

Submission to the Joint Standing Committee on Electoral Matters

Inquiry into the 2022 federal election

Andrea Leong
Alex Jago

contact@fusionparty.org.au

6th October 2022



Fusion
Science · Pirate · Secular · Climate Emergency

Introduction

Fusion thanks the Committee for the opportunity to make a submission to the inquiry.

This document will respond to the issues outlined in the Terms of Reference and make several additional recommendations.

Fusion is an emerging party formed through the cooperation of several parties that were deregistered following the introduction of anti-democratic changes to party registration requirements introduced in 2021. Our organisers' recommendations for changes that would enhance democratic representation and participation are based on a wealth of direct experience.

Donation laws

While donation caps and restrictions on the source of political donations are contested issues, quick disclosure of donations is firmly in the public interest and a well-established part of Australian electoral law.

Currently, the disclosure threshold is set fairly high and timing requirements fairly lax, reflecting pre-digital-era administrative overhead. This should be tightened as follows:

Recommendation 1: *Donations above a threshold of \$1000 must be disclosed within seven days of receipt. Cumulative donations from the same source within the same year must be disclosed once the total exceeds \$1000, with updated disclosure at each subsequent multiple of \$1000. This total applies across all branches and endorsed candidates of a party.*

Election funding

The 4% primary vote threshold for receiving public funding is arbitrary and counter to the principle of "one person, one vote". It is absurd that a candidate with 4.001% of the primary vote is eligible for at least \$10,000 of funding and their deposit back, but a candidate with 3.999% is not. If the vote that raises a candidate's primary vote over the 4% threshold can commend a certain amount of public funding, then so too should the vote before it.

Recommendation 2: *Remove the 4% threshold for public funding and disburse public funding for every vote.*

"Truth in political advertising" laws

Australia already has specific laws regarding misleading voters about how the electoral system works. But going beyond this is fraught with difficulty; indeed a previous federal attempt was quickly repealed.

There is always the question of "who watches the watchers", or more concretely, the perception of the electoral commission censoring a candidate, damaging trust in Australian democracy. Further, the truth of a matter is sometimes uncertain or unknowable at the time of the election campaign; for example, claims in the form of "If elected, I will implement this policy."

Ultimately, voters must evaluate competing claims. In aid of this, a limited introduction of truth-in-political-advertising is possible.

Recommendation 3: *Legislate that electoral material must not make unsubstantiated claims about another candidate or party.*

This reform would raise the bar for negative advertising while not requiring the electoral commission to be arbiters of fact for every piece of electoral material.

Single national electoral roll

Data sharing agreements between the Australian Electoral Commission (AEC), state/territory electoral commissions and other government departments have generally worked, so it seems there is no serious objection in principle or practice to a single national roll. If the franchise is extended to non-citizens for some but not all levels of government, then obviously that data will need to be part of the roll too.

Increased participation and enfranchisement for persons with a disability

While postal voting mitigates a number of physical accessibility issues, improvements can be made for attendance voting too. For example, people with anxiety or fatigue may find the array of campaigners outside polling places unpleasant or distressing.

Electronically assisted voting (see separate section below) may be of use to some voters as well.

Recommendation 4: *With the aim of improving voter engagement with party material and reducing voter anxiety, polling places should provide a table inside the building door for electoral material. This table is to be supervised by AEC staff and unstaffed by campaigners, allowing voters to collect material at their leisure.*

Increased participation and enfranchisement for First Nations People

The AEC's Indigenous Electoral Participation Program exists to increase participation of Aboriginal and Torres Strait Islander people in Australian elections. If this program is under-funded, it should be funded appropriately. If the program is ineffective, it should change.

Fusion notes that people may distrust, or be unwilling to participate in, a system that has been imposed on them and historically disenfranchised them.

Increased participation and enfranchisement for Australians abroad

With digital media, most Australians abroad have about as much access to information as those living in Australia. The question is more one of logistics and assurance.

Recommendation 5: *Create a specific AEC programme for continuous improvement of overseas voting logistics, including the investigation of all claims of an overseas voter's ballot being lost or not delivered in time.*

Increased participation and enfranchisement for new citizens and permanent residents

Australia's new citizens choose to be here. To the extent that they are unfamiliar with the rights, obligations or processes of voting in Australia, additional education to remedy this would be a relatively small addition to what we already require of them.

At the level of local government, whether or not a resident happens to be a citizen makes no difference; all residents produce and consume goods and services, and local government has no control over the citizenship process. However, local-government geographic divisions are often small enough that an area might have a high concentration of non-citizens and thus be underserved electorally. Allowing permanent

residents to vote in local government elections could mitigate this problem, and provide a gradual introduction to Australian politics. However, this would be a matter for state rather than federal election law.

Increased participation and enfranchisement for New Zealand citizens

New Zealand offers all Australian citizens unrestricted voting rights after a year of residency. Australia offers no such reciprocation. If it is appropriate to enfranchise permanent residents from other countries, it is certainly no less appropriate to enfranchise New Zealanders.

