

**Submission
No 30**

**ADMINISTRATION OF THE 2023 NSW STATE ELECTION AND OTHER
MATTERS**

Organisation: The Nationals (NSW Branch)

Date Received: 1 March 2024

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Hon Peter Primrose MLC
 Chair
 Joint Standing Committee on Electoral Matters
 Parliament House
 Macquarie St
 SYDNEY NSW 2000

Via email: electoralmatters@parliament.nsw.gov.au

Dear Chair

SUBMISSION TO THE JSCEM INQUIRY INTO THE ADMINISTRATION OF THE 2023 GENERAL ELECTION

Thank you for the opportunity to submit to the Joint Standing Committee on Electoral Matters' (JSCEM) review into the administration of the 2023 NSW State election and other matters, and your agreement to allow an extension for the NSW Nationals to submit.

The National Party of Australia – NSW (NSW Nationals) ran 19 candidates for the Legislative Assembly and five candidates for the Legislative Council in NSW, successfully returning 11 Members and two Legislative Councillors to the 58th Parliament.

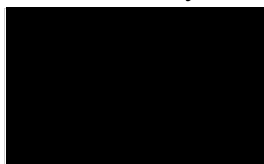
We thank the JSCEM for its consideration of the NSW Nationals' submission to the Inquiry into the administration of the 2019 NSW State election and note several of our recommendations were adopted by the JSCEM and by the Parliament.

In general terms, political administration in NSW is the most heavily regulated of any Australian jurisdiction. The Electoral Act 2017 and Electoral Funding Act 2018 are substantial legislative instruments that have evolved over time in both amendment and interpretation, and in the view of the NSW Nationals are misunderstood by a great number of political participants, and in particular volunteers. This is not the fault of volunteers, nor the regulator, parties and candidates making their own interpretations of statute.

The NSW Nationals support the aims of the two Acts, being transparency, accountability and ensuring a fair and unbiased playing field. However, given the 2027 State general election will be held nearly a decade after the introduction of the two Acts the Committee should consider whether the two Acts are still fit for purpose and will still be fit for purpose nearly a decade after their respective assents – and whether a broader independent review of the Acts is necessary.

The NSW Nationals submits the following for the Committee's consideration. We would welcome an opportunity to address the Committee in person should that option be available.

Yours sincerely



Joe Lundy
 State Director

Summary of Recommendations

The NSW Nationals submit that it may be timely for another independent review into the appropriateness of the NSW electoral legislation, with consultation to be undertaken with parties, candidates, and other political participants.

The NSW Nationals submit that to realise the full administrative benefit already agreed by of this section of the Act, the requirement to prove that a donor is not a prohibited donor under this section be removed.

The NSW Nationals submit that the *Electoral Funding Act 2018* be amended to clarify who is the relevant claimant for electoral funding should a candidate be disendorsed.

The NSW Nationals submit that technology- assisted voting should only be reintroduced when the public can have confidence in its security and accuracy. In the meantime, other measures should be considered to assist electors unable to vote by post or attend a polling centre.

The NSW Nationals submit that 're-use of electoral material' provisions should be reviewed to ensure the accumulation of material from previous elections does not prevent re-use of material from previous elections.

The NSW Nationals submit that the JSCEM should consider the amendments to Commonwealth legislation when they are made, and without compromising the authority of the NSW Parliament, make recommendations on how efficiencies in reporting and administration could be made between the NSW and Commonwealth regulatory regimes.

The NSW Nationals submit that while a legislative amendment may not be required, this should be noted by the JSCEM, and appropriate action should be taken to dissolve the Legislative Assembly at the relevant time to avoid the 2027 election day scheduled for Holy Saturday. As much notice as possible should be given to political participants of this decision.

The NSW Nationals recommend again that consideration be given to the reduction of the geographical sizes of electorates to ensure that equity in representation is achieved, as this does not just equate to an equal number of voters per electorate, but also access to their elected representative.

The NSW Nationals recommend again that negative campaigning tactics be legislatively prohibited.

1. INDEPENDENT REVIEW OF ELECTORAL LEGISLATION

In 2014, the NSW Liberal and Nationals government commissioned an independent review into the State's electoral legislation. As canvassed in the preamble to this submission, the next State election will be held almost ten years after the assent of the *Electoral Act 2017*.

The NSW Nationals submit that it may be timely for another independent review into the appropriateness of the NSW electoral legislation, with consultation to be undertaken with parties, candidates, and other political participants.

2. EXCEPTION TO AGGREGATION FOR SMALL DONATIONS AT FUNDRAISING VENTURES AND FUNCTIONS

In its submission to the 2019 JSCEM review, The National Party of Australia – NSW (NSW Nationals) submitted that despite welcoming the exception to aggregation for small donations at fundraising ventures and functions, the requirement to ensure that an individual is not a prohibited donor had negated the administrative benefit of the new provision. We welcome the increase from \$50 to \$100 as amended by the *Electoral Legislation Amendment Bill 2022*, however note that the administrative benefit of this provision is still yet to be realised.

The day-to-day operations of this section significantly prevent local party unit activity and discourage well-meaning volunteers from participating in fundraising initiatives.

The NSW Nationals submit that the full administrative benefit from the exception to aggregation for small donations at fundraising ventures and functions has still yet to be realised.

