Carol Scantlebury
- 166** Gemma Mayfield
- 167** Joan Nissen
- 168** John Morter
- 169** Bradley Suosaari
- 170** Mark Shields
- 171** Stephen Jeanneret
- 172** Andrew Buchanan
- 173** Kyle Routledge
- 174** Darren Grieves
- 175** Paul Pearson
- 176** Vic Cherikoff
- 177** Cheryl Cooper
- 178** Brett Mason
- 179** Douglas Francis

- 180** Alexander Hood
- 181** Gregory Olsen
- 182** Dr Thomas Wilson
- 183** Emily Edwards
- 184** Luise Pearson-Bernoth
- 185** Victorian Aboriginal Legal Service
- 186** Mr John Photakis
- 187** Ms Sue Strodl
- 188** John Larin
- 189** Les Johnston
- 190** Mike Cohen
- 191** Bruce Wild
- 192** Greg Forster
- 193** Louise Beasley
- 194** Joe Phillips
- 195** Richard Belcher
- 196** Frank Bernabei
- 197** Melissa Love
- 198** Peter Wilson
- 199** Davide Rizzo
- 200** Roberta Henley
- 201** John Hughes
- 202** Denise Smith
- 203** Chris Pearson
- 204** Megan Hyatt
- 205** Leonie Stubbs

- 206** Charles Cornwell
- 207** Sue Ganz
- 208** Alex Maguire
- 209** Gay Curtis
- 210** George Mercier
- 211** Mr John Steley
- 212** Kieran Howard
- 213** Nigel Carroll
- 214** Quentin Dresser
- 215** Dr Elisa Arcioni
- 216** Asphyxia .
- 217** David Owen
- 218** Martin Borri
- 219** A/Prof Klaas Woldring
- 220** Brad Darch
- 221** Mark Cramond
- 222** Dan Endicott
- 223** Sonia Powell
- 224** Ms Marilyn Rushby
- 225** Lorraine Chyne
- 226** Kerry Avenell
- 227** Brian Douglass
- 228** Michael Haines
- 229** Catherine Blunt
- 230** Jennifer Medway
- 231** Elizabeth Thurbon

- 232** Bernard Terry
- 233** Damien Hills
- 234** Michael Murphy
- 235** Mark Nelson
- 236** Dale Stohr
- 237** Gwillim Roberts
- 238** James Priest
- 239** Janaka Hirimuthugoda
- 240** Robyn Kitching
- 241** Jacquie Hilmer
- 242** Gary Barnes
- 243** Fran Dybdahl
- 244** Julie Campbell
- 245** Mr Travis Jordan
- 246** Digital Rights Watch
- 247** Maree Nutt OAM
- 248** Marie Woolnough
- 249** Bradley Durnin
- 250** Badih Anthony Roupael
- 251** Joe Lenzo
- 252** Estelle Ross
- 253** Philip White
- 254** Patrick Sergio
- 255** Margaret Hartley
- 256** Jenny Donnelly
- 257** Fabio Scalia

- 258** Mr Oscar Delaney
- 259** Ifeanna Tooth
- 260** Trevor Simmons
- 261** Angelique Van Schie
- 262** Dr Judy Hyde
- 263** Janice Haviland
- 264** Shirley Videion
- 265** Mr Ben Raue
- 266** Jeannette Douglass
- 267** Selwyn McFaul
- 268** Lynette Ryan
- 269** Hon Jonathan O'Dea
- 270** Mr James Bushell
- 271** Sietse Pos
- 272** Edward J Carter
- 273** John Chalmers
- 274** *Name Withheld*
- 275** Dr Apostolos Mavroudis
- 276** *Name Withheld*
- 277** *Name Withheld*
- 278** Australian Charities and Not-for-profits Commission
- 279** Mr Steve Dickson
- 280** Mr Michael Leeming
- 281** Mr Andrew Donnellan
- 282** A/Prof Vanessa Teague
- 283** Mrs Joanne Foreman

- 284** Mr Howard Gwatkin
- 285** Mr Robert Irvine
- 286** *Name Withheld*
- 287** The Chaser
- 288** Mr Greg & Eileen Dunstone
- 289** Mr Patrick Corr
- 290** *Name Withheld*
- 291** Voices of Hinkler
- 292** Mr Keith Pond
- 293** Mr Martin Gordon
- 294** Mr Ian Brightwell
- 295** *Name Withheld*
- 296** Mr Chris Ansted and Ms Angelika Dunker
- 297** Mr Jeffrey Waddell
- 298** Mr Russell White
- 299** Ms Jeanene Williams
- 300** Rationalist Society of Australia Inc
- 301** Mr Stuart McRae
- 302** Emeritus Professor Mike Daube
- 303** Mr Chek Ling
- 304** FUSION: Science, Pirate, Secular, Climate Emergency
- 305** Vote Australia Incorporated
- 306** Mr Ian Millner
- 307** Mr Prabha Kutty
- 308** Anthony Battaglia
- 309** Canberra Alliance for Participatory Democracy

- 310** Phil Bryant
- 312** J Moldovan
- 313** *Name Withheld*
- 314** The Hon Peter Malinauskas MP
- 315** Jeremy Buxton
- 316** Steve Chamarette
- 317** Ruth McGowan OAM
- 318** Michael Stacey
- 319** Andrea Rankin
- 320** David Reid
- 321** John Pyke
- 322** Terrence L Johnston
- 323** Proportional Representation Society of Australia
- 324** Dr Rayner Thwaites
- 325** Australian Communications and Media Authority
- 326** Andrew Pike
- 327** *Name Withheld*
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- 329** Dr Belinda Edwards
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- 331** Mr Garry Page
- 332** Professor Lisa Hill
- 333** Central Desert Regional Council
- 334** *Name Withheld*
- 335** *Name Withheld*
- 336** Community Broadcasting Association of Australia
- 337** Marque Lawyers
- 338** ALP Abroad
- 339** *Name Withheld*
- 340** Inclusion Australia
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- 352** Democracy Matters
- 353** *Name Withheld*
- 354** ANU LRSJ Research Hub
- 355** *Name Withheld*
- 356** Professor Luke Beck
- 357** Australian Council of Trade Unions (ACTU)
- 358** Commercial Radio Australia
- 359** NSW Council for Civil Liberties
- 360** Professor James Allan
- 361** The Nationals
- 362** Free TV Australia
- 363** Australian Labor Party
- 364** Ms Nicolette Boele
- 365** *Confidential*
- 366** The Samuel Griffith Society
- 367** Grattan Institute
- 368** Mr Stephen Bates
- 369** Northern Territory Electoral Commission
- 370** *Confidential*
- 371** Senator Nita Green
- 372** Mr Murray Shinkfield
- 373** Women for Election
- 374** NSW Young Liberals
- 375** Prof Kim Rubenstein
- 376** Lex Stewart
- 377** Professor Joo-Cheong Tham

- 378** Digital Industry Group Inc (DIGI)
- 379** Michael Maley PSM
- 380** David Flint
- 381** *Name Withheld*
- 382** Andrew Hirst, Liberal Party of Australia
- 383** Chris Curtis
- 384** Efstathia Sioras
- 385** Jason Burrows, Jungle Entertainment
- 386** Leeanne Torpey, Jungle Entertainment
- 387** Mr Andrew Wilkie MP
- 388** Public Health Association of Australia
- 389** Community and Public Sector Union
- 390** ABC
- 391** Craig Reucassel
- 392** The Electoral Reform Society of South Australia
- 393** Senator Gerard Rennick
- 394** GetUp
- 395** Open Politics
- 396** FamilyVoice Australia
- 397** Climate Convo, Northern Illawarra
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- 399** The National Party of Australia - NSW
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- 403** Curtin Independent Pty Ltd
- 404** Dr Brendan Long
- 405** Dr Kevin Bonham
- 406** Thomas Killip
- 407** Professor Anne Twomey
- 408** Democratic Audit of Australia
- 409** Blind Citizens Australia
- 410** Dr Colleen Lewis
- 411** Australian Conservation Foundation
- 412** The Australia Institute
- 413** Transparency International Australia
- 414** Dr Monique Ryan MP
- 415** Vision Australia
- 416** Senator David Pocock
- 417** Ms Kylea Tink MP
- 418** Human Rights Law Centre
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- 426** Mrs Rosemary Caroline Rowan Shann
- 427** John Rodda

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- 432** Australian Greens
- 433** Hon Natasha Fyles MLA, Chief Minister of the Northern Territory
- 434** SBS
- 435** Raelene Hurley
- 436** Paul Hyam
- 437** Fred Carlsson
- 438** Yosi Tal
- 439** Kristen Richards
- 440** Noel Emselle
- 441** Joe Haberfield
- 442** Steve Ibbotson
- 443** Chris Egger
- 444** Barton Porter
- 445** Steve Anderson
- 446** Stuart Beavan
- 447** Lindee Cam
- 448** Elaine Ogilvie
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- 452** Ryan Sheppard

- 453** Leigh Chippendale
- 454** John Sutton
- 455** Owen Hewitt
- 456** Terry Toomey
- 457** Denis Boyle
- 458** Joshua Jones
- 459** Brian Gough
- 460** Paul Margereson
- 461** Timothy Fisher
- 462** Annette McDonald
- 463** Max Webster
- 464** Lynette Rogers
- 465** Haydn Reynolds
- 466** Jim Russell
- 467** Richard Burnard
- 468** Joan Tremelling
- 469** Robert Morgan
- 470** Yaakov Super
- 471** Anthony Kurtz
- 472** Alan Higgins
- 473** Barbara Crowhurst
- 474** Alan Titman
- 475** John Goulter
- 476** Neville Manno
- 477** Stephen Orth
- 478** Central Land Council

- 479** Josh Brewer
- 480** Robert Humphris
- 481** P & G Sanderson
- 482** Neil Shoesmith
- 483** Viviane Chayna
- 484** Fefe Lawson
- 485** June Smith
- 486** Susan Higgins
- 487** James Shalders
- 488** Maureen Lancaster
- 489** Judith Keen
- 490** Karl Sudweeks
- 491** David Park
- 492** Stephen Ellis
- 493** Arthur Stansfield
- 494** Robert Lavers
- 495** John Sharpe
- 496** Ruth Lutman
- 497** Sherry Hatfield
- 498** Graeme Hancock
- 499** Robyne d'Ombrille
- 500** Kerri Sookun
- 501** Pete Howarth
- 502** Irene Le Blond
- 503** Michael Rorke
- 504** Donald Edmunds

- 505** Suzanne Norris
- 506** Roger Skipsey
- 507** Kendall Robinson
- 508** Carol Bennett
- 509** John Ripp
- 510** Sally Queck
- 511** Robert and Michelle Pawson
- 512** Derek Kanngiesser
- 513** Peter Boscato
- 514** Lew and Sheri Wheller
- 515** Richard Schiefler
- 516** Linda Bruce
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- 519** Pamela Dalglish
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- 530** Rosalee Hout
- 531** Cameron Bragg
- 532** J Smith
- 533** Angelo Stamboulakis
- 534** Elizabeth Layt
- 535** Lance Edbrooke
- 536** Betty Atkinson
- 537** Colin Hartnett
- 538** Daryl McMahon
- 539** Ian Dalton
- 540** Phyllis Slattery
- 541** Colleen Rankin
- 542** Chris Evans
- 543** Ann Rays
- 544** Herman Mills
- 545** Randle Hawkins
- 546** Suzanne Cromie
- 547** William George Cole
- 548** Douglas Haigh

