

**Submission  
No 1**

## **INQUIRY INTO ELECTORAL FUNDING AMENDMENT BILL 2023**

**Organisation:** The Nationals (NSW Branch)

**Date Received:** 29 August 2023

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28 August 2023

The Director  
Laura Ismay  
Parliament House  
Macquarie Street  
Sydney NSW 2000

Via email: [portfoliocommittee1@parliament.nsw.gov.au](mailto:portfoliocommittee1@parliament.nsw.gov.au)

Dear Ms Ismay,

**INQUIRY INTO THE *ELECTORAL FUNDING AMENDMENT BILL 2023***

Thank you for the opportunity to submit on behalf of the National Party of Australia – NSW (the NSW Nationals) to the above-mentioned inquiry.

The NSW Nationals note the difficulty of reaching an appropriate figure for third party campaigners, given the High Court's 2019 *Unions NSW v New South Wales* decision and 2023 *Unions NSW v New South Wales* decision, and would not submit to burden the implied freedom of political communication.

In introducing the *Election Funding and Disclosures Amendment Bill 2010*, which was the precursor to today's *Electoral Funding Act 2018*, then Premier Kristina Keneally outlined two key tests for the proposed legislation in the second reading speech:

“These reforms are about putting a limit on the political arms race, under which those with the most money have the loudest voice and can simply drown out the voices of all others. The reforms will help to give voters a better opportunity to be fully and fairly informed of the policies of all political parties, candidates and interested third parties.”

This is important context for this submission, because future reforms *Electoral Funding Amendment Bill 2023* (the Bill) should meet both the test of preventing those with the loudest voice to drown out all others, and the test of allowing the public to be fully and, importantly, fairly, informed of policies of political actors.

Third party campaigners with similar purposes are presently empowered to co-ordinate their activities and messages. Should similar third-party campaigners organise in this manner, the effective cap to amplify a particular message would be five times the proposed expenditure cap of \$225,900, for organisations or groups that are not candidates in elections.

**2023 General Election – A Possible Outcome**

Attached to this submission are four pieces of registered electoral material from the 2023 State General Election. It includes pieces from

- NSW Teachers Federation
- Australian Services Union NSW & ACT
- Fire Brigade Employees Union
- NSW Labor

All pieces of material urge electors not to vote for the Liberals and/or Nationals. All pieces of material serve the same purpose and in particular, the piece from the Australian Services Union (second piece) and NSW Labor (fourth piece) are arguing the same policy issue.

Should the Bill's current proposed expenditure cap be implemented, and the third-party campaigners be properly registered, these four actors would be allowed to spend a combined total of more than \$900,000 in one district.

The NSW Nationals do not suggest that these actors co-ordinated at the 2023 State general election, however it is a useful case study as to how co-ordination between third-party campaigners with the Bill's proposed expenditure cap could pervert the good intentions of the *Electoral Funding Act 2018*.

By permitting third-party campaigners the ability to not only co-ordinate their activities and collectively spend significantly more than candidates or parties in elections, the Bill fails both the test of preventing the loudest voice drowning out others, and by extension the test of giving voters the opportunity to be fully and fairly informed of respective policies.

A key question before the Committee on this inquiry is, should a registered third-party campaigner have equal or greater ability to communicate with electors than a candidate or party?

The NSW Nationals argue that candidates and parties in elections should have a much greater opportunity to convey a message to the public than third party campaigners, because while their views on issues are important, ultimately electors do not vote for third-party campaigners.

### **Summary**

The NSW Nationals support the principle of implied freedom of political communication.

The NSW Nationals submit that the figure set out in the Bill for third party campaigners in electoral districts is too high.

The NSW Nationals submit that the Bill must satisfy the test of preventing one voice from drowning out others – in this circumstance a possible combined voice – and that it does not.

The NSW Nationals submit that the Bill must pass the test of allowing voters an opportunity to be fully and fairly informed of policies of actors – and by failing the first test it does not.

The NSW Nationals submit that third-party campaigners, whose names and brands do not appear on a ballot paper, should not have the same or similar expenditure cap as a candidate or party.

Yours sincerely

Joe Lundy  
**State Director**

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\*NSW DoE Permanent Teacher vacancy Dashboard, November 2022

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Authorised by Angus McFarland, Australian Services Union NSW & ACT, 39-47 Renwick Street, Redfern NSW 2016. Printed by Jeffries Printing, 5/71A Milperra Road, Revesby NSW 2212

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**PROTECT YOUR FAMILY FROM CUTS TO THE FIRE SERVICE.  
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Authorised by Leighton Drury, Secretary, Fire Brigade Employees' Union, 1-7 Belmore St Surry Hills NSW 2010. Printed by Jeffries Printing, 5/71A Milperra Rd, Revesby NSW 2212.



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Source: Sydney Morning Herald, 10 February 2023

**After 12 years, Perrottet and the Liberals just don't get it.**

Authorised by Bob Nanva, Australian Labor Party (NSW Branch), 9/377 Sussex Street, Sydney NSW 2000.  
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