

# Annual report

NSW Electoral Commission  
2021-22

The Hon. Dominic Perrottet, MP  
Premier  
52 Martin Place  
SYDNEY NSW 2000

The Hon. Mark Speakman, SC MP  
Attorney General  
52 Martin Place  
SYDNEY NSW 2000

31 October 2022

Dear Premier and Attorney General,

**Annual report of the NSW Electoral Commission**

We are pleased to submit the NSW Electoral Commission's *Annual report* for the financial year ended 30 June 2022 for presentation to Parliament.

This report is prepared in accordance with the requirements of the *Annual Reports (Statutory Bodies) Act 1984*. The NSW Electoral Commission's financial statements are general purpose financial statements that have been prepared on an accrual basis and in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the requirements of the *Public Finance and Audit Act 1983* and the *Public Finance and Audit Regulation 2015*, and the Treasurer's Directions issued under the Act.

It is the responsibility of the Electoral Commissioner to undertake the day-to-day management of the agency, including its financial management. The report details our election operations and activities, including elections and services provided to registered clubs, statutory boards and industrial organisations. It also reports on our progress on our strategic initiatives.

In accordance with section 154 of the *Electoral Funding Act 2018*, a report in relation to the activities under that Act of the Electoral Commission for the financial year 2021–22, including the exercise of certain statutory functions regarding the regulation of lobbying, the regulation of elections and electoral funding and the payment of public funding to political participants, has been submitted directly to the NSW Parliament, and reproduced in this report at Annexure A.

Yours sincerely,



John Schmidt  
**Electoral Commissioner for  
New South Wales**



The Hon. Arthur Emmett AO KC  
**Chairperson,  
NSW Electoral Commission**

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The Electoral Commission's statutory functions regarding the regulation of lobbying, the regulation of elections and electoral funding and the payment of public funding to political participants.	

The NSW Electoral Commission acknowledges the Traditional Owners of Country throughout New South Wales and their continuing connection to land, sea and community. Our head office is located on Gadigal land. We pay our respects to Elders past and present.

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This report is presented in accordance with the requirements of the *Annual Reports (Statutory Bodies) Act 1984*. The NSW Electoral Commission's financial statements are general purpose financial statements, prepared on an accrual basis and in accordance with applicable Australian Accounting Standards (which include Australian Accounting Interpretations), the requirements of the *Government Sector Finance Act 2018 (GSF Act)* and the Treasurer's Directions issued under the Act.

All tables and figures are sourced to NSW Electoral Commission unless stated otherwise. This report was produced using internal resources.

To reduce our environmental impact, this report can be downloaded from our website at [elections.nsw.gov.au](https://elections.nsw.gov.au)

Throughout this report we include photos of an original bound ledger of election costs for NSW state elections conducted from 1938 to 1944.

# Returning Officers

Amount	Date	Amount	Date	Amount	Date	Total	Repayments	Treasury Receipt No	Adjusted with Auditor General
100	4/3	193	22/3	<del>193</del>	1738	100			
100	1/3	220	22/3	-	-	293	97.4.0	9336	finalised
100	4/3	289	22/3	-	-	320	4.6.4	10675	finalised
100	1/3	<del>100</del>	15	11/4	11/4	404	10.3.8	10454	finalised
100	1/3	<del>100</del>	<del>100</del>	<del>100</del>	<del>100</del>	100	1.17.10	9960	finalised
100	1/3	188	22/3	-	-	100	85.0.0	8615	finalised
100	1/3	182	22/3	-	-	288	8.0.0	9761	finalised
100	1/3	184	22/3	-	-	282	92.4.4	8850	finalised
100	1/3	<del>100</del>	-	-	-	284	11.0.4	10675	finalised
100	1/3	<del>100</del>	-	-	-	284	7.13.2	10112	finalised
100	1/3	<del>100</del>	-	-	-	100	9.3.11	10454	finalised
100	4/3	201	22/3	10	11/4	100	96.11.6	8850	finalised
100	1/3	338	22/3	45	11/4	311	87.6.6	10454	finalised
100	1/3	231	22/3	-	-	483	5.3	11136	finalised
						331	13.5.11	10454	finalised
						3496	5.8.11	10454	finalised
Total						1528			
By-elections									
17.3.9	7/5/38	-	-	£2583.9		Nil			
9.14.11	10/38	-	-	25514.11		Nil			
20	Nov 38	-	-	£344		£1.3.8			finalised 7/10/38 122
-	-	-	-	£217		13.17.4	5983		finalised 24/11/38 102
-	-	-	-	245		1.18.5	7186		finalised 6/7/39 155
£14	22/10/39	£8.10.7	17/1/39	260		8.3.8	9036		finalised 7/1/39 82

Grand total  
on hand

£ 10 486.6 11  
11 0 10.2 3  
3 0 06.0 0  
£ 24 992.7 2

1375  
10628

# 1

## The Electoral Commission

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# 2021-22 at a glance



**5,496,164**

people enrolled to vote  
in New South Wales as  
at 30 June 2022



Redistribution of  
NSW state electoral  
districts finalised



2021 NSW Local  
Government elections

**122** councils



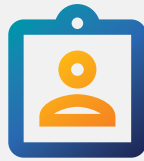
**23**  
elections for statutory  
bodies, service clubs and  
industrial organisations



Preparations for the 2023  
NSW State election



**3**  
council by-elections



**4**  
state by-elections



**3**  
council countback elections



**\$14** million  
paid in public funding



**10,853**  
compliance audits



**10,733**  
disclosures published

# Report of the Electoral Commissioner



A major focus for the first half of 2021-22 was the NSW Local Government ordinary elections. These elections were originally scheduled for Saturday, 12 September 2020 in accordance with the *Local Government Act 1993*. In response to the COVID-19 pandemic the then Minister for Local Government announced the postponement of the elections for 12 months in the interests of public health and safety. The elections were subsequently postponed again to Saturday, 4 December 2021.

At these elections, we implemented a new count system – the Weighted Inclusive Gregory Method. Countback elections were also run for the first time, allowing a number of councils to minimise the costs of filling casual vacancies.

The following services were delivered online for the first time for local government elections and, in some cases, for the first time for the Electoral Commission: online elector address look-up functionality, campaign finance registrations, nominations, electoral material display, political donations and electoral expenditure disclosures, educational webinars and videos, and technology assisted voting.

At the end of November 2021 we farewelled NSW Electoral Commission members, the Hon. Keith Mason AC KC (Chairperson) and Mr Len Scanlan (Member), as well as the Deputy Chairperson the Hon. Joseph Campbell KC.

Since the Electoral Commission and Electoral Funding Authority were amalgamated in late 2014, the former members have worked closely with two Electoral Commissioners and our staff to establish a statutory

commission with specialised responsibility for investigating and enforcing breaches of electoral and lobbying laws. The former members also oversaw the implementation of significant reforms to the independent administration of campaign finance rules in New South Wales, and an expanded focus on education activities to support political participants in meeting their statutory obligations. I would like to convey my thanks to Keith, Len and Joe for their sound leadership and counsel during their tenure.

On 1 December 2021 we welcomed the new Chairperson, the Hon. Arthur Emmett AO KC, and the new Deputy Chairperson, the Hon. Alan Robertson SC. Arthur was already known to many staff members in his capacity as Chair of the Electoral Districts Redistribution Panel. The appointment of Ms Sandra Boswell on 11 May 2022 as the member with special financial and audit experience completed the complement of new Electoral Commission members.

For a number of years I have raised concerns regarding the adequacy and sustainability of the NSW Electoral Commission's current funding model. During the year we received a positive response to our budget bids, receiving an appropriation for all the funding requested for the 2021-22 financial year. More significantly, the Premier announced a new funding model for NSW integrity agencies, including the NSW Electoral Commission. A critical element of this model will be a re-baselining of the NSW Electoral Commission's funding.

Notwithstanding the challenges presented by the COVID pandemic, shifting election dates and resourcing constraints, NSW Electoral Commission staff have continued to deliver democracy and accountability for the people of New South Wales. I take this opportunity to record my thanks and admiration for all their hard work in meeting these challenges over the past 12 months.

A handwritten signature in black ink that reads "John Schmidt". The signature is written in a cursive, flowing style.

John Schmidt  
Electoral Commissioner for New South Wales

# The NSW Electoral Commission

## Establishment

The NSW Electoral Commission is constituted as a three-member independent statutory authority under the *Electoral Act 2017*. The three-member statutory body has functions under the *Electoral Act*, *Electoral Funding Act 2018*, the *Local Government Act 1993* and the *Lobbying of Government Officials Act 2011*.

Under the *Electoral Funding Act*, the three-member Electoral Commission has the function of administering the election funding, expenditure and disclosure scheme, including registering electoral participants for the purposes of that scheme. It also investigates and enforces breaches of electoral legislation in relation to both electoral funding and the conduct of elections, including elections held under the *Local Government Act*. Under the *Lobbying of Government Officials Act*, the Electoral Commission has the function of maintaining the Register of Third-Party Lobbyists and Lobbyists Watch List, and the enforcement of obligations relating to lobbying. Some of the activities carried out with regards to these functions have been reported separately to Parliament pursuant to section 154 of the *Electoral Funding Act* and a copy of that report is included at Annexure A.

The Electoral Commissioner for New South Wales is a member of the NSW Electoral Commission and conducts state elections, local government elections (if engaged to do so), NSW Aboriginal Land Council elections, and elections for registered clubs, statutory boards and State registered industrial organisations (if engaged to do so).

Under the *Electoral Act*, the *Local Government Act* and other State laws, the Electoral Commissioner has the function of registering political parties, conducting elections and, in conjunction with the Australian Electoral Commission, maintaining the Electoral Information Register for New South Wales.

The Electoral Commissioner is also the head of the Public Service staff agency (also known as the NSW Electoral Commission). The staff agency supports the Electoral Commission and Electoral Commissioner in exercising their distinct but complementary statutory functions for delivering elections and regulating participation in the political process. The staff agency is a 'separate agency' under Part 3 of Schedule 1 of the *Government Sector Employment Act 2013*.

The three-member NSW Electoral Commission provides advice to the Electoral Commissioner when requested but cannot direct the staff agency or the conduct of elections or matters relating to the electoral roll. The Electoral Commissioner in his capacity as head of the staff agency is responsible for its day-to-day management, including financial management.

References to the NSW Electoral Commission in this report may be to either the three-member statutory body or the Public Service staff agency, as the context requires.

## Relationship to Parliament

As a public sector statutory body, the NSW Electoral Commission is required to report annually on its work and activities. This *Annual report* must be tabled by our portfolio ministers in the NSW Parliament. Reports by the Electoral Commissioner about the administration of specific elections are also required to be tabled in the NSW Parliament by the relevant portfolio minister.

Under the *Electoral Funding Act*, the NSW Electoral Commission is also required to report directly to the NSW Parliament annually on its activities under that Act (including the use of enforcement powers conferred by that Act in respect of contraventions of the other legislation it administers). A copy of that report to the NSW Parliament is also an annexure to this *Annual report*.

In addition, the Parliament's Joint Standing Committee on Electoral Matters (JSCEM) inquires into, and reports on, electoral laws and practices and the spending and public funding of political parties. The Electoral Commissioner and officers of the NSW Electoral Commission appear as witnesses from time to time at public hearings of the JSCEM.

In the exercise of their functions, neither the Electoral Commission nor the Electoral Commissioner are subject to the direction of any minister administering New South Wales electoral legislation. This independence from executive government is set out in sections 10(4) and 12(4) of the *Electoral Act*.



## Our legislative framework

We are governed by various pieces of New South Wales legislation that set out how we conduct and regulate elections, and the entitlements and obligations of electors and political participants. This legislation includes:

- *Constitution Act 1902*
- *Electoral Act 2017*
- *Electoral Regulation 2017*
- *Electoral Funding Act 2018*
- *Electoral Funding Regulation 2018*
- *Local Government Act 1993*
- *Local Government (General) Regulation 2021*
- *The City of Sydney Act 1988*
- *Registered Clubs Act 1976*
- *Industrial Relations Act 1996*
- *Aboriginal Land Rights Act 1983*
- *Aboriginal Land Rights Regulation 2020*
- *Privacy and Personal Information Protection Act 1998*
- *Government Information (Public Access) Act 2009*
- *Government Sector Finance Act 2018*
- *Government Sector Employment Act 2013*
- *Lobbying of Government Officials Act 2011*
- *Lobbying of Government Official (Lobbyist Code of Conduct) Regulation 2014.*

## What we do

The Electoral Commission's staff work across four divisions: Elections; Information Services; Funding, Disclosure and Compliance and General Counsel; and Corporate. Our work includes:

- conducting general elections and by-elections for the NSW Parliament
- conducting elections and by-elections for local councils (if engaged to do so)
- conducting elections for the NSW Aboriginal Land Council
- conducting elections for registered clubs, statutory boards and State registered industrial organisations (if requested or required to do so)
- supporting the redistribution of electoral districts
- providing processes and guidance to assist political participants (including candidates, parties, elected members, political donors, third-party campaigners, associated entities and lobbyists) to comply with their obligations
- administering electoral funding legislation, including maintaining a scheme of public funding
- publishing political donation and expenditure disclosures and registers of political parties, candidates' agents, third-party campaigners and political lobbyists
- engaging with the public to make it easier for people to understand and participate in the democratic process
- investigating possible offences and enforcing breaches of electoral, funding and disclosure, and lobbying laws
- preparing and maintaining the Electoral Information Register (in conjunction with the Australian Electoral Commission).

# Members of the NSW Electoral Commission

Under the provisions of the Electoral Act, the three-member Electoral Commission consists of:

- a former Judge appointed by the NSW Governor as Chairperson (with an appointed deputy Chairperson)
- the Electoral Commissioner for NSW
- a person appointed by the NSW Governor who has financial or audit skills and qualifications relevant to the functions of the Electoral Commission.

During 2021-22 we welcomed new members. The appointed members and deputy member of the Electoral Commission have been appointed for a seven-year term; which for the Chairperson and deputy commenced on 1 December 2021 and will expire 30 November 2028; and for the member commenced on 11 May 2022 and will expire 10 May 2029.

## Meetings of the NSW Electoral Commission

During 2021-22, the members of the Electoral Commission met for seven scheduled meetings.

Table 1. Scheduled meetings of the Electoral Commission during 2021-22

Date	Attendees
Wednesday, 11 August 2021	Keith Mason, Joe Campbell, Len Scanlan, John Schmidt
Wednesday, 13 October 2021	Keith Mason, Joe Campbell, Len Scanlan, John Schmidt
Wednesday, 30 November 2021	Keith Mason, Joe Campbell, Len Scanlan, John Schmidt
Wednesday, 8 December 2021	Arthur Emmett, Alan Robertson, John Schmidt
Wednesday, 9 February 2022	Arthur Emmett, Alan Robertson, John Schmidt
Wednesday, 13 April 2022	Arthur Emmett, Alan Robertson, John Schmidt
Wednesday, 15 June 2022	Arthur Emmett, Alan Robertson, Sandie Boswell, John Schmidt

From time to time the Electoral Commission will schedule an ad-hoc meeting to address specific matters. This occurred twice during 2021-22.

Table 2. Ad-hoc meetings of the Electoral Commission during 2021-22

Date	Attendees
Tuesday, 29 March 2022	Arthur Emmett, Alan Robertson, John Schmidt
Monday, 23 May 2022	Arthur Emmett, Alan Robertson, Sandie Boswell, John Schmidt



**The Hon Arthur Emmett AO KC, BA LLB LLM LLD**

*Chairperson*

In 1978 Arthur was admitted as a barrister in New South Wales and was appointed Queen's Counsel in 1985. Arthur was a judge of the Federal Court of Australia from 1997 until 2013; a Judge of Appeal of the Supreme Court of New South Wales from 2013 to 2015; and for six years from October 2015, was an Acting Judge of Appeal, also sitting in the Commercial and Real Property Lists of the Equity Division. Prior to commencing as Chairperson of the NSW Electoral Commission, Arthur served as Chair of the Electoral Districts Redistribution Panel, to determine the 2021 redistribution of names and boundaries of NSW electoral districts. In 2016 Arthur was appointed as an Officer of the Order of Australia.



**John Schmidt** BA LLB MA

*Electoral Commissioner for New South Wales – Member (Ex Officio)*

John was appointed Electoral Commissioner for a seven-year term from 8 August 2016. From 2009 to 2014, he was the Chief Executive Officer of the Australian Transactions Reports and Analysis Centre (AUSTRAC). Previously John held senior NSW Government positions within the Cabinet Office, Department of Premier and Cabinet and Department of Fair Trading.



**Sandra (Sandie) Boswell** BEc, Dip.Ed  
*Member*

Sandie has over 25 years' experience in professional services. She is a Partner of Grant Thornton Australia, and prior to this was a partner for 15 years with PwC Australia during which time was also a member of the Australian Governance Board of Partners. Sandie chaired the Finance and Operations (Audit) Committee while on the Board and was a member of several other committees. In 2017 she was appointed as a member of the PwC Asia Pacific Board.

Sandie is also a Non-Executive Director of the Global Legal Identity Foundation based in Switzerland where she is currently a member of the audit committee having been Chair of that committee from 2019-21. She has had held several other Board appointments previously including being a board member and Chair of the Audit Committee on Sisters of Charity Foundation as well as a board member of the Heart Research Institute where she chaired the Commercialisation Committee.



**The Hon. Alan Robertson** SC BA LLB  
*Deputy to the Chairperson*

The Hon Alan Robertson was appointed as the deputy of the Chairperson in December 2021. Alan was admitted in 1980 as a legal practitioner of the Supreme Court of the Australian Capital Territory. From 1981 to 1983, he worked as assistant to the Commonwealth Solicitor-General, Sir Maurice Byers. In 1983, Alan moved to the New South Wales Bar and, in 1995, was appointed Senior Counsel. Alan was a part time member of the Administrative Review Council between 1992 and 1997 and was appointed a judge of the Federal Court in April 2011 retiring in 2020. He has been appointed a Deputy President of the Administrative Appeals Tribunal and a Deputy President of the Australian Competition Tribunal. Alan is an Honorary Professor at the Australian National University and the Deputy President of the Australian Academy of Law.

# Management and structure

as at 30 June 2022



# Legislative change

## Local government elections: *Local Government Act 1993*

In November 2021, the *Local Government Amendment (COVID-19 – Elections Special Provisions) Act 2021* amended the *Local Government Act 1993* to provide additional regulation-making power in respect of the 2021 ordinary elections of councillors, in response to the COVID-19 pandemic. The amendment allowed the Minister for Local Government to recommend that regulations may be made which modify provisions of the *Local Government Act* applying to the 2021 local government elections, if:

- such regulations are in accordance with advice issued by the Electoral Commissioner, and
- the regulations are reasonable to protect public health from the risk of COVID-19.

The amendment came into effect on 1 November 2021.

## Local government elections: *Local Government (General) Regulation 2005*

In July 2021 the *Local Government (General) Amendment Regulation 2021* amended the *Local Government (General) Regulation 2005* to provide arrangements for conducting local government elections during the COVID-19 pandemic and to make changes to the conduct of local government elections more generally.

Amendments relating to the conduct of elections during the COVID-19 pandemic included:

- allowing the use of technology assisted voting (iVote) for eligible electors
- allowing all electors to vote before election day at a pre-poll venue
- expanding eligibility for postal voting to electors who were self-isolating or electors who believed that attending a venue on election day would pose a risk to health and safety
- empowering the election manager to make directions about scrutineering, display of posters and handing out of electoral material to reduce the risk of infection from COVID-19.

Amendments relating to postal voting at local government elections included:

- extending the postal vote return date to 6pm on the thirteenth day after election day. This allowed more postal vote certificates to be scrutinised and postal vote ballot papers to be included in the count

- permitting preliminary scrutiny of postal vote certificates and extraction of ballot papers from 13 days before election day
- providing for ballot papers that were not sealed inside a postal vote certificate to be accepted for further scrutiny, in certain circumstances.

Amendments relating to the conduct of local government elections generally included:

- requiring certain information, such as the names of persons proposed for nomination and candidate information sheets, to be made available on the election manager's website
- clarification of certain matters regarding countback elections
- updating the questions an election official may put to an elector before permitting them to vote.

These amendments came into effect on 9 July 2021.

## Local government elections: *Local Government (General) Regulation 2021*

On 1 September 2021 the *Local Government (General) Regulation 2021* replaced the *Local Government (General) Regulation 2005*, which was repealed on 1 September 2021 by section 10(2) of the *Subordinate Legislation Act 1989*.

The *Local Government (General) Amendment (Elections) Regulation 2021* amended the *Local Government (General) Regulation 2021* to make further provision regarding the conduct of local government elections during the COVID-19 pandemic.

The amendments enabled the election manager to declare that electors of a specified ward or area were 'COVID-19 affected electors'. Such a declaration entitles the affected electors to vote by post and requires the election manager to send postal voting materials to all voters in the affected ward or area.

Additional amendments included:

- enabling all electors to vote before election day at a pre-poll venue until 1 September 2024 – previously this was only permitted until 31 December 2021
- enabling voting to be suspended for reasons relating to COVID-19
- permitting the election manager to adjourn the election to a day later than the 13th day following election day, if satisfied it is necessary to comply with a public health order, or to reduce the risk of infection from COVID-19 of electors and other persons at the polling place.

# Legislative change continued

These amendments commenced on 22 October 2021.

The *Local Government (General) Amendment (By-Elections during COVID-19 Pandemic) Regulation 2022* amended the *Local Government (General) Regulation 2021* to prohibit the use of technology assisted voting at by-elections until 30 June 2022, except for the use of telephone voting by vision impaired or blind electors. The *Local Government (General) Amendment (Elections) Regulations 2022* extended the application of this amendment to any by-election held before 1 September 2024.

These amendments commenced on 4 February 2022 and 30 June 2022, respectively.

## State by-elections: *Electoral Act 2017*

In November 2021, the *Electoral Amendment (COVID-19) Act 2021* amended the *Electoral Act 2017* to provide for greater flexibility in operating by-elections held during the COVID-19 pandemic. The amending Act extended the prescribed period of applicable COVID-19 provisions until 30 June 2022. The amendments involved:

- broadened eligibility criteria for electors to apply for early and postal voting, including where the elector reasonably believes that attending a voting centre on election day will pose a risk to their health and safety, or that of another person
- additional regulation-making power in respect of any by-election held until 30 June 2022, similar to the measures introduced for local government elections under the *Local Government Amendment (COVID-19 – Elections Special Provisions) Act 2021*.

The amendment came into effect on 29 November 2021.

## State by-elections: *Electoral Regulation 2018*

In January 2022, the *Electoral Amendment (COVID-19) Regulation 2022* amended the *Electoral Regulation 2018* to adopt measures from local government elections for State by-elections being held during the COVID-19 pandemic. The amendments allowed the Electoral Commissioner to declare all electors in a district to be ‘COVID-19 affected’ electors and to issue each elector with postal voting materials. This amendment removed the need for electors to individually apply for postal voting materials in the State by-elections held on 12 February 2022.

The amendments also extended the preliminary scrutiny period of postal votes to 14 days before election day from five days before election day. The postal vote return period was also amended to extend to the 13th day after the election day.

The amendment came into effect on 19 January 2022.

## Other relevant legislation

Legislative changes relating specifically to the work and activities of the three-member Electoral Commission, including those relating to electoral funding and disclosure requirements and third-party lobbyists, are reported separately in the Electoral Commission’s report to Parliament prepared in accordance with section 154 of the *Electoral Funding Act 2018*.

## Modern slavery

The *Modern Slavery Act 2018* commenced 1 January 2022.

### NSW Electoral Commission’s procurement policy

We have adopted the principles in the NSW Government’s *Modern Slavery and Procurement Guidelines* in our procurement policy and will continue to update policies and procedures in response to codes, directions and guidelines issued by the NSW Procurement Board and the NSW Anti-slavery Commissioner.

### Information, resources and training

During 2021–22, a training module was developed to educate key procurement staff about modern slavery, global supply chains, the reasonable steps required to ensure that goods and services are not the product of modern slavery, and the support available. This training will continue to be rolled out across the Electoral Commission’s teams, supported by NSW Government and agency-specific modern slavery resources.

# Inquiries, reviews and reports

During 2021–22, the Electoral Commissioner participated, via formal submissions and appearances in person, in several major reviews. On behalf of the Electoral Commission, the Electoral Commissioner has advocated for the establishment of a more sustainable and independent funding model for the agency. In this context, a number of issues have been highlighted, including the inadequacy of the annual State budget process for the Electoral Commission. The Electoral Commissioner has highlighted the limited capacity of the Electoral Commission to have input into, and visibility of, funding decisions made during the annual State budget process; and the impact of whole-of-government savings measures and efficiency dividends on small agencies.

## Joint Standing Committee on Electoral Matters

### Funding of the NSW Electoral Commission

On 11 November 2021, the Joint Standing Committee on Electoral Matters (JSCEM) commenced an inquiry into the adequacy of the funding allocation of the NSW Electoral Commission for the 2023 State general election, and in particular, taking into account current advice around issues of electoral integrity arising from foreign interference in elections.

Submissions to the inquiry closed on 11 February 2022 and, on 13 May 2022, the NSW Electoral Commissioner appeared in person before the JSCEM. The JSCEM will publish the report of this inquiry during 2022–23.

### Caps on third-party campaigners' electoral expenditure

On 23 March 2022, the JSCEM commenced an inquiry to examine caps on third-party campaigners' electoral expenditure in s29(11) and s35 of the *Electoral Funding Act 2018*.

Submissions to the inquiry closed on 22 April 2022 and, on 27 July 2022, the Electoral Commissioner appeared in person before the JSCEM. The JSCEM will publish the report of this inquiry during 2022–23.

## Portfolio Committee No. 1 – Premier and Finance

On 23 June 2021, the Portfolio Committee No 1 established an inquiry to report on the Budget Estimates and related papers for the financial year 2021–22 presenting the amounts to be appropriated from the Consolidated Fund.

On 18 August 2021 the Electoral Commissioner appeared before the Committee by way of video conference. On 4 November 2021 the Electoral Commissioner appeared in

person at supplementary hearings. On 21 April 2022, the Electoral Commissioner appeared in person at additional hearings. The Portfolio Committee published its report on 29 June 2022.