- 549** Ljubica Juric
- 550** Ronan Cosgrove
- 551** Anne Gilchrist
- 552** Jo Grossman
- 553** Gerard Clyne
- 554** Myriam Webster
- 555** William Cole
- 556** Trevor Judd
- 557** Lynette Rankine
- 558** Rudi Tomajka
- 559** Anthony Muilwyk
- 560** John Arthur
- 561** Leslie Williams
- 562** Errol Clausen
- 563** Lachlan Selwood
- 564** Sylvia Henderson
- 565** Jonathan Adams
- 566** Peter Norman
- 567** Robert Barber
- 568** Peter Robberds
- 569** Valerie Hille
- 570** Cathy Bunn
- 571** Len Barone
- 572** Ian and Diane Dick
- 573** Robert Parry
- 574** Steve Marshall

- 575** Gordon and Marilyn Petersen
- 576** Ken Carr
- 577** Peter Smith
- 578** Paul Dioth
- 579** Roger Vale
- 580** Rosslyn Johns
- 581** Vicky Hornbrook
- 582** Robert Richmond
- 583** Phil Nicholson
- 584** Manfred Peter Goerman
- 585** Leslie Wright
- 586** Lawrie Higgins
- 587** Andrew Bing
- 588** David Peterson
- 589** Ryle Moldrich
- 590** Alan Thompson
- 591** Colin Searl
- 592** Sow Moi Lim
- 593** Paula Muriwai
- 594** Andrew Grant
- 595** John Higgins
- 596** Ian Dart
- 597** Christine Kershaw
- 598** Jacole Toope
- 599** Colleen Peyton
- 600** Beryl Skiljan

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- 603** David Parker
- 604** Jean Foy
- 605** Rod Salmon
- 606** Milton Hampe
- 607** Maria Llave
- 608** Raymond Marendaz
- 609** Judith Hughes
- 610** Nancy McGrath
- 611** Wendy Nairn
- 612** Robin Fraser
- 613** Cathy Park
- 614** Sandy Walker
- 615** William Dunn
- 616** Douglas Bunney
- 617** S. D. Breeden
- 618** Gina Jeffrey
- 619** William Boon
- 620** Lorraine King
- 621** Gregory Story
- 622** John Bussell
- 623** Neil Beauchamp
- 624** Don Eyles
- 625** John Hammond
- 626** Leonard Payne

- 627** Lynne Jamieson
- 628** Gavin Davis
- 629** Maureen Ruiz
- 630** Martin Jenkins
- 631** David McLean
- 632** Melvena Hallam OAM
- 633** Grace Pomakis
- 634** Denis Nihill
- 635** James Thorogood
- 636** Murray and Rhonda Stevens
- 637** Kenneth Pavy
- 638** Ted Morgan
- 639** Barrie Hinton
- 640** Paul Ruys
- 641** Greg McKenzie
- 642** Jeanette MacKintosh
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- 644** Carol Carmody
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- 647** Ashley Dodd
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- 650** Joy Borgert
- 651** Ruth Harvey

- 652** Jasmesh Singh
- 653** Pam Habib
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- 655** Wilma Gamble
- 656** Nanette Black
- 657** Robert Hayward
- 658** John and Debbie Van De Vorst
- 659** Charles Hadfield
- 660** Karen Quinn
- 661** Faye Rowntree
- 662** Elizabeth Anne O'Brien
- 663** Peter Kibble
- 664** John Schrieber
- 665** Margaret Beck
- 666** Rosalie Kirwin
- 667** Susan Beilby
- 668** Sara Muir
- 669** Ernst Nowotny
- 670** Sebastian Ferrando
- 671** Margaret Bishop
- 672** Graham and Lynne Darcy
- 673** Nerine Pryce
- 674** Deidre Wilmot
- 675** Margie McGregor
- 676** Angela Goralski
- 677** John Hook

- 678** Belinda Tanner
- 679** Andrew Dinning
- 680** Christopher Vivian
- 681** Michael Connolly
- 682** Robert and Rosemary Adams
- 683** Sandy Richards
- 684** John Culnane
- 685** Brent Townsend
- 686** Colin Hardiman
- 687** Bruce Jarvis
- 688** Lynda Gardiner
- 689** Hugh Evans
- 690** John Bicknell
- 691** Gillian Wieringa
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- 693** Maree Coombes-Pearce
- 694** Elizabeth Harris
- 695** Ken and Flora Coulson
- 696** Elisabeth Rosentreter
- 697** Peter Price
- 698** Paulene Meyer
- 699** Michael Watts
- 700** Emad Baroud
- 701** Ben Clayton
- 702** Evelyn de Klerk
- 703** Bill Burnett

- 704** David Owens
- 705** Heather Reynolds
- 706** Ross Jackson
- 707** Murray Ruby
- 708** Bruce Greening
- 709** Margaret Seipel
- 710** David Tulloch
- 711** Yvonne Limpus
- 712** Loretta Brock
- 713** Rondi Carne
- 714** Mark Bunker
- 715** David and Judy Kucera
- 716** Irene and David Southern
- 717** Ross Drayton
- 718** Lesley Tandy
- 719** Alan Fletcher
- 720** John Nelson
- 721** Brian Sullivan
- 722** Bill Drewe
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- 724** Cyril Sidewinder
- 725** Chris Phillips
- 726** Findlay Osborn
- 727** Darryl Kelly
- 728** Robert Honeybone

- 729** Nicholas Heath
- 730** Don Runge
- 731** Kevin Pratt
- 732** Trevor Paparella
- 733** Ross Hamilton
- 734** A.F. Vermaas
- 735** Jeremy Lawrance
- 736** Anwar Osman
- 737** Barry Fisher
- 738** Jeff Harman
- 739** David Rees
- 740** Brian Minnett
- 741** Wendy Thompson
- 742** Witomir Vivic
- 743** Elena Chung
- 744** Ronald Bright
- 745** Carolyn Plint
- 746** John McMillan
- 747** John and Judith Burrows
- 748** Lynda Hall
- 749** Christopher Moralee
- 750** Christine Watts
- 751** Philip Edmonds
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- 754** John Wilson
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- 756** Gary Tolliday
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- 759** Kevin Burt
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- 761** Trevor Salmon
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- 764** Christina Meyers
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- 766** Dr Zahirul Islam Khan
- 767** Sean Butcher
- 768** Anthony Fairbairn
- 769** Val Corver
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- 771** Coral Franklin
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- 774** David Darke
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- 776** Sheila Warren
- 777** Keith Sadler
- 778** Judith Cliff
- 779** Lance Cowan

- 780 Anthony Limpus
- 781 Peter Keating
- 782 Benito Calefato
- 783 Angelo Rossetti
- 784 Simi Vaiotu
- 785 Peter Seach
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- 787 Darrel Taylor
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- 790 Valerie Lawson
- 791 Gary Richards
- 792 Frank McElroy
- 793 Dianne Nancarrow
- 794 Dianne Julian
- 795 Susan Sullivan
- 796 Michael Chigwidden
- 797 Davina Hannaford
- 798 Peter Kenworthy
- 799 Neil Heslop
- 800 William Timmins
- 801 Ian Canham
- 802 Rodney Barlow
- 803 Kathy Gough
- 804 David Guralnyk
- 805 Michael Fearnley

- 806** Dr Martin Cass MRA PhD.I
- 807** Greg Smith
- 808** Harry Jarman
- 809** Jet Fabio
- 810** Sandra Robinson
- 811** Michelle Collins
- 812** Laurence Douglas
- 813** David Anderson
- 814** Bryan Meehan
- 815** Yvonne Maher
- 816** Julie Reed
- 817** Rod Riddle
- 818** Donald Crittenden
- 819** Brenton Slape
- 820** Elizabeth Murray
- 821** Craig Clark
- 822** Kerry Randell
- 823** Christopher O'Mara
- 824** Jean Baker
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- 827** Peter Adams
- 828** Michael Hollier
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- 830** Jill Cavanagh

- 831** Lesley Smith
- 832** Josie Davidson
- 833** Mark Hentschke
- 834** Marion Williams
- 835** Lee Hanson
- 836** Andrew Mills
- 837** Margaret Rogers
- 838** Mary Fengels
- 839** Yvonne Barrett
- 840** Graeme Birchall
- 841** Graeme Howard
- 842** David Mudd
- 843** Fiona Gould
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- 855** Lorraine van Droffelaar

- 856** Gwenda Hammond
- 857** Bob Blackie
- 858** Eric and May Russell
- 859** Ann Barnes
- 860** Virginia Wenzel
- 861** Robert and Lynette Murray
- 862** Diane Gregory
- 863** John Strange
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- 881 Brian Gibson
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- 892 George Gray
- 893 Ernst Riest
- 894 Valerie Davey
- 895 Brian McDonald
- 896 Roger Ellul
- 897 Anna Boyd-Boland
- 898 Eva Rose Marie-Aimee Larue
- 899 Helen Scott
- 900 Maureen Kennedy
- 901 Barry Lowe
- 902 Howard Freeman
- 903 Tony Barnett
- 904 Carole Meyer
- 905 J Kay Mason
- 906 Lynda Parker

- 907** Carmel Powell
- 908** Renato De Martin
- 909** Andrew Bleeze
- 910** Graham and Caralyn Dobbs
- 911** Brett Gray
- 912** Ray Garrow
- 913** John Bryant
- 914** Eleanor MacLeod
- 915** Desley Marks
- 916** David Yeung
- 917** Gunter Pfitzer
- 918** Michael Taylor
- 919** Graham Chubb
- 920** Rona Hurley
- 921** Ann Hunter
- 922** Herman Nyhuis
- 923** Matt Smith
- 924** Janet Taylor
- 924.1 Supplementary to submission 924
- 925** Rod Aleckson
- 926** Lea Freeman
- 927** Sharon Munro
- 928** Noreen Mardell
- 928.1 Supplementary to submission 928
- 929** David Black
- 930** Donald Cox

- 931** Robert Saniga
- 932** Angela Kennedy
- 933** Dale Lennox
- 934** Jean Sheridan
- 935** William Fulton
- 936** Burnie van Hilst
- 937** John Sturdy
- 938** Beryl Smith
- 939** Heather Hall
- 939.1 Supplementary to submission 939
- 940** Steve Bartlett
- 941** Gregory Black
- 942** Ross Popplewell
- 943** Peta Bendell
- 944** Bill Bryden OAM
- 945** Peter Wormald
- 946** Dudley Lister
- 947** Mary Svolos
- 948** Julie McPhail
- 949** Anne Dormer
- 950** Gay Christensen
- 951** Helen Rothenberg
- 952** Mick Omodei
- 953** Domenico Romeo
- 954** Peter Mirtschin
- 955** Eric Russell

