

State by-election bulletin:

Upper Hunter

Bulletin No. 1
Issued 19 April 2021

1. Bulletins

Key election information about the upcoming Upper Hunter by-election will be communicated primarily through bulletins.

2. Issue of writ

The Speaker of the NSW Legislative Assembly, the Hon. Jonathan O’Dea MP, has announced that the by-election is to be held on Saturday, 22 May 2021. Mr O’Dea has advised that it is his intention to issue the writ for the by-election on Friday, 30 April 2021.

3. Election calendar

The election calendar can be found on the NSW Electoral Commission website [here](#).

4. Website

Our website, elections.nsw.gov.au, will be updated to include information in relation to the by-election.

The nomination forms are located on the website [here](#) under ‘Step 4 Nominate as a candidate’.

Candidate and third-party campaigner registration forms are available on the [website](#).

Information about the rules that apply to political donations and electoral expenditure can be found under the Funding and Disclosure section of the [website](#).

The website will be updated as information becomes available about the by-election including early voting locations, voting centre locations, nominated candidates and election results.

5. Enquiries

Political parties, candidates, third-party campaigners and other political participants can direct enquiries by phone to 1300 022 011 between 9:00am and 5:00pm Monday to Friday and between 8:00am and 6:00pm on election day.

Email enquiries about candidate and third-party campaigner registrations and the rules that apply to political donations and electoral expenditure can be directed to fdc@elections.nsw.gov.au.

All other email enquiries by political parties, candidates and other political participants should be sent using the Contact Us form on the [website](#).

Enquiries from members of the public about enrolment, voting options, location of voting centres, etc., should be directed to 1300 135 736 or elections.nsw.gov.au.

6. Relevant legislation

The by-election will be conducted in accordance with the *Electoral Act 2017*.

The registration of candidates and third-party campaigners and the rules that apply to political donations and electoral expenditure are regulated in accordance with the *Electoral Funding Act 2018*.

The NSW Electoral Commission is responsible for investigating and enforcing potential breaches of the *Electoral Act 2017* and *Electoral Funding Act 2018*.

Fact sheets that summarise the electoral funding requirements for political parties, candidates and third-party campaigners are available on the [website](#).

Further information about the laws will be communicated through the bulletins.

7. Candidate nominations

Registered political parties and candidates may choose to lodge their nomination in person either at:

- the NSW Electoral Commission office, 231 Elizabeth Street Sydney; or
- the office of the Election Manager, 31 John Street, Singleton.

If a registered political party or candidate intends to lodge nomination forms at the NSW Electoral Commission office an appointment can be made by emailing candidates@elections.nsw.gov.au or calling 1300 022 011.

While nomination forms can be completed prior to the issue of the writ they can only be lodged during the period from the issue of the writ up to 12noon on nomination day.

It should be noted that under section 76(1) of the *Electoral Act 2017*, the writ issued by the Speaker of the Legislative Assembly will contain the nomination day (close of nominations) for the by-election.

Based on past by-election timetables, however, it is anticipated that nominations will close at 12 noon, Wednesday 5 May 2021, with the ballot paper draw occurring at the Upper Hunter Election Manager's office at 10am the following day.

Once the writ has been issued on Friday, 30 April, the [key dates on our website](#) will be updated to include the time and date of the close of nominations.

A registered political party or candidate is required to lodge one of the following nomination forms as applicable to the candidate who is being nominated:

- **Registered Political Party candidate nomination (SE.202);** or
- **Nomination of a candidate by 25 electors (SE. 201).**

In addition each nomination form must be accompanied by the following:

- **Child protection declaration (SE.227)**; and
- \$250 nomination deposit in the form of cash or bank/building society cheque.

8. Candidate and third-party campaigner registrations for electoral funding purposes

Candidates

Candidates must be registered with the NSW Electoral Commission before accepting political donations or making payments for electoral expenditure.

It is unlawful for an unregistered candidate to accept political donations or make payments for electoral expenditure before being nominated for the election.

To apply to be registered, a candidate must complete and submit the form [Application for registration for a State election \(EF.727\)](#). Candidates are responsible for applying for their own registration. Candidate registrations are open now and close on nomination day.

Registration for the election is a separate process to a person being nominated as a candidate. All candidates who will not accept political donations or make payments for electoral expenditure before being nominated are taken to be registered on the day their nomination form is lodged. From that time, all nominated candidates can lawfully accept political donations and make payments for electorate expenditure for the election.

Third-party campaigners

A person or entity (other than an associated entity, political party, elected member or candidate) must be registered as a third-party campaigner before making payments for more than \$2,000 in electoral expenditure that is incurred in the capped expenditure period (30 April to 22 May).