## Inquiries into the funding of integrity agencies

### Public Accountability Committee and review by the NSW Auditor-General

The Public Accountability Committee inquiry was established in October 2019 to inquire into and report on the Budget process for independent oversight bodies (being the integrity agencies: Independent Commission Against Corruption, Law Enforcement Conduct Commission, Audit Office of New South Wales, NSW Electoral Commission, and NSW Ombudsman) and the Parliament of New South Wales (Legislative Council and the Department of Parliamentary Services). In particular, the inquiry reviewed the options for enhancing the process for determining the quantum of funding, including the transparency of this process.

Coinciding with the Public Accountability Committee review, in November 2019 the NSW Government requested that the Auditor-General undertake a review of the effectiveness of the financial arrangements and management practices of New South Wales integrity agencies.

The Public Accountability Committee's final report recommended that, with regard to ongoing funding, the integrity agencies be directly allocated their annual funding through the Appropriation legislation, rather than the funding being allocated to the relevant Minister, so they are not subject to reductions in funding during the financial year.

The NSW Auditor-General's report highlighted the risk to the delivery and regulation of democratic processes through continued budget shortfalls, finding that the current approach to determining and administering annual funding for the integrity agencies presents threats to their independent status.

In May 2022, following consideration of the Public Accountability Committee's recommendations and those of the Auditor-General, the NSW Government announced it would implement new funding arrangements for NSW integrity agencies. Key features of these new arrangements include:

**Safeguarding independence:** The integrity agencies will be removed from the Premier and Cabinet cluster financial management processes and be exempt from future efficiency dividends. Integrity agencies will be able to seek additional funding from contingency funds set aside for this purpose.

# Inquiries, reviews and reports continued

**Enhancing transparency:** Integrity agencies will be invited to comment on Treasury's advice to the Cabinet Expenditure Review Committee (ERC) and provide their own advice to ERC. The Treasurer will provide the integrity agencies, and the relevant Parliamentary Oversight Committees, with written decisions on funding bids and, if relevant, reasons for variation from an integrity agency's funding bid.

**Improving recognition:** Treasury representatives will receive specialist training to ensure that the independence of the integrity agencies is not compromised during the Budget process.

A *Charter of Independence*, drafted in consultation with the integrity agencies and issued under a Treasurer's Direction, will codify the new arrangements. The level of funding provided to integrity agencies will be adjusted. In consultation with integrity agencies, Treasury will commence a review to 're-baseline' the level of funding provided to these agencies to better reflect their funding needs.

## Submissions to Treasury for the 2022-23 Budget

In February 2022 we made seven submissions to the Government for the 2022-23 Budget. All were subsequently approved.

Submission	Description
Workforce Strategy and Staffing Structure	To increase our labour expense cap and seek funding for 60 identified positions. This is to develop a stable and sustainable staffing structure to ensure the delivery of our core functions and expanding remit in elections management, engagement oversight and regulatory services.
2023 NSW State election	Urgent funding to bridge the funding gap to enable the conduct of NSW State election (to be held in March 2023).
Special elections taskforce	Short-term increase in the temporary workforce to meet compressed timeframes and competing demands for election staff resulting from the rescheduling of the Local Government elections from 2020 to 2021, the imminent State election (March 2023), and various state and local government by-elections. This funding will sustain a temporary workforce focussed on the conduct of local government and state by-elections.
<i>Funding and Disclosure Online</i>	Funding sought to complete the delivery of the <i>Funding and Disclosure Online</i> (FD Online) system for political parties, elected members and other electoral participants, following successful first release of the system in June 2021.
Elections Campaign Fund	Statutory appropriation under section 134 of the <i>Electoral Funding Act 2018</i> to provide the Electoral Commission with the legislated funding to pay claims made by political parties and candidates under the Act's Election Campaign Fund in relation to state general elections.
Voting Centre Device Refresh	The submission requested the conversion of approved capital funding to operating expenditure funding to complete the <i>Voting Centre Device Refresh</i> project.
Data Remediation - planning	This submission sought to adjust our funding allocation in the last years of the 10-year budget projection (FY30-32). The current 10-year budget allocation does not match the timing of major election events. The submission aligns the long-term budget with the local government and state election cycle.

## Digital Restart Fund submission

During 2021-22 we submitted a request to the Digital Restart Fund (DRF) seeking funding to support our cyber security defence capabilities in order to meet the NSW Government's minimum cyber requirements. The DRF submission was successful and phase one of our Cyber Security Uplift project has commenced.



## Select Committee on the conduct of elections in New South Wales

The Select Committee was established in the Legislative Council on 11 May 2022 to inquire into and report on the conduct of elections under COVID-19 conditions by the NSW Electoral Commissioner, including the local government elections held on 4 December 2021 and the four New South Wales by-elections held on 12 February 2022. Submissions to the inquiry closed on 15 July 2022 after the 2021-22 reporting period.

All Parliamentary Committee inquiries and Government response reports are available on the NSW Parliament's website. The Auditor-General's report is available on the Audit Office of NSW website.



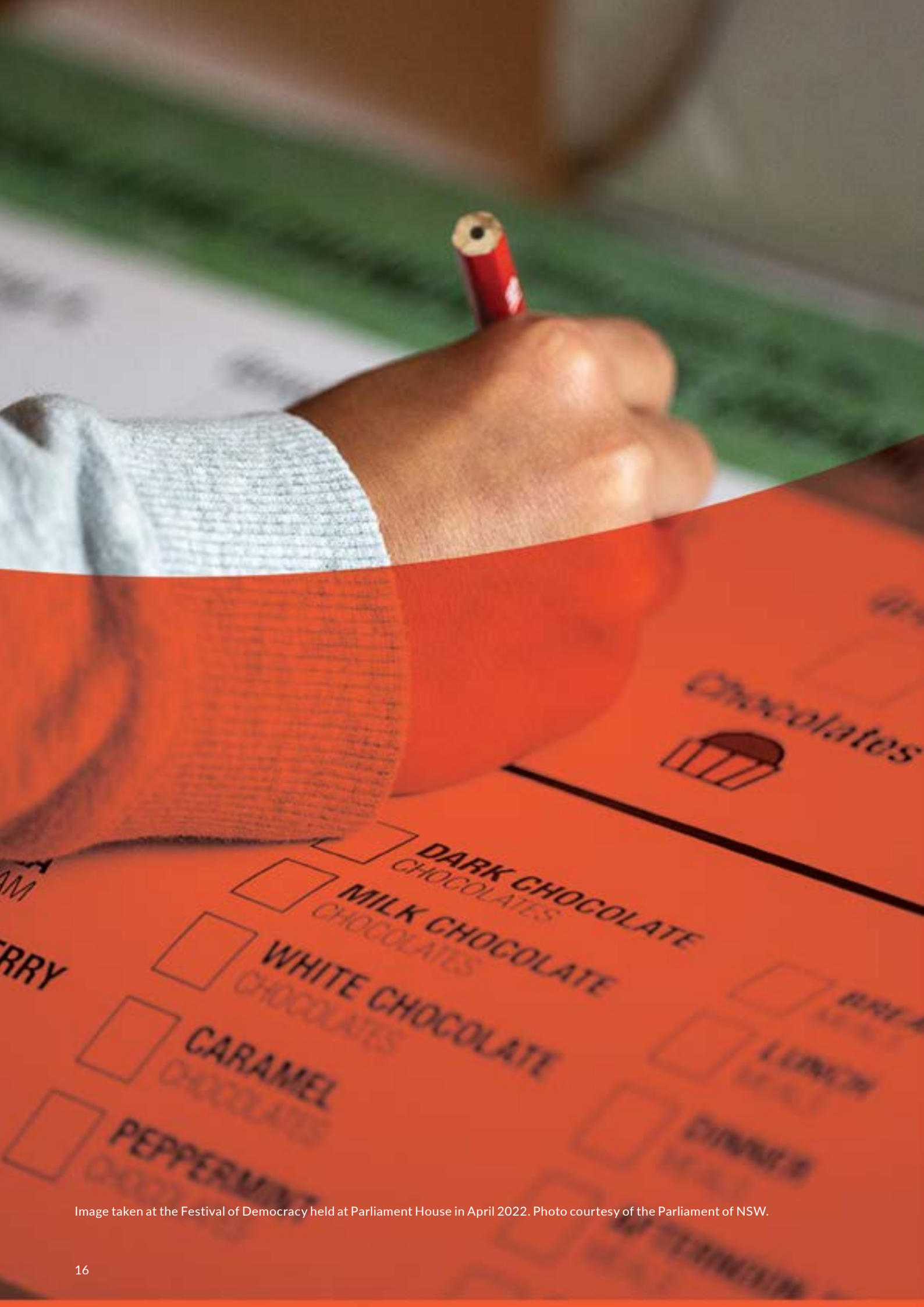


Image taken at the Festival of Democracy held at Parliament House in April 2022. Photo courtesy of the Parliament of NSW.

# 2

## Strategic plan and initiatives

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# Our strategy: Democracy delivered

## Purpose

Our purpose is to deliver trusted and independent systems, processes, oversight and engagement that support democracy in New South Wales.

## Vision

Our vision is to maintain confidence in the integrity of the democratic process and make it easy for people to understand and participate.

## Values

Our core values are the NSW Public Service values: integrity, accountability, service and trust. For details on what these values mean in practice, visit [psc.nsw.gov.au](http://psc.nsw.gov.au)

## Behaviours

Our behaviours define what is distinctive about how we work and what we need to do to deliver on our shared goals. We are each accountable for bringing these behaviours to life in our work.

## Responsive

We recognise the need to be flexible in dealing with our changing environment, while always meeting our obligations. We look for opportunities to build on ideas and adapt and innovate in how we work, to keep improving our services and enhance the experience people have when dealing with us.

## Transparent

To demonstrate our integrity and build trust in our services, we are open with each other and our customers, clients, stakeholders and audiences. This keeps us accountable and creates opportunities for others to work more effectively with us.

## Solution focused

We are focused on outcomes and delivering on our shared goals. We move quickly beyond identifying a problem to working out how best to solve it, while keeping our strategic goals top of mind.

## Customer centred

We start by considering the needs of our customers, clients, stakeholders and audiences and find the best way to serve them, while meeting our legal and business requirements. We believe this is essential to make it easy for people to participate in democratic processes.

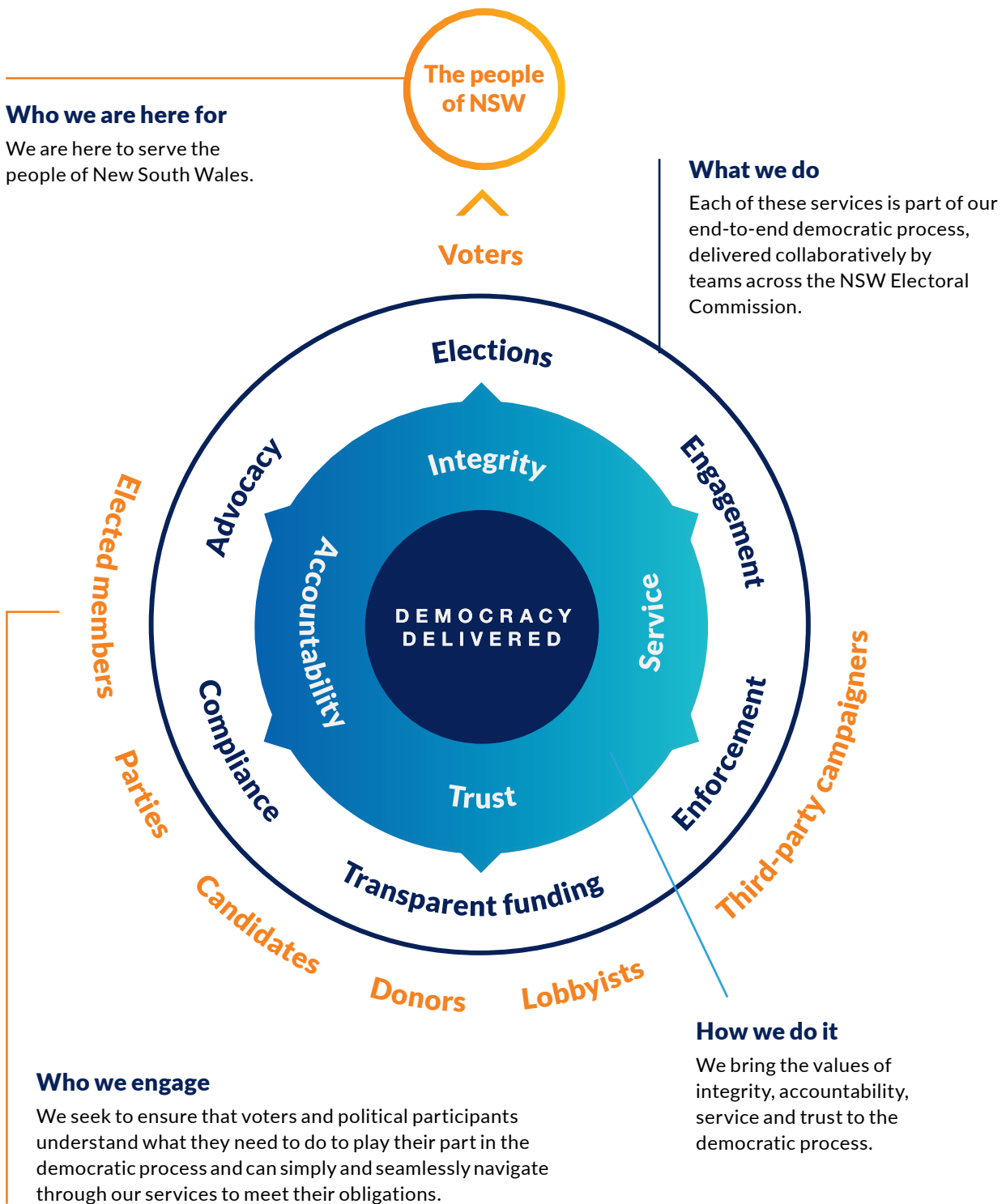
## Collaborative

We look for opportunities to share ideas and knowledge and work as partners internally and externally because we know this is how we get the best results.



# Our work

The Electoral Commission is responsible for maintaining and operating fundamental electoral infrastructure that supports the functioning of democracy in New South Wales. Democracy relies on systems and processes of representation, regulation and engagement. Without these, we could not enjoy the benefits of free and fair elections in an open and effective democracy.



# Our 2021-24 Strategic Plan



# Initiatives for 2021-22

The focus of the Electoral Commission during 2021-22 continued to be maintaining our services to the people of New South Wales while working safely under COVID-19 conditions. The postponement of the Local Government elections necessitated replanning to deliver the elections successfully during the year after which we immediately moved into planning for the NSW State general election to be held in March 2023.

The following information outlines the work undertaken in support of our initiatives during 2021-22.

## Regulatory priorities

Our purpose is to deliver trusted and independent systems, processes, oversight and engagement that support democracy in New South Wales. On 15 June 2022 the Electoral Commission adopted a regulatory strategy and for the first time published a *Regulatory Priorities Statement*. The Statement sets out the Electoral Commission's strategic regulatory focus for 2022-23. This period includes the NSW State general election in March 2023, so there is a particular focus on issues that could impact that event. Our regulatory priorities will be updated and published at the beginning of each financial year, to reflect emerging issues and key events in the election cycle.

The regulatory priorities support the NSW Electoral Commission to optimise the efficiency and value of its regulatory effort and ensure responses to non-compliance are targeted and proportionate. They are informed by a risk-based assessment of legislated regulatory functions and anticipated events. Taking a more strategic approach is also consistent with the NSW Government's guidance for regulators to implement outcomes and risk-based regulation.

Our regulatory priorities show how and where we will focus our regulatory efforts in the year ahead.

## Communications and engagement

Our engagement approach is to continuously improve information, communication and awareness about elections and regulatory obligations.

### Outreach support to council communication teams

For the 2021 Local Government elections, all councils that engaged the NSW Electoral Commission to conduct their election were provided with advertising templates for their use in local newspapers. Councils were also supplied with 'media kits' including advertising assets, newsletter articles, social media posts, save-the-date templates, press

release templates and poster templates for use within their local communities. Other communications support for councils included regular electronic direct mail with key election updates and translated election information for use in culturally and linguistically diverse council areas.

### Elector and political participant research

Following the 2021 NSW Local Government elections, we commissioned independent research to measure election participants' satisfaction with our election products and services and our overall conduct of the elections. We conduct this research after each state and local government general election. For the 2021 elections, we administered the following surveys:

- a Computer Assisted Telephone Interview (CATI) survey of electors
- an online survey of candidates and registered political parties
- a CATI survey of iVote users
- an online survey of iVote users not included in the CATI survey
- qualitative focus groups with electors living with disability
- a CATI in-language elector survey (Arabic-, Cantonese- and Mandarin-speaking electors).

We also surveyed election staff and council general managers using in-house survey and reporting functionality.

The survey findings provided insight into the experiences and satisfaction of our stakeholders, reported on areas of strength or development, identified trends and provided a valuable evidence base to inform our election services into the future. Feedback from the surveys is incorporated, where practicable and permitted by legislation, into our preparations for the 2023 State and 2024 Local Government elections.

### Website review and user journeys

Our current website was developed in 2018 as a place for electors and political participants to engage with the Electoral Commission and our work. Since the website's launch ahead of the 2019 NSW State election, we have continued to enhance the site with new functionality and added incremental changes to help improve the overall website experience. At the same time, however, organic growth in content, navigation and complexity has impacted user journeys and there are known pain points for the people of New South Wales that the site exists to serve.

# Initiatives for 2021–22 continued

During 2021–22, in preparation for the 2023 State election, we conducted a review of the website to understand what needed to be changed to ensure the site continued to effectively assist the people of New South Wales to participate in elections. We looked for 'quick wins' and strategic opportunities to improve user experience across the site, with an initial focus on the elector journey.

## Internal communications

We aim to improve the sharing of information to support the effective use of knowledge across the Electoral Commission. During 2021–22 internal communications have necessarily focussed on the wellbeing of staff during the COVID-19 pandemic, many of whom worked remotely during the period. The internal communications approach has included rapid response communications to share changing public health order requirements, 'pulse' surveys on staff wellbeing, and communications supporting the introduction, implementation or continuation of business processes required by the pandemic.

## Operational effectiveness

### Social media

Participants in elections, including voters, around the world have embraced social media to generate, source and distribute information about political issues and elections. This brings with it great benefits but also real risks, sometimes unreasonable expectations and increased responsibilities, both for online platforms and electoral commissions.

In preparation for the NSW Local Government elections in December 2021, and the February 2022 State by-elections, we engaged with social media platforms to agree a process for the removal of misleading or unlawful content.

### Disinformation and misinformation monitoring

We monitored and, where appropriate, responded to incorrect information published online during the 2021 Local Government elections via our own social platforms. Ongoing monitoring and moderation of social media helped to mitigate any impacts of misinformation and disinformation posted and shared during this time. False information about elections circulating in the community has the capacity to negatively impact confidence in the electoral process and the results of elections. Although no serious impacts or incidences were observed for the Local Government elections, the NSW Electoral Commission understands the importance of maintaining trust in the electoral process.

Learnings from the 2021 Local Government elections will form the basis for future social media strategy and resourcing plans to address the issues around disinformation and misinformation, and to clarify the role of the NSW Electoral Commission around proactive and reactive responses to social media.

## Continuing digital transformation

Several online services were introduced by the Electoral Commission at the 2021 NSW Local Government elections and will continue to be developed and refined, funding permitting, for future elections. During 2021–22, the following services were delivered online for the first time for local government elections and, in some cases, for the first time for the Electoral Commission:

- enhanced online elector address look-up functionality
- campaign finance registrations
- nominations
- electoral material published on the NSW Electoral Commission website
- political donations and electoral expenditure disclosures
- educational webinars and videos.

These digital initiatives supplement the Electoral Commission's existing election staff recruitment and apparent failure-to-vote portals, delivering greater convenience for election participants and voters, and improved processes for the Electoral Commission.

### Funding and Disclosure Online

*Funding and Disclosure Online* is the result of many years of stakeholder consultation, reviews and planning about how to improve transparency of the democratic process in NSW utilising the benefits of technology.

Following the June 2021 launch political donations disclosures were lodged online for the first time in July 2021. During 2021–22, more than 3,000 system users have undertaken more than 4,000 transactions through the secure online portal.

We have since broadened the initial functionality to enable political participants to complete and submit applications for registration as candidates and groups, as well as to lodge their disclosures online. We are continuing to expand functionality progressively.

Refer to the Electoral Commission's *2021–22 Report to Parliament* at Annexure A for more information about *Funding and Disclosure Online*.



### Nomination Online Management System

The Nomination Online Management System was first implemented for the 2019 State election. During the year, the system was reconfigured and further developed for use at the 2021 NSW Local Government elections. The system enabled candidates and registered political parties to prepare documentation in advance of the opening of the nomination period to check that all mandatory information was provided and, where required, confirmed against the electoral roll.

The online system was demonstrated to parties and candidates and a candidate helpdesk established to address queries or concerns raised by users. Benefits of using the Nomination Online Management System include:

- verifying the enrolment of candidates and nominators
- assisting in minimising errors and ensuring all compulsory sections of the nomination form have been completed
- allowing candidates and/or registered political parties, administrators and groups to oversee and manage the progress of each nomination
- allowing for the nomination and deposit to be lodged online.

The Nomination Online Management System reduces the administrative burden on electoral participants and simplifies the process of complying with legislation.

Candidates were encouraged to use the online system where possible, particularly in light of the changing COVID environment during the year, which saw lockdowns and building closures that could have impeded a paper-based form from being submitted.

### Enterprise Project Management Office and Corporate Governance effectiveness

Our enterprise project management system (EPMS) provides the framework and governance structures that support the successful delivery of our projects. Our goal is for this system to be completely cloud based and to digitise our currently manual processes for strategy management, corporate governance and reporting. During 2021-22, all EPMS projects were moved to the platform, which enabled greater consistency in processes, improved collaboration and increased automation.

### Future information management

During 2021-22 we commenced the development of a framework and technology proof of concept to improve our knowledge management and collaboration practices, supported by modern technologies. A technical upgrade to our records management system was conducted at the end of June 2022 and included a suite of training sessions for all staff. We also reviewed and enhanced our privacy management practices.



# Stakeholder engagement

Building engagement with all election stakeholders helps to support trust and confidence in democracy and election processes. Our engagement approach is to continuously improve information, communication and awareness. The aim is to make it easier for electors to understand and participate in democracy and for political participants to understand and comply with their legal obligations.

## Political participants

Education and awareness-raising remained a key priority during 2021-22. We supported our political participant stakeholders regarding the requirements of the Electoral Funding Act and regulation, particularly in the lead-up to the NSW Local Government elections in December 2021, but also for the various state and council by-elections conducted during 2021-22 and as we approached disclosure periods and the introduction of legislative or policy change.

During the year we created a range of educational videos about the rules regarding the electoral funding obligations applicable to state and local government elections.

A series of election bulletins were issued throughout the year to keep candidates and registered political parties up to date with progressive election developments and inform them of their responsibilities and roles. Fact sheets about the electoral funding obligations of electoral participants were also developed, including electoral expenditure and political donation caps, disclosures, campaign accounts, and our online systems.

### Demonstration of online systems

Registered political parties were invited to attend demonstrations of the Nomination Online Management System. The demonstrations provided an opportunity to view the system and ask questions regarding the application process to assist them in their preparation and lodgement of nominations for the 2021 NSW Local Government elections.

Following the 2021 NSW Local Government elections, candidates and elected members responsible for submitting disclosures of political donations were invited to attend demonstrations on how to make disclosures using *Funding and Disclosure Online*.

## Supporting electors

Our approach is to identify, mitigate, and eliminate barriers to participation through consultation and the provision of appropriate information and services. We recognise that some members of the community face additional barriers to participation and we work with these target communities to help identify, mitigate and eliminate these barriers. These consultations form the basis of our planning and formal Action Plans.

Resources for these target audiences are created in consultation with our long-standing reference groups and are informed by post-election research. The Culturally and Linguistically Diverse (CALD) Reference Group and Equal Access to Democracy (EAD) Disability Reference Group are made up of peak bodies and advocacy groups across New South Wales. The reference groups provide guidance, information and feedback in relation to services for electors, so that accessibility barriers to these services are identified and solutions are implemented. This includes the provision of information using a range of communication formats and channels.

Before each state-wide general election, the CALD and EAD Disability reference groups are consulted about their member needs and briefed about changes to legislation, regulations and election processes that may need to be communicated to their networks. For the Local Government elections, we formally met with our reference groups in March 2020 in the lead-up to the scheduled election day in September 2020. With the postponement of the elections to September 2021, we met with the reference groups in April 2021, and again in November 2021 to coincide with the second postponement of the elections to December 2021. We also engage some of the reference group member organisations to provide services for elections; this consultation occurs separately to the formal reference group meetings.

### Culturally and linguistically diverse communities

The *Multicultural NSW Act 2000* (NSW) establishes multicultural principles for New South Wales. Our Multicultural Action Plan is developed according to the Multicultural NSW Multicultural Policies and Services Program (MPSP).

The MPSP assists agencies to advance multicultural principles and support culturally and linguistically diverse communities by guiding planning across four focus areas: service delivery, planning, leadership and engagement.

### Multicultural Action Plan

Our Multicultural Action Plan (MAP) is refreshed every three years. The 2018-20 MAP expired at the end of 2020. As the plan was designed to support the 2019 NSW State election and the 2020 NSW Local Government elections (which were scheduled for September 2020, postponed to September 2021 due to the COVID pandemic and again postponed to December 2021), a decision was taken to extend the existing MAP to cover another calendar year to December 2021 to accommodate the postponement of the Local Government elections. See Appendix A for achievements from the 2018-2021 Plan.

The 2022-24 MAP is in development and will support the 2023 NSW State election and the 2024 NSW Local Government elections.

#### Electors living with disability

The NSW Electoral Commission seeks to deliver elections that meet the diverse access needs of voters across the State.

#### Disability Inclusion Action Plan

Similar to our Multicultural Action Plan, our Disability Inclusion Action Plan was extended to cover another calendar year to December 2021 to accommodate the postponement of the Local Government elections. See Appendix B for achievements from the 2018-2021 Plan.

