

Committee Secretary
Joint Standing Committee on Electoral Matters
PO Box 6021
Parliament House
Canberra ACT 2600

Inquiry into the 2022 Australian federal election

Thank you for the opportunity to make this submission regarding the 2022 Australian federal election.

In this submission, I run through a number of issues and make a number of recommendations.

This is by no means a comprehensive list of every potential improvement that could be made to the electoral system for Australian federal elections, but includes a number of small changes and more significant changes that I believe to be timely.

The recent federal election showed a significant shift away from the domination of the major parties, a trend that has been taking place for a number of decades. This has raised a number of issues, some small and some large, with our electoral system.

In the aftermath of this election, and with a new government, this is the first opportunity in a decade to undertake serious electoral reform.

I am available to attend a hearing if the committee wishes to hear more about the issues raised in this submission.

Regards,

Ben Raue
13 September 2022

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List of recommendations

Recommendation 1: Candidates endorsed by registered political parties must be nominated by at least 100 nominators enrolled to vote at the election for which the candidate is nominated.

Recommendation 2: Senate groups who are not affiliated with a political party should have the option to have the full name of the group's lead candidate, or alternatively the surnames of the first two candidates, printed above the line in the equivalent position to where party groups have their party name.

Recommendation 3: The size of the Parliament should be expanded, with each state electing fourteen Senators, thus producing an increase in the number of members of the House of Representatives.

Recommendation 4: The number of Senators elected to represent the Australian Capital Territory and the Northern Territory be increased to at least four, with those Senators continuing to all be up for election at every House election.

Recommendation 5: A public inquiry be held into changing the electoral system for the House of Representatives to a system using proportional representation.

Author background

I am an electoral analyst based in Sydney. I run a website called the Tally Room, as well as a podcast of the same name. Through this website, I analyse Australian elections (federal, state and local), writing seat-level guides for upcoming elections, analysing results and looking for trends in the data.

From time to time I also appear in other media publications analysing election results, including the Guardian Australia, the 7AM podcast, and various radio appearances.

I am an adjunct associate lecturer in government at the University of Sydney, and I have written chapters on the results in the House of Representatives for three successive academic publications analysing Australian federal elections: *Double Disillusion*, *Morrison's Miracle* and the yet-to-be-published edition covering the 2022 federal election.

I have written this submission in a private capacity. I am not a member of any political party.

Party privileges and the proliferation of nominations

A record number of candidates nominated for the House of Representatives at the 2022 federal election. 1,203 candidates nominated, a significant increase from the 1,056 who nominated in 2019, and slightly breaking the previous record of 1,188 candidates in 2013.

This increase in the size of House ballot papers was not repeated in the Senate. The number of columns on the Senate ballot paper declined in five states, with the ballot staying the same size in the Northern Territory and only increasing in South Australia and the Australian Capital Territory. In the case of New South Wales, which has traditionally had the largest ballot papers, we saw the smallest ballot paper in two decades.

The increase in House candidates was not driven by an across-the-board increase in nominations. More parties dropped out after running in 2019 than the number of new parties running in 2022, and for most parties and the independents, candidate numbers stayed largely steady.

The increase was due to three parties running much larger numbers of candidates. One Nation ran 149 candidates, up from 59 in 2019. The Liberal Democrats ran 100 candidates, up from 10, while the new Australian Federation Party ran 61 candidates. That is an increase of 241 candidates between these three parties, which is significantly more than the total increase.

Indeed, nominations for candidates from the Liberal-National Coalition, Labor, the Greens, United Australia, One Nation and the Liberal Democrats made up 857 nominations, over 70% of the total.

The burgeoning ballot size is not due to an explosion in parties running, but it is due to a handful of minor parties running many more candidates.

Meanwhile, a number of stories emerged following the close of nominations regarding “ghost” candidates who did not appear to have any connection to their electorate, or intention to make themselves known to voters.