- 956 Les Hunt
- 957 Dennis Johnson
- 958 Kostadin Chterev
- 959 Olga Pringle
- 960 Arthur and Donna Crummer
- 961 Brendon Gibson
- 962 Max Whiteland
- 963 Suzanne Lombardo
- 964 Lisa Brown
- 965 Barry Watson
- 966 Mrs Christine Donovan
- 967 Valerie Bush
- 968 Max Arvidson
- 969 Gloria White
- 970 Craig Peace
- 971 Wilfred Parmar
- 972 Chris Pratt
- 973 Gerald Hilderson
- 974 David Nash
- 975 Barbara Maidment
- 976 Dr Nathan Hoffman
- 977 Rob Elwell
- 978 Allen Trevena
- 979 Larry Price
- 980 Bev Norton
- 981 Alan Duncan

- 982** Ian Dimmock
- 983** Kathy Medbury
- 984** Trevor Turner
- 985** Michael Farrelly
- 986** Warren Graham
- 987** Peter Brandon
- 988** Helen Jorgensen
- 989** Brenda Bowie
- 990** Russell Mallett
- 991** James and Robyn Babineau
- 992** Harvey Mills
- 993** Daniel Andrejevich
- 994** W. J. Farquhar-Reid
- 995** Kim Larsen
- 996** Neil Dobson
- 997** Ian Schupelius
- 998** Alan Burnett
- 999** Louise Nicholson
- 1000** Terry Sloggett
- 1001** Paul Askins
- 1002** Dennis Naylor
- 1003** Lois Moffat
- 1004** Gwen Manteit
- 1004.1 Supplementary to submission 1004
- 1005** Jane Chen
- 1006** Tom Turns

- 1007** Francois-Louis Charles Geist
- 1008** Elizabeth Fletcher
- 1009** Leslie Lane
- 1010** Bill Eather
- 1011** Miria Cummins
- 1012** Vernon Durling
- 1013** Wendy Slade
- 1014** Alf Abdullah
- 1015** David Metrikas
- 1016** Thomas Whiting
- 1017** Ross Kessler
- 1018** Steve Isles
- 1019** Carole Hall
- 1020** Len Bolding
- 1021** Bruce Harvey
- 1022** Ruth White
- 1023** Mary Carolan
- 1024** Brian Webb
- 1025** Peter Kline
- 1026** Chris Hanson
- 1027** Denis Bowden
- 1028** Alan Arnell
- 1029** Scott Rossetti
- 1030** Lorelie Tacoma
- 1031** Kathie Garnham
- 1032** Sherry Hope

- 1033** Amr Marzouk
- 1034** Ayub Nasir
- 1035** Norm Latham
- 1036** Rienk Trevor van der Linden
- 1037** Mike Koffel
- 1038** Mark See
- 1039** Capt Owen J C Bradbury JP
- 1040** Nick Jamons
- 1041** Matthew Young
- 1042** Belinda Hanshaw
- 1043** Frank Holmes
- 1044** Keith Marning
- 1045** Jayton Joseph
- 1046** Marg Fisher
- 1047** Don and Shirley Fry
- 1048** Jeff Wheat
- 1049** Tania Fernihough
- 1050** Shane Stegemann
- 1051** Graham Marning
- 1052** Frank Pitts
- 1053** Joe Macri
- 1054** Vanessa Winship
- 1055** Courtney Castle
- 1056** Anne Greenleaf
- 1057** John Leach
- 1058** Dr Arash Nikgoo

- 1059** Robin and Jill Sharp
- 1060** Francesco Russo
- 1061** Melva Shoppee
- 1062** Anthoni Zapala
- 1063** Una Roberts
- 1064** Richard Harrison
- 1065** James Millea
- 1066** Vivian McKenzie
- 1067** Edward McInnes
- 1068** Ted Gray
- 1069** Di Bourke
- 1070** Anne Frost
- 1071** John Haug
- 1072** Trevor Ridgway
- 1073** Christopher Castles
- 1074** Robin Valentine
- 1075** Deanne Bailey
- 1076** Geoff Allen
- 1077** Kay Kelly
- 1078** Nancy Camac
- 1079** Rita Johnson
- 1080** Tom Wallace
- 1081** Glen Murray
- 1082** Barbara and Denis Brumby
- 1083** Chris and Rosy Hewitt
- 1084** Henk and Marlene Van Zetten

- 1085** Phil Midson
- 1086** Mr and Mrs A Edwards
- 1087** Michael Kennedy
- 1088** Neil McGregor
- 1089** Teresa Samanes
- 1090** Barrie Jack
- 1091** Martin and Deborah Quintano
- 1092** John Shaw
- 1093** Glen Ryan
- 1094** Paula and Ed Ford
- 1095** Brian Eaton
- 1096** Ibolya Madarasz
- 1097** Lawrence Molachino
- 1098** Athena Kellis
- 1099** Michael Cretikos
- 1100** Margaret Silva
- 1101** Gale Reed
- 1102** Sue Sergeant
- 1103** Berilyn Cottier
- 1104** James Brennan
- 1105** Colin Owers
- 1106** Noelene Iremonger
- 1107** Irena Morgan
- 1108** Barry Lennon
- 1109** Brian Raffa
- 1110** Terence Thompson

- 1111 John Fitzhardinge
- 1112 Denise Offenbergl
- 1113 Tony Lynch
- 1114 Deb Fitzgibbon
- 1115 Dorothy Cochrane
- 1116 Phillip Wolfenden
- 1117 Christopher Forsyth
- 1118 Shane Morrison
- 1119 Mary Mills
- 1120 Robert Butterfield
- 1121 Robert Douglass
- 1122 Stephen Hood
- 1123 Wendy Mullett
- 1124 Nimish Dhurandhar
- 1125 Neil Craig
- 1126 Joylene Seppelt
- 1127 Christopher England
- 1128 Malcolm Ebel
- 1129 Robert Webb
- 1130 Lila Fitzgeralds
- 1131 Kerry Stinson
- 1132 Craig Hickman
- 1133 Gary Drew
- 1134 Judith Wood
- 1135 Colleen McLean
- 1136 Ronald McClelland

- 1137** Patrick O'Neill
- 1138** Gary Timms
- 1139** Martin Jones
- 1140** Robyn Sage
- 1141** Valerie Jolley
- 1142** Lewis Fuller
- 1143** Roberta Smith
- 1144** Jacklyn Nailon
- 1145** James Rose
- 1146** Barry George
- 1147** David Peel AM
- 1148** June Court
- 1149** Marianne Kuiper-Linley
- 1150** Mark Haley
- 1151** Gregory Bright
- 1152** Steve Lowe
- 1153** Doug Croker
- 1154** Geoff and Hilary Harley
- 1155** Don Singh
- 1156** Toni Robinson
- 1157** Lesley Smith
- 1158** Debra Brown
- 1159** Brenda Jeanes
- 1160** Richard Thomson
- 1161** Bruce White
- 1162** Roger Hood

- 1163** Valerie O'Brien
- 1164** Hosni Jacob
- 1165** Susan McGuire
- 1166** Magdy Zakhary
- 1167** Helen Dickinson
- 1168** Joan Nielsen
- 1169** Deborah Hannam
- 1170** Joan Colman
- 1171** Cameron Duncan
- 1172** Philip and Vicki Minge
- 1173** Milada and Henderson Kinnon
- 1174** Veronica Hodder
- 1175** Robert Garner
- 1176** Darren Rossall
- 1177** Robert McKennie
- 1178** Peter Wilkinson
- 1179** Jim and Desley Rawle
- 1180** Sue Stephens
- 1181** Marjorie Vorsa
- 1182** Jannette Powter
- 1183** Patricia Vaughan
- 1184** Craig Vaughan
- 1185** Gary and Raylene Nye
- 1186** Betty Russell
- 1187** John Lloyd
- 1188** Ian and Rosmond Lewis

- 1189** James Vane
- 1190** William Larkin
- 1191** Charles Mollison
- 1192** Peter Moore
- 1193** Wayne Rose
- 1194** Alan Dormer
- 1195** Joyce Wills
- 1196** Andy Buttfield
- 1197** Jay Bluejay
- 1198** Donna Challinor
- 1199** Theola Mason
- 1200** Nahida Herro
- 1201** Ken Chapman
- 1202** Star Markezic
- 1203** Mark Raison
- 1204** Annemarie Nolan
- 1205** Stephen Hofferts
- 1206** Lee Foxall
- 1207** Mick Kelly
- 1208** Graham Henniker
- 1209** Frances Harris
- 1210** John Tate
- 1211** Catherine Garner
- 1212** Beverley Morrison
- 1213** Lorraine Lindsay
- 1214** Sandra Jasienski

- 1215** Robyn Campbell
- 1216** Patricia Powell
- 1217** Mark Lambert
- 1218** Hernan Yema
- 1219** Gail Baker
- 1220** Rose Campbell
- 1221** Cristian Crisan
- 1222** Mr Martin Campbell
- 1223** Rosemary Orr
- 1223.1 Supplementary to submission 1223
- 1224** Richard Orr
- 1224.1 Supplementary to submission 1224
- 1225** Tony Ward
- 1226** Bert Eagle
- 1227** Alison Elliott
- 1228** Bienne Tam
- 1229** Thomas Derum
- 1230** P Taylor
- 1231** Francesco Grimaldi
- 1232** Laudie Sneddon
- 1233** Adrian Bruce Jeanes
- 1234** Carmel Powell
- 1235** Dale Clayton
- 1236** Narelle Ryan
- 1237** Peter Williamson
- 1238** Karen Scrivener

- 1239** Peter Ede
- 1240** Jan Hughes
- 1241** Fiona Taylor
- 1242** Alison Baggott
- 1243** Janet Williamson
- 1244** David Bishop
- 1245** Joan Starcevich
- 1246** Gwen Jones
- 1247** Helen Boman
- 1248** Lorraine Young
- 1249** Phil Howell
- 1250** Peter Hibbert
- 1251** Joe Terlato
- 1252** John and Toni Rodie
- 1253** Jamie Freger
- 1254** Kevin and Lorraine Booth
- 1255** Margaret Houston
- 1256** Stewart Palmer
- 1257** Luke Shelton
- 1258** Tony Minchin
- 1259** Stephen Bates
- 1260** Diane Gigliotti
- 1261** Ian Taber
- 1262** Margaret Lowder
- 1263** Lee Ann Connor
- 1264** Iris Preston, OAM

- 1265** Edgar Heidrich
- 1266** Beverly and Darryl Walker
- 1267** Heather Ward
- 1268** Dale Ward
- 1269** Kerrie Brain
- 1270** Virginia Wilson
- 1271** Greg Cornwell AM
- 1272** Estelle Laming
- 1273** Greg Smith
- 1274** Wayne Ford
- 1275** Rod Saunders
- 1276** Valerie Marcus
- 1277** Katie Bartholomeusz
- 1278** James and Joyleen Rump
- 1279** Deirdre Lyra
- 1280** Ian McKay
- 1281** Alan McCullough
- 1282** John Holland
- 1283** Beth Norris
- 1284** Judith Moresi
- 1285** Pamela Avery
- 1286** Brian Doney
- 1287** Thomas Brough
- 1288** Nancy Edwards
- 1289** John and Margaret Kostowski
- 1290** Mike Evans