The 2022-24 Disability Inclusion Action Plan is in development and will support the 2023 NSW State election and the 2024 NSW Local Government elections.

#### Other collaboration and initiatives

We continued our membership of the Australian Electoral Commission's (AEC) Disability Advisory Committee and Indigenous Electoral Participation Working Group, and supported AEC staff at the Yabun Festival held in Sydney on 26 January 2022.

Diversity and inclusion are a strategic priority for the Electoral Commission. A process for developing a Reconciliation Action Plan for the NSW Electoral Commission is underway. We have registered with Reconciliation Australia to draft a Reconciliation Action Plan.

### Electoral Council of Australia and New Zealand

The Electoral Council of Australia and New Zealand (ECANZ) is a forum comprising all electoral commissions from Australia and New Zealand. ECANZ meets to discuss all aspects of electoral administration, encourage cooperation and consider contemporary electoral challenges aimed at improving access and equality for all eligible electors.

### Electoral Regulation Research Network

The Electoral Regulation Research Network (ERRN) fosters exchange and discussion among academics, electoral commissions and other interested groups on research relating to electoral regulation. The ERRN is jointly funded by the NSW Electoral Commission, the Victorian Electoral Commission, and the University of Melbourne Law School. Staff benefited from attending ERRN events, in person and online, during the year.

### Collaboration with NSW Government agencies

The preparation and delivery of an election with consideration of, and adherence to, changing COVID-19 safety measures and legal restrictions required a high level of coordination and planning. To ensure access to relevant information and resources for the 2021 NSW Local Government elections, we collaborated with key government agencies, meeting monthly during 2021-22.

Members of the inter-agency group included NSW Electoral Commission participants as well as attendees from the following NSW Government agencies:

- NSW Health
- Department of Premier and Cabinet
- NSW Police
- Office of Local Government NSW
- NSW Department of Customer Service
- NSW Department of Education.

The main objectives of this inter-agency collaboration were to assist the NSW Electoral Commissioner to:

- review current medical and technical advice received from NSW Health on COVID-19 as it became available
- consult with other state agencies on matters relating to the implementation of safety procedures related to COVID-19
- identify and prioritise gaps in the COVID-19-related preparedness of the NSW Electoral Commission for the delivery of the local government elections in 2021
- review the content and coordination of communication materials and campaigns about COVID-19.

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# ICE CREAM, FRUIT AND VEG

Group C



Group D



Group E



Ice cream

olates

Meals



CHOCOLATE ICE CREAM

CARAMEL ICE CREAM

VANILLA ICE CREAM

STRAWBERRY ICE CREAM

PEPPERMINT ICE CREAM

CHOCOLATE

BREAKFAST MEALS

LUNCH MEALS

DINNER MEALS

AFTERNOON MEALS

SNACK MEALS

Image taken at the Festival of Democracy held at Parliament House in April 2022. Photo courtesy of the Parliament of NSW.

# Democracy Day

On Friday, 22 April 2022, the next generation of voters visited NSW Parliament House for the second annual Festival of Democracy.

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It was our pleasure to support this initiative, with children and their families from across New South Wales participating in a variety of activities to learn about democracy and the importance of voting.

Staff from the NSW Electoral Commission enjoyed demonstrating how to vote with specially made ballot papers, on which children could vote for their favourite colours and foods and were given 'I voted' stickers upon casting their vote.

The Electoral Commission produced ballot papers and provided ballot boxes and voting screens.



NEW SOUTH WALES

REDISTRIBUTION OF  
ELECTORAL DISTRICTS  
2021

ELECTORAL DISTRICTS  
REDISTRIBUTION PANEL

# Redistribution of electoral districts

## Background

New South Wales is divided into electoral districts for the purpose of electing members to Parliament. At a state election, voters in each electoral district elect one candidate to represent them in the Legislative Assembly (the Lower House of the NSW Parliament). Under the *NSW Constitution Act 1902*, there are currently 93 electoral districts in New South Wales.

The Constitution Act requires that each electorate has an approximately equal number of eligible voters. To ensure the number of electors within each district remains approximately the same over time, the Constitution Act also requires that electoral district boundaries are reviewed and adjusted if necessary. This formal review process is called a redistribution and must take place after every second New South Wales state general election.

The previous redistribution was conducted in 2013, with the resultant electoral district boundaries being in place for the 2015 and 2019 State elections. Under section 27(1)(c) of the Constitution Act a redistribution was required following the 2019 State election.

A redistribution is a statutory process conducted by an independent panel, the Electoral Districts Redistribution Panel, which is established under the *Electoral Act 2017*. The Constitution Act (Part 3 Division 3 Sections 25–28A) sets out the conditions under which a redistribution takes place. The Electoral Act (Part 3 Division 1 Sections 17–29) provides the framework, process and timetable for the redistribution.

## Determination of the names and boundaries of New South Wales state electoral districts

Following the extensive public consultation process that was conducted during 2020-21, on 12 July 2021 the Electoral Districts Redistribution Panel (the Panel) made its final determination of the names and boundaries of electoral districts. The determination was proclaimed in the Government Gazette on 26 August 2021 by Her Excellency the Governor, the Honourable Margaret Beazley AC KC.

The Panel based its decisions primarily on achieving an equal number of electors across all districts. Pursuant to section 22(1)(b) of the Electoral Act, wherever possible the Panel took into account:

- economic, social and regional communities of interest
- means of communication and travel
- physical features and area of the electoral district
- natural boundaries (such as mountains or rivers)
- the boundaries of existing electoral districts.

As required by section 29(3) of the Electoral Act, the maps of the 93 electoral districts and four index maps were published on our website, as is the Panel's final report *Redistribution of electoral districts 2021*.

The electoral districts specified in the proclamation are, until altered by a further distribution required under the Constitution Act, the electoral districts of New South Wales. The redistribution comes into effect for the March 2023 NSW State election. Any state by-elections that take place prior to that election will be conducted on the boundaries used at the 2019 State election.

Key determinations of the 2021 redistribution include:

- the electoral district of Lakemba was abolished
- the electoral district of Leppington was created.

Four electoral districts were re-named:

- Badgerys Creek – formerly Mulgoa
- Kellyville – formerly Baulkham Hills
- Wahroonga – formerly Ku-ring-gai
- Winston Hills – formerly Seven Hills.

Many electoral districts had boundary changes to equalise the number of electors.

Our voter awareness campaign for the 2023 NSW State election will incorporate information about the redistribution of electoral districts. This will be supported by community education resources including video and written content explaining how the redistribution may affect the electoral district that an elector is enrolled in. These resources will be translated. Affected electors will also be contacted directly by mail with advice regarding changes to their electoral boundary or district name.

More information about the redistribution is available on our website.





# 3

## People and governance

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# Our people and work environment

Our culture is one of our greatest strengths. The NSW Electoral Commission is an organisation that needs to deliver on-time and with precision across all its activities. We continue to improve our agility as an organisation. We aim to support collaboration and continuous improvement, and build skills and capacity within a learning environment.

The statistics reported below refer only to staff of the Electoral Commission engaged under the *Government Sector Employment Act 2013*. The work of the Electoral Commission is also supported by a number of contractors with specialist information technology and project management skills.

## Staff profile

The Electoral Commission's staff profile is shown in Table 3.

Table 3. Staff numbers as at 30 June 2022

	Female	Male	Total
Senior executives (equivalent)*	6	13	19
Ongoing officers	76	42	118
Temporary officers	28	8	36
<b>Total</b>	<b>110</b>	<b>63</b>	<b>173</b>

\*Excludes the Public Office Holder, Board Members and ARC Members. Excludes the contingent workforce of 92 contractors and 16 ICT consultants. Excludes staff on long-term leave, for example maternity leave.

Table 4. Women employed in grade 9/10 and 11/12 positions

Grade	Proportion of women at grade
Grade 11/12	63%
Grade 9/10	54%

As at 30 June 2022. Does not include contractors or consultants. Excludes staff on long-term leave, for example maternity leave

## Numbers and remuneration of senior executives

Table 5. Senior executive staffing profile as at 30 June 2022

	Female	Male	Total
Public Office Holder	0 (0)	1 (1)	1 (1)
Band 2 (equivalent)	1 (1)	3 (3)	4 (4)
Band 1 (equivalent)	5 (5)	10 (9)	15 (14)
<b>Total</b>	<b>6 (6)</b>	<b>14 (13)</b>	<b>20 (19)</b>

The NSW Electoral Commission did not have any Band 3 employees during the reporting period. The numbers in brackets are as at 30 June 2021 for comparison.

Table 6. Remuneration profile of executive officers

Band	Range (\$)	Average remuneration 2022 (\$)
Band 2	281,551 – 354,200	310,569
Band 1	197,400 – 281,550	236,227

The NSW Electoral Commission did not have any Band 3 (equivalent) employees as at 30 June 2022.

In 2021–22, 8.7 per cent of the Electoral Commission's employee-related expenditure was for senior executives, compared to 20.4 per cent the previous year. The calculations for employee-related expenditure only include expenditure on staff within the labour expenses cap, not contractors paid with project funding. The calculations for this year include the salaries of the thousands of temporary election staff employed for the 2021 NSW Local Government elections.

## Staffing changes

As per Table 7, separations increased by 8 percentage points in 2021–22 compared with the previous year. Factors attributing to this increase in separations include the end of an election cycle and the subsequent reduction in associated resource requirements; the Electoral Commission’s funding constraints; and resignations due to mobility, career development and opportunities external to the Electoral Commission.

Table 7. Staff separations and movements

	2017–18	2018–19	2019–20	2020–21	2021–22
Total commencements	70	23	36	35	39
Total continuing	67	122	109	134	136
Total separated	21	47	38	28	50
Separation rate	14.5%	24.5%	20.8%	14.2%	22.2%

Contractors are not included in these numbers.

## Workplace diversity

Table 8. Trends in the representation of equal employment opportunity (EEO) groups<sup>1</sup>

EEO target group	Target	2019	2020	2021	2022
Women	–	56.55%	51.72%	57.23%	63.22%
People who identified themselves as Aboriginal and Torres Strait Islander	–	0.69%	0.69%	0.60%	0.57%
People whose first language is not English (self-identified)	–	11.03%	8.97%	7.83%	7.47%
People who identified themselves as having a disability	5.6% <sup>3</sup>	1.38%	1.38%	1.20%	1.15%
People who identified themselves as having a disability requiring work-related adjustment	–	0.69%	0.69%	0.60%	0.57%
People who identified themselves as coming from a racial, ethnic or ethno-religious group <sup>2</sup>	–	11.72%	9.66%	7.83%	9.77%

<sup>1</sup> The source of the data is the Annual Workforce Profile Report as reported to the NSW Public Service Commission. <sup>2</sup> While not an EEO target group, the Electoral Commission elects to report this figure. <sup>3</sup> The target for ‘People who identified themselves as having a disability’ was set by the current Premier’s Priorities.

The EEO target groups reported in this table are those required by the NSW Public Service Commission. The data for 2019 to 2022 does not include Temporary election staff and contractors.

The 2021 NSW State of the Public Sector report shows:

- women constituted 65 per cent of the NSW Government sector workforce and 40.3 per cent of senior leadership
- women from diverse backgrounds are less likely to be represented in senior leader positions
- women are still over-represented in traditionally female industries and occupations.

As at 30 June 2022, based on the staff profile shown in Table 3, women constituted 64 per cent of staff employed at the Electoral Commission. Thirty (30) per cent of senior leadership roles were women.

# Our people and work environment continued

## Staff training and development

During 2021-22, 265 staff undertook an average of 1.8 training days per employee. In addition, the Electoral Commission continued to provide support to two staff members conducting their tertiary studies through our study assistance program.

With the easing of COVID restrictions, the Electoral Commissioner had the opportunity to facilitate a half-day all-staff workshop in a hybrid environment – staff could participate in person or remotely.

Table 9. Staff training during 2021–22

Training type	Number of courses	Number of training days
Internal courses	1,059	327
External courses	84	158

Table 10. Staff development attendance during 2021–22 (face-to-face and online)

Development program	Number of staff	Number of training days or equivalent
Safety leadership program for leaders	50	100
Safety leadership program for employees	149	149
Executive leadership essentials	1	2
Compliance curricula (seven mandatory online modules)	211*	30
Onboarding online curricula	54	8
HR welcome and induction	86	12
LinkedIn Learning	47	26
Microsoft Office (Excel and Word)	10	17
Agile team fundamentals	10	10
First aid training	9	9
ScrumMaster accreditation	8	16
Presenting in a digital world	8	8
Advanced interview strategies and techniques workshop	7	4
Change management certification	3	9
SABSA Foundation Certification Program (Enterprise Security Architecture)	3	15

Does not include individual staff development: 26 staff members were provided individual development opportunities through targeted skills training totalling 495 hours of learning. \*211 staff completed all seven mandatory modules. This table does not include the training provided to the temporary election staff and training provided to staff when applications are upgraded (for example, HP Content Manager, SharePoint training).

## Secondments

The *Government Sector Employment Act 2013* and the *Government Sector Employment Rules 2014* provide mobility provisions to support employees and employers as they respond to workforce needs and develop employee capabilities. Mobility provides a way for employees to experience new areas of work, increase their knowledge and capabilities, and bring new ideas into a workplace. The Electoral Commission supports staff mobility and opportunities for secondment. During 2021–22, there were five secondments from other agencies to the NSW Electoral Commission.

## People Matter Employee Survey

Each year our staff have the opportunity to provide feedback about their employee experience at the Electoral Commission through the People Matter Employee Survey. The survey is open to all employees across the New South Wales Public Service.

In 2021, more than 80 per cent of our temporary and ongoing employees completed the survey. Our overall employee engagement score of 73 per cent was in line with our result from the previous year and higher than the public sector average of 67 per cent.

The results of the survey assist the Electoral Commission to identify elements of good practice and areas for further improvement. The survey results also provide evidence to help target strategies to build our capability.

Flexible working, inclusion and diversity, risk management and innovation were identified as key strengths. Our areas of opportunity were grievance handling, learning and development, and feedback and performance management. In response to this feedback we:

- delivered a two-day leadership course for our people leaders and a one-day course for our employees and contractors designed with a safety focus to drive an improved safety culture
- redesigned our Performance Development Program (PDP) to improve our culture of recognition, feedback and coaching against delivering business goals and development plans (due for implementation in August 2022)
- provided enhanced access to online modules – using a platform with more than 16,000 online modules designed to provide self-directed learning to all employees.

## Workplace health, safety and wellbeing

### Health and safety audit

A key focus of 2021-2022 has been continuing to build a strong safety culture at the NSW Electoral Commission. To support this, a work health and safety (WHS) compliance audit was undertaken in 2021. Insights from the audit will be used to improve our safety management systems and to develop long-term strategies.

To appropriately upgrade our WHS systems, we defined a framework to identify hazards and manage risks to reduce the likelihood of workplace injuries and illness. The framework provides employees, contractors and visitors with clear safety protocols.

### Workers' compensation claims

During 2021-22, 11 workers' compensation claims were lodged and accepted. There are currently two open claims.

### Health and safety culture training

Staff were surveyed about workplace safety and our safety culture. The results helped to define our attitudes on topics including physical and mental safety at work and provided insight into our workplace environment and the behaviours that contribute to overall staff wellbeing.

Part of the leadership development outcomes was to deliver safety culture leadership training. The training was developed to explore and apply concepts of our attitudes towards safety. Attendees were given tools to create more helpful frames that we can apply to how we see safety personally, within our teams and in our home environment. One hundred and ninety-nine (199) employees attended either one- or two-day sessions.

As part of the review, a safety plan was created that identified our strengths and areas of opportunity. Working groups continue to action the areas of improvement, which include safety leadership, fatigue management, and communication and reporting to deliver a clear and compelling safety vision, mission and values.

The outcomes of the safety plan will integrate safety statements with our current strategic behaviours and be guided by specific safety performance indicators to track, measure and benchmark safety performance.

### Wellness program

The staff internet-based wellness hub provided information to all employees about mental health and reminded staff of the support available through the employee assistance program. To support our commitment to improving staff wellbeing, we negotiated a discount fitness membership through a fitness services provider.

### COVID – return to the office and governance

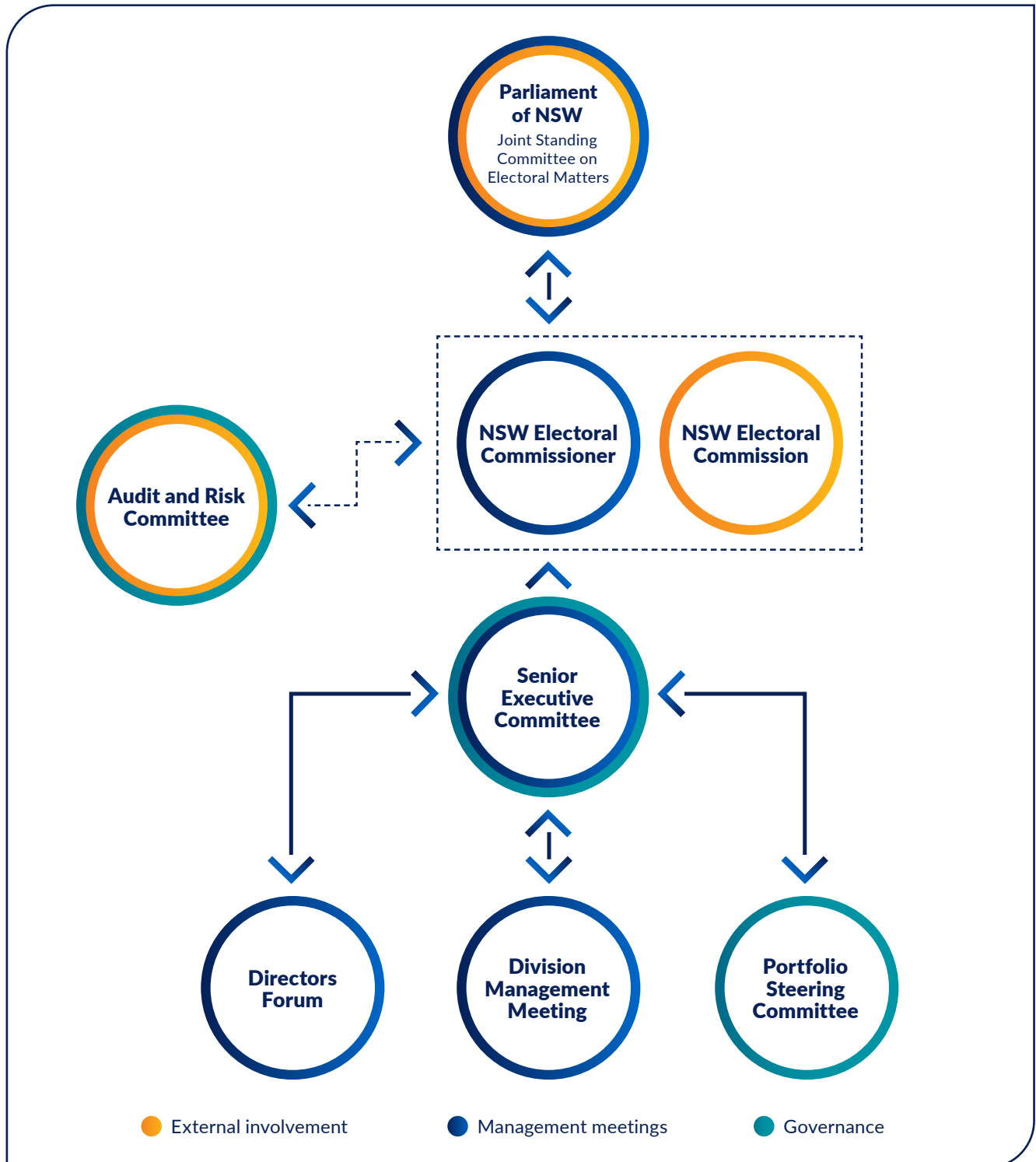
Over the course of the year as COVID restrictions were increased and then eased again, working groups focused on a safe return for staff to our Elizabeth Street head office. Some restrictions were maintained for the 2021 Local Government elections in December and the state and council by-elections in February. Our COVID Safety Plan and the risks for election events and our head office staff were regularly reviewed.

With COVID restrictions and alert levels changing, we continued our consultation groups, with a review of the terms of reference to include all health and safety issues, not just COVID. All groups met regularly throughout the year, as determined by objectives and identified risks.

# Governance, risk management and audit

## Governance within the NSW Electoral Commission

The NSW Electoral Commission has a range of arrangements in place to ensure effective organisational governance. These arrangements include strategic planning, policies and procedures, risk management practices, financial and operational controls, an internal audit programme, and committees and working groups that support effective decision-making.



Governance arrangements were reviewed in early 2022 through the NSW Electoral Commission's internal audit programme, specifically the structure and functioning of existing committees and working groups. These arrangements will be revised in 2022-23, following the finalisation of the audit, to improve their efficiency and effectiveness.

### Risk management

Risk is managed at all levels of the organisation. The senior executive regularly reviews all identified strategic-level risks and their controls. The strategic risks are also monitored by the Audit and Risk Committee. Risks are also identified and actively managed at the divisional level, and in all projects and programmes, as standard practice in our project management methodology.

### Audit and Risk Committee

The Audit and Risk Committee continued to provide independent assistance to the Electoral Commissioner and the Electoral Commission during 2021-22, by monitoring, reviewing and advising on governance processes, risk management and control frameworks, management of audit actions and external accountability obligations.

Audit and Risk Committee meetings were held on the following dates:

- 20 July 2021
- 2 September 2021
- 24 September 2021
- 9 December 2021
- 17 February 2022
- 26 May 2022.

### Members

The Chair and members of the Audit and Risk Committee are:

- Independent Chair, Greg Fletcher
- Independent Member, Mark Sercombe
- Independent Member, Elizabeth Gavey.

The terms of the members are shown in this report's *Internal Audit and Risk Management Attestation*. All members attended all the Audit and Risk Committee meetings in 2021-22.

### Regular attendees

Regular attendees at Audit and Risk Committee meetings include:

- John Schmidt, Electoral Commissioner
- Matt Phillips, Executive Director Corporate, and Chief Audit Executive
- Trevor Follett, Director Finance, and Chief Financial Officer
- Riaan Husselmann, Director EPMO and Corporate Governance
- Neil Pfister, Manager Governance, and Chief Risk Officer
- Representatives from the Audit Office of NSW
- Representatives from the internal audit service providers (PwC up to 31 December 2021, BDO from 1 January 2022).

Members of the NSW Electoral Commission's senior executive also attended meetings as needed, to provide updates on operational issues and risks.

### Internal audit

We have a risk-based internal audit program in accordance with NSW Government policy. The NSW Electoral Commission uses an outsourced internal audit service provider. The previous contract arrangements ended on 31 December 2021, and BDO was appointed as the new internal audit service provider following a competitive procurement process. The new contract is for a five-year term.

### Internal audits undertaken in 2021-22

- Employee lifecycle and payroll (final report issued)
- Fraud risk management (final report issued)
- Local Government elections count centre operations (final report issued)
- Governance arrangements (fieldwork completed, reporting underway).

We are working through actions to address the recommendations from previous internal audits and other reviews. This work is monitored by the senior executive and the Audit and Risk Committee.

# Governance, risk management and audit

## continued

### Internal audit work plan for 2022-23

- Follow-up of prior IT audits and reviews
- Work Health and Safety – wellbeing
- State Government Election count centre operations
- Investigations management – external matters.

### Complaints and consumer response

The Electoral Commission manages complaints in accordance with our *Complaints Management Policy*, which is available on our website. For the purposes of this process, complaints are an expression of dissatisfaction about our service delivery (other issues, such as allegations that people are not complying with electoral laws, or disagreements about failure to vote penalties, are dealt with through separate processes).

The Electoral Commission's complaints management process enables us to respond to issues raised by people making complaints and to improve our service delivery.

The 2021 NSW Local Government elections were conducted during 2021-22. As with any year in which a major election is conducted, during 2021-22, the NSW Electoral Commission received more complaints than in the previous year, with more than 300 complaints received. The main areas of concern were:

- iVote access problems on election day and the previous day
- website performance issues
- the number and location of polling places
- environmental issues (for example, single-use pens)
- COVID-19 safety arrangements.

Other feedback received that was not categorised as a complaint about our service delivery included:

- the behaviour of political party workers at polling places
- restrictions on handing out 'how-to-vote' materials
- vaccination mandates for NSW Electoral Commission staff
- electoral roll issues (for example, requests for removal from the roll, change of address after electoral roll closure)
- 'apparent failure to vote' penalty notices issued.

### Fraud and corruption control

The NSW Electoral Commission did not refer any internal corrupt conduct to the Independent Commission Against Corruption (ICAC) during 2021-22.

The internal audit review of our Fraud Control Framework found that it is closely aligned with the 10 principles of the NSW Audit Office's *Fraud Control Improvement Kit* and with most of the requirements of the new Australian Standard (AS8001:2021) *Fraud and corruption control*.



Querin's  
4/1/623

# GENERAL ELECTION, 1941

ELECTORAL DISTRICT OF COBAR

## Summary of Cost.

Polling Places—Number of <u>93</u> (poll not taken at 3)					
Assistant Returning Officer .. .. .			3	3	0
Substitute Returning Officer .. .. .					
Clerical Assistance (including Counters and preparation of certified rolls) .. .. .			37	18	6
<b>Fees:—</b>					
Senior Deputy Returning Officers .. .. .	5	@ £3: 0:0			
Deputy " " " .. .. .	94	@ £2: 10:0	12	10	0
Poll Clerks .. .. .	99	@ £2: 5:0	211	10	0
Doorkeepers .. .. .		@ £1: 10:0	148	10	0
Special Messengers .. .. .		@			
<b>Travelling Expenses, &amp;c.:—</b>					
Deputy Returning Officers' Daily Allowance .. .. .			4	5	0
" " " Cost of Conveyance, Fares, &c. .. .. .				17	
Poll Clerks' Daily Allowance .. .. .			4	14	3
" " Cost of Conveyance, Fares, &c. .. .. .					
Special Messengers .. .. .					
<b>Stamps and Telegrams used by D.R.O.'s</b>					
Booths:—			2	19	8
Number of <del>100</del> <u>99</u>					
Rent .. .. .			11	1	6
Cleaning and Lighting .. .. .			3	7	9
Hire of Furniture .. .. .				5	
Freight, Cartage and Repairs .. .. .			3	11	1
Hire of Tents .. .. .					
Cost of Erection of Voting Compartments, not by Contract .. .. .			4	2	
Work done by Contract .. .. .					
Police Refreshments .. .. .				4	
Freight, Cartage, Repairs, at Headquarters .. .. .			3	12	1
Advertising .. .. .			14	2	9
Postage (not including O.S. Stamps supplied) .. .. .			11	15	2
Printing .. .. .					
<b>Returning Officer's Personal Expenses:—</b>					
Stationery .. .. .				16	8
Office Rent, Cleaning, Light .. .. .					
Travelling .. .. .					