There was even one case of a candidate who was nominated by two different political parties for two seats on opposite sides of the country.¹

There have always been cases of candidates running in seats where they do not have a particular connection, but this has usually been rare and a last-ditch attempt to fill a handful of vacancies, but at the 2022 federal election it appears that One Nation in particular

¹ “One Nation candidate ‘massively annoyed’ after being accused of running for two parties on opposite sides of the country”, Michael McGowan, *The Guardian*, 29 April 2022 <https://www.theguardian.com/australia-news/2022/apr/29/one-nation-candidate-malcolm-heffernan-accused-of-running-for-two-parties-nsw-seat-banks-wa-brand>

actively sought out candidates with no local links, shuffling up their other candidates around the country.²

Since the 2019 federal election, reforms were passed that made it more difficult for political parties to be registered, requiring new parties to have at least 1,500 members, up from 500 prior to the reforms (unless a party has a member in federal Parliament).

This follows up on previous reforms increasing the size of the nomination deposit require for a candidate to stand for election.

These reforms have been a failure.

While there has been a slight decline in the number of political parties since 2019, the raw number of registered parties is not particularly relevant to the voters' experience of casting a ballot. Rather, what matters is how many candidates are running in their seat. Even if strict party registration rules knock out many small parties, the slight reduction in candidate numbers can be wiped out by a single larger minor party running many dozens of extra candidates.

I would like to suggest a change in approach: stop trying to limit ballot sizes through limitations on party registration and by increasing financial barriers, but rather decouple nomination privileges from party registration and thus shift the barrier to nomination from being financial to being organisational.

This shift would make the rules more democratic, by incentivising grassroots political organisation. It would also allow for more small parties that may participate in elections in a small part of the country, rather than giving such a large windfall for those parties that manage to reach a higher threshold.

In the case of a candidate not endorsed by a registered political party, that candidate is required to be nominated by at least 100 electors who are eligible to vote in that election (in the same electorate).

I suggest a similar requirement be imposed on candidates endorsed by registered political parties.

The privilege of being able to run candidates in every seat without being required to demonstrate any level of local support (as long as the party can stump up the cash) has been abused and has allowed the more well-funded minor parties to run close to a national ticket, running candidates without any local links in many seats.

Meanwhile the barriers to party registration and the high cost of running a candidate are real limitations for smaller minor parties who may only wish to run in one state or one seat.

² "One Nation running candidates in states where they don't live, as emails reveal scramble to fill seats", Michael McGowan and Joe Hinchliffe, *The Guardian*, 4 May 2022 <https://www.theguardian.com/australia-news/2022/may/04/emails-reveal-one-nations-last-minute-scramble-to-find-candidates>

Recommendation 1: Candidates endorsed by registered political parties must be nominated by at least 100 nominators enrolled to vote at the election for which the candidate is nominated.

Names above the line for independent Senate groups

There is a serious inequity in how independent and party Senate candidates are treated which does not apply in the House of Representatives.

On the House of Representatives ballot paper, the name of the candidate is emphasised, with a party name listed below, and a non-affiliated candidate has the option of having the word 'Independent' printed under their name in the same space used for the party name.

On the Senate ballot paper, in contrast, the focus is drawn to the group boxes above the line. Parties have a name above the line, but independents do not have anything other than the letter of their group.

This creates two problems. Firstly, it incentivises the creation of parties simply for the purpose of ensuring a name above the line. These parties aren't intended to contest elections more generally or have internal democratic structures – they are simply used to allow an independent candidate to have their name above the line. An example in 2022 was David Pocock's party formed in the ACT, but there have been numerous examples.

Yet despite this phenomenon, there are other independent groups who still don't have a name above the line.

At the 2019 federal election, there was a number of serious campaigns from independent groups – Anthony Pesec's group in the ACT, Craig Garland in Tasmania and Hetty Johnston in Queensland. There were at least four independent groups featuring former state or federal MPs in 2022: Bob Day and Nick Xenophon's groups in South Australia, and Len Harris and Steve Dickson's groups in Queensland.