- 1291** Robyn Smith
- 1292** Christopher Wright
- 1293** Stuart Milne
- 1294** Sara Wordsworth
- 1295** Cecily Wilson
- 1296** Ian McEachern
- 1297** Kathy Newbery
- 1298** David Thomas
- 1299** Beverly Mayer
- 1300** Barry Matulick
- 1301** Jenny Hodby
- 1302** David Guest
- 1303** Joan Gee
- 1304** Bevan and Cathy Glover
- 1305** Marlene Donovan
- 1306** Rick Andersen
- 1307** Corey Robinson
- 1308** Asim Nawaz
- 1309** Dave Cole
- 1310** Garry Donnelly
- 1311** Pamela Arrigoni
- 1312** Mrs Barbara Irving
- 1313** Dr Martin Cole
- 1314** Don and Daph Thornton
- 1315** Andrew Phillips
- 1316** John Henson

- 1317** Keith Black
- 1318** Ian and Denice Beattie
- 1319** Carolyn Barker
- 1320** Tyrran Kirkpatrick
- 1321** Richard Gould
- 1322** Peter Eckett
- 1323** Lois and Keith Bedggood
- 1324** Carolyn Chant
- 1325** Claire Wium
- 1326** Mal Baker
- 1327** Joseph Battaglia
- 1328** Kylie Lewis
- 1329** Bill Macdonald
- 1330** Ray Evans
- 1331** Nawal Singh
- 1332** Lloyd Morey
- 1333** Steven Baum
- 1334** Noel Brown
- 1335** Errol Olliffe
- 1336** Anita Fyffe
- 1337** Vicki Lillico
- 1338** Luise Cottis
- 1339** Pam Metcalf
- 1340** Janet Finlay
- 1341** Michael Oudicho
- 1342** Robin Dent

- 1343** Doug Gibson
- 1344** Felix Chau
- 1345** Robyn Taylor
- 1346** Hussein Tahiri
- 1347** Peter and Louise Hailes
- 1348** Andrew Crompton
- 1349** Stephen Nixon
- 1350** Graeme Sullivan
- 1351** Robyn Pattison
- 1352** Christopher Coombe
- 1353** Richard Cooper
- 1354** Glenda Cooper
- 1355** Pauline Sharrock
- 1356** Derrick Austin
- 1357** Phillip and Judith Considine
- 1358** Charles Probin
- 1359** John Davis
- 1360** David Bird
- 1361** Roger Hilton
- 1362** David Campbell
- 1363** Stuart Marcus
- 1364** Zak Collins
- 1365** Ashleigh Clarke
- 1366** Emma Silverster
- 1367** Hamish Munro
- 1368** Colene Taylor

- 1369** Richelle Courtney
- 1370** Ed Halse
- 1371** Simon Veltjens
- 1372** Gary Russell
- 1373** Sarah Pascall
- 1374** Robyn Guy
- 1375** Mick and Shelley Mitchell
- 1376** Keith Barton
- 1377** Stuart Miln
- 1378** Sivori Tanascev
- 1379** Law Council of Australia
- 1380** Adrian McMahon
- 1381** Ms Zali Steggall OAM MP
- 1382** Council on the Ageing (COTA)
- 1383** Heike Lange
- 1384** Patrick Lindsay
- 1385** Peter Bolt
- 1386** Noel Uebergang
- 1387** Andrew and Laura Steers
- 1388** Rosemary Pead
- 1389** Libby Allen
- 1390** Bruce Beaumont
- 1391** Phil Jackson
- 1392** John Douglass
- 1393** Andrew Carlsen
- 1394** Jim Walter

- 1395** Josephine Caltagirone
- 1396** Janice Bateman
- 1397** Marie Gracey
- 1398** Maurice Kurtz
- 1399** Robert Bucknell
- 1400** Charles Ryman
- 1401** Gabriella Ramsauer
- 1402** Rona Hurley
- 1403** John Stynes
- 1404** Patrick Casey
- 1405** Clyde Lee
- 1406** Mrs V Clisdell and Mrs H Bayliss
- 1407** Samuel Todhunter
- 1408** Olga van Gaffron
- 1409** Peter Ford
- 1410** *Name Withheld*
- 1411** Michelle Green
- 1412** Robert and Anna Jarvis
- 1413** Catherine Moffatt
- 1414** Gary Gillies
- 1415** Stephen English
- 1416** G.W. McMinn
- 1417** Robyn Shuttleworth
- 1418** Dennis Hansford
- 1419** Iain Mark Neich
- 1420** Jennifer Byrne

- 1421** Heath Fayad
- 1422** John Jones
- 1423** Michael Stow
- 1424** Cathy Liebich
- 1425** Robert Smith
- 1426** Gary Hoare
- 1427** David Sewell
- 1428** Greg Hajek
- 1429** Neil and Helen Hayes
- 1430** Peter Smith
- 1431** Ian Short
- 1432** John Denne
- 1433** Tom Cleland
- 1434** Donald Thomson
- 1435** June Lawrence
- 1436** J A Hungerford
- 1437** Sreenivas Pasula
- 1438** Rodney Hall
- 1439** Margaret Wadley
- 1440** Bev Margetts
- 1441** Debra Battersby
- 1442** Teresa and Niels Kroyer
- 1443** Nithiananthan Ariaratnam
- 1444** Paul Mewhor
- 1445** Dr Timothy Cooper
- 1446** Kuma Subedi

- 1447** Michael and Wendy Feeney
- 1448** Cynthia Phillips
- 1449** Kathryn Gould
- 1450** Rosemary Miller
- 1451** Barbara Belmonte
- 1452** Darcy Sanders
- 1453** Allan Green
- 1454** Lorna Antoniadis
- 1455** Kevin Doyle
- 1456** Aranka Kovacs
- 1457** Pauline Gray
- 1458** Barbara Burns
- 1459** Kym Farnik
- 1460** Heather Morris
- 1461** Eliza Hemphill
- 1462** Glenn Rosman
- 1463** Colin Parnell
- 1464** Lydia Excell
- 1465** Bent Finn Hansen
- 1466** William and Chris Tarbuck
- 1467** Roelf Alma
- 1468** Dr James Cameron
- 1469** Irena Zagaldov
- 1470** Maria Petry
- 1471** Jill Cluff
- 1472** Andrew Angeli

- 1473** Mervyn Rule
- 1474** C A Flaherty
- 1475** Joan Brennan
- 1476** John Burger
- 1477** Michael Cornish
- 1478** Geoffrey Woodgate
- 1479** *Name Withheld*
- 1480** Ian Sanders
- 1481** *Name Withheld*
- 1482** Stephen Brown
- 1484** Jim Riley
- 1485** #OurDemocracy combined campaign submissions
- 1486** Mr Jeremy Eccles
- 1487** Ian Sanders
- 1488** Barbara Gargaro
- 1489** Mr Diem Hoang
- 1490** Beric Foote
- 1491** *Name Withheld*
- 1492** Mr Matthew Ryan
- 1493** Dr Jackie Watts
- 1494** Mr Jeff Edwards
- 1494.1 Supplementary to submission 1494
- 1495** Campaign for Job Sharing Candidates
- 1496** Ms Georgina Foot



B. Public hearings

Wednesday, 28 September 2022

Canberra

Australian Electoral Commission

- Mr Tom Rogers, Electoral Commissioner
- Mr Jeff Pope APM, Deputy Electoral Commissioner
- Mr Andrew Johnson, Chief Legal Officer, Legal Services Branch

Monday, 17 October 2022

Canberra

Individuals

- Professor George Williams
- Dr Belinda Edwards

Human Rights Law Centre, Centre for Public Integrity, ANU's Democratic Audit of Australia, and Accountability Round Table

- Ms Alice Drury, Acting Legal Director, Human Rights Law Centre
- Mr Anthony Whealy, Chair, Centre for Public Integrity
- Mr Max Douglass, Research Officer
- Professor Marian Sawer, Democratic Audit of Australia
- Mr Michael Maley, Democratic Audit of Australia
- Professor Graeme Orr, Democratic Audit of Australia
- Hon Dr Ken Coghill, Accountability Round Table
- Professor Charles Sampford, Accountability Round Table
- Professor Spencer Zifcak, Accountability Round Table

Remedy Australia

- Ms Fiona Given

Tuesday, 18 October 2022

Canberra

Digital Industry Group Inc. (DIGI)

- Ms Sunita Bose, Managing Director
- Dr Jennifer Duxbury, Director Policy, Regulatory Affairs and Research

Australian Communications and Media Authority (ACMA)

- Ms Creina Chapman, Deputy Chair and CEO
- Mr Jeremy Fenton, Executive Manager
- Ms Rochelle Zurnamer, Executive Manager

News and Media Research Centre, University of Canberra

- Dr Kerry McCallum, Director
- Dr Caroline Fisher, Assoc. Prof of Journalism

Free TV

- Ms Bridget Fair, Chief Executive Officer
- Ms Natasha Eves, Regulatory Affairs Manager

Australian Competition and Consumer Commission (ACCC)

- Mr Scott Gregson, Chief Executive Officer
- Mr Rami Greiss, Executive General Manager, Consumer and Fair Trading Division

Australian Broadcasting Corporation (ABC)

- Mr Craig McMurtrie, Editorial Director

Reset Australia

- Mr Chris Cooper, Executive Director

Wednesday, 26 October 2022

Canberra

The Australia Institute

- Mr Bill Browne, Director, Democracy and Accountability Program

Thursday, 3 November 2022

Canberra

Australian Electoral Commission [including Electoral Integrity Assurance Taskforce]

- Mr Tom Rogers, Electoral Commissioner, AEC
- Mr Jeff Pope APM, Deputy Electoral Commissioner, AEC

- Ms Joanne Reid, Assistant Commissioner, Disclosure, Party Regulation and Redistribution Branch, AEC
- Mr Andrew Johnson, Chief Legal Officer, Legal Services Branch, AEC
- Ms Kathryn McMullan, First Assistant Director-General, Office of National Intelligence

Australian Labor Party

- Mr Paul Erickson, National Secretary, Australian Labor Party

Australian Greens

- Mr Jonathan Parry, National Secretary, Australian Greens

National Party of Australia

- Mr Joe Lundy, State Director, National Party of Australia

Centre for Aboriginal Economic Policy Research, The Australian National University

- Dr Morgan Harrington, Research Fellow
- Francis Markham, Research Fellow

Victorian Aboriginal Legal Service

- Ms Nerita Waight, Chief Executive Officer

Climate 200

- Mr Byron Fay, Executive Director
- Mr Simon Holmes à Court, Convenor

Wednesday, 23 November 2022

Canberra

Northern Land Council

- Ms Diane Brodie, Policy Team Leader
- Mr Robert Gosford, Manager Media and Communications