# Internal audit and risk management policy attestation



## Internal Audit and Risk Management Attestation Statement for the 2021-22 financial year for the New South Wales Electoral Commission Staff Agency

I, John Schmidt, am of the opinion that the NSW Electoral Commission Staff Agency has internal audit and risk management processes in operation that are compliant with the seven (7) Core Requirements set out in the *Internal Audit and Risk Management Policy for the General Government Sector*, specifically:

Core requirements	Compliant, non-compliant, or in transition
<b>Risk Management Framework</b>	
1.1 The Accountable Authority shall accept ultimate responsibility and accountability for risk management in the agency.	Compliant
1.2 The Accountable Authority shall establish and maintain a risk management framework that is appropriate for the agency. The Accountable Authority shall ensure the framework is consistent with AS ISO 31000:2018.	Compliant
<b>Internal Audit Function</b>	
2.1 The Accountable Authority shall establish and maintain an internal audit function that is appropriate for the agency and fit for purpose.	Compliant
2.2 The Accountable Authority shall ensure the internal audit function operates consistent with the International Standards for Professional Practice for Internal Auditing.	Compliant
2.3 The Accountable Authority shall ensure the agency has an Internal Audit Charter that is consistent with the content of the 'model charter'.	Compliant
<b>Audit and Risk Committee</b>	
3.1 The Accountable Authority shall establish and maintain efficient and effective arrangements for independent Audit and Risk Committee oversight to provide advice and guidance to the Accountable Authority on the agency's governance processes, risk management and control frameworks, and its external accountability obligations.	Compliant
3.2 The Accountable Authority shall ensure the Audit and Risk Committee has a Charter that is consistent with the content of the 'model charter'.	Compliant



Office of the Electoral Commissioner

### Membership

The independent chair and members of the Audit and Risk Committee are:

- Independent Chair Greg Fletcher, appointed February 2018, second term expires October 2023
- Independent Member Mark Sercombe, appointed June 2018, second term expires May 2026
- Independent Member Elizabeth Gavey, appointed October 2018, second term expires October 2026.

A handwritten signature in black ink, appearing to read 'John Schmidt', written over a horizontal line.

John Schmidt  
Electoral Commissioner  
New South Wales Electoral Commission  
6 October 2022

Agency Contact Officer:  
Matt Phillips  
Chief Audit Executive  
Ph: 02 9290 5453

# Cyber security policy attestation



## 2021-22 financial year Cyber Security Annual Attestation Statement for the NSW Electoral Commission

I, John Schmidt, am of the opinion that the NSW Electoral Commission has identified cyber security risks in a manner consistent with the Mandatory Requirements set out in the NSW Government Cyber Security Policy ("the Policy").

To achieve this, the NSW Electoral Commission has implemented governance processes that provide oversight of its cyber security activities, and these governance processes are consistent with the Policy. Under the governance framework, identified risks have been assessed and are being managed, to the extent possible, in line with the NSW Electoral Commission's existing resources and capabilities.

During the year, the NSW Electoral Commission developed a cyber incident response plan for the NSW Local Government elections, held in December 2021, which was integrated with business continuity arrangements for that event and tested as part of an exercise involving senior executives and other staff.

The NSW Electoral Commission is not compliant with all the Policy's Mandatory Requirements, however and, without additional budgetary allocations, cannot fully mitigate the gaps that have been identified.

Additional funding was approved for the NSW Electoral Commission during the year to enhance baseline controls, particularly in relation to the Australian Cyber Security Centre's Essential 8. These activities, while important, did not deliver a significant increase in overall agency compliance with the Policy, due to need to deliver the deferred Local Government elections in December 2021 and to commence preparations for the State general election in March 2023. The NSW Electoral Commission has developed a detailed programme of future work to better align its operations with the Policy and to continuously improve the management of cyber security governance and resilience.

The Cyber Uplift Work Programme is being monitored under the cyber governance framework. Implementation of the Cyber Uplift Work Programme is dependent on additional funding being provided to the Electoral Commission.

A handwritten signature in black ink, appearing to read 'John Schmidt', written over a horizontal line.

John Schmidt  
Electoral Commissioner  
NSW Electoral Commission  
13 October 2022

# Privacy and accessing information

## Public Interest Disclosures

No Public Interest Disclosures were received by the Electoral Commission during 2021-22. Our Public Interest Disclosures reports were submitted to the NSW Ombudsman as follows:

- Public Interest Disclosures report for July to December 2021 submitted 17 March 2022.
- Public Interest Disclosures report for January to June 2022 submitted 5 August 2022.

To ensure our staff are aware of their responsibilities under section 6E(1)(b) of the *Public Interest Disclosures Act 1994*, we:

- Publish our Public Interest Disclosures Policy on the intranet and corporate website so that staff understand our internal process for handling reports of wrongdoing, and the Electoral Commission's commitment to the protection of public officials from reprisal in relation to any disclosure matters.
- Include internal reporting in our mandatory Code of Ethics and Conduct training.
- Presentations to the executive and other staff members on the Public Interest Disclosures processes.

## Privacy and Personal Information Protection Act 1998

We hold a large amount of data, including personal information. Staff have privacy protection responsibilities in relation to our agency functions, such as maintaining the New South Wales electoral register, conducting New South Wales state and local government elections, enforcing failure to vote offences, and regulating election campaign finance and third-party lobbying. We take these responsibilities seriously and inform staff of their obligations under the *Privacy and Personal Information Protection Act 1998* (PIIP Act) and other privacy requirements applying to the agency.

## Privacy management plan

Clause 6 of the Annual Reports (Departments) Regulation 2010 requires a statement of the action taken by the Electoral Commission in complying with the requirements of the PPIP Act, and statistical details of any review conducted by us, or on our behalf under Part 5 of that Act.

Action taken by the Electoral Commission to comply with the requirements of the PPIP Act include a privacy management plan (reviewed on an ongoing basis) and a nominated privacy officer. In the last reporting year, we continued compulsory online privacy training for staff. Data custodians and project officers consult with

the privacy officer and the legal business unit to ensure projects, forms, policies and procedures are compliant with the PPIP Act. A Privacy Impact Assessment process was developed and implemented in 2021-22 to ensure that privacy management is considered during the early stages of any new systems or processes.

## Internal reviews

The Electoral Commission received one request for an internal review under Part 5 of the PPIP Act during 2021-22. The review related to the alleged unauthorised access of a staff member's personal information by another staff member. The review concluded that it was more likely than not, that Information Privacy Principles 5 (Secure Storage) and 10 (Limited Use) had been breached. The Electoral Commission apologised and took measures to reduce the likelihood of such conduct recurring.

Queries regarding privacy should be addressed as follows:

The Privacy Officer  
NSW Electoral Commission  
GPO Box 832 Sydney NSW 2001

Alternatively, enquiries can be made via the contact us form on our website.

## Government Information (Public Access) Act 2009

Section 125 of the *Government Information (Public Access) Act 2009* (GIPA Act) requires an agency to report annually on the agency's obligations under the GIPA Act. The *Government Information (Public Access) Regulation 2018* (GIPA Regulation) sets out the information to be included in the annual report.

The following section details access to government information pertaining to the NSW Electoral Commission.

## Obligations under the Government Information (Public Access) Act 2009

### Clause 8(a): Review of proactive release program

Under section 7(3) of the GIPA Act, agencies must review their programs for the release of government information to identify the kinds of information that can be made publicly available. This review must be undertaken at least once every 12 months.

Our program for proactive release of information is detailed in our *Government Information (Public Access) Act 2009 Policy and Procedures*, and is available on our website. Directors are periodically invited to identify any additional information in the public interest that could be released proactively.

# Privacy and accessing information

continued

## Clause 8(b): Number of access applications received

During the reporting period we received four formal applications for access to information. This figure includes withdrawn applications but not invalid applications.

## Clause 8(c): Number of refused applications for Schedule 1 information

No applications were refused during the reporting period.

## Clause 8(d) and Schedule 2: Statistical information about access applications

Table 11. Number of applications by type of applicant and outcome\*

Applicant type	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Media	-	-	-	-	-	-	-	-
Members of Parliament	1	-	-	-	-	-	-	-
Private sector business	-	-	-	-	-	-	-	-
Not for profit organisations or community groups	-	-	-	-	-	-	-	-
Members of the public (application by legal representative)	-	-	-	-	-	-	-	-
Members of the public (other)	2	1	-	2	1	-	-	-

\*More than one decision can be made in respect of a particular access application. If so, a record must be made in relation to each decision.

Table 12. Number of applications by type of application and outcome\*\*

Application type	Access granted in full	Access granted in part	Access refused in full	Information not held	Information already available	Refuse to deal with application	Refuse to confirm/deny whether information is held	Application withdrawn
Personal information applications*	1	-	-	-	-	-	-	-
Access applications (other than personal information applications)	1	-	-	-	-	-	-	-
Access applications that are partly personal information applications and partly other	1	1	-	1	1	-	-	-

\*A personal information application is an access application for personal information (as defined in clause 4 of Schedule 4 to the Act) about the applicant (the applicant being an individual). \*\* More than one decision can be made in respect of a particular access application. If so, a record must be made in relation to each decision.

Table 13. Invalid applications

Reason for invalidity	No of applications
Application does not comply with formal requirements (section 41 of the Act)	1
Application is for excluded information of the agency (section 43 of the Act)	-
Application contravenes restraint order (section 110 of the Act)	-
Total number of invalid applications received	-
Invalid applications that subsequently became valid applications	1

Table 14. Conclusive presumption of overriding public interest against disclosure (matters listed in Schedule 1 to Act)

	Number of times consideration used*
Overriding secrecy laws	-
Cabinet information	-
Executive Council information	-
Contempt	-
Legal professional privilege	-
Excluded information	-
Documents affecting law enforcement and public safety	-
Transport safety	-
Adoption	-
Care and protection of children	-
Ministerial code of conduct	-
Aboriginal and environmental heritage	-
Information about complaints to Judicial Commission	-
Information about authorised transactions under <i>Electricity Network Assets (Authorised Transactions) Act 2015</i>	-
Information about authorised transaction under <i>Land and Property Information NSW (Authorised Transaction) Act 2016</i>	-

\*More than one public interest consideration may apply in relation to a particular access application and each such consideration is recorded (but only once per application).

# Privacy and accessing information

continued

Table 15. Other public interest considerations against disclosure (matters listed in table to section 14 of Act)

	Number of occasions when application not successful*
Responsible and effective government	-
Law enforcement and security	-
Individual rights, judicial processes and natural justice	1
Business interests of agencies and other persons	-
Environment, culture, economy and general matters	-
Secrecy provisions	-
Exempt documents under interstate Freedom of Information legislation	-

\*More than one public interest consideration may apply in relation to a particular access application and each such consideration is recorded (but only once per application).

Table 16. Timeliness

	Number of applications
Decided within the statutory timeframe (20 days plus any extensions)	4
Decided after 35 days (by agreement with applicant)	-
Not decided within time (deemed refusal)	-
<b>Total</b>	<b>4</b>

Table 17. Number of applications reviewed under Part 5 of the Act (by type of review and outcome)

	Decision varied	Decision upheld	Total
Internal review	-	-	-
Review by Information Commissioner*	-	-	-
Internal review following recommendation under section 93 of Act	-	-	-
Review by NSW Civil and Administrative Tribunal (NCAT)	-	-	-
<b>Total</b>	<b>-</b>	<b>-</b>	<b>-</b>

\*The Information Commissioner does not have the authority to vary decisions, but can make recommendations to the original decision-maker.

Table 18. Applications for review under Part 5 of the Act (by type of applicant)

Applicant type	Number of applications for review
Applications by access applicants	-
Applications by persons to whom information the subject of access application relates (see section 54 of the Act)	-



Table 19. Applications transferred to other agencies under Division 2 of Part 4 of the Act (by type of transfer)

Transfer type	Number of applications transferred
Agency-initiated transfers	-
Applicant-initiated transfers	-

## Enrolment data

As at June 2022, there were 5,496,164 people enrolled to vote in New South Wales, representing 98.5 per cent of the estimated eligible voting population.

Table 20. New South Wales enrolment data

Date	Enrolment	Enrolment as a percentage of the (estimated) eligible population
June 2022	5,496,164	98.5
June 2021	5,385,535	97.2
June 2020	5,339,629	98.0
June 2019	5,326,532	98.8
June 2018	5,248,487	98.5

## Section 50 and 55 applications

### Disclosure of enrolment information to other persons

The Electoral Commissioner may receive requests from people, organisations or government agencies under section 50 of the Electoral Act for access to enrolment information (enrolled persons and their particulars). These requests are dealt with in accordance with the Electoral Act and the *Privacy and Personal Information Protection Act 1998*. The provision of this information is very limited and strictly controlled.

In response to a request, the Electoral Commission will make a finding on whether or not the public interest in providing the requested information outweighs the public interest in protecting the privacy of personal information in the particular circumstances.

The Electoral Commissioner must publish on its website, any finding made under section 50 of the Electoral Act. A summary of any findings and the reasons for each of them will also be made available in the Electoral Commission's annual report.

The Electoral Commissioner made no findings in response to a request under section 50 of the Electoral Act during the 2021-22 reporting year.

### Disclosure of electoral information to other persons

We are prohibited, unless an exemption applies, from disclosing electoral information to other persons and courts (including tribunals). Electoral information is not the same as enrolment information. Electoral information refers to the information collected by the Electoral Commission for the purpose of maintaining and updating enrolment information contained in the Electoral Information Register.

There are exemptions to the general prohibition against the divulging of electoral information found in section 55 of the Electoral Act, one of those exemptions occurs when the Electoral Commissioner certifies that it is necessary in the public interest to disclose the information.

As with the disclosure of enrolment information to other persons, our annual report must include details of any disclosure of electoral information where the Electoral Commissioner has certified that disclosure is necessary in the public interest. The disclosure of electoral information is very limited and strictly controlled.

While three requests received by the Electoral Commission were identified by the processing officer as requesting electoral information, only one disclosure was made under subsection 55(4)(a) of the Electoral Act to the NSW State Coroner during the 2021-22 reporting year.

*Willoughby*

GENERAL ELECTION, 1938.

ELECTORAL DISTRICT OF **WILLOUGHBY.**

Summary of Cost.

Polling Places—Number of _____ Assistant Returning Officer ... .. Substitute Returning Officer ... .. Clerical Assistance (including Counters and preparation of certified rolls) Fees:— Senior Deputy Returning Officers ... .. £ 43 : 0 : 0 Deputy " " " " ... .. £ 22 : 10 : 0 Deputy Poll Clerks ... .. £ 29 : 5 : 0 Poll Clerks ... .. £ 11 : 10 : 0 Doorkeepers ... .. £ 11 : 0 : 0 Special Messengers ... .. Travelling Expenses, &c.:— Deputy Returning Officers' Daily Allowances Cost of Conveyances, Fares, &c. Poll Clerks' Daily Allowances Cost of Conveyances, Fares, &c. Special Messengers Stamps and Telegrams used by D.R.O.'s Expenses:— Rent of _____ Cleaning and Lighting Hire of Furniture Freight, Cartage and Repairs Hire of Trays Cost of Erecting of Voting Compartments, and by Contract Work done by Contract Police Refreshments Freight, Cartage, Repairs, at Headquarters Advertising Postage (not including G.S. Stamps supplied) Printing Returning Officer's Personal Expenses: Stationery Office Rent, Cleaning, Lighting, &c. Travelling Expenses Horse Car Hire, including use of Returning Officer's car Bunkies (to be ascertained) Hire of typewriter				
<b>Total Cost of Election</b>				<b>£ 2</b>

Place: **WILLOUGHBY**  
 Date: **1938**

*W. H. ...*  
 Returning Officer

# 4

## Conducting and regulating elections

Conducting elections	50
Registration of political parties	54
Registration of third-party lobbyists	56
Litigation	57

# Conducting elections

The NSW Electoral Commissioner is responsible for conducting:

- state general elections and by-elections
- local government general elections and by-elections (if engaged to do so)
- NSW Aboriginal Land Council elections
- elections for office holders in statutory bodies and industrial and service organisations (if requested or required to do so).

## Elections conducted during 2021–22

During 2021–22, we conducted 23 elections for statutory bodies, service clubs and industrial organisations, the NSW 2021 Local Government general elections (for 122 councils) in December 2021, followed by four state by-elections, three council by-elections, and three council countback elections.

Table 21. State by-elections conducted during 2021–22

Date	Electoral district
12 February 2022	Bega State by-election
12 February 2022	Monaro State by-election
12 February 2022	Strathfield State by-election
12 February 2022	Willoughby State by-election

Table 22. Council by-elections conducted during 2021–22

Date	Council
26 February 2022	Cobar Shire Council
26 February 2022	Tenterfield Shire Council – Ward C
Ward E results declared 28 January 2022	Tenterfield Shire Council – Ward E (uncontested)
Results declared 28 January 2022	Murray River Council – Greater Murray Ward (uncontested) Murray River Council – Greater Wakool Ward (uncontested)

Table 23. Council countback elections conducted during 2021–22

Date	District
17 May 2022	Edward River Council countback
Results declared 20 April 2022	Weddin Shire Council countback (uncontested)
23 February 2022	Upper Lachlan Shire Council countback

## Countback elections explained

Prior to the ordinary local government elections held in December 2021, amendments to legislation enabled councils in New South Wales to choose for the first time to use countback elections, instead of by-elections, to fill councillor vacancies arising after the ordinary elections.

Of the 128 local councils in New South Wales, 99 have decided to use countback elections. Four councils did not conduct ordinary elections in 2021 and therefore countback is not yet an option for them.

## Elections for statutory bodies, service clubs and industrial organisations

Table 24 lists the elections that were conducted during 2021–22.

## Counting of councillor ballot papers: proportional representation system

In 2017 the NSW Parliament's Joint Standing Committee on Electoral Matters conducted an inquiry into preference vote counting at local government elections in New South Wales. Subsequent legislative changes resulted in the preference counting method involving random sampling of ballot papers being replaced with the Weighted Inclusive Gregory Method (WIGM). This new counting method is used to count the ballot papers where there are two or more councillor vacancies to be filled, introducing significant benefits for local government elections, including a new logic of preference allocation that:

- more accurately reflects the intention of voters
- generates unvarying results that are reproducible each time the count is generated
- enables countback to be used to fill a subsequent vacancy.

Table 24. Statutory bodies, service clubs and industrial organisations 2021-22

Date	District	Details
22 May 2022	Five Dock RSL Community Club Ltd	Biennial Election of the Board of Directors
4 May 2022	APESMA (NSW branch)	Election of Executive Officers
23 April 2022	Petersham RSL Club Ltd	Election of the Board of Directors
21 April 2022	The Development and Environmental Professionals' Association	Election of Officers
29 March 2022	Cronulla-Sutherland Leagues Club Ltd	Election of two Directors to the Board (Group 1)
22 March 2022	Smithfield RSL Club Ltd	Biennial Election of the Board of Directors
24 January 2022	Toronto Workers Club	Biennial Election of the Board of Directors
21 December 2021	The Rice Marketing Board NSW	Election of Three Board Members
21 December 2021	Riverina Wine Grapes Marketing Board	Election of Five Members
17 December 2021	Local Government Engineers Association of NSW	Election of the Committee of Management
17 December 2021	APESMA (NSW branch)	Election of the Committee of Management
16 December 2021	Institute of Senior Educational Administrators (ISEAN)	Election of Executive Officers and Ordinary Member of State
9 December 2021	The Master Fish Merchants' Association of Australia	Election of the Committee of Management
3 December 2021	Pharmacy Council of NSW	Election of Five Council Members
24 November 2021	NSW Gun Club Ltd	Election of the Board of Directors
22 November 2021	Richmond Club Ltd	Election of the Board of Directors
21 November 2021	Beresfield Bowling Club Ltd	Election of the Board of Directors
19 November 2021	Canada Bay Club Ltd	Election of the Board of Directors - Group 3
29 October 2021	Fire Brigade Employees' Union of NSW	Election of State Secretary and President (Vacancies)
22 October 2021	TAB Agents' Association of NSW	Election of Vice President, Secretary and one Executive
20 September 2021	Silverton Village Committee Inc	Election of Three Committee Members
20 July 2021	Belmont 16 Foot Sailing Club Ltd	Election of the Board of Directors
15 July 2021	Federation of Parents & Citizens Association of NSW	Election of Councillors and Delegates

# Conducting elections continued

## 2021 NSW Local Government elections

Local government ordinary elections are held in New South Wales on the second Saturday in September every four years in accordance with the *Local Government Act 1993*. The elections were originally scheduled for Saturday, 12 September 2020.

In response to the COVID-19 pandemic the Minister for Local Government announced the postponement of the September 2020 Local Government elections for 12 months in the interests of public health and safety. The Minister subsequently announced that these elections would be held on 4 September 2021. On 24 July 2021, the Minister made an Order to further postpone these elections to Saturday, 4 December 2021, in response to the changing COVID-19 situation across New South Wales at that time.

The elections were the fourth conducted since changes to legislation gave councils the option to choose their election provider. Councils have the option to choose the NSW Electoral Commissioner or to engage a commercial election service provider to conduct the election for them. Councils cannot choose to run their own elections.

There are 128 local government areas in New South Wales, each represented by a council. Of the 128 councils, four were under administration at the time and did not hold elections in December and two did not engage the NSW Electoral Commissioner to conduct their elections.

The elections saw an improvement in the informal voting rate, at 5.47 per cent down from 6.73 per cent in 2017 and 6.05 per cent in 2016. The councillor election turnout rate for the 2021 elections was 83.56 per cent, higher than the 2017 turnout rate of 80.28 per cent and 78.55 percent in 2016.

### COVID safety measures

The preparation and delivery of an election with consideration of, and adherence to, COVID-19 safety measures required a high level of coordination and planning. These elections are believed to have been the largest public participation event held in Australia, at that time, since the beginning of the pandemic. Central to its preparedness, the NSW Electoral Commission developed a COVID-19 Safety Plan for elections, which included a range of policy and operational measures to protect staff, voters and other election participants. The Plan was supplemented by a range of educational and other awareness-raising material to manage the risks of COVID-19.

To ensure that the NSW Electoral Commission had access to relevant information and resources to develop its plan, a working group was established to facilitate close collaboration and coordination across key government agencies. Members of the working group included NSW Electoral Commission officers and representatives from the following NSW Government agencies:

- NSW Health
- Department of Premier and Cabinet
- NSW Police
- Office of Local Government NSW
- NSW Department of Customer Service
- NSW Department of Education.

As permitted by amendments to the *Local Government (General) Regulation 2021*, the NSW Electoral Commissioner also issued directions to reduce the risk of COVID-19 transmission during voting and counting. These directions related to the handing-out of material and display of posters within 100 metres of a polling place entrance and the conduct of scrutineers in counting venues.

NSW Electoral Commission staff (head office and temporary election workers) were also required to be vaccinated against COVID-19 and to wear a mask indoors and outdoors at all venues. These measures were adopted after risk assessments, based on the information available to the NSW Electoral Commission at the time.

### iVote

The Local Government (General) Regulation was amended to allow the use of iVote, the NSW Electoral Commissioner's technology-assisted voting platform, for the first time at council elections. The iVote platform was available from Monday, 22 November through the early voting period to election day Saturday, 4 December 2021. At close of the iVote registration period at 1pm on election day Saturday, 4 December 2021, almost triple the number of voters had used iVote than at any previous NSW election.

As a result of a systems issue experienced on election day, a number of electors who successfully applied for iVote were not issued with the necessary security credentials to enable them to cast a vote by the close of voting at 6pm on election day. While many of these voters were able to vote by other means, a significant number were not.

Following an analysis of the potential impact of this issue on the outcome of the elections, the NSW Electoral Commissioner formed the view that there was a material possibility that a different outcome might have occurred in three contests. Recognising that public trust in the legitimacy of election results is critical to our electoral system, the NSW Electoral Commissioner subsequently applied to the NSW Supreme Court to consider the validity of the elections held in Kempsey Shire Council, Singleton Council and Shellharbour City Council (Ward A).

The Court decided that the elections for Kempsey Shire Council, Singleton Council and Shellharbour City Council (Ward A) were void, with its orders effective from 3 May 2022. The NSW Electoral Commissioner agreed to meet the legal costs of the three councils, with those councils not being required to pay for a new election. The NSW Electoral Commission also established an act of grace payments scheme to reimburse election participants in the voided elections for their lawfully incurred electoral expenditure.

The Electoral Commissioner made the decision that iVote will not be available at the 2023 NSW State election or any intervening by-elections. In 2022-23 a targeted review of the framework for delivering technology-assisted voting will be conducted in consultation with key stakeholders, including organisations representing electors who are blind or have low vision and other disability advocacy groups. Recommendations from the review will be provided to the NSW Government for its consideration in 2023.

### **Voting services for other jurisdictions**

The NSW Electoral Commission offered in-person voting services for the Tasmanian Legislative Council elections for the divisions of Elwick, Huon and McIntyre. Early voting was available in our Elizabeth Street, Sydney office from Wednesday, 27 April to Friday, 6 May 2022. The elections were held in Tasmania on Saturday, 7 May 2022.

The NSW Electoral Commission also offered in-person early voting services for the South Australian district of Bragg by-election. Early voting was available in our Elizabeth Street, Sydney office from Wednesday, 23 June to Friday, 1 July 2022. The election was held in South Australia on Saturday, 2 July 2022.

### **Preparations for the 2023 NSW State election**

The postponement of the Local Government elections from 2020 to 2021 resulted in a much shorter runway to prepare for the NSW State election in March 2023. However, during 2021-22 much was achieved in preparation for the 2023 election.