3. DISENDORSEMENT OF CANDIDATES

The *Electoral Legislation Amendment Bill 2022* made amendments to the person responsible for making disclosures for disendorsed candidates, which was a recommendation of the JSCEM in 2019 and is welcomed by the NSW Nationals.

This Bill did not make amendments to Part 4 and/or other relevant parts of the *Electoral Funding Act 2018* to account for public funding claims. In practice this may mean that a disendorsed candidate could make a claim for public funding that was incurred by a party on that candidate's behalf while they were an endorsed candidate.

The NSW Nationals submit that the *Electoral Funding Act 2018* be amended to clarify who is the relevant claimant for electoral funding should a candidate be disendorsed.

4. TECHNOLOGY-ASSISTED VOTING AND TELEPHONE VOTING

The NSW Nationals note that technology assisted voting was not used in the 2023 General election due to errors in previous elections.

During the campaign, feedback was received from candidates that electors on holiday, in particular on cruise ships, were unable to vote due to having no appropriate address for postal ballots to be delivered and no access to polling centres.

The NSW Nationals submit that technology assisted voting should only be reintroduced when the public can have confidence in its security and accuracy. In the meantime,

telephone-assisted voting should be expanded to assist electors unable to vote by post or attend a polling centre.

5. POSTAL VOTING

With Australia Post reducing services and reliability, postal voting is becoming more and more difficult for remote residents.

The NSW Nationals commend the 2022 amendment to the *Electoral Act 2017* that permitted postal ballots to be returned up to 13 days following the close of voting rather than four days following the close of voting.

The NSW Nationals also commend the NSW Electoral Commission on the development of the online portal for postal vote applications as recommended by the NSW Nationals at the 2019 JSCEM inquiry.

6. RE-USE OF ELECTORAL MATERIAL

The NSW Electoral Commission pursued 're-use of election material' during the lead up to the 2023 General election.

The NSW National understands that the intent of the legislation capturing material that was purchased prior to 1 October in the year prior to an election under the relevant expenditure cap was to avoid the circumstance where a political participant could purchase materials prior to the campaign cap period and use them during the campaign.

In practice, determining the quantity of material that has been displayed and therefore the cost of that material to be incorporated into the expenditure cap under 're-use of electoral material' is difficult. This is because vast quantities of material from previous elections still exists in sheds and homes of volunteers across NSW, and is liable to reappear during a campaign.

As material builds up over time, determining what material was used at an election and therefore which invoices need to be re-submitted to the NSWEC will become more and more difficult.

The NSW Nationals submit that 're-use of electoral material' provisions should be reviewed to ensure the accumulation of material from previous elections does not prevent re-use of material from previous elections or lead to incorrect reporting of previously purchased material.

7. INTERACTION WITH UPCOMING CHANGES TO COMMONWEALTH ELECTORAL LEGISLATION

As the Committee would be aware, the Federal Parliament is likely to shortly consider changes to Commonwealth electoral funding legislation. At time of submission there is no proposed legislation from the Federal Government, however the Federal Joint Standing Committee on Electoral Matters made recommendations for significant reform in its recent report.

This should be noted and monitored by the JSCEM as political participants in NSW will shortly be subject to two possibly very different and very stringent regulatory regimes, each of which will require specialist compliance professionals to properly comply.

The NSW Nationals submit that the JSCEM should consider the amendments to Commonwealth legislation when they are made, and without compromising the authority of the NSW Parliament, make recommendations on how efficiencies in reporting and administration could be made between the NSW and Commonwealth regulatory regimes.

8. 2027 STATE GENERAL ELECTION DATE

The NSW Nationals note the next scheduled date for the NSW State election is 27 March 2027, which is Holy Saturday.

The NSW Nationals submit that while a legislative amendment may not be required, this should be noted by the JSCEM, and appropriate action should be taken to dissolve the Legislative Assembly at the relevant time to avoid the 2027 election day scheduled for Holy Saturday. As much notice as possible should be given to political participants of this decision.

9. RECOMMENDATIONS FROM THE NSW NATIONALS 2019 JSCEM REVIEW SUBMISSION

In its submission to the 2019 JSCEM inquiry into the administration of the 2019 State election, the NSW Nationals made the following recommendations:

- (a) That consideration be given to the reduction of the geographical sizes of electorates to ensure that equity in representation is achieved, as this does not just equate to an equal number of voters per electorate, but also access to their elected representative; and
- (b) That negative campaigning tactics be legislatively prohibited.

While these recommendations were not adopted by the JSCEM at the last time of reporting, they are still important recommendations that should be reconsidered by the JSCEM.

With reference to (a) above, the electoral district of Barwon is 356,311 square kilometres, whereas the electoral district of Blacktown is 47.5 square kilometres.

The NSW Nationals recommend again that consideration be given to the reduction of the geographical sizes of electorates to ensure that equity in representation is achieved, as this does not just equate to an equal number of voters per electorate, but also access to their elected representative.

With reference to (b) above, the NSW Nationals have previously argued that negative campaign tactics can devalue the political discourse. While some criticism of previous decisions of candidates and parties is justified, often tactics such as this are responded to in-kind and become a 'race to the bottom'. If negative campaign tactics were legislatively prohibited, all candidates and parties would suspend those activities and the level of political discourse would be raised.

The NSW Nationals recommend again that negative campaigning tactics be legislatively prohibited.