There is substantial evidence to suggest that voters are confused by this inconsistency, leading to unusual preference patterns which favour less-like-minded parties over more like-minded independents, and these independent groups often have a much higher proportion of below-the-line votes than other groups, due to voters casting a ballot below the line where the candidate's name appears.³

Independent candidates shouldn't be able to use a party name or slogan above the line – those privileges should be preserved for political parties – but a complete absence of information about who is running above the line is not equitable. The inclusion of the name of the lead candidate (or alternatively the surname of the first two candidates) is reasonable.

³ "No names above the line hurt independents", Ben Raue, *The Tally Room*, 12 September 2019
<https://www.tallyroom.com.au/38987>

Recommendation 2: Senate groups who are not affiliated with a political party should have the option to have the full name of the group’s lead candidate, or alternatively the surnames of the first two candidates, printed above the line in the equivalent position to where party groups have their party name.

Expanding the size of Parliament

It’s been almost four decades since the Parliament was last expanded, and it’s time to do so again.

The number of enrolled voters has increased from 9.9 million in 1984 to 17.2 million in 2022 – an increase of 74%. The number of divisions in the House of Representatives in that time has remained roughly the same, such that the average number of electors per division has increased from 66,664 in 1984 to 113,996 in 2022.

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
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	17,213,433	151	113,996

The parliament has been expanded twice before, prior to the 1949 and 1984 elections. In order to expand the House, the Senate must be expanded. The 1949 expansion added four extra senators for each state, while the 1984 expansion added two, off a larger base, so proportionally the 1949 expansion is significantly greater.

I suggest expanding the number of senators per state by two, which would add roughly 24 seats to the House of Representatives.

Based on 2022 population statistics, this change would have increased the size of the House of Representatives from 151 to 175. These 24 extra divisions would be split up between the five most populous states, with the number of new divisions ranging from two for South Australia to eight for New South Wales. It would also solidify the Australian Capital Territory’s claim to its third division and the Northern Territory’s claim to its second division.

This change would reduce the average number of electors as of 2022 down to roughly the same average as in 2013.

State/territory	Divisions	Expanded	Population
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		Divisions	(2020)
New South Wales	47	55	8,128,984
Victoria	39	45	6,651,074
Queensland	30	35	5,129,996
Western Australia	15	18	2,639,080
South Australia	10	12	1,759,184
Tasmania	5	5	537,012
Australian Capital Territory	3	3	429,559
Northern Territory	2	2	247,280

Population figures as of 2020 determination of entitlement. Norfolk Island is included in the Australian Capital Territory total, while Christmas Island and Cocos (Keeling) Islands are included in the Northern Territory total, since they were used to calculate the actual number of divisions for those territories.

The terms of reference for this inquiry specifically asks for consideration of ‘one vote one value’ when it comes to the proportional representation of the states and territories.

The representation of states and territories in the House of Representatives is currently very close to their share of the population. The biggest deviation is in the case of Tasmania, which is entitled to three seats by population as of 2020, but continue to elect five members thanks to the minimum requirement in the Constitution.

An expansion in the size of the House would reduce that overrepresentation. Tasmania would now be entitled to four seats per population, thus the constitutional overrepresentation would drop from two seats to one.

The two territories are both slightly overrepresented in the current House. The small number of divisions mean each of these jurisdictions are more likely to be over- or under-represented than the more populous states.

State/territory	Divisions (%)	Expanded Divisions (%)	Population (%)	Deviation (%)	Expanded Deviation (%)
New South Wales	31.1	31.4	31.9	-2.3	-1.3
Victoria	25.8	25.7	26.1	-0.9	-1.3
Queensland	19.9	20.0	20.1	-1.2	-0.5
Western Australia	9.9	10.3	10.3	-3.9	-0.5
South Australia	6.6	6.9	6.9	-3.9	-0.5
Tasmania	3.3	2.9	2.1	57.4	35.8
Australian Capital Territory	2.0	1.7	1.7	18.0	1.9
Northern Territory	1.3	1.1	1.0	36.7	18.0

The expansion in the House’s numbers would thus bring the proportion of divisions in each jurisdiction closer to that jurisdiction’s proportion of the total population in seven out of eight jurisdictions.