A state-wide campaign was developed and implemented jointly with an external agency to recruit the 93 election managers who conduct the election on behalf of the Electoral Commissioner, one in each electoral district. Plans are underway for the campaign to recruit

We commenced the procurement of the 93 election managers' offices, early voting venues and election day voting venues. We select the most suitable premises from those available. Venue considerations are extensive and included size, location, accessibility, amenities, street frontage, access for deliveries, internet connectivity and workplace health and safety. The ability to secure premises that met functional requirements presented challenges, particularly in negotiating agreements to enter short-term leases when the supply of premises is limited.

Our various election and regulatory systems have been reconfigured and testing commenced in April.

Communications have been distributed to political participants to make sure they are aware of their obligations and disclosure requirements, many of which commence months before an election. We will continue to communicate with political participants up to, during and after the election.

Engagement with Cyber NSW, NSW Police and other agencies to support the integrity and security of the state election is also underway.

# Registration of political parties

The Electoral Commissioner maintains publicly available registers of political parties. Parties are registered for state elections under the *Electoral Act 2017* and for local government elections under the *Local Government Act 1993*. All NSW Electoral Commission registers and lists are available for inspection on the NSW Electoral Commission website.

## State elections

As at 30 June 2022, 16 political parties were registered for New South Wales state elections. Parties registered for state elections are also registered for local government elections. During 2021–22, two new parties were registered for state elections [Informed Medical Options (IMOP) and Legalise Cannabis NSW] and two state registered parties were deregistered in the period ending 30 June 2022 [Christian Democratic Party (Fred Nile Group) and Country Labor Party].

Table 25. Political parties registered for state elections as at 30 June 2022

Party name
Animal Justice Party
Australian Labor Party (NSW Branch)
Informed Medical Options Party (IMOP)
Flux NSW
Legalise Cannabis NSW Party
The Greens NSW
Liberal Democratic Party
The Liberal Party of Australia, New South Wales Division
National Party of Australia – NSW
The Open Party
Pauline Hanson's One Nation
Reason Party
Shooters, Fishers and Farmers Party (NSW) Incorporated
The Small Business Party
Sustainable Australia Party – Stop Overdevelopment/Corruption
Socialist Alliance

## Local government elections

As at 30 June 2022, 28 political parties were registered for local government elections only. Including the 16 parties registered for state elections that are also registered for local government elections, 44 parties in total were registered for local government elections.

Table 26. Political parties registered for local government elections as at 30 June 2022

Party name
Australia First Party (NSW) Incorporated (Councils)
Australian Federation Party New South Wales
Australian Women's Party
Battler
Central Coast Heart
Clover Moore Independent Team
Community First Team
Georges River Residents and Ratepayers Party
Good for Manly
Independent Community Voice
Kogarah Residents' Association
Lake Mac Independents
Liverpool Community Independents Team
Lorraine Wearne Independents
Manly Independents – Putting Residents First
Nella Hall Independents
Our Local Community
Our Sustainable Future
Residents First Woollahra
Science Party NSW
Serving Mosman
Shoalhaven Independents Group
Strathfield Independents
The Arts Party NSW
The Ben Shields Team
The Local Independent Party
Totally Locally Committed Party
Your Northern Beaches Independent Team



During the year, no new parties were registered for local government elections. During the year, one local government party was deregistered: Kerryn Phelps Independents.

### **Annual continued registration of political parties**

Between 1 June and 30 June each year, the registered officer of each registered party must demonstrate to the Electoral Commissioner that the party continues to be eligible for registration. This includes that a party has the requisite number of members to remain registered. Parties registered for state elections must have at least 750 members and parties registered for local government elections must have at least 100 members.

Fourteen parties registered for state elections and 28 parties registered for local government elections were required to show continued eligibility for registration as of 30 June 2021. The two newly registered state parties, Informed Medical Options (IMOP) and Legalise Cannabis NSW were not required to lodge a return as they were registered for less than six months before the annual returns for 2022 were required to be lodged.

At the conclusion of the continued registration process in 2021, 14 parties registered for state elections and 28 parties registered only for local government elections had demonstrated continued eligibility for registration.



# Registration of third-party lobbyists

Third-party lobbyists and individuals engaged to undertake lobbying on behalf of a third-party lobbyist must be registered in the Lobbyist Register, which is kept and maintained by the Electoral Commission under the *Lobbying of Government Officials Act 2011*. The Lobbyist Register is published on the Electoral Commission's website.

Twenty-two new third-party lobbyists were registered during 2021-22. As at 30 June 2022, 160 third-party lobbyists were registered.

Each registered third-party lobbyist is required to appoint a person as the officer responsible for the lobbyist's compliance with NSW lobbying laws. Such officers are responsible for completing the Electoral Commission's online training on an annual basis.

Registered third-party lobbyists are responsible for updating the Lobbyist Register within 10 days of any change to the information on the register including the details of their clients and details of foreign principals whose interests the lobbyist is representing. On 30 June 2022, 25 third-party lobbyists had declared that 39 clients met the legislated definition of foreign principal.

Registered third-party lobbyists are also required to provide to the Electoral Commission, on 31 January, 31 May and 30 September each year, confirmation that their registered details are up to date.

Failure to comply with the requirements of the Lobbying of Government Officials Act or the Lobbyists Code of Conduct can result in the suspension or cancellation of a lobbyist's registration. Decisions made by the Electoral Commission to suspend or cancel a third-party lobbyist's registration or to issue a warning are detailed in the Compliance and enforcement section of the Electoral Commission's report to NSW Parliament (see Annexure A).

The Electoral Commission cancelled the registration of 18 third-party lobbyists at their request as they were no longer carrying on the business of lobbying. No lobbyists had their registration suspended or cancelled for failure to confirm their details when required during 2021-22.

Details of the decisions made by the Electoral Commission in relation to the registration of third-party lobbyists and the reasons for those decisions are published on the Electoral Commission's website.

Information about the enforcement of the Lobbying of Government Officials Act, using the powers conferred on the Electoral Commission by the Electoral Funding Act, where relevant, is contained in the report to the NSW Parliament (see Annexure A).



# Litigation

## Supreme Court proceedings – 2021 Local Government elections

On 5 April 2022, the Supreme Court of NSW declared void the 4 December 2021 local government councillor elections conducted by the Electoral Commissioner for Kempsey Shire Council, Singleton Council and City of Shellharbour (Ward A). The Court ordered fresh elections for all councillor positions in each of those councils and Ward C only for the City of Shellharbour.

The Electoral Commissioner applied to the Court for orders declaring those three local government elections void because of a failure of a system of technology assisted voting known as 'iVote'.

The Court found that this technology failure constituted a material irregularity, having regard to section 333E of the *Local Government (General) Regulation 2021*, which requires the Electoral Commissioner, if satisfied that an applicant is an eligible elector, to permit that elector to vote by means of iVote in accordance with the relevant provisions of that Regulation.

Given that in such an election dispute no evidence may be admitted of any disenfranchised elector's voting intentions, the Court found that the correct approach to assessing the materiality of the impact of not permitting electors to use iVote was to consider the difference between the margin at each of the exclusion points in the count – including the last count – together with the number of electors who were approved to use iVote, but who ultimately did not vote by any channel.

For each of the affected elections, the Court found that, because the difference was greater at one of the exclusion points, there were reasonable grounds to believe that a majority of electors may have been prevented from electing the candidate they preferred.

The Electoral Commission was ordered to pay the ordinary costs of 19 of the 22 defendants and to pay the costs of the remaining three defendants (that is, the affected councils) on an indemnity basis.

After consultation with the relevant councils and the Office of Local Government, the Electoral Commissioner fixed Saturday, 30 July 2022 as the date for the fresh elections, which were conducted by the NSW Electoral Commission with the results of each election being declared on 16 August 2022.

## Enforcement of electoral and lobbying laws

Enforcement of electoral and lobbying laws is a primary responsibility of the Electoral Commission. In addition to its regular compliance activities, the Electoral Commission conducted compliance operations across the state for the 4 December 2021 local government elections as well as for the 12 February 2022 State by-elections held in Bega, Monaro, Strathfield and Willoughby. During the 2021 Local Government elections, five field teams visited numerous pre-poll and election day venues throughout New South Wales, attending 47 of the 122 local government areas conducting elections. The teams were deployed in accordance with intelligence gathered in the leadup to and during the election period. Further information about the Electoral Commission's use of its enforcement powers is included in its annual report to the NSW Parliament at Annexure A.

## Other proceedings

There were no other proceedings in 2021-22 relating to the statutory functions of the Electoral Commissioner.

Litigation relating to the work and activities of the three-member Electoral Commission, including its enforcement activities, are reported separately in the Electoral Commission's report to the NSW Parliament (see Annexure A).

## General Election 1958 Advances to Returning Officers

Electoral District	Advances						Total	Repayments	Treasury Receipt No.	Adjusted with Auditor General
	Amount	Date	Amount	Date	Amount	Date				
Hawkesbury	100	2/3	338	2/3	70	13/5	256.8.3	Nil	-	finalised
Horncastle	100	4/3	212	2/3	6.5	2/4	318.11.5	Nil	-	finalised
Hurstville	100	2/3	170	2/3	-	-	270	11.13.10	9960	finalised
Illawarra	100	2/3	<del>no contest</del>				100	92.9.5	9960	finalised
King	100	2/3	387	2/3	20	13/5	563	12.10	10454	finalised
Kogarah	100	4/3	128	2/3	-	-	228	3.6.3	10112	finalised
Kurrumbidgee	100	2/3	<del>no contest</del>				100	92.17.3	9960	finalised
Lachlan	100	2/3	400	2/3	15	10	225	2.16.11	11136	finalised
Lakemba	100	4/3	145	2/3	18	2/4	260	14.16.6	10675	finalised
Lane Cove	100	2/3	<del>no contest</del>				100	90.4.10	9552	finalised
Lidcombe	100	2/3	142	2/3	20	12/5	270.19	Nil	-	finalised
Lismore	100	2/3	<del>no contest</del>				100	93.14.3	10675	finalised
Liv. Plains	100	2/3	365	2/3	-	-	365	33.7.4	10675	finalised
Maitland	100	2/3	186	2/3	2	7/4	256	5.13.9	10112	finalised
Manly	100	2/3	277	2/3	30	4/4	407	11.4	10454	finalised
Manuelville	100	2/3	139	2/3	-	-	239	9.3.5	9960	finalised
Monaro	100	2/3	328	2/3	0.10	7/5	433.20	Nil	-	finalised
Mozman	100	4/3	97	2/3	-	-	197	7.14.9	10112	finalised
Mudgee	100	2/3	370	2/3	-	-	470	6.12.8	10675	finalised
Murray	100	4/3	315	2/3	3.9.10	2/5	418.9.10	Nil	-	finalised
Myiamba	100	2/3	217	2/3	-	-	317	28.18.10	10675	finalised
Narrabri	100	2/3	355	2/3	-	-	455	7.13.9	11136	finalised
Napier	100	2/3	310	2/3	5	14/5	415	3.3.10	10893	finalised
Neutral Bay	100	2/3	<del>no contest</del>				100	92.3.5	8850	finalised
Newcastle	100	2/3	153	2/3	-	-	253	17.11.7	9761	finalised
Newtown	100	2/3	136	2/3	-	-	236	5.19.10	10112	finalised
North Sydney	100	4/3	188	2/3	-	-	288	2.15.0	9960	finalised
Orange	100	2/3	271	2/3	-	-	371	29.0.3	10112	finalised
Oxley	100	1/3	308	2/3	12	2/4	420	3.9.6	10675	finalised
Paddington	100	1/3	135	2/3	-	-	235	12.8.8	10675	finalised
Parramatta	100	1/3	170	2/3	18.4.2	2/5	288.4.3	Nil	-	finalised
Peterborough	100	2/3	152	2/3	6	19/4	258	4.18.1	10112	finalised
Phillip	100	2/3	<del>no contest</del>				100	87.10.1	9761	finalised
Raleigh	100	2/3	338	2/3	2.9.5	11/5	437.10.3	Nil	-	finalised
Randwick	100	1/3	195	2/3	-	-	295	17.7.7	10112	finalised
Redfern	100	1/3	<del>no contest</del>				100	92.7.9	9761	finalised
Ryde	100	1/3	160	2/3	-	-	260	14.2	11136	finalised
South Coast	100	4/3	<del>no contest</del>				100	95.18.11	10454	finalised

# General Election 1938

## Advances to Returning Officers

Advances						Repayments	Treasurer Receipt No	Adjusted with Auditor General	No of
Date	Amount	Date	Amount	Date	Total				
1/3	193	12/3	-	-	193	97.4.0	7326	finalised 21/3/38	38
1/3	220	12/3	-	-	320	4.6.7	10675	finalised 23/3/38	138
1/3	289	12/3	15	1/4	404	10.3.8	10454	finalised 27/3/38	143
1/3	289	12/3	15	1/4	404	1.17.10	9960	finalised 27/3/38	192
1/3	188	12/3	-	-	288	55.0.0	8615	finalised 27/3/38	60
1/3	182	12/3	-	-	282	8.0.6	9761	finalised 27/3/38	60
1/3	184	12/3	-	-	284	92.4.2	8850	finalised 27/3/38	60
1/3	184	12/3	-	-	284	11.0.4	10675	finalised 27/3/38	132
1/3	201	12/3	10	1/4	311	7.13.2	10112	finalised 27/3/38	128
1/3	338	12/3	45	1/4	483	9.3.11	10454	finalised 27/3/38	117
1/3	231	12/3	-	-	331	96.11.6	8850	finalised 27/3/38	5
					596	89.6.6	10454	finalised 27/3/38	8
					311	5.3	11136	finalised 27/3/38	126
					483	13.5.11	10454	finalised 27/3/38	215
					331	5.8.11	10454	finalised 27/3/38	156
					1315				
					10622				

Finished 64 204 1538 (question on hand)

£ 10 235 6 11  
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 5 0 0 0 0  
 £ 10 235 9 2

### By-elections

1/4/38	17.2.9	1/4/38	-	-	£288.3.9	Nil	-	finalised 27/3/38	122
1/4/38	9.11.11	1/4/38	-	-	255.11.8	Nil	-	finalised 27/3/38	102
2/3/38	20	2/3/38	-	-	£344	£1.3.8	5983	finalised 27/3/38	155
1/4/38	-	-	-	-	£217	13.17.4	7186	finalised 27/3/38	82
2/4/38	-	-	-	-	245	1.18.5	7056	finalised 27/3/38	130
2/4/38	-	-	-	-	260	8.3.8	10615	finalised 27/3/38	98
1/4/38	£14	27/3/38	£5.10.1	27/3/38	415.10.1	Nil	-	finalised 27/3/38	199
1/4/38	-	-	-	-	280	£7.0.6	2764	finalised 21/4/40	130
1/4/38	-	-	-	-	225	28.13.11	2764	finalised 19/4/40	97
1/4/38	-	-	-	-	241	4.16.5	4259	finalised 27/3/38	135
1/4/38	£14	1/2	-	-	428	4.17.0	5297	finalised 17/4/40	27



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## Financial performance

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# Financial position

## Payment of accounts

Table 27. Payment of accounts for the 2020-21 financial year

Quarter	Current (\$)	Less than 30 days (\$)	Between 30 and 60 days (\$)	Between 60 and 90 days (\$)	More than 90 days (\$)	Target (%)	Actual (%)	Total (\$)
September 2021	16,624,583	2,208,463	208,575	63,591	12,112	100	86.96	19,117,324
December 2021	26,628,476	1,279,490	220,458	43,565	56,855	100	94.33	28,228,844
March 2022	21,280,240	3,361,136	1,040,316	151,186	227,150	100	81.66	26,060,028
June 2022	59,726,717	525,619	124,824	44,352	64,416	100	98.74	60,485,928
<b>Total</b>	<b>124,260,016</b>	<b>7,374,708</b>	<b>1,594,173</b>	<b>302,694</b>	<b>360,533</b>	<b>100</b>	<b>92.81</b>	<b>133,892,124</b>

### Time for payment of accounts

Our performance in payments continues to be high, with an average of 92.81 per cent of all accounts paid on time. There were no instances where interest was paid due to late payment.

## Consultants

### Engagements costing less than \$50,000

During the year we engaged three consultants, where each engagement was for less than \$50,000, with a combined total of \$113,720. All consultancy fees were categorised as management services.

### Engagements equal to or greater than \$50,000

During 2021-22, we engaged one consultant with a value greater than \$50,000.

**Consultant:** EY Port Jackson Partners

**Project:** Organisational functional review

**Cost:** \$225,000

## After balance date events

The NSW Electoral Commission did not have any significant post balance date events (details are in the financial statements that follow).



## Major works

Table 28 lists major works in progress during 2021-22, including the cost of those works to date and the estimated date of completion.

Table 28. Major works (projects over \$250,000) during 2021-22

Project description	Costs to 30 June 2022 (\$m)	Completion date (actual or estimated)
Funding, disclosure and compliance online system (FD Online) Phase 2	0.3	Completed during 2021-22
Local Government Regulation changes	4.3	Estimated completion 2023-24
Funding, disclosure and compliance online system (FD Online) Phase 3 Release 1	3.4	In progress, estimated completion 2022-23

Note: There were no significant over-runs or delays.

The NSW Electoral Commission is a NSW Government entity. The Electoral Commission is a not-for-profit entity (as profit is not its principal objective) and it has no cash-generating units. The reporting entity is consolidated as part of the NSW Total State Sector Accounts. The NSW Electoral Commission, as a reporting entity, comprises all the entities under its control, namely the parent entity (the statutory authority) and the NSW Electoral Commission staff agency.

# Statement by the Electoral Commissioner



## *Statement by the Electoral Commissioner*

Pursuant to section 7.6(4) of the *Government Sector Finance Act 2018* ('the Act') and to the best of my knowledge and belief, I state that these financial statements:

- have been prepared in accordance with the Australian Accounting Standards which include Australian Accounting Interpretations and the applicable requirements of the Act, the *Government Sector Finance Regulation 2018* and the Treasurer's directions, and
- present fairly New South Wales Electoral Commission's financial position, financial performance and cash flows.



John Schmidt  
Electoral Commissioner  
05 September 2022

# Independent Auditor's Report



## INDEPENDENT AUDITOR'S REPORT

### New South Wales Electoral Commission

To Members of the New South Wales Parliament

#### Opinion

I have audited the accompanying financial statements of the New South Wales Electoral Commission (the Commission), which comprise the Statement by the Electoral Commissioner, the Statement of Comprehensive Income for the year ended 30 June 2022, the Statement of Financial Position as at 30 June 2022, the Statement of Changes in Equity and the Statement of Cash Flows, for the year then ended, notes comprising a Statement of Significant Accounting Policies, and other explanatory information.

In my opinion, the financial statements:

- have been prepared in accordance with Australian Accounting Standards and the applicable financial reporting requirements of the *Government Sector Finance Act 2018* (GSF Act), the *Government Sector Finance Regulation 2018* (GSF Regulation) and the Treasurer's Directions
- presents fairly the Commission's financial position, financial performance and cash flows.

My opinion should be read in conjunction with the rest of this report.

#### Basis for Opinion

I conducted my audit in accordance with Australian Auditing Standards. My responsibilities under the standards are described in the 'Auditor's Responsibilities for the Audit of the Financial Statements' section of my report.

I am independent of the Commission in accordance with the requirements of the:

- Australian Auditing Standards
- Accounting Professional and Ethical Standards Board's APES 110 'Code of Ethics for Professional Accountants (including Independence Standards)' (APES 110).

I have fulfilled my other ethical responsibilities in accordance with APES 110.

Parliament promotes independence by ensuring the Auditor-General and the Audit Office of New South Wales are not compromised in their roles by:

- providing that only Parliament, and not the executive government, can remove an Auditor-General
- mandating the Auditor-General as auditor of public sector agencies
- precluding the Auditor-General from providing non-audit services.

I believe the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

# Independent Auditor's Report continued

## Other Information

The Commission's annual report for the year ended 30 June 2022 includes other information in addition to the financial statements and my Independent Auditor's Report thereon. The Electoral Commissioner is responsible for the other information. At the date of this Independent Auditor's Report, the other information I have received comprise the Statement by the Electoral Commissioner.

My opinion on the financial statements does not cover the other information. Accordingly, I do not express any form of assurance conclusion on the other information.

In connection with my audit of the financial statements, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I have performed, I conclude there is a material misstatement of the other information, I must report that fact.

I have nothing to report in this regard.

## Electoral Commissioner's Responsibilities for the Financial Statements

The Electoral Commissioner is responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards, the GSF Act, GSF Regulations and Treasurer's Directions. The Electoral Commissioner's responsibility also includes such internal control as the Electoral Commissioner determines is necessary to enable the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Electoral Commissioner is responsible for assessing the Commission's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting.

## Auditor's Responsibilities for the Audit of the Financial Statements

My objectives are to:

- obtain reasonable assurance about whether the financial statements as a whole [are / is] free from material misstatement, whether due to fraud or error
- issue an Independent Auditor's Report including my opinion.

Reasonable assurance is a high level of assurance but does not guarantee an audit conducted in accordance with Australian Auditing Standards will always detect material misstatements. Misstatements can arise from fraud or error. Misstatements are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions users take based on the financial statements.

A description of my responsibilities for the audit of the financial statements is located at the Auditing and Assurance Standards Board website at: [www.auasb.gov.au/auditors\\_responsibilities/ar4.pdf](http://www.auasb.gov.au/auditors_responsibilities/ar4.pdf) OR [www.auasb.gov.au/auditors\\_responsibilities/ar6.pdf](http://www.auasb.gov.au/auditors_responsibilities/ar6.pdf). The description forms part of my auditor's report.

The scope of my audit does not include, nor provide assurance:

- that the Commission carried out its activities effectively, efficiently and economically
- about the assumptions used in formulating the budget figures disclosed in the financial statements
- about the security and controls over the electronic publication of the audited financial statements on any website where [they / it] may be presented
- about any other information which may have been hyperlinked to/from the financial statements.



Margaret Crawford  
Auditor-General for New South Wales

7 September 2022  
SYDNEY

Start of the Audited Financial Statements

# Statement of comprehensive income

for the year ended 30 June 2022

	Notes	Consolidated			Parent	
		Actual 2022 \$'000	Budget 2022 \$'000	Actual 2021 \$'000	Actual 2022 \$'000	Actual 2020 \$'000
<b>Expenses excluding losses</b>						
<b>Operating expenses</b>						
Employee related	2(a)	62,650	96,124	24,580	698	673
Personnel services	2(b)	-	-	-	61,724	23,587
Other operating expenses	2(c)	73,132	14,451	29,281	73,132	29,281
Depreciation and amortisation	2(d)	7,412	6,266	8,099	7,412	8,099
Finance costs	2(e)	848	1,583	936	848	936
Other expenses	2(f)	16,710	66,122	16,831	16,710	16,831
<b>Total expenses excluding losses</b>		<b>160,752</b>	<b>184,546</b>	<b>79,727</b>	<b>160,524</b>	<b>79,407</b>
<b>Revenue</b>						
Appropriations	3(a)	160,867	193,416	84,277	160,867	84,277
(Transfers to the Crown – Receipts from local government elections)		(40,520)	(41,207)	-	(40,520)	-
Sale of goods and services from contracts with customers	3(b)	39,783	3,875	2,727	39,783	2,727
Grants and other contributions	3(c)	2,724	-	-	2,724	-
Acceptance by the Crown of employee benefits and other liabilities	3(d)	228	533	320	-	-
Other revenue	3(e)	61	41,309	-	61	-
<b>Total revenue</b>		<b>163,143</b>	<b>197,926</b>	<b>87,324</b>	<b>162,915</b>	<b>87,004</b>
Gains/(losses) on disposal	4	(44)	-	(462)	(44)	(462)
Other gains/(losses)	5	(2,278)	-	(1,166)	(2,278)	(1,166)
<b>Net result</b>	<b>21</b>	<b>69</b>	<b>13,380</b>	<b>5,969</b>	<b>69</b>	<b>5,969</b>
<b>Other comprehensive income</b>		-	-	-	-	-
<b>Total other comprehensive income</b>		-	-	-	-	-
<b>Total comprehensive income</b>		<b>69</b>	<b>13,380</b>	<b>5,969</b>	<b>69</b>	<b>5,969</b>

The accompanying notes form part of these financial statements.

# Statement of financial position

as at 30 June 2022

	Notes	Consolidated			Parent	
		Actual 2022 \$'000	Budget 2022 \$'000	Actual 2021 \$'000	Actual 2022 \$'000	Actual 2021 \$'000
<b>Assets</b>						
<b>Current assets</b>						
Cash and cash equivalents	7	11,888	5,727	6,024	11,888	6,024
Receivables	8	2,376	2,301	5,355	2,376	5,355
Contract assets	9	-	1,901	2,317	-	2,317
Inventories	10	135	90	128	135	128
Other current assets		-	3	-	-	-
<b>Total current assets</b>		<b>14,399</b>	<b>10,022</b>	<b>13,824</b>	<b>14,399</b>	<b>13,824</b>
<b>Non-current assets</b>						
Plant and equipment	11	1,007	9,867	921	1,007	921
Right-of-use assets	12	27,537	28,009	30,753	27,537	30,753
Intangible assets	13	21,085	27,868	23,357	21,085	23,357
<b>Total non-current assets</b>		<b>49,629</b>	<b>65,744</b>	<b>55,031</b>	<b>49,629</b>	<b>55,031</b>
<b>Total assets</b>		<b>64,028</b>	<b>75,766</b>	<b>68,855</b>	<b>64,028</b>	<b>68,855</b>
<b>Liabilities</b>						
<b>Current liabilities</b>						
Payables	14	2,141	2,382	5,851	2,141	5,851
Borrowings	15	3,230	2,658	2,583	3,230	2,583
Provisions	16	4,171	3,842	3,681	4,171	3,681
Other		-	1,901	-	-	-
<b>Total current liabilities</b>		<b>9,542</b>	<b>10,783</b>	<b>12,115</b>	<b>9,542</b>	<b>12,115</b>
<b>Non-current liabilities</b>						
Borrowings	15	33,425	34,465	35,757	33,425	35,757
Provisions	16	665	648	656	665	656
<b>Total non-current liabilities</b>		<b>34,090</b>	<b>35,113</b>	<b>36,413</b>	<b>34,090</b>	<b>36,413</b>
<b>Total liabilities</b>		<b>43,632</b>	<b>45,896</b>	<b>48,528</b>	<b>43,632</b>	<b>48,528</b>
<b>Net assets</b>		<b>20,396</b>	<b>29,870</b>	<b>20,327</b>	<b>20,396</b>	<b>20,327</b>
<b>Equity</b>						
Accumulated funds	17	20,396	29,870	20,327	20,396	20,327
<b>Total equity</b>		<b>20,396</b>	<b>29,870</b>	<b>20,327</b>	<b>20,396</b>	<b>20,327</b>

The accompanying notes form part of these financial statements.