A third-party campaigner must appoint a person to be the official agent of the third-party campaigner. The official agent is responsible for managing and disclosing the third-party campaigner's political donations and electoral expenditure. The official agent must be appointed by the third-party campaigner prior to the third-party campaigner applying to be registered. More information about the role and responsibilities of an official agent and the appointment process is on [our website](#).

To apply to be registered as a third-party campaigner and notify the Commission of the appointment of the official agent complete and submit the form [Application for registration of a third-party campaigner \(EF.735\)](#). Third-party campaigner registrations are open now and close Friday, 14 May 2021.

How to submit registration forms

Registration forms must be submitted to the Sydney office of the Commission by email, post or fax. Contact details are provided on the forms.

Public registers

The details of registered candidates, third-party campaigners and official agents are included in publicly available registers. Copies of the registers are published on the [website](#).

9. Campaign accounts

Detailed information about the requirements to operate a campaign account can be found on the [website](#).

Political parties

Electoral expenditure incurred by a political party must be paid from the party's State campaign account. Political donations made to, or for the benefit of, a political party that are used to pay for the party's electoral expenditure must be paid into the account.

The party's State campaign account must also be used where the party agent of the party is the [person responsible](#) for the management and disclosure of a candidate's political donations and electoral expenditure. Political donations made to, or for the benefit of, the candidate must be paid by the party agent into the account and electoral expenditure incurred on behalf of the candidate must be paid by the party agent from the account.

A candidate who wishes to contribute their own funds to pay for the candidate's electoral expenditure can deposit funds into the party's State campaign account. Contributions made by a candidate to pay for the party's electoral expenditure are political donations from the candidate to the party and are subject to the rules that apply to political donations.

Candidates who are not members of a registered party

If a candidate is not a member of a party that is registered for State elections, the candidate must open a campaign account before accepting \$1,000 or more in political donations and before incurring \$1,000 in electoral expenditure. If the candidate's political donations and electoral expenditure are below the \$1,000 threshold amount a campaign account is not required. The [candidate is responsible](#) for the management and disclosure of their political donations and electoral expenditure.

Third-party campaigners

A third-party campaigner must open a campaign account. Payments for electoral expenditure incurred by the third-party campaigner in the capped expenditure period (30 April to 22 May) must be paid by the official agent from the account and political donations accepted by the third-party campaigner that are used to pay for the electoral expenditure must be paid by the official agent into the account.

10. Political donations and electoral expenditure

Information about the rules that apply to political donations can be found on [our website](#).

Caps on political donations apply. It is unlawful to accept a political donation that exceeds the applicable donation cap.

The donation caps for the current financial year are:

- Registered parties = \$6,600
- Unregistered parties, elected members, candidates and third-party campaigners = \$3,000

Information about the rules that apply to incurring electoral expenditure can be found on [our website](#).

Caps on **electoral expenditure** apply during the capped State expenditure period which starts Friday, 30 April 2021 and ends on election day. It is unlawful to incur electoral expenditure in the capped expenditure period that exceeds the applicable expenditure cap.

The applicable caps on electoral expenditure are:

- Candidates = \$265,000
- Third-party campaigners = \$21,600

Electoral expenditure incurred by a political party is subject to the expenditure cap of the party's endorsed candidate.

11. Amendments to the Register of Parties during an election period

During an election period, the Electoral Commissioner may refuse to amend the Register of Parties. When considering any amendments to the register during the election period for the by-election (Friday, 30 April to Saturday, 22 May 2021), the circumstances of the relevant party will be considered as well as any impacts a change to the register will have in relation to the conduct of the election.

12. Postal vote applications


Any candidate or registered political party may distribute postal vote applications. However, applications must be in a form and manner approved by the Electoral Commissioner.

Please email all requests for a soft copy of the postal vote application form to pva@elections.nsw.gov.au. If you intend to distribute your own version of the postal vote application, it is suggested that you send the draft application to pva@elections.nsw.gov.au for review. This will ensure that it complies with legislative requirements before you incur costs for printing, distribution, etc.

Postal vote application forms produced and distributed to voters by any political participant must not appear to have been sent by the NSW Electoral Commission. For example, it must not appear that electoral material included with a postal vote application distributed by a candidate or party has been sent or authorised by the NSW Electoral Commission. A replied paid envelope included with a postal vote application distributed by a party or candidate must not appear to be addressed to the NSW Electoral Commission unless the NSW Electoral Commission postal address is used. It is an offence to distribute material that falsely appears to have been authorised by or sent from the NSW Electoral Commission.

The NSW Electoral Commission will liaise with candidates and registered political parties regarding the timely return of postal vote applications to the NSW Electoral Commission head office. Please note that the local Election Manager will not be processing postal vote applications.

It is anticipated that public access to the postal vote application will be available from the NSW Electoral Commission website from Monday 3 May 2021. Postal vote applications must be received by the NSW Electoral Commission by 6.00pm Monday, 17 May 2021.



John Schmidt
Electoral Commissioner