Recommendation 6: *New Zealand citizens should be allowed to vote in all Australian elections after three years of residency in Australia.*

Proportional representation of the states and territories in the Parliament, in the context of the democratic principle of 'one vote, one value'

The House of Representatives already implements one-vote-one-value principles within the limits of the Constitution (e.g. a minimum of five MPs for each original State). Currently, Tasmania is uniquely over-represented in the House on a strict population basis, by two MPs.

The Senate is currently constituted on terms that are explicitly *not* one-vote-one-value between States and Territories. New South Wales has over thirteen times as many voters as Tasmania, but the same number of Senators. This disparity of voting power was accepted at Federation and any move to change it might best be left until a Government's third term. (This would also be an opportunity to investigate electoral system changes like proportional representation in the lower house.)

Currently, the Territories are over-represented¹ in the Senate relative to their share of the population. Existing legislation entitles them to more Senators if their share of the population increases, such that they would be close to the Australian average. Increasing the number of Territory Senators today without other changes would shift Senate representation *further* from one-vote-one-value principles.

¹ 17,213,433 voters enrolled for the 2022 election, divided by 76 Senators, gives an Australian average of 226,493 voters per Senator. The ACT had 157,013 enrolled voters per Senator, the NT just 72,926.

The primary argument for increasing Territory representation in the Senate isn't one-vote-one-value, it's district magnitude. Territory voters can only elect two Senators at once, which means their representation is necessarily coarser-grained than the States.

Recommendation 7: *Adopt a "Tasmania Rule" and expand Parliament such that each original state has at least 4.5 population quotas for the House of Representatives.² (On current figures, this would imply expanding the House to 223 members total and the Senate to 18 Senators per state.)*

Recommendation 8: *Retain the current rules governing Territory entitlements: the harmonic-mean rounding rules, the minimum of two Senators each, and the entitlement to a Senator for every two MPs.*

Nomination Reform

Australian politics has and will continue to feature a broad array of parties. Most nomination reform in the past decade has been aimed at reducing the size of the Senate ballot paper in the larger states, to mixed success: the Australian electoral system structurally incentivises most parties to prioritise the Senate.

Candidate nomination deposits doubled for the Senate and quadrupled for the House of Representative in the past decade. No attempt was made to justify these increases; they did not appear to impact ballot paper size. Larger deposits do, however, take more money away from new and emerging participants, who don't have corporations, unions, or wealthy donors backing them.

Increasing the membership requirement for political party registration also hasn't had a substantial effect on ballot paper size and is in other ways actively detrimental. Party registration aids legibility in candidate affiliation, and also aids transparency in financial disclosure. The increased membership requirement may also be problematic for parties focused on smaller states or territories (where the ballot paper size is not seen as a problem).

Recommendation 9: *Reform candidate nominations to be more nominator-signatures oriented, and reduce party registration requirements.*

- *Abolish nomination deposits and instead require candidate nominations to be supported with nominator signatures. This could be 100 as it is today for independents, or (for Senate nominations only) some other amount scaled by state/territory population.*

² Named after the "Wyoming Rule" proposed for the United States House of Representatives. 4.5 quotas rounds up to 5 quotas while providing some numeric leeway.

- *Permit registered parties to pre-qualify for nominating one or more candidates in a particular contest by submitting the relevant number of signatures (valid for a year).*
- *Reduce party registration membership requirements back to 500 members.*
- *Require parliamentary parties to meet the party registration membership requirement.*

Savings Provisions and Optional Preferential Voting

The current Senate partial-preferential voting system is now three elections in and working well for its purposes. The abolition of Group Voting Tickets represented a step-change in Australian democracy.

However, any perception that preferences stop at six (as most voters do in the Senate) means that House of Representatives divisions with eight³ or more candidates may see an increased informal rate. Setting aside arguments about whether optional or full preferential is ideal, it is still desirable to keep the informality rate low, especially for errors in later preferences which are less likely to be exercised.

The Senate rules also provide a model for more permissive House of Representatives savings provisions:

Recommendation 10: *Align House of Representatives formality rules with Senate below-the-line rules: count all ballots with a clear preference sequence of at least six candidates (or a full preference sequence in the case of five or fewer candidates). Continue to disallow advocating that a voter complete less than a full preference sequence on House of Representatives ballots.*

Electronic Voting

Our current voting system produces a paper trail which is exceedingly difficult for a malicious actor to target and is also highly auditable.

Electronic voting systems which retain this level of security and auditability are better described as "electronically assisted voting". The machine allows the user to number their ballot electronically, print the paper and place it in a physical ballot box. While this

³ Current savings provisions allow ballots that have a clear sequence for all but one candidate, so a ballot paper with seven candidates and a clear first through sixth preference is already formal.

system could be used to prevent informal voting, voters should retain the right to cast an informal vote.

Recommendation 11: *Trial the use of electronically-assisted voting machines as an alternative to assisted voting and in areas with high informality rates. The machines should not enforce a formal vote but merely warn of informality.*

Conclusion

Fusion makes the above recommendations with the aims of improving voter engagement and democratic representation in Australian federal elections.

Finally, we urge the Committee and the Parliament to remember that democracies achieve their social licence because people consider themselves to be represented. In recent years, support for the two major parties has steadily decreased. Should this trend continue, the Australian electoral system will need to adapt, or else produce increasingly absurd results.