# Statement of changes in equity

as at 30 June 2022

	Accumulated Funds	
	Consolidated	Parent
	\$'000	\$'000
<b>Balance at 1 July 2021</b>	<b>20,327</b>	<b>20,327</b>
Net result for the year	69	69
Total other comprehensive income	-	-
<b>Total comprehensive income for the year</b>	<b>69</b>	<b>69</b>
<b>Balance at 30 June 2022</b>	<b>20,396</b>	<b>20,396</b>
<b>Balance at 1 July 2020</b>	<b>14,358</b>	<b>14,358</b>
Net result for the year	5,969	5,969
Total other comprehensive income	-	-
<b>Total comprehensive income for the year</b>	<b>5,969</b>	<b>5,969</b>
<b>Balance at 30 June 2021</b>	<b>20,327</b>	<b>20,327</b>

The accompanying notes form part of these financial statements.



# Statement of cash flows

for the year ended 30 June 2022

	Notes	Consolidated			Parent	
		Actual 2022 \$'000	Budget 2022 \$'000	Actual 2021 \$'000	Actual 2022 \$'000	Actual 2021 \$'000
<b>Cash flows from operating activities</b>						
<b>Payments</b>						
Employee related		(61,862)	(95,591)	(23,441)	-	-
Personnel services		-	-	-	(61,862)	(23,441)
Suppliers for goods and services		(85,878)	-	(35,238)	(85,878)	(35,238)
Finance costs		(834)	(1,583)	(900)	(834)	(900)
Other expenses		(17,316)	(80,573)	(16,832)	(17,316)	(16,832)
<b>Total payments</b>		<b>(165,890)</b>	<b>(177,747)</b>	<b>(76,411)</b>	<b>(165,890)</b>	<b>(76,411)</b>
<b>Receipts</b>						
Appropriations (excluding equity appropriations)		160,867	193,416	84,277	160,867	84,277
Transfers to the Crown		(40,520)	(41,207)	-	(40,520)	-
Sale of goods and services		46,594	3,875	354	46,594	354
Grants and other contributions		2,724	-	-	2,724	-
Other		8,106	41,309	4,423	8,106	4,423
<b>Total receipts</b>		<b>177,771</b>	<b>197,393</b>	<b>89,054</b>	<b>177,771</b>	<b>89,054</b>
<b>Net cash flows from operating activities</b>	<b>21</b>	<b>11,881</b>	<b>19,646</b>	<b>12,643</b>	<b>11,881</b>	<b>12,643</b>
<b>Cash flows from investing activities</b>						
Purchase of plant and equipment		(569)	(9,082)	(454)	(569)	(454)
Purchase of intangible assets		(3,487)	(7,822)	(6,042)	(3,487)	(6,042)
<b>Net cash flows from investing activities</b>		<b>(4,056)</b>	<b>(16,904)</b>	<b>(6,496)</b>	<b>(4,056)</b>	<b>(6,496)</b>
<b>Cash flows from financing activities</b>						
Payment of principal portion of lease liabilities		(1,961)	(1,701)	(4,224)	(1,961)	(4,224)
<b>Net cash flows from financing activities</b>		<b>(1,961)</b>	<b>(1,701)</b>	<b>(4,224)</b>	<b>(1,961)</b>	<b>(4,224)</b>
<b>Net increase/(decrease) in cash and cash equivalents</b>		<b>5,864</b>	<b>1,041</b>	<b>1,923</b>	<b>5,864</b>	<b>1,923</b>
Opening cash and cash equivalents		6,024	4,686	4,101	6,024	4,101
<b>Closing cash and cash equivalents</b>	<b>7</b>	<b>11,888</b>	<b>5,727</b>	<b>6,024</b>	<b>11,888</b>	<b>6,024</b>

The accompanying notes form part of these financial statements.

# Notes to the financial statements

for the year ended 30 June 2022

## 1. Summary of significant accounting policies

### a) Reporting entity

The New South Wales Electoral Commission (NSWEC) is a NSW government entity and is controlled by the State of New South Wales, which is the ultimate parent. The NSWEC is a not-for-profit entity (as profit is not its principal objective) and it has no cash generating units.

NSWEC is an independent statutory authority established under *Electoral Act 2017*. The NSWEC conducts state elections, local council elections, NSW Aboriginal Land Council and certain statutory elections.

The NSWEC is responsible for public funding to eligible registered political parties, candidates and independent members of Parliament.

The NSWEC, as a reporting entity, comprises all the entities under its control, namely the parent entity and the New South Wales Electoral Commission Staff Agency.

In the process of preparing the consolidated financial statements for the economic entity, consisting of the controlling and controlled entities, all inter-entity transactions and balances have been eliminated, and like transactions and other events are accounted for using uniform accounting policies.

These consolidated financial statements for the year ended 30 June 2022 have been authorised for issue by the NSWEC on 5 September 2022.

### b) Basis of preparation

The NSWEC's financial statements are general purpose financial statements which have been prepared on an accrual basis and in accordance with:

- applicable Australian Accounting Standards (which include Australian Accounting Interpretations);
- the requirements of the Government Sector *Finance Act 2018* (GSF Act) and
- Treasurer's Directions issued under the GSF Act.

The NSWEC's financial statements have been prepared on a going concern basis, which contemplates the continuity of normal operating activity and the realisation of assets and the settlement of liabilities in the normal course of operations.

Plant and equipment is measured at fair value. Other financial statement items are prepared in accordance with the historical cost convention except where specified otherwise.

Judgements, key assumptions and estimations management has made are disclosed in the relevant notes to the financial statements.

All amounts are rounded to the nearest one thousand dollars and are expressed in Australian currency, which is NSWEC's presentation and functional currency.

### c) Statement of compliance

The financial statements and notes comply with Australian Accounting Standards, which include Australian Accounting Interpretations.

### d) Administered activities

The NSWEC administers, but does not control, certain activities on behalf of the Crown. It is accountable for the transactions relating to those administered activities but does not have the discretion to deploy the resources for the achievement of the NSWEC's own objectives.

Transactions and balances relating to the administered activities are not recognised as the NSWEC's revenue, expenses, assets and liabilities, but are disclosed in the accompanying schedules as 'Administered assets', 'Administered liabilities', 'Administered income' and 'Administered expenses'.

The accrual basis of accounting and applicable accounting standards have been adopted.

Responsibility for administered receivables is transferred to Revenue NSW for debt collection after 12 months.

### e) Accounting for the Goods and Services Tax (GST)

Revenue, expenses and assets are recognised net of the amount of GST, except that:

- the amount of GST incurred by the NSWEC as a purchaser that is not recoverable from the Australian Taxation Office is recognised as part of the cost of acquisition of an asset or as part of an item of expense; and
- receivables and payables are stated with the amount of GST included.

Cash flows are included in the Statement of Cash Flows on a gross basis. However, the GST components of cash flows arising from investing and financing activities which are recoverable from, or payable to, the Australian Taxation Office are classified as operating cash flows.

### f) Comparative information

Except when an Australian Accounting Standard permits or requires otherwise, comparative information is disclosed in respect of the previous period for all amounts reported in the financial statements.

# Notes to the financial statements

for the year ended 30 June 2022

## g) Changes in accounting policy, including new or revised Australian Accounting Standards

### i) Effective for the first time in financial year (FY) 2021-22

The accounting policies applied in FY2021-22 are consistent with those of the previous year.

### ii) Issued but not yet effective

NSW public sector entities are not permitted to early adopt new Australian Accounting Standards, unless Treasury determines otherwise.

The following new Accounting Standards have not been applied and are not yet effective:

- AASB 1060 General purpose Financial Statements – Simplified Disclosures for For-Profit and Not-For-profit Tier 2 Entities
- AASB 2020-1 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current
- AASB 2020-3 Amendments to Australian Accounting Standards – Annual Improvements 2018–2020 and Other Amendments
- AASB 2020-6 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current – Deferral of Effective Date

NSWEC anticipates that the adoption of these Standards in the period of initial application will have no material impact on the financial statements.

## h) Impact of COVID-19 on financial reporting for FY2021-22

The effect of COVID-19 on the financial position and performance of NSWEC has been considered in the preparation of these financial statements.

The NSW Government has provided an additional funding of \$30.6m during the year to support the planned expenditure for a COVID-safe election as a result of the Local Government election deferral from 20 September 2021 to 4 December 2021. Revenue and expenses relating to the Local Government election have been recognised in FY2021-22.

Impacts on the property market for leased accommodation have been recognised, by impairing the value of NSWEC's right of use assets (Refer to note 5). This has been based on assessment by independent valuers, as recommended by Property NSW. The impairment loss on right of use assets was due to an assessment that rental market values had declined due to the impact of COVID-19. Property NSW, as NSWEC's agent, obtained independent advice on the impact to tenancy leases that are held as right of use assets. This decline represents the impact upon leased accommodation in the Sydney CBD.

Other impacts are considered to be immaterial.

# Notes to the financial statements

for the year ended 30 June 2022

## 2. Expenses excluding losses

### a) Employee related expenses

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Salaries and wages (including annual leave)	54,952	21,071	598	575
Superannuation				
defined benefit plan	53	53	-	-
defined contribution plan	4,193	1,842	40	38
Long service leave	198	304	23	24
Workers' compensation insurance	309	191	3	5
Payroll tax and fringe benefits tax	2,905	1,119	32	31
Redundancy	40	-	-	-
	<b>62,650</b>	<b>24,580</b>	<b>696</b>	<b>673</b>

Employee related expenses includes \$277,170 which is attributable to the development of new software and was capitalised and excluded from employee related expenses during the year ended 30 June 2022 (2021: \$265,000).

## Recognition and measurement

Refer note 16 – Provisions

### b) Personnel services expenses

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Personnel services expense	-	-	61,724	23,587

These relate to expenses for personnel services provided by the NSW Electoral Commission Staff Agency. The New South Wales Staff Agency's objective is to provide personnel services to the New South Wales Electoral Commission, which is the immediate parent.

# Notes to the financial statements

for the year ended 30 June 2022

## c) Other operating expenses include the following:

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Auditor's remuneration				
- audit of the financial statements	75	87	75	87
Advertising	2,938	832	2,938	832
Consultants	339	78	339	78
Contractors – Agency staff	22,814	12,291	22,814	12,291
Contractors – Professional services	2,251	2,476	2,251	2,476
Electricity	52	47	52	47
Insurance	453	264	453	264
Internal audit	185	176	185	176
IT Hosting Services	3,874	2,872	3,874	2,872
Legal fees	35	12	35	12
Low pool assets	437	267	437	267
Maintenance **	6	26	6	26
Expenses relating to short-term leases	15,355	883	15,355	883
Provision of services	7,254	2,625	7,254	2,625
Postage	4,075	288	4,075	288
Printing	1,486	177	1,486	177
Security	1,084	7	1,084	7
Software maintenance and licences	5,602	3,966	5,602	3,966
Stationery	1,500	75	1,500	75
Storage	22	22	22	22
Telephone	430	120	430	120
Training	190	295	190	295
Travel	263	32	263	32
Other	2,412	1,363	2,412	1,363
	<b>73,132</b>	<b>29,281</b>	<b>73,132</b>	<b>29,281</b>

\*\*Reconciliation – Total maintenance

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Maintenance expense – contracted labour and other (non-employee related)	6	26	6	26
<b>Total maintenance expense included in note 2(c)</b>	<b>6</b>	<b>26</b>	<b>6</b>	<b>26</b>

# Notes to the financial statements

for the year ended 30 June 2022

## Recognition and measurement

### Other operating expenses

Other operating expenses are recognised as an expense in the period in which they are incurred. The carrying amounts of any materials held for distribution are expensed when the materials are distributed.

### Maintenance expense

Day-to-day servicing costs or maintenance are charged as expenses as incurred, except where they relate to the replacement or an enhancement of a part or component of an asset, in which case the costs are capitalised and depreciated.

### Insurance

The NSWEC's insurance activities are conducted through the NSW Treasury Managed Fund Scheme of self-insurance for Government agencies. The expense (premium) is determined by the Fund Manager based on past claims experience.

### Lease expense

NSWEC recognises the lease payments associated with the following types of leases as an expense on a straight-line basis:

- Leases that meet the definition of short-term; that is, where the lease term at commencement of the lease is 12 months or less. This excludes leases with a purchase option.
- Leases of assets that are valued at \$10,000 or under when new.

Variable lease payments are not included in the measurement of the lease liability (that is, variable lease payments that do not depend on an index or a rate, initially measured using the index or rate as at the commencement date). These payments are recognised in the period in which the event or condition that triggers those payments occurs.

## d) Depreciation and amortisation expense

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
<b>Depreciation</b>				
<b>Plant and equipment</b>				
Computer hardware	376	375	376	375
Furniture, fittings and leasehold improvement	31	357	31	357
Plant and equipment	32	30	32	30
Right-of-use assets	2,915	4,394	2,915	4,394
	3,354	5,156	3,354	5,156
<b>Amortisation</b>				
Intangibles – Software	4,058	2,943	4,058	2,943
	4,058	2,943	4,058	2,943
<b>Depreciation and amortisation</b>	<b>7,412</b>	<b>8,099</b>	<b>7,412</b>	<b>8,099</b>

Refer to notes 11, 12 and 13 for recognition and measurement policies on depreciation and amortisation.

# Notes to the financial statements

for the year ended 30 June 2022

## e) Finance costs

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Interest expense from lease liabilities	834	900	834	900
Unwinding of discount and effect of changes in discount rate on provisions	14	36	14	36
	<b>848</b>	<b>936</b>	<b>848</b>	<b>936</b>

### Recognition and measurement

Finance costs consist of interest and other costs incurred in connection with the borrowing of funds. Borrowing costs are recognised as expenses in the period in which they are incurred, in accordance with Treasury's Mandate to not-for-profit NSW GGS entities.

## f) Other expenses

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Joint Roll Agreement (payment to the Commonwealth) <sup>1</sup>	2,535	2,423	2,535	2,423
Funding of candidates, groups and political parties	13,986	14,408	13,986	14,408
Act of grace payments <sup>2</sup>	189	-	189	-
	<b>16,710</b>	<b>16,831</b>	<b>16,710</b>	<b>16,831</b>

### <sup>1</sup>Joint Roll Agreement

An Arrangement between the Governor General of the Commonwealth and the Governor of New South Wales to provide for a joint electoral enrolment procedure was signed on 21 October 2010. The 'Exchange of Information Agreement' between the Australian Electoral Commission (AEC) and the NSWEC pursuant to this arrangement was executed on the same day. This agreement sets a cost per elector rate and allows for escalation at the Sydney Consumer Price Index. The charge is payable from the NSWEC to the AEC. For the year ending 30 June 2022 the amount payable per elector is \$0.901 (2021: \$0.868). AEC has agreed to provide NSWEC a 50 per cent reduction on the full national per elector rate for the year ended 30 June 2022.

### <sup>2</sup>Act of grace payments

Due to uncertainty resulting from issues with the iVote system on the day of the December 2021 Local Government elections, the NSWEC brought proceedings seeking a declaration that the results in the councillor elections for the Shire of Kempsey, the City of Singleton, and Shellharbour Ward A be declared void. The Supreme Court of New South Wales has voided the affected elections.

Any candidate, group or party contesting fresh elections will be liable to incur electoral expenditure for two election campaigns, through no fault of their own. As this additional expenditure would be a direct consequence of the workings of government, it has been decided that act of grace payments is an appropriate form of redress. These act of grace payments reimburse candidates for costs incurred by them in the 2021 Local Government elections.

### Recognition and measurement

Other expenses are recognised as an expense in the period in which they are incurred.

# Notes to the financial statements

for the year ended 30 June 2022

## 3. Revenue

### Recognition and measurement

Income is recognised in accordance with the requirements of AASB 15 Revenue from Contracts with Customers or AASB 1058 Income of Not-for-Profit Entities, dependent on whether there is a contract with a customer defined by AASB 15 Revenue from Contracts with Customers. Comments regarding the accounting policies for the recognition of income are discussed below.

### a) Appropriations and transfers to the Crown

The Appropriation Act 2021 (Appropriations Act) (and the subsequent variations, if applicable) appropriates the sum of \$160.9m to the Premier out of the Consolidated Fund for the services of NSWEC for the year 2021-22.

The Commissioner is taken to have been given an appropriation out of the Consolidated Fund under the authority s4.7 of the Government Sector *Finance Act 2018*, at the time NSWEC receives or recovers any deemed appropriation money, for an amount equivalent to the money that is received or recovered by the NSWEC.

The spending authority of the Commissioner from the Appropriations Act and that of the Commissioner from deemed appropriation money has been delegated/sub-delegated to officers of the NSWEC.

The summary of compliance has been prepared on the basis of aggregating the spending authorities of the Commissioner for \$160.9m for the services of NSWEC. It reflects the status at the point in time this disclosure statement is being made.

	2022 \$'000	2021 \$'000
Original budget per Appropriation Act	193,416	161,916
Other appropriations		
Variations made to the appropriations during the financial year		
Section 4.13 GSF Act Exigency of Government	29,120	-
Section 34 Appropriations Act – COVID-19 related & changes in wages awards	939	-
<b>Total spending authority from Parliamentary appropriations, other than deemed appropriations</b>	<b>223,475</b>	<b>161,916</b>
<b>Add:</b>		
Own source revenue money received during the year	49,317	354
Own source revenue balance brought forward from prior years	1,176	822
<b>Total</b>	<b>273,968</b>	<b>163,092</b>
Less: Total expenditure	204,320	84,297
Variance	69,648	78,795
Less: spending authority from appropriations lapsed at 30 June	62,608	77,619
<b>Own source revenue balance carried forward to following years</b>	<b>7,040</b>	<b>1,176</b>
	2022 \$'000	2021 \$'000
Transfer payments	-	-
Equity appropriations	-	-
Appropriations (per Statement of Comprehensive Income)	160,867	84,277
<b>Total amount drawn down against annual appropriations</b>	<b>160,867</b>	<b>84,277</b>



# Notes to the financial statements

for the year ended 30 June 2022

## Recognition and measurement

### Parliamentary appropriations other than deemed appropriations

Income from appropriations, other than deemed appropriations (of which the accounting treatment is based on the underlying transaction), does not contain enforceable and sufficiently specific performance obligations as defined by AASB 15. Therefore, except as specified below, appropriations (other than deemed appropriations) are recognised as income when NSWEC obtains control over the assets comprising the appropriations. Control over appropriations is normally obtained upon the receipt of cash.

### b) Sale of goods and services from contracts with customers

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Rendering of services from contracts with customers				
Local government, NSW Aboriginal Land Council and other statutory elections	39,783	2,727	39,783	2,727
	<b>39,783</b>	<b>2,727</b>	<b>39,783</b>	<b>2,727</b>

## Recognition and measurement

### Rendering of services

Revenue from rendering of services is recognised when the NSWEC satisfies the performance obligations by transferring the promised services.

Type of service	Nature of timing of satisfaction of performance obligation, including significant payment terms	Revenue recognition policies
Conduct of local council, NSW Aboriginal Land Council and certain statutory elections.	NSWEC in their contract with these entities details service levels. The customers are invoiced upon completion of the election and all costs of the election have been finalised. NSWEC may receive payments in advance.	As service levels are met NSWEC recognises revenue for these services over time which approximate the costs incurred to date. Revenue from the election management fee is also brought to account in line with when service levels are met.

Refer note 9 for the disclosure of the aggregate amount of the transaction price allocated to performance obligations that are unsatisfied (or partly unsatisfied) at the end of the reporting period, and when NSWEC expects to recognise the unsatisfied portion as revenue.

### c) Grants and other contributions

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Grants without sufficiently specific performance obligations				
Recurrent grants from government agency	2,724	-	2,724	-
	<b>2,724</b>	<b>-</b>	<b>2,724</b>	<b>-</b>

## Recognition and measurement

Income from grants without sufficiently specific performance obligations are recognised when NSWEC obtains control over the granted assets (for example, cash).

# Notes to the financial statements

for the year ended 30 June 2022

## d) Acceptance by the Crown Entity of employee benefits and other liabilities

The following liabilities and/or expenses have been assumed by the Crown Entity:

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Superannuation-defined benefit	53	53	-	-
Long service leave	172	264	-	-
Payroll tax	3	3	-	-
	<b>228</b>	<b>320</b>	-	-

## e) Other revenue

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Recoupment of salaries and on-costs from staff secondments	61	-	61	-
	<b>61</b>	-	<b>61</b>	-

## 4. Gains/(losses) on disposal

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
<b>Plant and equipment</b>				
Plant and equipment (gross carrying amount)	1,395	5,046	1,395	5,046
Less: Accumulated depreciation	(1,351)	(5,044)	(1,351)	(5,044)
Written down value	44	2	44	2
Proceeds	-	-	-	-
Net loss on disposal of plant and equipment	(44)	(2)	(44)	(2)
<b>Intangible assets</b>				
Intangible assets (gross carrying amount)	-	696	-	696
Less: Accumulated amortisation	-	(236)	-	(236)
Written down value	-	460	-	460
Proceeds	-	-	-	-
Net loss on disposal of intangible assets	-	(460)	-	(460)
<b>Net gain/(loss) on disposal of plant, equipment and intangible assets</b>	<b>(44)</b>	<b>(462)</b>	<b>(44)</b>	<b>(462)</b>

# Notes to the financial statements

for the year ended 30 June 2022

## 5. Other gains/(losses)

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Impairment losses on intangible assets	(1,701)	-	(1,701)	-
Impairment losses on right-of-use assets	(577)	(1,166)	(577)	(1,166)
	<b>(2,278)</b>	<b>(1,166)</b>	<b>(2,278)</b>	<b>(1,166)</b>

### Recognition and measurement

#### Impairment losses on non-financial assets

Impairment losses may arise on non-financial assets held by the entity from time to time. Accounting for impairment losses is dependent upon the individual asset (or group of assets) subject to impairment. Accounting Policies and events giving rise to impairment losses are disclosed in the following notes:

Leases – note 12

Intangible assets – note 13

## 6. Program group statement

The NSWEC has one program group only. This program group covers the delivery of elections and related services. Details of the expenses, revenues, assets and liabilities for this program group are available in the Statement of Comprehensive Income and Statement of Financial Position. Program group statements therefore have not been prepared. Administered assets and liabilities are shown in note 22. Administered expenses and income are shown in notes 23 and 24 respectively.

## 7. Current assets – cash and cash equivalents

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Cash at bank and on hand	11,888	6,024	11,888	6,024
	<b>11,888</b>	<b>6,024</b>	<b>11,888</b>	<b>6,024</b>

For the purposes of the Statement of Cash Flows, cash and cash equivalents include cash on hand and cash at bank.

Cash and cash equivalents assets recognised in the Statement of Financial Position are reconciled at the end of the financial year to the Statement of Cash Flows as follows:

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Cash and cash equivalents (per Statement of Financial Position)	11,888	6,024	11,888	6,024
Closing cash and cash equivalents (per Statement of Cash Flows)	11,888	6,024	11,888	6,024

Refer note 25 for details regarding credit risk, liquidity risk and market risk arising from financial instruments.

# Notes to the financial statements

for the year ended 30 June 2022

## 8. Current assets – receivables

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Trade receivables from contracts with customers	355	47	355	47
GST recoverable from the taxation authority	736	704	736	704
Prepayments	1,238	4,022	1,238	4,022
Deposits recoverable	42	557	42	557
Other receivables	5	25	5	25
	<b>2,376</b>	<b>5,355</b>	<b>2,376</b>	<b>5,355</b>

For the year ended 30 June 2022, there were no impairment of trade receivables (2021: \$Nil).

Details regarding credit risk of trade debtors that are neither past due nor impaired, are disclosed in note 25.

### Recognition and measurement

All 'regular way' purchases or sales of financial asset are recognised and derecognised on a trade date basis. Regular way purchases or sales are purchases or sales of financial assets that require delivery of assets within the time frame established by regulation or convention in the marketplace.

Receivables are initially recognised at fair value plus any directly attributable transaction costs. Trade receivables that do not contain a significant financing component are measured at the transaction price.

### Subsequent measurement

NSWEC holds receivables with the objective to collect the contractual cash flows and therefore measures them at amortised cost using the effective interest method, less any impairment. Changes are recognised in the net result for the year when impaired, derecognised or through the amortisation process.

### Impairment

NSWEC recognises an allowance for expected credit losses (ECLs) for all debt financial assets not held at fair value through profit or loss. ECLs are based on the difference between the contractual cash flows and the cash flows that NSWEC expects to receive, discounted at the original effective interest rate.

For trade receivables, NSWEC applies a simplified approach in calculating ECLs. NSWEC recognises a loss allowance based on lifetime ECLs at each reporting date. NSWEC has established a provision matrix based on its historical credit loss experience for trade receivables, adjusted for forward-looking factors specific to the receivable.

## 9. Contract assets and liabilities

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Contract assets – current	-	2,317	-	2,317
Less: Impairment allowance	-	-	-	-
	-	<b>2,317</b>	-	<b>2,317</b>
<b>Contract receivables included in note 8</b>	<b>355</b>	<b>47</b>	<b>355</b>	<b>47</b>

# Notes to the financial statements

for the year ended 30 June 2022

## Recognition and measurement

Contract assets relate to NSWEC's right to consideration in exchange for goods transferred to customers/works completed, but not billed at the reporting date in respect of the conduct of local government, NSW Aboriginal Land Council and commercial elections. Contract assets have increased significantly due to local government elections held in September 2021.