Aboriginal Peak Organisations of the Northern Territory

- Ms Seranie Gamble, Manager
- Ms Theresa Roe, Secretariat Co-ordinator

Private Capacity

- Mr Matthew Ryan, Maningrida Aboriginal Community

Selby Street Chambers

- Mr Ron Levy, Legal Counsel

Northern Territory Electoral Commission

- Mr Iain Loganathan, Commissioner

Northern Territory Government

- Hon Selena Uiibo, Minister for Aboriginal Affairs

Wednesday, 30 November 2022

Canberra

Electoral Commission South Australia

- Mr Mick Sherry, Electoral Commissioner
- Mrs Tamara Charman, Executive Officer

Wednesday, 8 March 2023

Canberra

Australian Electoral Commission

- Mr Tom Rogers, Electoral Commissioner
- Mr Jeff Pope APM, Deputy Electoral Commissioner
- Ms Robyn Black, Acting First Assistant Commissioner
- Ms Kath Gleeson, First Assistant Commissioner, Service Delivery Group
- Mr Andrew Johnson, Chief Legal Officer, Legal Services Branch
- Mr Michael Lynch, First Assistant Commissioner, Electoral Integrity and Operations Group
- Ms Joanne Reid, Assistant Commissioner, Disclosure, Party Registration and Redistribution Branch
- Mr Thomas Ryan, First Assistant Commissioner, Organisational Transformation Group

Thursday, 27 April 2023

Canberra

Inclusion Australia

- Ms Maeve Kennedy, Senior Manager
- Ms Brooke Manham, Policy Officer

Blind Citizens Australia

- Ms Sally Aurisch, Chief Executive Officer
- Mr Jack Reynolds-Ryan, National Policy and Campaigns Officer

Vision Australia

- Mr Bruce Maguire

Australian Federation of Disability Organisations

- Mr Ross Joyce, Chief Executive Officer

Friday, 23 June 2023

Canberra

Australian Democracy Network

- Ms Saffron Zomer, Executive Director

Human Rights Law Commission

- Ms Alice Drury, Senior Lawyer

Australian Conservation Foundation

- Ms Kelly O'Shanassy, Chief Executive Officer

Wednesday, 2 August 2023

Canberra

Private capacity

- Prof Kim Rubenstein

Wednesday, 6 September 2023

Canberra

Australian Electoral Commission

- Mr Tom Rogers, Electoral Commissioner
- Mr Jeff Pope APM, Deputy Electoral Commissioner
- Mr Andrew Johnson, Chief Legal Officer, Legal Services Branch
- Ms Kath Gleeson, Acting First Assistant Commissioner, Service Delivery Group
- Mr Michael Lynch, First Assistant Commissioner, Electoral Integrity and Operations Group
- Mr Thomas Ryan, First Assistant Commissioner, Organisational Transformation Group
- Ms Rachel Spalding, First Assistant Commissioner, Enabling and Regulation Group
- Ms Joanne Reid, Assistant Commissioner, Disclosure, Party Registration and Redistribution Branch
- Ms Natasha Scandrett, Assistant Commissioner, Delivery and Support Branch



Dissenting report by Coalition members of the Committee

1. Introduction

- 1.1 The Coalition members of the Joint Standing Committee on Electoral Matters propose this Dissenting Report in response to the Chair's Draft *Conduct of the 2022 federal election and matters related thereto Final Report*. This Dissenting Report outlines the Coalition members of the Committee's objections to the Report's recommendations and provides alternate proposals to improve Australia's electoral system.
- 1.2 This report is to be read in conjunction with the Coalition members of the Committee's Dissenting Report into the *Conduct of the 2022 federal election and matters related thereto Interim Report* as per the attached.
- 1.3 The Coalition members of the Committee hold that electoral changes ought to be assessed on the following four core principles:
 - Fair, open and transparent elections;
 - Equal treatment of all political participants;
 - Freedom of political communication and participation, without fear of retribution; and
 - Recognising freedom of thought, belief, association and speech as fundamental to free elections.
- 1.4 Australia's success as a liberal democracy is reliant on the effective operation of the Australian Electoral Commission (AEC), and the Federal Government more broadly, to satisfy and uphold these four principles.
- 1.5 Ensuring that Australians have continued faith in the electoral system is paramount to Australian's faith in its institutions of Government.
- 1.6 The Coalition members of the Committee will not support attempts to legislate amendments to the Electoral Act that are targeted at supporting certain political participants or types of political participants. Rather, the Coalition members of the Committee contend that all parties and candidates ought to be treated equally and recommendations should aim to encourage political participation, not thwart it with regulation. Indeed, recommendations ought to improve our democracy for all Australians, not support partisan interests.

- 1.7 As such, the Coalition members of the Committee's comments and recommendations aim to improve Australia's democracy and uphold its four principles to promote a free and fair liberal democracy.

2. Recommendations from the Coalition to the Final Report's Recommendations

- 1.8 The Coalition members of the Committee's five proposed recommendations are to be read in conjunction with the six proposed recommendations in its Dissenting Report to the *Conduct of the 2022 federal election and matters related thereto Interim Report*.

Recommendation 1

- 1.9 **The Coalition members of the Committee recommend that Section 46 of the Commonwealth Electoral Act be amended so that the process for commencing redistributions after the first meeting of the House of a new Parliament be reduced from 12 months to 3 months.**
- 1.10 Section 46 of the Commonwealth Electoral Act determines that the commencement of the redistribution process must be 12 months after the first meeting of the House of Representatives in a new Parliament.
- 1.11 The AEC's Redistribution process is a very sophisticated and consultative undertaking. With two stages of consultation and extensive quantitative analysis, the Redistribution Committee finalises new electoral boundaries for the next federal election approximately 12 to 18 months after issuing a Notice of a Redistribution.
- 1.12 However, the Coalition members of the Committee believe that this process starts far too late in the electoral cycle. As of November 2023, Victoria and Western Australia are still both in their first phase of consultation, with the AEC reporting that Victoria's redistribution will not be finalised until 17 October 2024. By comparison, the Prime Minister can call the next federal election three months beforehand, on 3 August 2024, resulting in a mini-redistribution because the new boundaries would not yet have legal effect.
- 1.13 As such, the Coalition members of the Committee propose to amend the Electoral Act to compel the AEC to commence Redistributions as early as possible while ensuring that the Redistributions are as best informed by stakeholder consultation and quantitative analysis as possible. This process would help to ensure that electoral boundaries are finalised six to twelve months before the earliest date a federal election can be called.
- 1.14 Bringing the final determination of the electoral boundaries forward would provide Members of Parliament and candidates with greater knowledge of their relevant electorate prior to a federal election. This, in turn, would help facilitate greater engagement in the electoral process.

- 1.15 As such, the Coalition members of the Committee recommend to decrease the length of time the Electoral Commissioner must wait to commence a redistribution from 12 months to 3 months after the first meeting of the House of Representatives of a new Parliament.

Recommendation 2

- 1.16 The Coalition members of the Committee recommend that the AEC be provided additional resources to expand its standardised civics program in Australian secondary schools to best inform students of their voting rights and responsibilities.**
- 1.17 The Coalition members of the Committee note the value of **Recommendation 12**, stating that:
- “The Committee recommends that the Australian Government consider ways to strengthen civics education programs in Australian schools to better equip and prepare the next generation of voters to cast their first vote.”
- 1.18 However, to ensure a non-partisan and professional civics program, the Coalition members of the Committee believe that this is best delivered exclusively by the AEC, acknowledging their existing expertise administering the highly successful National Electoral Education Centre in Canberra.
- 1.19 The Coalition members of the Committee propose to expand the National Electoral Education Centre to have a greater degree of classroom learning across all Australian secondary schools.
- 1.20 The Coalition members of the Committee believe that this recommendation would also assist to address **Recommendation 17** which recommends enabling “the Australian Electoral Commission to employ senior electoral officers on a more permanent basis.” If the AEC were to coordinate a year-long civics program, then it would be able to employ a greater number of senior electoral officers on a more permanent basis by giving them dual responsibility of coordinating elections and coordinating secondary school civics education programs.
- 1.21 The Coalition members of the Committee also support resourcing the AEC adequately for the purposes of delivering this civics program.

Recommendation 3

- 1.22 The Coalition members of the Committee recommend that the AEC provide greater training for staff, specifically returning officers, to ensure that the AEC’s rules and regulations are applied homogeneously across polling booths.**

- 1.23 The Coalition members of the Committee note that there is room for improvement regarding the homogenous application of the AEC's rules and regulations across polling booths.
- 1.24 The Coalition members of the Committee request additional training for staff and returning officers on engagement with political participants and protocols to manage instances of the general public harassing political participants.

Recommendation 4

- 1.25 The Coalition members of the Committee recommend that the Government establish transparency obligations on large social media platforms.**
- 1.26 Foreign interference is now Australia's principal national security threat which risks significantly undermining our values, freedoms and way of life. While Australia has led the world in combating this threat, foreign actors will continue to seek to undermine trust in our democratic institutions, including our electoral integrity.
- 1.27 The Coalition members of the Committee suggest the legislation of transparency obligations on large social media platforms that detail the country of origin of social media posts. The Coalition members of the Committee believe that Australians ought to be made aware of the origin of the content they are exposed to so they can make up their own minds about its merits.
- 1.28 This would be complementary to the AEC's current disinformation register which catalogs, in a transparent manner, the various unfounded claims that are made, mostly on social media, about our electoral processes. Combating foreign interference would also be complementary to the enforcement of Section 321DA of the Commonwealth Electoral Act, which prevents foreign campaigners authorising, and therefore distributing, electoral matter.

Recommendation 5

- 1.29 The Coalition members of the Committee recommend that the Electoral Integrity Assurance Taskforce table reports to the JSCEM prior to and post federal electoral events.**
- 1.30 The Coalition members of the Committee believe that the Electoral Integrity Assurance Taskforce ought to table reports to the JSCEM relating to foreign interference so that the JSCEM is fully aware of the risk that foreign interference may have on Australian elections.
- 1.31 The Coalition members of the Committee request a report be provided to the JSCEM prior to each electoral event detailing the risk of foreign interference and a report after each electoral event detailing the frequency, severity, and actions taken to prevent foreign interference throughout the electoral events. The Coalition members of the Committee note that such a report would likely need to be tabled *in camera* to ensure the integrity of national security.

3. Coalition Reply to the Final Report's Recommendations

Recommendation 1

The Committee recommends the Government consider asking the Committee to inquire into increasing the size of the House of Representatives to reduce malapportionment and improve the ratio of electors to MPs.

- 1.32 The Coalition members of the Committee notes this recommendation to have the JSCEM to inquire into increasing the size of the House of Representatives, and requests more detail on a draft Terms of Reference.
- 1.33 The Coalition members of the Committee notes that the Government had no mandate to increase the size of the Parliament and have concerns about increasing the size of the House of Representatives, and the Senate, in the middle of a cost-of-living crisis.

Recommendation 2

The Committee recommends that the representation of the territories in the Senate be increased from two to four Senators each.