This slight expansion in the size of the House of Representatives would still leave the chamber relatively undersized compared to similarly-sized nations. 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, less populous countries like Chile, Netherlands and Belgium all had lower houses of 150-155 members.⁴

If you look at the total population per member of the lower house, Australia ranks sixth of 37 countries.

This modest expansion will also result in an expansion of the Senate to elect seven members per state at each half-Senate election for a total of 14, but this is also a welcome improvement.

The election of six senators per state at each election is problematic and tends to produce deadlocked outcomes.

While there are more than two parties represented in the Senate, most of the parties tend to fall onto either the “left” or “right” side of politics. In almost all situations, the left and right each win three Senate seats, even if one side is significantly more successful at the ballot box in that state. This is because three seats requires a total quota of about 42.9%, whereas four seats requires a total quota of about 57.1%.

In contrast, winning a fourth seat in an election of seven members requires a cumulative quota of just over 50%, so results tend to be more decisive.

This phenomenon of even-numbered district magnitude leading to a deadlock has been known for a long time, dating at least as far back to the Tasmanian state elections of 1955 and 1956. At the time, Tasmania’s lower house consisted of 30 members, with six elected per district. At those two elections, every district elected three Labor and three Liberal members, leading to a perfect 15-15 tie. The issue was resolved by expanding the House with each district electing a seventh member.

Recommendation 3: The size of the Parliament should be expanded, with each state electing fourteen Senators, thus producing an increase in the number of members of the House of Representatives.

Representation of the Territories in the Senate

It is time to reconsider the representation of the Territories in the Senate.

⁴ See Wikipedia page “Cube Root Rule” which compares 2019 population to 2019 size of lower house of parliament for 37 OECD countries
https://en.wikipedia.org/wiki/Cube_root_rule#Table_comparing_OECD_nations_in_2019

While you can apply the principle of “one vote one value” to the House of Representatives, it is not possible to do the same in the Senate.

The constitution mandates equal representation of each state, despite the most populous state New South Wales having about fifteen times the population of the least populous state Tasmania.

There has been some analysis comparing the number of senators representing the territories to their share of the national population. Each territory elects 2.6% of the total Senate, which is greater than their share of population.

I think this is a mistaken way to look at this issue. 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.

The population of the Australian Capital Territory has been growing quite quickly, to the point that it is roughly 81.5% of the population of Tasmania (as of the 2021 census). Tasmania elects six times as many senators as the ACT with a slightly larger population.

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.

I am not arguing for entirely equal representation, but the two populated Territories should have at least four senators each.

An increase in territorial Senate representation would also help resolve the problem caused by electing two senators at a time – the lack of competitive elections.

In order to be effectively represented in Parliament, it is not sufficient to have representatives who are elected to represent a territory, but that elections there have importance and relevance.

Up until 2022, neither territory had ever elected a Senate delegation that didn’t consist of one Labor senator and one Coalition senator. While independent senator David Pocock did win a seat in 2022 at a time of low support for the Coalition, it is likely many future elections will produce a similar result, and often the result is not particularly close.

Where election results are completely predictable and not in play, those electorates can be safely ignored by political parties. Electing four senators would mean one seat is usually in play, and thus the territories would have increased importance in deciding who controls the Senate.

Recommendation 4: The number of Senators elected to represent the Australian Capital Territory and the Northern Territory be increased to at least four, with those Senators continuing to all be up for election at every House election.