	2022 \$'000	2021 \$'000
Revenue recognised that was included in the contract liability balance (adjusted for AASB 15) at the beginning of the year	-	-
Revenue recognised from performance obligations satisfied in previous periods	-	-
Transaction price allocated to the remaining performance obligations from contracts with customers	-	41,823

## 10. Current assets – inventories

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
<b>Held for distribution</b>				
Requisite election materials – at cost	135	128	135	128
	<b>135</b>	<b>128</b>	<b>135</b>	<b>128</b>

## Recognition and measurement

Inventories held for distribution are stated at cost, adjusted when applicable, for any loss of service potential. A loss of service potential is identified and measured based on the existence of a current replacement cost that is lower than the carrying amount or any loss of operating capacity due to obsolescence. Inventories (other than those held for distribution) are stated at the lower of cost and net realisable value. Cost is calculated using weighted average cost method.

# Notes to the financial statements

for the year ended 30 June 2022

## 11. Non-current assets – plant and equipment consolidated and parent

	Computer hardware	Furniture, fittings & leasehold improvement	Plant and equipment	Total
	\$'000	\$'000	\$'000	\$'000
<b>At 1 July 2020 – fair value</b>				
Gross carrying amount	4,080	4,432	662	9,174
Accumulated depreciation	(3,340)	(4,056)	(547)	(7,943)
<b>Net carrying amount</b>	<b>740</b>	<b>376</b>	<b>115</b>	<b>1,231</b>
<b>Year ended 30 June 2021</b>				
Net carrying amount at start of the year	740	376	115	1,231
Additions	363	91	-	454
Disposals	(2)	-	-	(2)
Depreciation expense	(375)	(357)	(30)	(762)
<b>Net carrying amount at end of the year</b>	<b>726</b>	<b>110</b>	<b>85</b>	<b>921</b>
<b>At 1 July 2021 – fair value</b>				
Gross carrying amount	3,058	864	660	4,582
Accumulated depreciation	(2,332)	(754)	(575)	(3,661)
<b>Net carrying amount</b>	<b>726</b>	<b>110</b>	<b>85</b>	<b>921</b>
<b>Year ended 30 June 2022</b>				
Net carrying amount at start of the year	726	110	85	921
Additions	417	107	45	569
Disposals	(2)	(14)	(28)	(44)
Depreciation expense	(376)	(31)	(32)	(439)
<b>Net carrying amount at end of the year</b>	<b>765</b>	<b>172</b>	<b>70</b>	<b>1,007</b>
<b>At 30 June 2022 – fair value</b>				
Gross carrying amount	3,364	223	169	3,756
Accumulated depreciation	(2,599)	(51)	(99)	(2,749)
<b>Net carrying amount</b>	<b>765</b>	<b>172</b>	<b>70</b>	<b>1,007</b>

# Notes to the financial statements

for the year ended 30 June 2022

## Recognition and measurement

### Acquisition of plant and equipment

Plant and equipment are initially measured at cost and subsequently valued at fair value less accumulated depreciation and impairment.

Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire the asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the requirements of other Australian Accounting Standards.

Assets acquired at no cost, or for nominal consideration, are initially recognised at their fair value at the date of acquisition.

Fair value is the price that would be received to sell an asset in an orderly transaction between market participants at measurement date.

Where payment for an asset is deferred beyond normal credit terms, its cost is the cash price equivalent, that is, the deferred payment amount is effectively discounted over the period of credit.

### Capitalisation thresholds

Plant and equipment and intangible assets costing \$5,000 and above individually (or forming part of a network costing more than \$5,000) are capitalised.

### Restoration costs

The present value of the expected cost for the restoration or cost of dismantling of an asset after its use is included in the cost of the respective asset if the recognition criteria for a provision are met.

### Depreciation of plant and equipment

Depreciation is provided for on a straight-line basis for all depreciable assets to write off the depreciable amount of each asset as it is consumed over its useful life to the NSWEC.

All material separately identifiable components of assets are depreciated over their useful lives.

Asset type	Useful life
Computer hardware	4 years
Plant and equipment	7 years
Furniture and fixtures	8 years
Leasehold improvements	7 years*

\* Or to the end of the lease, if shorter.

### Right-of-use assets acquired by lessees (under AASB 16 from 1 July 2019)

From 1 July 2019, AASB 16 Leases (AASB 16) requires a lessee to recognise a right-of-use asset for most leases. NSWEC has elected to present right-of-use assets separately in the Statement of Financial Position.

Further information on leases is contained at note 12.

### Revaluation of property, plant and equipment

Physical non-current assets are valued in accordance with the 'Valuation of Physical Non-Current Assets at Fair value' Policy and Guidelines Paper (TPP21-09) and Treasurer's Direction Valuation of Physical Non-Current Assets at Fair Value (TD21-05). TD21-05 and TPP21-09 adopt fair value in accordance with AASB 13, AASB 116.

Non-specialised assets with short useful lives are measured at depreciated historical cost, as a surrogate for fair value. The NSWEC has assessed that any difference between fair value and depreciated historical cost is unlikely to be material.

The NSWEC does not have any assets that are subject to fair value measurement. Its plant and equipment assets are measured using depreciated historical cost as a surrogate for fair value.

### Impairment of property, plant and equipment

As a not-for-profit entity with no cash generating units, impairment under AASB 136 Impairment of Assets is unlikely to arise. As plant and equipment is carried at fair value, or an amount that approximates fair value, impairment can only arise in the rare circumstances such as where the costs of disposal are material. Specifically, impairment is unlikely for not-for-profit entities given that AASB 136 modifies the recoverable amount test for non-cash generating assets of not-for-profit entities to the higher of fair value less costs of disposal and depreciated replacement cost, where depreciated replacement cost is also fair value.

As a not-for-profit entity, an impairment loss is recognised in the net result to the extent the impairment loss exceeds the amount in the revaluation surplus for the class of asset.

# Notes to the financial statements

for the year ended 30 June 2022

## 12. Leases

NSWEC leases various properties. Lease contracts are typically made for fixed periods of 2 to 12 years with extension options. Lease terms are negotiated on an individual basis and contain a wide range of different terms and conditions. The lease agreements do not impose any covenants, but leased assets may not be used as security for borrowing purposes. NSWEC does not provide residual value guarantees in relation to leases.

Extension options are included in NSWEC property leases. These terms are used to maximise operational flexibility in terms of managing contracts. The extension options held are exercisable only by NSWEC and not by the respective lessor. In determining the lease term, management considers all facts and circumstances that create an economic incentive to exercise an extension option. Extension options are only included in the lease term if the lease is reasonably certain to be extended. The assessment is reviewed if a significant event or a significant change in circumstances occurs which affects this assessment and that is within the control of the lessee.

AASB 16 Leases (AASB16) requires a lessee to recognise a right-of-use asset and a corresponding lease liability for most leases.

NSWEC has elected to recognise payments for short-term leases as expenses on a straight-line basis, instead of recognising a right-of-use asset and lease liability. Short-term leases are leases with a lease term of 12 months or less.

### Right-of-use assets under leases

The following table presents right-of-use assets that do not meet the definition of investment property. NSWEC has no right-of-use assets that meet the definition of investment property.

#### Buildings

	2022 \$'000	2021 \$'000
Balance at 1 July	30,753	35,900
Additions	1,670	413
Lease remeasurement	(1,394)	-
Impairment losses	(577)	(1,166)
Depreciation expense	(2,915)	(4,394)
<b>Balance at 30 June</b>	<b>27,537</b>	<b>30,753</b>

#### Lease liabilities

The following table presents liabilities under leases.

	2022 \$'000	2021 \$'000
Balance at 1 July	38,340	42,151
Additions	1,670	413
Lease remeasurement	(1,394)	-
Interest expenses	834	900
Payments	(2,795)	(5,124)
<b>Balance at 30 June</b>	<b>36,655</b>	<b>38,340</b>

The following amounts were recognised in the statement of comprehensive income during the period in respect of leases where NSWEC is the lessee:

	2022 \$'000	2021 \$'000
Depreciation expense of right-of-use assets	2,915	4,394
Impairment losses	577	1,166
Interest expense on lease liabilities	834	900
Expense relating to short-term leases	15,355	883
<b>Total amount recognised in the statement of comprehensive income</b>	<b>19,681</b>	<b>7,343</b>

NSWEC had total cash outflows for leases of \$18.2m in FY2021-22 (FY2020-21: \$6m).



# Notes to the financial statements

for the year ended 30 June 2022

## Recognition and measurement

NSWEC assesses at contract inception whether a contract is, or contains, a lease. That is, if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration.

NSWEC recognises lease liabilities to make lease payments and right-of-use assets representing the right to use the underlying assets, except for short-term leases and leases of low-value assets.

### i) Right-of-use assets

NSWEC recognises right-of-use assets at the commencement date of the lease (that is, the date the underlying asset is available for use). Right-of-use assets are initially measured at the amount of initial measurement of the lease liability (refer ii below), adjusted by any lease payments made at or before the commencement date and lease incentives, any initial direct costs incurred, and estimated costs of dismantling and removing the asset or restoring the site.

The right-of-use assets are subsequently measured at cost. Right-of-use assets are depreciated on a straight-line basis over the shorter of the lease term and the estimated useful lives of the assets, as follows:

- Buildings – 2 to 12 years

The right-of-use assets are also subject to impairment. NSWEC assesses, at each reporting date, whether there is an indication that an asset may be impaired. If any indication exists, or when annual impairment testing for an asset is required, the NSWEC estimates the asset's recoverable amount. When the carrying amount of an asset exceeds its recoverable amount, the asset is considered impaired and is written down to its recoverable amount. After an impairment loss has been recognised, it is reversed only if there has been a change in the assumptions used to determine the asset's recoverable amount. The reversal is limited so that the carrying amount of the asset does not exceed its recoverable amount, nor exceed the carrying amount that would have been determined, net of depreciation, had no impairment loss been recognised for the asset in prior years. Such reversal is recognised in the net result.

In FY2020 there was a decrease in rental costs due to COVID-19 which resulted in the right-of-use assets being impaired by \$6.7m. Further impairments of \$1.2m and \$0.58m were recognised in FY2021 and FY2022.

### ii) Lease liabilities

At the commencement date of the lease, NSWEC recognises lease liabilities measured at the present value of lease payments to be made over the lease term. Lease payments include:

- fixed payments (including in substance fixed payments) less any lease incentives receivable;
- variable lease payments that depend on an index or a rate;
- amounts expected to be paid under residual value guarantees;
- exercise price of a purchase options reasonably certain to be exercised by NSWEC; and
- payments of penalties for terminating the lease, if the lease term reflects the entity exercising the option to terminate.

The lease payments are discounted using the interest rate implicit in the lease. If that rate cannot be readily determined, which is generally the case for NSWEC's leases, the lessee's incremental borrowing rate is used, being the rate that NSWEC would have to pay to borrow the funds necessary to obtain an asset of similar value to the right-of-use asset in a similar economic environment with similar terms, security and conditions.

After the commencement date, the amount of lease liabilities is increased to reflect the accretion of interest and reduced for the lease payments made. In addition, the carrying amount of lease liabilities is remeasured if there is a modification, a change in the lease term, a change in the lease payments (for example, changes to future payments resulting from a change in an index or rate used to determine such lease payments) or a change in the assessment of an option to purchase the underlying asset.

NSWEC's lease liabilities are included in borrowings.

### iii) Short-term leases and leases of low-value assets

NSWEC applies the short-term lease recognition exemption to its short-term leases (that is, those leases that have a lease term of 12 months or less from the commencement date and do not contain a purchase option). It also applies the lease of low-value assets recognition exemption for leases that are considered to be low value. Lease payments on short-term leases and leases of low-value assets are recognised as expense on a straight-line basis over the lease term.

# Notes to the financial statements

for the year ended 30 June 2022

## 13. Intangible assets – consolidated and parent

	Software	Total
	\$'000	\$'000
<b>At 1 July 2020</b>		
Gross carrying amount	40,867	40,867
Accumulated amortisation	(20,148)	(20,148)
<b>Net carrying amount</b>	<b>20,719</b>	<b>20,719</b>
<b>Year ended 30 June 2021</b>		
Net carrying amount at start of the year	20,719	20,719
Additions – internally developed software	6,042	6,042
Disposals	(460)	(460)
Amortisation expense (recognised in 'depreciation and amortisation')	(2,944)	(2,944)
<b>Net carrying amount at end of the year</b>	<b>23,357</b>	<b>23,357</b>
<b>At 1 July 2021</b>		
Gross carrying amount	46,214	46,214
Accumulated amortisation	(22,857)	(22,857)
<b>Net carrying amount</b>	<b>23,357</b>	<b>23,357</b>
<b>Year ended 30 June 2022</b>		
Net carrying amount at start of the year	23,357	23,357
Additions	3,487	3,487
Impairment losses	(1,701)	(1,701)
Amortisation expense (recognised in 'depreciation and amortisation')	(4,058)	(4,058)
<b>Net carrying amount at end of the year</b>	<b>21,085</b>	<b>21,085</b>
<b>At 30 June 2022</b>		
Gross carrying amount	49,700	49,700
Accumulated amortisation and impairment	(28,615)	(28,615)
<b>Net carrying amount</b>	<b>21,085</b>	<b>21,085</b>

# Notes to the financial statements

for the year ended 30 June 2022

## Recognition and measurement

The NSWEC recognises intangible assets only if it is probable that future economic benefits will flow to the NSWEC and the cost of the asset can be measured reliably. Intangible assets are measured initially at cost. Where an asset is acquired at no or nominal cost, the cost is its fair value as at the date of acquisition. Intangible assets are subsequently measured at fair value only if there is an active market. As there is no active market for the NSWEC's intangible assets, the assets are carried at cost less any accumulated amortisation and impairment losses.

The NSWEC's intangible assets solely comprise of software.

All research costs are expensed. Development costs are only capitalised when certain criteria are met.

The useful lives of intangible assets are assessed to be finite.

The NSWEC's intangible assets are amortised using the straight-line method over a period of between 4 years and 12 years. The amortisation period and the amortisation method for an intangible asset with a finite useful life are reviewed at least at the end of each reporting period.

Intangible assets are tested for impairment where an indicator of impairment exists. If the recoverable amount is less than its carrying amount the carrying amount is reduced to recoverable amount and the reduction is recognised as an impairment loss.

A new system build for iVote was built and released for the State general election (SGE) 2019. This is being depreciated over 4 years, in line with two previous systems, which required new system builds for the following SGE.

Due to the performance issues with the iVote system on local government election day (4 December 2021) a number of electors who successfully registered for iVote did not receive their security credentials and were not able to cast a vote using iVote. Before it can be used again for any NSW elections the iVote system requires extensive reconfiguration and testing.

The current version of the iVote software used by the Electoral Commission will soon be decommissioned, and the short timeframe for installing, configuring and testing a new version means we cannot be confident an updated system will be ready by March 2023.

A decision was made to impair iVote as at 31 December 2021 by \$1.7M, being the assets written down value as of that date (refer note 5).

## 14. Current liabilities - payables

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Accrued salaries, wages and on-costs	521	447	-	-
Accrued personnel services	-	-	521	447
Creditors	1,620	5,404	1,620	5,404
	2,141	5,851	2,141	5,851

Accrued personnel services payable relate to the accrued cost of personnel services provided by the New South Wales Electoral Commission Staff Agency. Details regarding credit risk, liquidity risk and market risk, including a maturity analysis of the above payables, are disclosed in note 26.

## Recognition and measurement

Payables represent liabilities for goods and services provided to the NSWEC and other amounts. Short-term payables with no stated interest rate are measured at the original invoice amount where the effect of discounting is immaterial. Payables are financial liabilities at amortised cost, initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest rate method. Gains and losses are recognised in net result when the liabilities are derecognised as well as through amortisation.

# Notes to the financial statements

for the year ended 30 June 2022

## 15. Current/non-current liabilities – borrowings

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
<b>Current</b>				
Lease liability (see note 12)	3,230	2,583	3,230	2,583
<b>Non-current</b>				
Lease liability (see note 12)	33,425	35,757	33,425	35,757
<b>Total borrowings</b>	<b>36,655</b>	<b>38,340</b>	<b>36,655</b>	<b>38,340</b>

### Recognition and measurement

#### Financial liabilities at amortised cost

Borrowings classified as financial liabilities at amortised cost are initially measured at fair value, net of directly attributable transaction costs. These are subsequently measured at amortised cost using the effective interest method. Gains and losses are recognised in net result when the liabilities are derecognised as well as through the amortisation process.

#### Changes in liabilities arising from financing activities

	Leases	Total
	\$'000	\$'000
1 July 2020	42,151	42,151
New leases	413	413
Cash flows	(4,224)	(4,224)
30 June 2021	38,340	38,340
New leases	1,670	1,670
Lease remeasurement	(1,394)	(1,394)
Cash flows	(1,961)	(1,961)
<b>30 June 2022</b>	<b>36,655</b>	<b>36,655</b>

# Notes to the financial statements

for the year ended 30 June 2022

## 16. Current/non-current liabilities – provisions

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
<b>Current</b>				
<b>Employee benefits and related on-costs<sup>(a)</sup></b>				
Annual Leave	3,780	3,247	86	55
Long service Leave on-costs	391	434	23	19
Personnel services	-	-	4,062	3,607
<b>Total current provisions</b>	<b>4,171</b>	<b>3,681</b>	<b>4,171</b>	<b>3,681</b>
<b>Non-current</b>				
Long service leave on-costs	38	43	-	-
Personnel services	-	-	38	43
	<b>38</b>	<b>43</b>	<b>38</b>	<b>43</b>
<b>Other provisions</b>				
Restoration costs	627	613	627	613
<b>Total non-current provisions</b>	<b>665</b>	<b>656</b>	<b>665</b>	<b>656</b>
<b>Aggregate personnel services, employee benefits and related on-costs</b>				
Provisions – current	4,171	3,681	4,171	3,681
Provisions – non-current	38	43	38	43
Accrued salaries, wages and on-costs (note 14)	521	447	-	-
Accrued personnel services (note 14)		-	521	447
	<b>4,730</b>	<b>4,171</b>	<b>4,730</b>	<b>4,171</b>

# Notes to the financial statements

for the year ended 30 June 2022

<sup>(a)</sup>The personnel services provision and the employee benefits provision include a value of leave and on-costs expected to be taken within 12 months and after 12 months as follows:

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
<b>Short term – less than 12 months</b>				
Annual leave	2,188	2,048	86	55
Long service leave on-costs	391	434	23	19
Personnel services	-	-	2,470	2,408
	<b>2,579</b>	<b>2,482</b>	<b>2,579</b>	<b>2,482</b>
<b>Long term – after 12 months</b>				
Annual leave	1,592	1,199	-	-
Long service leave on-costs	38	43	-	-
Personnel services	-	-	1,630	1,242
	<b>1,630</b>	<b>1,242</b>	<b>1,630</b>	<b>1,242</b>

## Movements in other provisions (other than Personnel services or Employee benefits)

Movements in each class of provisions during the financial year, other than employee benefits, are set out below:

	Restoration provision	Total
	\$'000	\$'000
Carrying amount at the beginning of financial year	613	613
Unwinding/change in the discount rate	14	14
<b>Carrying amount at end of financial year</b>	<b>627</b>	<b>627</b>

# Notes to the financial statements

for the year ended 30 June 2022

## Recognition and measurement

### Employee benefits and related on-costs

The New South Wales Electoral Commission Staff Agency provides employees to the NSWEC entity to enable it to carry out its functions. Personnel services provision relates to employee related provisions for those employees employed by the New South Wales Electoral Commission Staff Agency.

Employee benefits provision relates to employees directly employed by the NSWEC.

Employee related provisions include:

#### a) Salaries and wages, annual leave, sick leave and on-costs

Salaries and wages (including non-monetary benefits) and paid sick leave that are expected to be settled wholly within 12 months after the end of the period in which the employees render the service are recognised and measured at the undiscounted amounts of the benefits.

Annual leave is not expected to be settled wholly before 12 months after the end of the annual reporting period in which the employees render the related service. As such it is required to be measured at present value in accordance with AASB 119 Employee Benefits (although shortcut methods are permitted).

Actuarial advice obtained by Treasury has confirmed that using the nominal annual leave balance plus the annual leave entitlements accrued while taking annual leave (calculated using 7.9% of the nominal value of annual leave) can be used to approximate the present value of the annual leave liability. The NSWEC has assessed the actuarial advice based on the NSWEC's circumstances and has determined that the effect of discounting is immaterial to annual leave. All annual leave is classified as a current liability even where the entity does not expect to settle the liability within 12 months as the entity does not have an unconditional right to defer settlement.

Unused non-vesting sick leave does not give rise to a liability as it is not considered probable that sick leave taken in the future will be greater than the benefits accrued in the future.

#### b) Long service leave and superannuation

The NSWEC's liabilities for long service leave and defined benefit superannuation are assumed by the Crown Entity. The NSWEC accounts for the liability as having been extinguished, resulting in the amount assumed being shown as part of the non-monetary revenue item described as "Acceptance by the Crown Entity of employee benefits and other liabilities".

Long service leave is measured at the present value of expected future payments to be made in respect of services provided up to the reporting date. Consideration is given to certain factors based on actuarial review, including

expected future wage and salary levels, experience of employee departures, and periods of service. Expected future payments are discounted using the Commonwealth government bond rate at the reporting date.

The superannuation expense for the financial year is determined by using the formulae specified in the Treasurer's Directions. The expense for certain superannuation schemes (that is, Basic Benefit and First State Super) is calculated as a percentage of the employee's salary. For other superannuation schemes (that is, State Superannuation Scheme and State Authorities Superannuation Scheme), the expense is calculated as a multiple of the employee's superannuation contributions.

#### c) Consequential on-costs

Consequential costs to employment are recognised as liabilities and expenses where the employee benefits to which they relate have been recognised. This includes outstanding amounts of payroll tax, workers' compensation, insurance premiums and fringe benefits tax.

#### Other provisions

Other provisions are recognised when: the NSWEC has a present legal or constructive obligation as a result of a past event; it is probable that an outflow of resources will be required to settle the obligation; and a reliable estimate can be made of the amount of the obligation. When the NSWEC expects some or all of a provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognised as a separate asset, but only when the reimbursement is virtually certain. The expense relating to a provision is presented net of any reimbursement in the Statement of Comprehensive Income.

Any provisions for restructuring are recognised only when NSWEC has a detailed formal plan and the NSWEC has raised a valid expectation in those affected by the restructuring that it will carry out the restructuring by starting to implement the plan or announcing its main features to those affected.

If the effect of the time value of money is material, provisions are discounted at a pre-tax rate that reflects the current market assessments of the time value of money and the risks specific to the liability.

When discounting is used, the increase in the provision due to the passage of time (that is, unwinding of discount rate) is recognised as a finance cost.

## 17. Equity

### Recognition and measurement

#### Accumulated funds

The category accumulated funds include all current and prior period retained funds.

# Notes to the financial statements

for the year ended 30 June 2022

## 18. Commitments for expenditure

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
<b>Capital commitments</b>				
Aggregate capital expenditure contracted for at balance date and not provided for:				
Not later than one year	1,649	818	1,649	818
Later than one year and not later than five years	-	-	-	-
Later than five years	-	-	-	-
<b>Total (including GST)</b>	<b>1,649</b>	<b>818</b>	<b>1,649</b>	<b>818</b>

These capital commitments are not recognised in the financial statements as liabilities. The amount of tax recoverable from the Australian Taxation Office included within commitments is \$149,874 (2021: \$74,000).

## 19. Contingent liabilities and contingent assets

The NSWEC has no contingent liability as at 30 June 2022 (2021: Nil).

The NSWEC has no contingent assets as at 30 June 2022 (2021: Nil).

## 20. Budget review

The budgeted amounts are drawn from the original budgeted financial statements presented to Parliament in respect of the reporting period. Subsequent amendments to the original budget (for example, adjustment for transfer of functions between entities as a result of Administrative Arrangements Orders) are not reflected in the budgeted amounts. Major variances between the original budgeted amounts and the actual amounts disclosed in the financial statements are explained below.

### Net result

The net result of \$0.1m profit is \$13.3m lower than the full year budgeted net result of \$13.4m. Appropriations revenue is \$32.5m below budget, mainly due to the lower-than-budgeted Local Government elections costs in both employee and other election expenses.

### Assets and liabilities

Cash and cash equivalents of \$11.9m are above budget by \$6.1m due to \$1.1m in late receipts from Councils for the payment of Local Government election invoices, \$2.4m in grant revenue received at year end for work to be completed in 2022-23 and \$2.0m held at year end for Candidate and Political Party Administration Fund payments due on 1 July 2022. Plant and equipment of \$1.0m is down against a budget of \$9.9m due to the approval to convert the Voting Centre Device Refresh project of \$7.8m from capital expenditure to operating expenditure. Intangible assets of \$21.0m are down against a budget of \$27.9m due to the delay in the delivery of capital projects resulting in a \$4.3m reduction in Intangible asset investment and the \$1.7m impairment of the iVote electronic voting system.

### Cash flows

There is a \$12.8m reduction in cash flow from investing activity against a budget of \$16.9m. This is mainly due to the proposed conversion of Voting Centre Device from capital expenditure to operating expenditure and three other capital projects being delayed in their delivery. Net cash flow from operating activities is \$7.8m down against the full year budget of \$19.6m. This was mainly due to the lower than budgeted Local Government elections costs offset by a \$2.7m increase in grant revenue received.



# Notes to the financial statements

for the year ended 30 June 2022

## 21. Reconciliation of cash flows from operating activities to net result

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Net cash flows from operating activities	11,881	12,643	11,881	12,643
Depreciation and amortisation	(7,412)	(8,099)	(7,412)	(8,099)
Impairment of intangibles and right-of-use assets	(2,278)	(1,166)	(2,278)	(1,166)
Decrease/(increase) in provisions and other liabilities	(499)	103	(499)	103
Increase/(decrease) in receivables and other assets	(2,972)	3,103	(2,972)	3,103
Increase/(decrease) in contract assets	(2,317)	2,314	(2,317)	2,314
Decrease/(increase) in payables	3,710	(2,467)	3,710	(2,467)
Net gain/(loss) on disposal of plant and equipment and intangible assets	(44)	(462)	(44)	(462)
<b>Net result</b>	<b>69</b>	<b>5,969</b>	<b>69</b>	<b>5,969</b>

## 22. Administered assets and liabilities

The NSWEC administers, but does not control, certain activities on behalf of the Crown Entity. It is accountable for the transactions relating to those administered activities but does not have the discretion, for example, to deploy the resources for the achievement of the NSWEC's own objectives.