- 1.34 The Coalition members of the Committee oppose this recommendation on the grounds that increases to the number of Territory senators in isolation would worsen malapportionment. Any change to the number of Territory senators could only be considered alongside **Recommendation 1**.
- 1.35 At the 2022 Federal Election, 16,753,557 voters elected 36 senators across Australia's six States. On average, this represented 465,377 votes per senator. However, for the two Territories, 314,025 ACT voters elected two senators, and 145,851 NT voters elected two senators. On average, this represented 114,969 votes per senator. As such, a Senator representing a State required four times as many votes as a senator representing a Territory.
- 1.36 If **Recommendation 2** is adopted, then a senator from New South Wales would require 25 times more votes than a senator from the Northern Territory to be elected. The Coalition members of the Committee oppose increasing the number of Territory Senators on the grounds that it would be the greatest level of malapportionment since Federation.
- 1.37 The Coalition members of the Committee also believe that any increase to the number of Territory senators should only be considered alongside **Recommendation 1** in relation to increases to the number of senators and House of Representative members more broadly. However, the Coalition's position on such an inquiry remains subject to the terms of reference.

Recommendation 3

The Committee recommends that the Commonwealth Electoral Act 1918 is amended to permit on-the-day enrolment for federal elections and referendums.

- 1.38 The Coalition members of the Committee support resourcing the AEC as best as possible to improve voter enrolment across Australia, particularly in regional, rural, and remote parts of Australia.
- 1.39 The AEC's Federal Direct Enrolment and Update (FDEU) program has seen substantial success in 2023. Indeed, from January 1 2023 to July 31 2023 alone, 224,494 people were added to the electoral roll through FDEU activities, 44,827 of which were Indigenous. Voter enfranchisement has also been supported by Medicare cards and Australian citizenship certificates joining Australian drivers' licenses and Australian passports as valid forms of ID as of 17 February 2023.
- 1.40 As such, the Coalition members of the Committee do not believe that there is a sufficient argument in favour of on-the-day enrolment, and do not support this recommendation.

Recommendation 4

The Committee recommends the Australian Electoral Commission continue to develop close relationships with relevant community organisations in addressing barriers to Aboriginal and Torres Strait Islander electoral participation, particularly in remote areas, with a focus on the following initiatives:

- 1.41 The Coalition members of the Committee support the AEC developing closer relationships with relevant community organisations provided that the community organisations do not hold partisan relationships with political participants to ensure that addressing barriers to Aboriginal and Torres Strait Islander electoral participation are not addressed under a partisan lens.

Recommendation 5

The Committee recommends the repeal of subsections 93(8)(a) and 118(4) of the *Commonwealth Electoral Act 1918*.

- 1.42 The Coalition members of the Committee empathise with the notion of removing the "unsound mind" condition from the Electoral Act. However, the Coalition members of the Committee note that the primary function of the "unsound mind" provision is to remove those from the electoral roll that have lost the physical and mental capacity to complete a ballot paper. This is a useful provision because it allows the AEC to not send fines or notices for not voting to those that no longer have the ability to vote.
- 1.43 As such, the Coalition supports amending the "unsound mind" provision to reflect more suitable language, such as "incapacitated", but warns against removing the "unsound mind" provision entirely without a suitable replacement due to the

unintended consequences of potentially causing distress to electors who are unable to vote and subsequently are fined.

Recommendation 6

The Committee recommends that the AEC co-design independent, secure and accessible voting options with disability advocacy organisations and people within the disability community.

- 1.44 The Coalition members of the Committee support this recommendation on the proviso that the sanctity of the individual's vote is preserved, and the voter has primacy at all times.

Recommendation 7

The Committee recommends that the AEC:

- 1.45 The Coalition members of the Committee support this recommendation.

Recommendation 8

The Committee recommends that the Government expands Part XVB of the *Commonwealth Electoral Act 1918* to enable more people to vote via telephone, including:

- 1.46 The Coalition members of the Committee oppose this recommendation on the grounds that the expansion of telephone voting is unnecessary, puts a logistical burden on the AEC and the scrutiny of the count, and substantially increases the risk and ability for foreign governments to interfere with Australia's elections.
- 1.47 It is deeply problematic to contemplate the expansion of telephone voting for Australians overseas, which would inevitably include telephone voting for Australians residing in foreign authoritarian states, which are also the highest source of foreign interference and espionage attempts in our country. It is highly unlikely that the cyber and national security risks created by such a move could ever be entirely mitigated.
- 1.48 As noted by the Electoral Integrity Assurance Taskforce, a risk does not need to eventuate in order to undermine electoral integrity. Potential threats to electoral integrity can come in the form of either "perceived or actual interference in electoral processes". The perception alone that such foreign interference could occur would undermine Australia's electoral integrity.
- 1.49 Furthermore, the Coalition members of the Committee note that the inclusion of telephone voting would place a logistical burden on the AEC beyond its current remit and further note that this Report already believes the AEC is under resourced for its current tasks. This is in addition to the difficulty of scrutineering a telephone vote, and providing assurance to the public of the integrity of the system.
- 1.50 Coalition members of the Committee also hold deep concerns that if too many Australians are given the opportunity to vote via telephone, that call centres may

crash or become overrun by phone calls and have a greater inhibition on the ability for Australians to vote than would otherwise be the case.

Recommendation 9

The Committee recommends the AEC continue to run its mobile polling program for older Australians living in aged care.

- 1.51 The Coalition members of the Committee support this recommendation.
- 1.52 However, the Coalition members of the Committee request that the AEC provide greater notice to the relevant political participants of which aged care centres are being used and for what times.

Recommendation 10

The Committee recommends that the administrative burden of voting overseas is reduced.

- 1.53 The Coalition members of the Committee support mechanisms to increase voter turnout, including for eligible voters that are not residing in Australia on voting day.
- 1.54 However, the Coalition members of the Committee will reserve their judgment on specific policy positions until such policy positions are put forward and note that very limited evidence was provided to the inquiry to substantiate this recommendation.

Recommendation 11

The Committee recommends that the Australian Government continue to support people who wish to become Australian citizens and take up their associated voting franchise to do so.

- 1.55 The Coalition members of the Committee believe that immigration policy is beyond the scope of electoral reform and that to mold the standards of rights to citizenship to the electoral system is a distortion of its integrity.

Recommendation 12

The Committee recommends that the Australian Government consider ways to strengthen civics education programs in Australian schools to better equip and prepare the next generation of voters to cast their first vote.

- 1.56 The Coalition members of the Committee support expanding the AEC's education program as per its **Proposed Recommendation 2**.

Recommendation 13

The Committee recommends that charities registered under the Australian Charities and Not-for-profits Commission be exempt from the donation caps recommended in the Committee's

interim report into the 2022 federal election, but that these caps be applied to political parties and candidates, along with associated entities, other third parties and significant third parties.

- 1.57 The Coalition members of the Committee do not support donation caps that exclude charities registered under the Australian Charities and Not-for-profits Commission.
- 1.58 As stated by the Coalition members of the Committee in the *Conduct of the 2022 federal election and matters related thereto Interim Report*, “Donation caps can only be fair when political parties and candidates are treated fairly and equally.” The Coalition members of the Committee’s position has not changed. Any donation caps must include party membership fees, subscriptions, levies, affiliation fees, union affiliated fees, and any charity registered under the Australian Charities and Not-for-profits Commission.
- 1.59 A cap that treats political donors differently would create an uneven regulatory playing field, particularly as it is proposed, and creates a partisan approach to electoral reform.

Recommendation 14

The Committee recommends that the Australian Government amend the Commonwealth Electoral Act 1918 to provide clarity around the following terms:

- 1.60 The Coalition members of the Committee oppose amending the definitions to ‘electoral matter’, ‘electoral expenditure’, and ‘third party’, as the current definitions are sufficient.
- 1.61 The Coalition members of the Committee will revisit its position on these definitions in the context of a proposed expenditure cap as per **Recommendation 26** of the Interim Report. As the Coalition members of the Committee do not support expenditure caps for federal elections as they are proposed, the Coalition does not support amending these definitions.

Recommendation 15

The Committee recommends that contingent on the Australian Government introducing truth in political advertising laws, that the media blackout, known as the relevant period in the *Broadcasting Services Act 1992*, be removed.

- 1.62 The Coalition members of the Committee oppose measures that purport to adjudicate truth in political advertising and, as such, would not support the removal of the media blackout laws.
- 1.63 As stated in response to **Recommendation 32** of the Interim Report, freedom of speech and the contestability of ideas are necessary for a healthy liberal democracy. Distinguishing between truth, opinion, and falseness in the context of an election is an inherently subjective process, and one that is appropriately left to voters.

- 1.64 The Federal Government and its bureaucracy, no matter how independent and qualified, has neither the scope nor the ability to adjudicate truth in election campaigns.

Recommendation 16

The Committee recommends that the Australian Government ensure that the Australian Electoral Commission is resourced to employ staff at the appropriate level to facilitate elections to the high standard expected by the Australian community.

- 1.65 The Coalition members of the Committee believe that the resourcing of the AEC is a matter for the Government.

Recommendation 17

The Committee recommends that the Australian Government amend section 35 of the Commonwealth Electoral Act 1918 to enable the Australian Electoral Commission to employ senior electoral officers on a more permanent basis.

- 1.66 The Coalition members of the Committee support enabling the AEC to employ senior electoral officers on a more permanent basis if it is for the purposes of providing a standardised civics program in Australian secondary schools to inform students of their voting rights and responsibilities as per the Coalition members of the Committee's **Proposed Recommendation 2**.

Recommendation 18

The Committee recommends that the Australian Electoral Commission expand its recruitment drive to employ staff for selected polling places who can speak the targeted language(s) for those communities.

- 1.67 The Coalition members of the Committee support the AEC providing material in different languages through educational programs or online resources.
- 1.68 However, to ensure transparency of the AEC's instructions, the Coalition members of the Committee only support AEC staff communicating with voters in languages other than English when it is absolutely necessary to do so.

Recommendation 19

The Committee recommends that the Australian Government engages with the Australian community to determine contemporary expectations of standards in order to address all matters of qualification and disqualification for Parliament through legislation under sections 34 and 44 of the Constitution.

- 1.69 The Coalition members of the Committee argue that sections 34 and 44 of the Constitution are clear.

- 1.70 The Coalition members of the Committee would not support any referenda to amend these Constitutional provisions.

Recommendation 20

The Committee recommends that section 184AA of the *Commonwealth Electoral Act 1918*, application forms for postal votes, be amended or removed, so that postal vote applications can no longer be included with other material.

- 1.71 The Coalition members of the Committee believe that political parties sending out postal vote applications is an extremely useful part of supporting voter turnout and as such, see no reason to amend the Electoral Act to prohibit such distribution.

Recommendation 21

The Committee recommends that section 184 of the *Commonwealth Electoral Act 1918* be amended to clarify that postal vote applications must be sent directly to the Australian Electoral Commission's nominated addresses.

- 1.72 The Coalition members of the Committee see no need to change the longstanding practice of political participants assisting with voter turnout by distributing, collecting, and on-forwarding postal vote applications to the AEC.