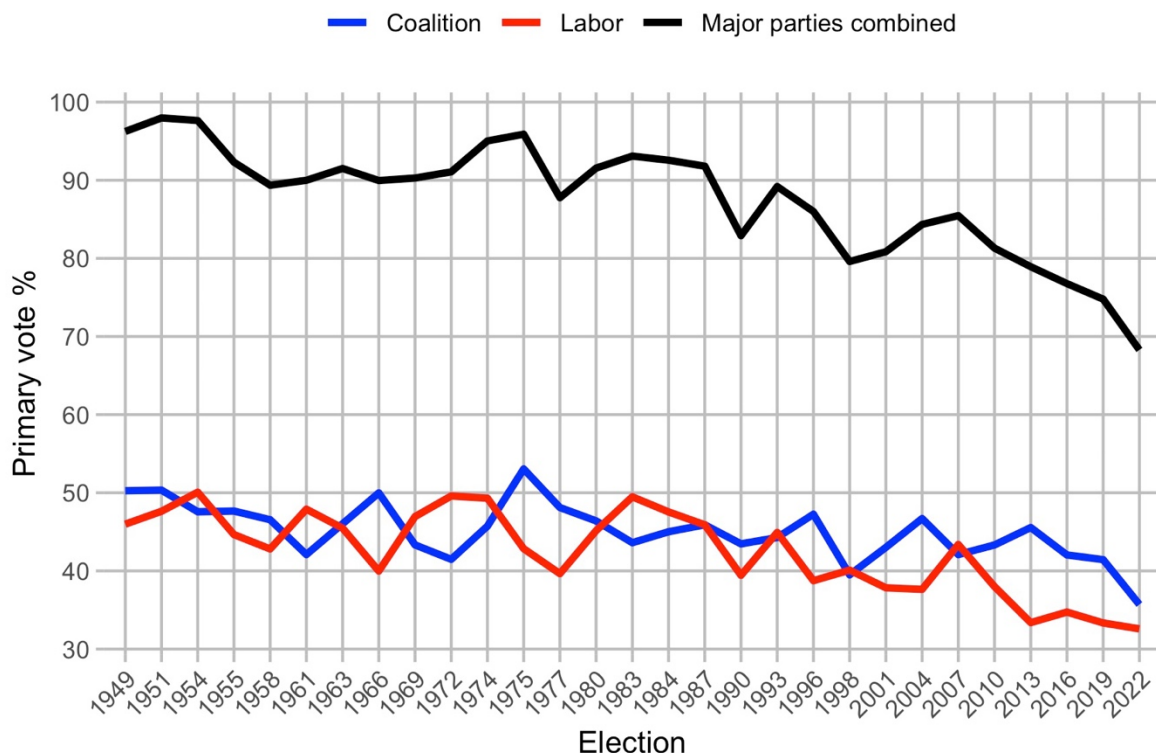
Proportional Representation in the House of Representatives

The terms of reference refer to “proportional representation of the states and territories” but that is not where representation falls short in Australian federal elections.

The electoral system used to elect the House of Representatives is completely unsuited to the task set for it: to reflect the votes of Australians in a democratically-elected chamber. The major parties are significantly over-represented in the new House, with the highest rate of disproportionality at least since the Second World War.

The 2022 election saw the combined vote for the major parties (Labor and the Liberal-National Coalition parties) drop to the lowest level since at least 1949. Yet, while we did see an increased crossbench, these parties still won almost 90% of seats off just 68.3% of the primary vote.⁵

Primary vote for major parties in the House of Representatives, 1949-2022



There are many issues with single-member electorate systems. They create a class of safe seats, concentrating political efforts in marginal seats. They manufacture majorities of seats off a minority of the vote and increase the relevance of arbitrary drawing of electoral

⁵ “Major party vote at all time low”, Ben Raue, *The Tally Room*, 23 May 2022
<https://www.tallyroom.com.au/47966>

