



## ELECTORAL LEGISLATION AMENDMENT BILL 2022

### Statement of Public Interest

#### **Need: Why is the policy needed based on factual evidence and stakeholder input?**

The Bill amends the *Electoral Act 2017* (the **Electoral Act**) and the *Electoral Funding Act 2018* (the **Electoral Funding Act**) to implement recommendations made by the Joint Standing Committee on Electoral Matters (the **Committee**) in its Report on the Administration of the 2019 NSW State Election (the **Report**). The amendments relate to recommendations accepted by the Government in its response to the Report.

The Bill also introduces amendments to the Electoral Act to facilitate the upcoming 2023 State general election and any State or local government by-election between 1 July 2022 and 25 March 2023. This includes special provision for those elections to reflect the Electoral Commissioner's determination that technology-assisted voting will not be used for those elections, other than telephone voting for vision impaired or blind electors.

In part due to the absence of iVote, it is anticipated that there will be an increase in postal voting at the 2023 State general election. The Bill makes changes to certain postal voting provisions to facilitate this expected increase in demand.

The Bill will also amend the Electoral Funding Act to implement increased expenditure caps for third party campaigners (TPCs) for State general election campaigns, as recommended by the Committee.

The Bill also makes minor amendments to the Electoral Act and Electoral Funding Act recommended by the NSW Electoral Commission to address minor inconsistencies and administrative inefficiencies.

#### **Objectives: What is the policy's objective couched in terms of the public interest?**

It is in the public interest to ensure that:

- administrative arrangements are in place to facilitate the upcoming 2023 State general election and any State or local government by-election between 1 July 2022 and 25 March 2023, including that:
  - technology-assisted voting will not be used for those elections, other than telephone voting for vision impaired or blind electors; and
  - postal voting provisions are amended to facilitate an expected increase in postal voting, in part due to the absence of iVote;
- expenditure caps for third party campaigners are reinstated for State general election campaigns, as recommended by the Committee, to ensure that the Electoral Funding Act continues to provide for a robust framework for the regulation of electoral expenditure in State general elections; and
- minor inconsistencies and administrative inefficiencies in the Electoral Act and the Electoral Funding Act are addressed.



**Options: What alternative policies and mechanisms were considered in advance of the bill?**

No other alternative mechanisms were considered. Many of the proposals were subject to detailed consideration by the Committee as part of its inquiry into the Administration of the 2019 NSW State Election, and legislative amendments are required to achieve the intended policy objectives.

**Analysis: What were the pros/cons and benefits/costs of each option considered?**

An advantage of introducing the Bill is to ensure that the Electoral Act and the Electoral Funding Act incorporate the recommendations of the Committee accepted by the Government in its response to the Report. Additionally, the Bill introduces amendments to facilitate the upcoming 2023 State general election and any State or local government by-election between 1 July 2022 and 25 March 2023 and to addresses minor inconsistencies and administrative inefficiencies.

Conversely, a disadvantage of not introducing the Bill is that the recommendations of the Committee would not be implemented. Additionally, unless legislative amendments are introduced to implement a new expenditure cap for third party campaigners in State general elections, there will be no cap that applies to third party campaigners for the 2023 State general election, undermining the framework of expenditure caps applicable to electoral participants under the Electoral Funding Act.

**Pathway: What are the timetable and steps for the policy's rollout and who will administer it?**

The Bill commences:

- for the amendments to the Electoral Act in Schedule 2 regarding the inclusion of party logos on ballot papers – on 1 October 2024, to enable time for this change to be implemented. The Bill allows the regulations to prescribe a date on which the amendments concerning party logos will apply in relation to local government elections;
- for the amendments to the Electoral Funding Act in Schedule 3 [23]–[27] and [30]–[32] regarding the amendment of the claim period and indexation for the New Parties Fund – on 1 July 2022;
- otherwise, on a day or days to be appointed by proclamation.

The Bill contains transitional provisions relating to the time period in which disclosures of political donations are to be made and time periods relevant to determining payments from the New Parties Fund.

**Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

The Bill implements the recommendations of the Committee accepted by the Government in its response to the Report. The Committee consulted with numerous stakeholders within and outside the NSW Government sector as part of its inquiry into the Administration of the 2019 NSW State election including political parties, third party campaigners, academics with



expertise in the area of electronic voting, voter accessibility advocacy groups, Election Analyst Mr Antony Green and private citizens.

The Bill also addresses a number of recommendations made by the NSW Electoral Commission, which was consulted regarding the Bill.