4. Coalition Reply to the Interim Report

a. Recommendations from the Coalition to the Interim Report's Recommendations

- 1.73 As the Coalition members of the Committee have five proposed recommendations to the Final Report, the proposed recommendations from the Interim Report have been renumbered to begin at six.

Recommendation 6

1.74 The Coalition members of the Committee recommend that the Electoral Act be amended to allow for the obligations of Registered Political Parties to be applied to independent candidates where the Australian Electoral Commissioner believes those candidates are conducting their activities in a manner consistent with a Registered Political Party.

- 1.75 The Coalition members of the Committee recommend that the Electoral Act be amended to allow for the obligations of Registered Political Parties to be applied to independent candidates where the Australian Electoral Commissioner believes those candidates are conducting their activities in a manner consistent with a Registered Political Party.

- 1.76 The Australian Electoral Commission should be empowered to require independent candidates to provide transparency on the activities of independent candidates or independent parliamentarians where those activities involve coordination, support, resourcing or assistance with other independent candidates or parliamentarians.
- 1.77 It has been recognised through the course of the Committee's inquiry that the 2022 Election saw a series of successful independent candidates, now known as the Teal Party, contest a number of seats.
- 1.78 There has been evidence presented to the Parliament, and through this inquiry, that suggests that this was done, in part, as a coordinated effort and that this coordination was either not presented in a transparent manner, or was unable to be categorised under the current electoral law.
- 1.79 It is concerning that allegations of this activity were made, while the candidates in question claimed to be unaffiliated independent candidates.
- 1.80 The statement from Teal members of parliament and candidates that they are not a political party is as offensive as it is wrong. Creating a level playing field between established political parties and the Teal Party will ensure equal treatment and limit the ability of 'political players' to game the system.

Recommendation 7

- 1.81 **The Coalition members of the Committee recommend that the Government give consideration to the adequacy of the current electoral regulatory framework to nominate as a candidate at a Commonwealth election, and in particular any measures that could be implemented to strengthen the integrity of the system.**
- 1.82 It is important that the regulatory framework to support the nomination of candidates in Commonwealth elections reflects community expectations and is consistent with the strong integrity of electoral outcomes expected under the Commonwealth Electoral Act.
- 1.83 The Committee, and the Parliament more broadly, has heard evidence in relation to the ability for the nomination of large numbers of candidates for election that create burdens on electors, barriers to entry for some candidates or parties, and the potential for candidates to be utilised purely for preference distribution.
- 1.84 It is imperative that electors are provided a choice of candidates that is reflective of the community support and that the system of nomination is transparent and effective.

Recommendation 8

- 1.85 **The Coalition members of the Committee recommend the pre-poll period be statutorily limited to be a maximum of one week prior to election day and that**

the Australian Electoral Commission provide parties and candidates with the earliest possible advice about pre-poll locations.

- 1.86 The Coalition members of the Committee support reducing the length of the pre-polling period from two weeks (12 days) to one week (five days).
- 1.87 The reason for the proposed reduction is twofold. Firstly, a reduction in the length of the pre-poll period would sizeably reduce the administrative burden on both the AEC and election candidates. Secondly, reducing the length of the pre-poll period would also allow for voters to make their voting decisions with the most current information.
- 1.88 Voters who need to vote prior to polling day are also able to apply for a postal vote. The limitation of pre-poll to five days would therefore not impact the ability of a voter to cast their vote upon receipt of that form.
- 1.89 This proposed change could also be made without diminishing the pre-poll arrangements for remote communities, in order to provide a greater access to enfranchisement to these electors. In limiting pre-poll in this way, it will allow a greater focus of resources to this important task.

Recommendation 9

- 1.90 The Coalition members of the Committee recommend that a new offence of 'electoral violence or intimidation' be added to the Electoral Act. This amendment is fundamental to address behaviour arising in an election such as violent, obscene or discriminatory abuse, property damage, and stalking candidates or their supporters to intimidate them or make them feel unsafe.**
- 1.91 No one should feel unsafe while participating in our democratic process.
- 1.92 Over an extended period, the Committee and the Parliament has been presented evidence that political volunteers and supporters have been subject to politically motivated abuse, violence or harassment. The strength of our electoral system rests on the contestability of ideas and the presentation of that contest to electors. But this contest must be safe for the participants engaging in it. There is no greater importance than securing this contest in the electoral system for the ensuring of free and fair elections.
- 1.93 Any behaviour that results in the withdrawal of participants from our democratic process, whether it be the intimidation of electors from supporting the candidate or party of choice or for standing for election, should be treated with the same severity and urgency as foreign interference in our electoral system or the impact of other electoral-specific offences.
- 1.94 To that end, threats that stop, influence or hinder someone's participation in an election are a threat to all of us and should be dealt with through a standalone offence, with specific sanctions that relate to the removal of the threat from preventing further electoral interference.

Recommendation 10

- 1.95 The Coalition members of the Committee recommend that the AEC return all electoral practises to pre-COVID standards.**
- 1.96 Following the removal of any restrictions that were placed upon electors who are participating in Commonwealth elections relating to the COVID-19 pandemic, the Coalition members of the Committee believe there is no justification for any measures that were put in place to ensure the conduct of pandemic-elections to continue.
- 1.97 The Government should commit to not continuing these measures until the Parliament determines otherwise as a result of physical restrictions placed on electors.

Recommendation 11

- 1.98 The Coalition members of the Committee recommend that vote counts after polling day for each electorate should be carried out in the electorate itself, not transported considerable distances.**
- 1.99 The Coalition members of the Committee strongly support the counting of votes in locations within local electorates as far as possible. The Commission made extensive comment about their support for local campaign workers in the electoral process, including the scrutiny of the vote.
- 1.100 By removing votes for counting at other and distant locations, campaign workers who are unable to travel for those counts do not have the ability to participate in the scrutiny of their local electorate. This is an important part of the democratic process, and the Australian Electoral Commission should recognise and support that participation, particularly at the point of scrutiny of the vote after polling day.

b. Coalition Reply to the Interim Report's Recommendations

- 1.101 As there are 21 recommendations in the Final Report, the recommendations from the Interim Report have been renumbered to begin at 22.

Recommendation 22

The Committee recommends that the Australian Government lower the donation disclosure threshold to \$1,000.

- 1.102 The Coalition members of the Committee believe that it is essential to balance the disclosure threshold with the potential risks to the privacy of contributors.
- 1.103 Similarly, the disclosure threshold must not discourage participation in the electoral system by members of the community, civil society groups and businesses who could fear intimidation or retribution of supporting political parties or candidates.

- 1.104 In the 2022 Federal Election, there were numerous incidents of small businesses endorsing political candidates and/or political parties and facing threats and boycotts by left-wing activist groups.
- 1.105 Businesses and private citizens ought to be able to contribute funds to political parties across the political spectrum without malevolent political players making threats based on information sourced from the AEC's disclosure reports.
- 1.106 In addition to this, the Coalition members of the Committee note that while State and Territory Governments have lower, if varied, rates of disclosure, the system as it applies at a Commonwealth level should account for potential expenditure in each jurisdiction. The Coalition suggests reducing the national annual disclosure threshold to the sum of each of these jurisdictions' respective disclosure thresholds, \$8,000 per financial year, would be a more appropriate figure.

Recommendation 23

The Committee recommends that the Australian Government introduce 'real time' disclosure requirements for donations to political parties and candidates.

- 1.107 The Coalition members of the Committee support the implementation of a reduced disclosure timeframe for political parties and candidates.
- 1.108 A monthly disclosure period strikes the balance between ensuring electoral transparency and allowing political parties and candidates to undertake appropriate due diligence without unduly inhibiting their ability to execute their proper function in Australian democracy – to represent the Australian people.
- 1.109 For example, if a donation was received by a political party or a candidate, then the party or candidate requires enough time to determine the origin of the funds, determine whether the receipt of the funds is consistent with the Electoral Act, and to return the funds if the funds were found to be from a prohibited donor.
- 1.110 Disclosure requirements shorter than a month would be extremely administratively burdensome, particularly given many political parties rely on volunteers to manage local party units.
- 1.111 The Coalition believes that reporting monthly is a satisfactory period to achieve realistic 'real time' disclosure.

Recommendation 24

The Committee recommends that the Australian Government gives consideration to amending the definition of 'gift' in the Electoral Act to ensure it meets community expectations of transparency in political donations.

- 1.112 The Coalition members of the Committee are open to considering amendments to the Electoral Act's definition of a 'gift'. However, these should be considered in the context of the impact that any changes to the definition of a 'gift' would have on

bequests and gifts-in-kind, particularly in conjunction with any amendments resulting from Recommendation 4.

Recommendation 25

The Committee recommends that the Australian Government introduce donation caps for federal election donations.

- 1.113 The Coalition members of the Committee do not support the implementation of a donation cap as it is proposed.
- 1.114 Donation caps can only be fair when political parties and candidates are treated fairly and equally, and therefore any donation caps must include party membership fees, subscriptions, levies, affiliation fees, and union affiliation fees.
- 1.115 Such a cap would create an uneven regulatory playing field, particularly as it is proposed, and creates a partisan approach to electoral reform.

Recommendation 26

The Committee recommends that the Australian Government introduce expenditure (also known as spending) caps for federal elections.

- 1.116 The Coalition members of the Committee do not support expenditure caps for federal elections as they are proposed.
- 1.117 The Coalition members of the Committee strongly reject a system of expenditure caps where independent candidates are treated differently to a candidate from a political party.
- 1.118 In addition, it is particularly egregious that the Government members propose a system that would rig an expenditure system in their favour. A spending cap that fails to take into account Labor's union-funded campaign machine is nothing short of a financial gerrymander.
- 1.119 All candidates should be treated equally by legislation in a democracy. To do otherwise is to undermine the democratic process.

Recommendation 27

The Committee recommends that donation caps and expenditure caps apply to third parties and associated entities.

- 1.120 While the Coalition members of the Committee will not support electoral expenditure caps, should they be introduced, any caps on electoral donations or expenditure should apply to third parties and associated entities.
- 1.121 In addition, expenditure caps should be lower for third parties and related entities. This is appropriate as they are not participating as candidates or as political parties.

Recommendation 28

The Committee recommends the Australian Government introduce a requirement that all political parties, members of Parliament, candidates, associated entities and third parties be required to establish a Commonwealth Campaign Account for the purpose of federal elections, to better allow for disclosure and monitoring.

1.122 The Coalition members of the Committee support this recommendation, subject to further detailed legislation being presented by Government.

Recommendation 29

The Committee recommends the Australian Government introduces a new system of administrative funding to recognise the increased compliance burden associated with a reformed system.

1.123 The Coalition members of the Committee note this recommendation. This recommendation is dependent on the administrative burdens resulting from the outcomes of the other recommendations.

1.124 Should the administrative burden increase on political parties and candidates, a detailed proposal of the new system of administration funding should be considered by this Committee.

Recommendation 30

The Committee recommends the Australian Government introduce a new system of increased public funding for parties and candidates, recognising the impact changes a reformed system will have on private funding in elections.