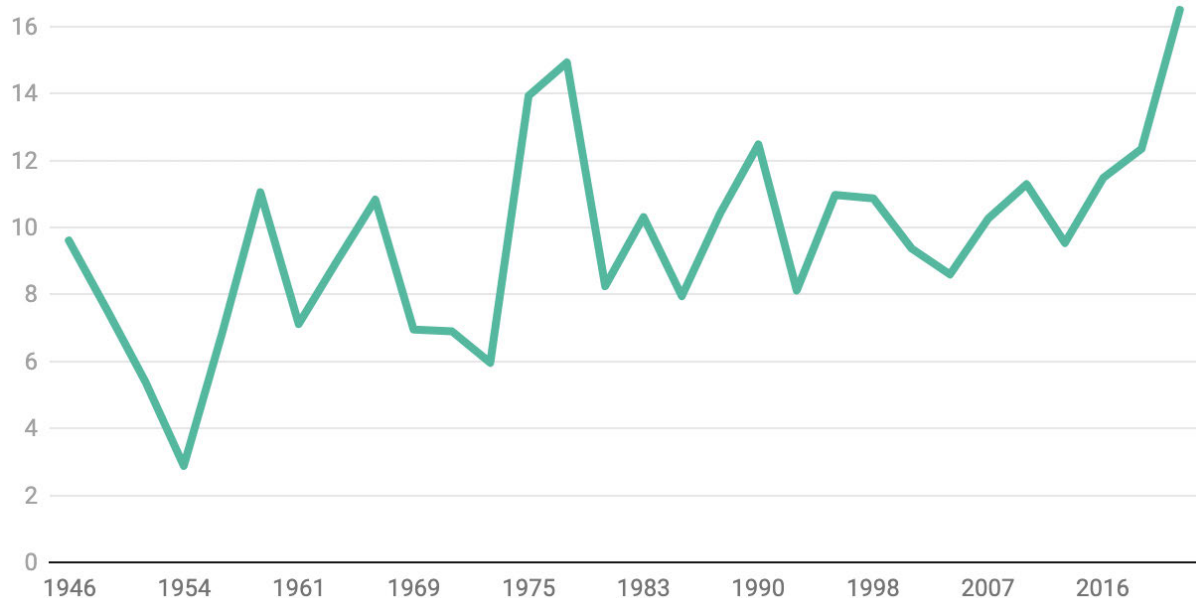
boundaries. But here I want to focus on some particular features that were particularly exposed in 2022.

The party system has changed over recent decades and this has increased the disconnect between votes and seats.

The Gallagher index measures the level of disproportionality between the proportion of the vote and proportion of seats for each party. This metric has been gradually increasing over the last half-century, previously peaking in 1975 and 1977, but this metric spiked considerably in 2022, exceeding the level of disproportionality in the late 1970s.

Disproportionality of Australian House elections, 1946-2022

Based on the Gallagher index of least squares



While the single-member electorate system was not particularly proportional in the 1950s, it played out quite differently in a context where most Australians voted for one of the major parties compared to the modern party system.

Until relatively recently, nearly every seat had two clear leading candidates. Votes cast for minor parties and independents flowed as preferences to one of the major parties, but there was little question about who would make it to the final count. There are increasing numbers of seats where that is no longer so clear.

Not only is there a greater diversity of voting patterns at a national level, but there are more electorates where there are three or more candidates who poll relatively well. The average gap between the second- and third-placed candidate has declined from 25% in 2004 to 14.7% in 2022.

This is leading to more results where the top two candidates is not clear, complicating the process of distributing preferences and increasing the importance of the specific order of elimination of candidates.⁶

There was at least two seats in 2022 where the race for the top three was extremely close, and a tiny shift in votes would have produced a dramatic shift in the result: Macnamara and Brisbane.

If current trends continue, more seats will be decided by slight differences in the distribution of preferences.

The traditional appeal of single-member electorates are that they produce decisive results – a major party wins a majority of seats and forms a clear government. But if the primary vote for minor parties and independents remains high, that won't necessarily be the case. Large crossbenches will likely be elected, but the exact translation of votes into seats won't be predictable. Small shifts in votes can result in large shifts in seats.

I am not suggesting that we are ready to switch right now to a more proportional electoral system for the House of Representatives, but it's time for the public conversation – how could it work, and what are the issues that need to be addressed?

Recommendation 5: A public inquiry be held into changing the electoral system for the House of Representatives to a system using proportional representation.

⁶ "Understanding 3CP trends", Ben Raue, *The Tally Room*, 27 June 2022 <https://www.tallyroom.com.au/47966>