



## Submission to the NSW draft Electoral Bill 2017

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**Addressed to:**

[legalmail@dpc.nsw.gov.au](mailto:legalmail@dpc.nsw.gov.au)

ATTN: Ms Karen Smith

Deputy Secretary, Cabinet and Legal

NSW Department of Premier and Cabinet

### Contributors

This submission was prepared by Thomas Sesselmann, Andrea Leong and Andrea Finno on behalf of Flux and the Science Party.

### Contact details

Email: [leadership@voteflux.org](mailto:leadership@voteflux.org), [secretary@scienceparty.org.au](mailto:secretary@scienceparty.org.au)

### Confidentiality

This submission does not need to be kept confidential and may be made public.

## Summary

Flux and the Science Party appreciate the opportunity to give feedback on this draft bill. This submission pertains to Part 6 of the bill, *Registration of Political Parties*.

We see the introduction of this bill as an opportunity to remove some current barriers to participation in NSW politics. The current NSW political registration system strongly favours existing parties and creates unnecessary work for both party members and the NSW Electoral Commission.

Streamlining party membership processes will increase efficiency. Removing arduous hurdles to smaller parties' participation will promote a system that discourages the consolidation of power and better serves democracy.

## Recommendations

- Allow for digital declaration of membership without the requirement of a handwritten signature; and
- Political party membership details be handled by the Australian Electoral Commission (AEC), with the NSW Electoral Commission able to access these details as needed to confirm details of members resident in NSW; and
- Bring membership requirements for state registration into line with the requirements for federal registration; and
- Donation caps for "unregistered political parties" be the same as for registered parties; and
- A party's registered address need not be made public, to protect the privacy and safety of the resident in the case that the address is residential.

## 1. Party membership

### 1.1. Validation of membership

To register in NSW at the state level, political parties must submit 750 members' physical signatures on paper. This requirement is an unnecessary expense and administrative overhead. In contrast, parties can register federally through digital submission of 500 membership records, and members are able to sign up online.

**We recommend removing the requirement to submit hard copies of Declarations of Party Membership forms, and instead allow a digital list of members' details to be uploaded securely online.**

Further, to avoid unnecessary double-handling of membership details, **we recommend that membership details be handled by the Australian Electoral Commission** (AEC), with the NSW Electoral Commission able to access these details as needed to confirm membership of political party members resident in NSW.

Clause 32 of the Parliamentary Electorates and Elections Regulation 2008 is as follows:

*For the purposes of section 66D (2) (g1) of the Act, the prescribed form of declaration of membership of a party to be completed and signed by a member of the party on whom the party relies for the purposes of qualifying as an eligible party is Form 19.”<sup>1</sup>*

**We recommend that Clause 32 be replaced with a statement that political party membership is a matter for the Australian Electoral Commission.**

## 1.2 Minimum membership requirements

The current membership requirement of 750 NSW-based members for state registration is a much higher bar than the requirement of 500 members nationally for federal registration.

As well as being inconsistent, the 750-member requirement is difficult for even the most committed small parties to achieve, which has the effect of locking out political alternatives from participating in democracy.

It is more onerous than Recommendation 4 made by the federal Joint Standing Committee on Electoral Matters in its 2013 Interim Report, which included:

*“an increase in party membership requirements to a minimum 1 500 unique members who are not relied upon for any other party in order for a federally registered party to field candidates nationally; [and]*

*the provision to register a federal party, that can only run in a nominated state or territory, with a suitable lower membership number residing in that state or territory, as provided on a proportionate population or electorate number basis;”<sup>2</sup>*

**We recommend a system in which federal registration is sufficient for running in elections at all levels**, as is preferred by the AEC<sup>3</sup>.

The minimum membership number for state registration should be reduced to totals that are proportional on a population basis to the national requirement, with a two times (2X)

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<sup>1</sup> Parliamentary Electorates and Elections Regulation 2008 (Parliamentary Electorates and Elections Act 1912) [<https://www.legislation.nsw.gov.au/regulations/2008-390.pdf>]

<sup>2</sup> Joint Standing Committee on Electoral Matters (9 May 2014), “Interim report on the inquiry into the conduct of the 2013 Federal Election: Senate voting practices”, p60 [via [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Electoral\\_Matters/2013\\_General\\_Election/Interim\\_Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2013_General_Election/Interim_Report)]

<sup>3</sup> Australian Electoral Commission, “Election Funding and Disclosure Report: Federal Election 2010”, p55 [[http://www.aec.gov.au/About\\_AEC/Publications/Reports\\_On\\_Federal\\_Electoral\\_Events/2010/fad-report.pdf](http://www.aec.gov.au/About_AEC/Publications/Reports_On_Federal_Electoral_Events/2010/fad-report.pdf)]

multiplier to ensure that the party has strong representation in that state. For example, to register for NSW state elections a party should need 31% of 500 members (as 31% of Australia's population resides in NSW) multiplied by two; that is, a total of 310 NSW-based members.

The required minimum membership number should be updated between each election to reflect the latest information regarding the proportion of Australians residing in NSW.

For the sake of clarity: registration at the state level should remain sufficient to allow a party to contest a council election in any local government area within the state, as long as all other requirements are fulfilled (for example, candidates must be enrolled to vote in the local government area where they are nominated).

### 1.3 Registered address

Part 6, Section 70(3) of the draft bill lists the information which must be made publicly available through the Register of Parties. **We recommend that subsection 70(3)(f) “the address of the party headquarters in New South Wales” be removed.** As long as the registered address meets requirements, this information should be held privately by the electoral commission.

Some parties—especially smaller ones—do not have a dedicated office, in which case a residential address is sometimes given as the address of the party headquarters. This exposes the person who has offered their address to a loss of privacy if their address is made public.

## 2. Donations

The NSW Electoral Commission currently presumes jurisdiction over “unregistered political parties”, restricting their total donations per donor to \$2,700 per year<sup>4</sup>, less than half of the \$6,100 per-donor cap for registered parties. This unequal rule disadvantages smaller parties and has the effect of excluding them from contesting state elections.

It is also unclear how the donation cap on unregistered parties can or should be enforced, as “unregistered political party” is not a defined legal category. It is also unclear why an electoral commission should police these organisations.

However, if a donation cap for unregistered political parties is to remain, **we recommend that any annual per-donor donation cap be identical for registered and unregistered political parties.**

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<sup>4</sup> Caps on Political Donations, Electoral Commission NSW  
[[http://www.elections.nsw.gov.au/fd/political\\_donations/caps\\_on\\_political\\_donations](http://www.elections.nsw.gov.au/fd/political_donations/caps_on_political_donations)]