1.125 The Coalition members of the Committee note this recommendation. An increase in public funding for political parties is reliant on the outcomes of other recommendations.

1.126 Australia is experiencing a cost-of-living crisis and there has not been sufficient evidence provided to the Committee that demonstrates that increasing public funding for parties and candidates is the best use of taxpayer funds, particularly over continuing to allow business and private citizens to contribute to the democratic process in a fair and transparent way.

Recommendation 31

The Committee recommends the Australian Government provide the Australian Electoral Commission with additional resources to support, implement and enforce these reforms.

1.127 The Coalition members of the Committee note this recommendation. The Coalition members of the Committee note that an appropriately funded Australian Electoral Commission is essential to a functioning electoral system.

Recommendation 32

The Committee recommends that the Australian Government develop legislation, or seek to amend the *Commonwealth Electoral Act 1918*, to provide for the introduction of measures to govern truth in political advertising, giving consideration to provisions in the *Electoral Act 1985* (SA).

- 1.128 The Coalition members of the Committee oppose the introduction of measures that purport to adjudicate truth in political advertising. Freedom of speech and the contestability of ideas are necessary for a healthy liberal democracy.
- 1.129 Distinguishing between truth, opinion, and falseness in the context of an election is an inherently subjective process, and one that is appropriately left to voters. The Federal Government and its bureaucracy, no matter how independent and qualified, has neither the scope nor the ability to adjudicate truth in election campaigns.
- 1.130 It would be inappropriate for any government body to censor political parties and candidates in their communications. Elections and election campaigns are and should remain a marketplace of ideas. If candidates or political parties make statements or release inaccurate policy positions, it is the role of the media, civil society and other political actors to hold their statements to account.
- 1.131 That this proposition has been put forward by the party of Government who are responsible for the inaccurate and misleading 'Medicare' campaign in the 2016 election is the height of hypocrisy.

Recommendation 33

The Committee recommends that the Australian Government consider the establishment of a division within the Australian Electoral Commission, based on the principles currently in place in South Australia, to administer truth in political advertising legislation, with regard to ensuring proper resourcing and the need to preserve the Commission's independence as the electoral administrator.

- 1.132 The Coalition members of the Committee believe the role of the Australian Electoral Commission is to deliver electoral events and not to determine what is truth. Introducing such a function would substantially increase the size and the role of the AEC, but it would also politicise an institution that can only successfully exercise its core function due to its independence.
- 1.133 The AEC Commissioner, Mr Tom Rogers, has stated that "any involvement of any electoral administration body...runs counter to the principles of neutrality and non-partisanship."¹ The Coalition members of the Committee support the Commissioner's comments and reiterate that arbitration of truth is not the role of the AEC.

¹ Australian Electoral Commission, *Committee Hansard*, 28 September 2022, p. 4.

Recommendation 34

The Committee recommends that, providing the Committee receives a reference to conduct a review of the next federal election, consideration of the new framework be included in terms of reference to the Committee. Such consideration could include the effectiveness of the revised arrangements, and identification of any further improvements.

1.134 The Coalition members of the Committee consider that any amendments to the terms of reference is a decision for the relevant Minister in the next Parliament.

Recommendation 35

Consistent with the recommendation made in this Committee's Advisory report on the Referendum (Machinery Provisions) Amendment Bill 2022, the Committee recommends that the Australian Government strengthen the opportunities for electoral enfranchisement and participation to allow the Australian Electoral Commission to support increased enrolment and participation, particularly of Aboriginal and Torres Strait Islander people, including in remote communities.

1.135 The Coalition members of the Committee support mechanisms to increase electoral enfranchisement and participation, including among Aboriginal and Torres Strait Islander peoples.

Recommendation 36

The Committee recommends the Government resource the Australian Electoral Commission to work directly with Aboriginal and Torres Strait Islander community organisations to increase Indigenous enrolment and participation, particularly in remote communities.

1.136 The Coalition members of the Committee support this recommendation.

Senator the Hon James McGrath

Senator Ross Cadell

Deputy Chair

Mr James Stevens MP

**Senator the Hon Linda
Reynolds CSC**

The Hon Darren Chester MP



Additional comments by the Australian Greens

- 1.1 For many years, the Greens have championed reforms to clean up our democracy, including getting big money out of politics, exposing hidden money that is never declared, preventing misleading campaigns, removing barriers to running for election, and addressing the 'incumbency advantages' that stack outcomes in favour of the two-party system.
- 1.2 The 2022 election made it abundantly clear that the public wants those things too. We saw the lowest vote share for the big parties in 75 years, and we saw a parliament that's more diverse than ever.
- 1.3 Any legislation to deliver electoral reforms must ensure it strengthens democracy, not just the political fortunes of the big parties.
- 1.4 The Greens additional comments to the earlier JSCEM interim report outline issues regarding campaign finance, the definition of gift, incumbency advantages and barriers to participation that were not sufficiently addressed. We are disappointed there has not been more progress on refining proposals relating to these matters over the last six months through the JSCEM process.
- 1.5 These brief additional comments highlight issues specific to the final report to be addressed in implementing the recommendations, as well as further matters to be considered to achieve genuine campaign finance reform.

Recommendation 1

- 1.6 The Australian Greens welcome this review, and would like to see any review also consider the role of proportional representation in our Parliament, given that one in three voters selected someone other than Labor or Liberal as their first preference vote in the 2022 federal election.

Recommendation 2

- 1.7 The Australian Greens support an increase in the representation of ACT and NT in future elections. The model in the main committee report is one of several options to achieve this outcome and we are open to continuing to explore these options.

Recommendations 3 & 4

- 1.8 The Australian Greens welcome the recommendations relating to First Nations enrolment. These are sensible recommendations that mirror the amendments we put

forward to the Referendum Machinery Bill. It is disappointing that this work was not undertaken in time for the recent Referendum, and we strongly urge the Government to implement these recommendations before the next election.

Campaign finance reform & Government response to interim report

- 1.9 The Greens want to see genuine reforms, not rorts that lock in major party advantages.
- 1.10 This JSCEM process has provided a partial pathway to developing legislative reforms that could genuinely improve our democracy before the next election.
- 1.11 But there is still significant work to do to ensure our electoral system is transparent, political advertising is not misleading and to find ways to prevent a single donor dominating the political landscape as Clive Palmer has done in 2019 and 2022.
- 1.12 It was also extremely disappointing to see the Government response to the interim JSCEM referred to bipartisan rather than multi partisan consultation.
- 1.13 The public won't accept any attempts to rig the electoral funding system for the major parties, at the expense of other parties and candidates.
- 1.14 Any reform which limits donations to anyone who challenges Liberal and Labor, while protecting the establishment parties's sources of income, will be seen for what it is - a complete stitch up, undermining our democracy, and the public's expectation of fair play.
- 1.15 The community understands that secret sources of dark money from big corporations and billionaires is dodgy. They rightly conclude that the reason that politicians in charge can't solve the problems we face is because they have been bought off and sold out. And they understand that any proposal that means that if you're already elected you get a hefty envelope full of cash, but if you're trying to get elected, your donations are heavily restricted is not a reform, it's a rort.
- 1.16 It is a rort, not a reform to outlaw all kinds of grassroots funding while allowing Labor and the Liberals' corporate and billionaire funding to flow through backroom loopholes.
- 1.17 Any reform that means a corporation can continue to buy five \$10,000 tickets to a Labor or Liberal dinner party and this is NOT considered a donation is a rort.
- 1.18 If there's one rule for the establishment, the bipartisan establishment, with payments via slush funds, or business forum memberships, or cash-for-access dinners and another rule for everyone else, then it's a rort.
- 1.19 The Greens are up for genuine electoral reform, but teaming up to do a dirty bipartisan deal would be an attack on representative democracy.

- 1.20 We now wait for more information and for the Government to decide which way it wants to go - bipartisan backroom deals, or genuine multi-partisan improvements that strengthen our democracy, not weaken and undermine it.

Senator Larissa Waters

Greens Senator for Queensland



Additional comments by Kate Chaney MP

- 1.1 I support the 21 recommendations in the Final Report, subject to my additional comment below on recommendation 15 (that the media blackout be removed contingent on the introduction of truth in political advertising laws).
- 1.2 My support on recommendation 15 is conditional on ensuring that laws are not only in place to prevent lies and misleading or deceptive conduct, but are effective to counter such conduct in the days before, or the day of, the election. Any powers will need to go beyond removal of/ceasing a publication, a retraction or a fine. The Court of Disputed Returns needs to clearly have the power to void an election, or an outcome in an affected electoral division, where such unlawful conduct that is shown to affect the result.
- 1.3 I strongly support recommendations 20 and 21 (postal vote reform to prevent misleading voters and data harvesting) and welcome that the Committee acknowledges that the postal vote process no longer meets community expectations. Listening to community concerns is the correct basis for reform. Concerns in my Curtin electorate led to postal vote reform being part of my Electoral Legislation Amendment (Restoring Trust) Bill 2023 ('Restoring Trust Bill') presented as a Private Member's Bill on 7 August 2023. The Committee's postal vote reform is consistent with my proposal.
- 1.4 The Restoring Trust Bill followed my Additional Comments to the Interim Report of June 2023 and built on previous work done by the parliamentary crossbench to improve electoral laws. It has the support of the crossbench, civil society and leading academics.
- 1.5 There are 13 changes to electoral and political donation laws in the Restoring Trust Bill based upon improving transparency, reducing financial influence and levelling the playing field. The proposals include real-time disclosure of donations less than \$1,000, broadening the definition of gift to capture fundraising dinners and business forums, greater transparency of receipts on the AEC Transparency Register, banning lies and misleading or deceptive conduct in political advertising and banning donations from substantial government contractors.
- 1.6 Electoral law reform needs to strengthen democracy by reflecting community concerns and promoting political choice rather than enshrining vested interests.

Ms Kate Chaney MP

Independent Member for Curtin



Additional comments by Senator David Pocock

- 1.1 I thank the Committee for their work on this report, and the efforts of the community in making their voices heard through the submission process.
- 1.2 I support the Committee Report, and would like to add additional comments when it comes to territory representation.

Territory representation

- 1.3 I thank the Committee for recommending an increase from two to four on three year terms. This is a step forward and will ensure the territories have greater representation.
- 1.4 Rather than simply stipulating a new number (four), the base level of representation should be legislated as needing to be more than one third, but less than two thirds of the States' Senate allocation.
- 1.5 While four senators fits within this, adding such guidelines would ensure that Territory representation would grow proportionally with the electorate as it will for the States, thus providing a permanent structural solution aligned with the values of representative democracy.
- 1.6 This provides a durable solution that can be used into the future should the level of representation from the States change. Territories should not have to continually fight to ensure that they are fairly represented in the Federal Parliament.

Recommendation 1

- 1.7 **Legislate that the baseline level of representation for the ACT and NT in the Senate be more than one third, but less than two thirds of the States' Senate allocation. This should start out at half with the ACT and the NT each having 6 Senators. Terms should also increase to six years and commence on 1 July following the election in line with the states. This would mean three senators up for election every three years.**

Senator David Pocock

Independent Senator for the Australia Capital Territory