Transactions and balances relating to the administered activities are not recognised as the NSWEC's revenue, expenses, assets and liabilities, but are disclosed in the accompanying schedules as "Administered assets", "Administered liabilities", "Administered income" and "Administered expenses".

	2022 \$'000	2021 \$'000
<b>Administered assets:</b>		
Receivables – Fines for failure to vote	17,996	344
Cash at bank	82	35
<b>Administered liabilities:</b>		
Payables – Refund of fines for failure to vote	(98)	-
Payables – Crown Entity	(69)	(16)
Payables – Local Government Entities	(12)	(18)
<b>Reconciliation of administered assets</b>		
<b>Opening balance</b>	<b>345</b>	<b>(14)</b>
New fines issued	39,458	370
Nomination deposits received	489	2
Fines written back	(13,973)	(10)
Fines paid	(7,760)	(3)

# Notes to the financial statements

for the year ended 30 June 2022

	2022 \$'000	2021 \$'000
Referred for collection to Revenue NSW	(171)	-
Returns/forfeitures of nomination deposits	(489)	-
<b>Administered assets/(liabilities)</b>	<b>17,899</b>	<b>345</b>

## 23. Administered expenses – debts written off

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Fines written back	(13,973)	(10)	(13,973)	(10)

## 24. Administered income

	Consolidated		Parent	
	2022 \$'000	2021 \$'000	2022 \$'000	2021 \$'000
Fines for failure to vote	39,458	370	39,458	370

## 25. Financial instruments (parent and consolidated)

The NSWEC's principal financial instruments are outlined below. These financial instruments arise directly from the NSWEC's operations or are required to finance the NSWEC's operations. The NSWEC does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

The NSWEC's main risks arising from financial instruments are outlined below, together with the NSWEC's objectives, policies and processes for measuring and managing risk. Further quantitative and qualitative disclosures are included throughout these financial statements.

The Electoral Commissioner has overall responsibility for the establishment and oversight of risk management and reviews and agrees policies for managing each of these risks. Risk management policies are established to identify and analyse the risks faced by the NSWEC, to set risk limits and controls and to monitor risks. From time to time, compliance with policies is reviewed by the Audit and Risk Committee.

# Notes to the financial statements

for the year ended 30 June 2022

## a) Financial instrument categories

Class	Note	Category	Carrying amount	
			2022 \$'000	2021 \$'000
<b>Financial assets</b>				
Cash and cash equivalents	7	N/A	11,888	6,024
Receivables*	8	Amortised cost	402	629
Contract assets	9		-	2,317
<b>Financial liabilities</b>				
Payables**	14	Financial liabilities measured at amortised cost	2,127	5,759
Borrowings	15	Financial liabilities measured at amortised cost	36,655	38,340

### Notes

\* Excludes statutory receivables and prepayments (that is, not within scope of AASB 7).

\*\* Excludes statutory payables and unearned income (that is, not within scope of AASB 7).

NSWEC determines the classification of its financial assets and liabilities after initial recognition and, when allowed and appropriate, re-evaluates this at each financial year end.

## b) Financial risk

### i) Credit risk

Credit risk arises when there is the possibility of the NSWEC's debtors defaulting on their contractual obligations, resulting in a financial loss to the NSWEC. The maximum exposure to credit risk is generally represented by the carrying amount of the financial assets (net of any allowance for credit losses or impairment).

Credit risk arises from the financial assets of the NSWEC, including cash, receivables and contract assets. No collateral is held by the NSWEC. The NSWEC has not granted any financial guarantees.

Credit risk associated with the NSWEC's financial assets, other than receivables, is managed through the selection of counterparties and establishment of minimum credit rating standards.

### Cash and cash equivalents

Cash comprises cash on hand and bank balances within the NSW Treasury Banking System. Interest is earned on daily bank balances at the monthly average NSW Treasury Corporation (TCorp) 11am unofficial cash rate, adjusted for a management fee to NSW Treasury.

### Accounting policy for impairment of trade receivables and other financial assets

#### Receivables - trade receivables and contract assets

All trade receivables and contract assets are recognised as amounts receivable at balance date. Collectability of trade receivables and contract assets is reviewed on an ongoing basis. No interest is earned on trade receivables or contract assets. Sales are made on 30 day terms. Procedures as established in the Treasurer's Directions are followed to recover outstanding amounts, including letters of demand. Debts which are known to be uncollectible are written off.

The NSWEC applies the AASB 9 simplified approach to measuring expected credit losses which uses a lifetime expected loss allowance for all trade receivables and contract assets.

The expected loss rates are based on historical observed loss rates. This evidence includes past experience, and current and expected changes in economic conditions and debtor credit ratings.

Trade receivables and contract assets are written off when there is no reasonable expectation of recovery.

NSWEC does not have a history of impairment losses. The loss allowance for trade receivables as at 30 June 2022 and 30 June 2021 is \$Nil.

Based on past experience, trade receivables that are not past due (past due 2022: \$Nil and 2021: \$Nil) represent 100% of the total trade debtors.

# Notes to the financial statements

for the year ended 30 June 2022

## ii) Liquidity risk

Liquidity risk is the risk that the NSWEC will be unable to meet its payment obligations when they fall due. The NSWEC continuously manages risk through monitoring future cash flows and maturities planning to ensure adequate holding of high quality liquid assets.

The NSWEC's exposure to liquidity risk is deemed insignificant based on prior periods' data and current assessment of risk.

The liabilities are recognised for amounts due to be paid in the future for goods or services received, whether or not invoiced. Amounts owing to suppliers (which are unsecured) are settled in accordance with the policy set out in NSW TC 11-12.

For small business suppliers, where terms are not specified, payment is made not later than 30 days from date of receipt of a correctly rendered invoice. For other suppliers, if trade terms are not specified, payment is made no later than the end of the month following the month in which an invoice or a statement is received. For small business suppliers, where payment is not made within the specified time period, simple interest must be paid automatically unless an existing contract specifies otherwise. For payments to other suppliers, the Head of an authority (or a person appointed by the Head of an authority) may automatically pay the supplier simple interest.

The table below summarises the maturity profile of NSWEC's financial liabilities, together with the interest rate exposure.

	Weighted average effective interest rate	Nominal amount	Interest rate exposure			Maturity dates		
			Fixed interest rate	Variable interest rate	Non-interest bearing	< 1 yr	1-5 yrs	> 5 yrs
			\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>2022</b>								
Payables	-	2,127	-	-	2,127	2,127	-	-
Borrowings								
Lease liabilities	2.24	36,655	36,655	-	-	3,230	13,199	20,226
<b>2021</b>								
Payables	-	5,759	-	-	5,759	5,759	-	-
Borrowings								
Lease liabilities	2.29	38,340	38,340	-	-	2,583	11,649	24,108

## iii) Market risk

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. NSWEC has no exposure to borrowings or foreign currency risk and does not enter into commodity contracts.

# Notes to the financial statements

for the year ended 30 June 2022

## iv) Interest rate risk

Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates. NSWEC does not have exposure to interest rate risk through interest bearing liabilities. NSWEC does not account for any fixed rate financial instruments at fair value through profit or loss or at fair value through other comprehensive income. Therefore, for these financial instruments, a change in interest rates would not affect profit or loss or equity. A reasonably possible change of +/- 1% is used, consistent with current trends in interest rates. The basis will be reviewed annually and amended where there is a structural change in the level of interest rate volatility. The NSWEC's exposure to interest rate risk is set out in the following table:

	Carrying amount \$'000	-1%		1%	
		Profit \$'000	Equity \$'000	Profit \$'000	Equity \$'000
<b>2022</b>					
<b>Financial assets</b>					
Cash and cash equivalents	11,188	-	-	-	-
Receivables	402	-	-	-	-
Contract assets	-	-	-	-	-
<b>Financial liabilities</b>					
Payables	2,127	-	-	-	-
Borrowings – lease liabilities	36,655	-	-	-	-

	Carrying amount \$'000	-1%		1%	
		Profit \$'000	Equity \$'000	Profit \$'000	Equity \$'000
<b>2021</b>					
<b>Financial assets</b>					
Cash and cash equivalents	6,024	-	-	-	-
Receivables	629	-	-	-	-
Contract assets	2,317	-	-	-	-
<b>Financial liabilities</b>					
Payables	5,759	-	-	-	-
Borrowings – lease liabilities	38,340	-	-	-	-

## c) Fair value measurement

### i) Fair value compared to carrying amount

Financial instruments are generally recognised at cost. The amortised cost of financial instruments recognised in the statement of financial position approximates the fair value, because of the short-term nature of many of the financial instruments.

### ii) Fair value recognised in the statement of financial position

The NSWEC does not have any financial assets at fair value recognised in the statement of financial position.

# Notes to the financial statements

for the year ended 30 June 2022

## 26. Related party disclosures

The key management personnel are defined as, the Electoral Commissioner, Electoral Commission members and Executive Directors.

The NSWEC's key management personnel compensation are as follows:

	Consolidated	
	2022 \$'000	2021 \$'000
Short-term employee benefits		
Salaries	1,661	1,618
Other monetary allowances	47	5
Other long-term employee benefits	66	32
Post-employment benefits	136	121
<b>Total remuneration</b>	<b>1,910</b>	<b>1,776</b>

No material transactions took place between the NSWEC and key management personnel, their close family members and controlled or jointly controlled entities thereof during the year.

During the year, the NSWEC entered into transactions on arm's length terms and conditions with other entities controlled by the NSW Government. These transactions include:

- Appropriations from the Crown Entity
- Administering income, expenses, assets and liabilities on behalf of the Crown Entity
- Leasing of properties from Government Property NSW
- Long service leave and Defined benefit superannuation assumed by the Crown Entity
- Payments into the icare TMF Scheme
- Payment to the Audit Office of NSW for the audit of our financial statements
- Provision of data centre services with the New South Wales Department of Customer Services
- Grants received from the New South Wales Department of Customer Services.

## 27. Events after reporting period

There are no events subsequent to balance date which affect the financial statements.

# 6

## Appendices and references

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# Appendix A: Multicultural Action Plan 2018-2021 achievements

The *Multicultural NSW Act 2000* (NSW) establishes multicultural principles for New South Wales. Our Multicultural Action Plan is developed according to the Multicultural NSW Multicultural Policies and Services Program (MPSP).

The MPSP assists agencies to advance multicultural principles and support culturally and linguistically diverse communities by guiding planning across four focus areas: service delivery, planning, leadership and engagement.

The following information reports on the services provided for culturally and linguistically electors at the NSW State election in March 2019 and the NSW Local Government elections in December 2021.

## Service delivery

### In-language support

- People from culturally and linguistically diverse (CALD) backgrounds could access NSW Electoral Commission services with interpreter support provided by the Translating and Interpreting Service National (TIS National).
- Posters promoting TIS National and translated resources in 24 languages on the Electoral Commission's website were displayed at all voting centres for all local and state elections.
- TIS National contact details were included on each language page on the NSW Electoral Commission 'Assistance in your language' website pages:
  - for the 2019 NSW State election this information was English-only
  - for the 2021 NSW Local Government elections this information was translated.
- At each election, staff with language skills reflecting each local government area or state electoral district are recruited to assist voters at voting centres. Staff wear badges indicating the languages they speak:
  - staff working at the 2019 NSW State election spoke more than 90 languages
  - staff working at the 2021 NSW Local Government elections spoke 156 languages.
- As a COVID-19 provision, legislation was amended to allow iVote (the NSW Electoral Commission's technology-assisted voting platform) to be made available for the 2021 Local Government election (subject to elector eligibility criteria). We produced an iVote explainer video, translated into seven community languages.
  - For the 2019 NSW State election, translated information about voting in Australia (covering enrolment, checking and updating details, and the election reminder service) was published on the NSW Electoral Commission's website in 24 community languages.
  - For the 2021 Local Government elections, these translated materials were expanded to include information about voting at the 2021 NSW Local Government elections. Content was created and translated into 24 languages on topics including:
    - general information about the Local Government elections
    - ways to vote
    - eligibility criteria for different voting channels, including postal and iVote and the relevant dates
    - COVID-19 safety measures at voting centres
    - ballot papers
    - funding and disclosure laws.
  - For the 2021 Local Government elections, animated videos were translated into the seven community languages on topics such as:
    - general information about the elections plus voting options and key dates
    - iVote registration, voting and verification processes and key dates
    - political donations
    - ballot papers.
  - Community languages:
    - 24 community languages: Chinese (Simplified), Chinese (Traditional), Vietnamese, Arabic, Greek, Italian, Korean, Spanish, Macedonian, Serbian, Turkish, Khmer, Croatian, Assyrian, Russian, Portuguese, Thai, Persian, Lao, Maltese, Polish, Dari, Hindi, Tagalog.

The languages identified cater for the largest number of voters with low English proficiency and cover 79 per cent of all speakers of a language other than English in New South Wales. The language analysis is based on 2016 Census data; this will be reviewed with the 2021 Census data.

    - top seven: Chinese (Simplified), Chinese (Traditional), Vietnamese, Arabic, Greek, Italian, Korean.



## Engagement

- The media campaigns for the 2019 State election and 2021 Local Government elections included advertisements and social media content for culturally and linguistically diverse communities. Each election we build on the work done previously.
- In addition to multi-lingual advertising and translated materials in 24 languages on the NSW Electoral Commission website, translated video resources were created for the 2021 Local Government election (seven languages) with topics including:
  - how to vote and voting options at local government elections
  - iVote registration and voting and verification
  - funding and disclosure law information and videos
  - COVID safety at elections information.
- For the 2019 State election and 2021 Local Government elections, the NSW Electoral Commission distributed *Stakeholder Engagement kits* to the Culturally and Linguistically Diverse Reference Group members for broader dissemination to their members and community representatives.
- For the 2021 Local Government elections, the NSW Electoral Commission worked with Revenue NSW to distribute information and resources through its Aboriginal outreach programs (focussed on six areas: Brewarrina, Walgett, Burke, Taree, Nowra and Mt Druitt).

## Planning

- Our services and programs are evidence based:
  - For the 2019 State election and 2021 Local Government elections we engaged external research providers to develop, implement and report on elector surveys. The survey sample reflects the cultural diversity of the population of NSW.
  - The insights from this research forms part of our post-election reporting and recommendations for continuous service improvement.
  - We consult with our Culturally and Linguistically Diverse Reference Group members about the needs of their communities.
  - Our language analysis is based on Australian Bureau of Statistics (ABS) Census data.

## Leadership

- Before each state-wide election, we review resources and staff training manuals to continuously improve the materials we provide and ensure they remain culturally appropriate and relevant.

## Strategies and activities planned for 2022-23

The NSW Electoral Commission's culturally and linguistically diverse elector engagement approach is to continuously improve in-language information and in-language advertising (with a digital focus), building on the work of each previous election.

### 2022-24 Multicultural Action Plan

We are developing a 2022-24 Multicultural Action Plan based on:

- Culturally and Linguistically Diverse Reference Group feedback and post-election debrief
- research and customer feedback
- the changing landscape for elections
- recommendations from NSW Parliamentary reviews and inquiries, namely the Joint Standing Commission on Electoral Matters (JSCEM)
- learnings from other electoral jurisdictions, in particular the Australian and Victorian Electoral Commissions
- analysis of 2021 ABS Census data (demographics and population statistics).

### Vote Talk

The Ethnic Communities Council of NSW increased the reach of election messages into culturally and linguistically diverse communities through the Vote Talk Live program to raise awareness and increase voter engagement. Vote Talk launched for the 2019 State election as a partnership between NSW Electoral Commission, Australian Electoral Commission and Ethnic Communities Council of NSW. The program involved providing information in community languages through café conversations (podcasts) and community radio. The initiative trained bilingual facilitators to influence behaviour change within their communities by delivering key messages in-language about enrolment, voting and working at elections. Facilitators generated content for multicultural radio stations by interviewing community members about their attitudes and experiences of enrolment and voting. Radio interviews were then published as podcasts.

NSW Electoral Commission has engaged the Ethnic Communities Council of NSW to deploy Vote Talk for the 2023 State election. Vote Talk initiatives will be optimised for the election based on the analytics from, and evaluation of, previous Vote Talk programs.

# Appendix B: Disability Inclusion Action Plan 2018-2021 achievements

The NSW Electoral Commission seeks to deliver elections that meet the diverse access needs of voters across the State. The following information reports on the services provided for people living with disability at the NSW State election in March 2019 and the NSW Local Government elections in December 2021.

## Service delivery

- **Videos:** We greatly increased the range of information available for the 2021 Local Government elections in video format, including a series of videos produced by community and reference group members. All videos were published in line with accessibility guidelines (captions, voiceover where applicable and transcripts for use with screen readers).
- **Auslan videos:** A new initiative for the 2021 Local Government elections was the production of an Auslan video series in collaboration with The Deaf Society (now Deaf Connect). The topics covered by the four videos include:
  - general information about the Local Government elections
  - ways to vote in-person (early and on election day)
  - voting by iVote (online and telephone voting) and postal vote
  - ballot papers.

The videos were promoted on the NSW Electoral Commission's social media channels (Facebook, Twitter, LinkedIn) and also by the Deaf Society (now Deaf Connect).

- For the 2019 State election and 2021 Local Government elections we worked with the NSW Council for Intellectual Disability to produce a video, covering topics such as:
  - the right to vote
  - how to vote
  - where to vote and what to expect
  - ballot papers.
- For the 2019 State election and 2021 Local Government elections, the Council for Intellectual Disability produced an easy-read guide with messages that supported the video.

**Auslan interpreters:** As for previous election events, Auslan interpreters were available to assist electors who are deaf. On weekdays, electors can connect to the NSW Electoral Commission's call centre via an Auslan interpreter through the Video Relay Service (part of the National Relay Service). The Video Relay Service is not available on weekends. To ensure access to information on early voting Saturday and election day Saturday,

we provide the opportunity to connect with an Auslan interpreter engaged via Deaf Services (now Deaf Connect) using Skye video functionality.

- The NSW Electoral Commission appreciates the support of its reference group members and advocacy groups who also supplied goods and services for the elections in particular: Vision Australia for the iVote review and feedback; Council for Intellectual Disability for production of the video and easy read guide; the Deaf Society (now Deaf Connect) for the production of the Auslan video series and the provision of Auslan interpreters.
- For the 2019 State election and 2021 Local Government elections, the NSW Electoral Commission distributed a Stakeholder Engagement kit to our EAD Disability Reference Group members Reference Group members for broader dissemination to their members and community representatives. For these elections, the kit was web-based with links collating resources and information to support the voter community.

## Creating accessible election events

- For the 2019 State election and 2021 Local Government elections we provided information and training to the election workforce about supporting people with disability at an election. We commit to continually improve the training and information provided to election workforce and officials on disability awareness and inclusion and engage our Equal Access to Democracy Reference Group members to improve and revise staffing guides.
- We enhanced our website for the 2021 Local Government elections with an address look-up feature that provided a map (and list view) of voting centres and information about their accessibility levels.
- At all elections, we provide accessible voting screens at voting centres, and visual aids including maxi pens and magnifying sheets.
- Auslan interpreter support was provided at the 2019 State election and 2021 Local Government elections and promoted through key stakeholders and on posters in voting centres.
- We request that candidate information and how-to-vote cards are provided to us in accessible format for publishing on our website. We provide accessibility guidelines to candidate and parties.
- The NSW Electoral Commission website is tested to WCAG 2.1 Level AA compliance. While some content and online services are not yet fully compliant to this level, support is available in these instances.

- We provide and support the use of technology assisted voting (telephone voting)
- At the 2019 State election, we supported people living in retirement homes, hospitals and similar facilities to participate in elections through 'declared facility' voting opportunities. The COVID-19 pandemic impacted the offering of declared facilities for the 2021 Local Government election and some by-elections. In these cases we promoted the use of postal voting. We continue to explore declared facility opportunities to reduce barriers and enhance participation.

### **Inclusive employment**

- Employment opportunities are shared with Equal Access to Democracy Disability Reference Group members for election events.
- The following diversity statement is included in all NSW Electoral Commission job advertisements:  
The NSW Electoral Commission embraces diversity and inclusion and is committed to creating a workplace that reflects the population of New South Wales. All candidates are supplied with contact details for adjustments to the recruitment process.

### **2022-24 Disability Inclusion Action Plan**

We are developing a 2022-24 Disability Inclusion Action Plan based on:

- Equal access to Democracy (EAD) Disability Reference Group feedback and post-election debrief
- research and customer feedback
- the changing landscape for elections
- recommendations from NSW Parliamentary reviews and inquiries, namely the Joint Standing Commission on Electoral Matters (JSCEM)
- learnings from other electoral jurisdictions, in particular the Australian and Victorian electoral commissions
- outcomes from the technology-assisted voting review.

The *2022-24 Disability Inclusion Action Plan* will include analysis of 2021 ABS Census data to inform engagement strategies.

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# Glossary

Refer also to the Glossary on our website.

Name/title	Definition
By-election	An election held to fill a casual vacancy, usually caused by retirement, death or resignation of the Member for that district or the Councillor for the council/ward.
Candidate	A person who nominates for election to parliament or to a council.
Countback election	In a countback election, the count is conducted using the same ballot papers from, and the same proportional representation voting count system as, the previous general election (that is, the ballot papers from the local government elections held on 4 December 2021).
Declared Institution (Declared Facility)	A nursing home, hospital or similar facility appointed by the Electoral Commissioner and visited by election officials for the purpose of taking votes from residents who are unable to attend a polling place.
Digital transformation	A multi-year project being undertaken by the NSW Electoral Commission to transform the products, business systems, organisational design and technology that support our digital presence.
Disinformation	Disinformation is deliberately deceptive information that is knowingly spread.
Election	Selection by vote of a person or persons to hold (political) office.
Elector	A person who is entitled to vote at an election.
Electoral Commissioner	The statutory officer appointed to manage the conduct of state and other elections.
Electoral district	One of the 93 Legislative Assembly electorates in New South Wales.
Electoral material	Electoral material produced for elections in New South Wales can be in printed or electronic format.  Examples of electoral material are: 'how-to-vote' cards; advertising in newspapers, on radio or TV; social media posts by election participants; bulk emails and letters sent to electors; posters; leaflets; and stickers.
Electoral roll	The certified list of persons eligible to vote at an election. The rolls are maintained by the Australian Electoral Commission.
Electorate	The population of electors or the region in which electors live. Electorates have clearly defined boundaries which are shown on electoral district maps.
Enrolment	The act of enrolling or having one's name added to the list of electors entitled to vote.
Disability Inclusion Action Plan	The NSW Electoral Commission has a responsibility to provide accessible electoral services to meet a wide range of needs, expectations and levels of understanding of the democratic system. The purpose of the Disability Inclusion Action Plan is to plan and document the activities and support to be provided by the Electoral Commission to improve access to elections for people with disability.
Funding and Disclosure (FD) Online	The Electoral Commission's online funding and disclosures portal.
Integrity agencies	Independent oversight bodies in New South Wales: Independent Commission Against Corruption, Law Enforcement Conduct Commission, Audit Office of New South Wales, NSW Electoral Commission, and NSW Ombudsman (collectively, integrity agencies).
iVote	See Technology-assisted voting.



Name/title	Definition
Joint Standing Committee on Electoral Matters	The Joint Standing Committee on Electoral Matters of the NSW Parliament inquires into and reports on electoral laws and practices and the spending and public funding of political parties.
Misinformation	Misinformation is incorrect or false information that is spread, regardless of intent to mislead. It is differentiated from disinformation, which is deliberately deceptive.
Multicultural Action Plan	New South Wales is the most culturally, linguistically and religiously diverse state in Australia. The NSW Electoral Commission has a responsibility to communicate with and engaging the public, to make it easier to understand and participate in the democratic process. The purpose of the Multicultural Action Plan is to capture the activities and support to be provided by the Electoral Commission to improve participation in elections by people who are from culturally and linguistically diverse communities.
Nomination	The process by which a person applies to become a candidate for election.
Nomination Online Management System	The Electoral Commission's online nominations portal.
Political donation	A political donation is a gift made to, or for the benefit of, a political party, elected member, candidate, group of candidates, or other person or entity including an associated entity or third-party campaigner in New South Wales.
Political participant	Political parties, organisations, candidates and other individuals or groups involved in politics or elections in New South Wales, but not electors. If a member of the public makes a donation to a political candidate or party, then that person is considered a political participant.
Political party	An organised group with a common political philosophy that supports/endorsees candidates at NSW elections.
Technology-assisted voting	The Electoral Act and the Local Government Regulations provide for voting by eligible electors at state and local government elections by means of technology-assisted voting. Currently, the Electoral Commissions offers telephone voting for electors who are blind or have low vision.



# A

Annexure

NSW Electoral Commission

# Report to the NSW Parliament

2021-22

The Hon. Matthew Ryan Mason-Cox MLC  
President, Legislative Council  
Parliament House  
Macquarie Street  
Sydney NSW 2000

The Hon. Jonathan O'Dea MP  
Speaker Legislative Assembly  
Parliament House  
Macquarie Street  
Sydney NSW 2000

Dear Mr President and Mr Speaker

In accordance with section 154 of the *Electoral Funding Act 2018*, I am pleased to present the Report of the NSW Electoral Commission (Electoral Commission) in respect of its work and activities under the Act for the year 2021-22, including statistical information on the use of enforcement powers.

I recommend that the Report be laid before the Council and the Assembly as soon as practicable.

Yours sincerely,



The Hon Arthur Emmett, AO KC  
**Chairperson, NSW Electoral Commission**

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# Foreword by the Chairperson of the Electoral Commission

I am pleased to report on the work and activities of the NSW Electoral Commission (Electoral Commission) in relation to electoral funding regulation, including the use of its enforcement powers in relation to electoral and lobbying matters for 2021–22, my first report as Chairperson. The report has been prepared in accordance with section 154 of the *Electoral Funding Act 2018* (EF Act). Distinct from the Electoral Commission's annual report, this report highlights the independent status of the Electoral Commission in regulating participants in New South Wales electoral and political processes.

On 30 November 2021, the Electoral Commission's inaugural members, the Hon. Keith Mason AC KC (Chairperson) and Mr Len Scanlan (Member), as well as the Deputy Chairperson the Hon. Joseph Campbell KC, held the final meeting of their legislated seven-year terms. Since 2014, Keith, Len and Joe have worked closely with two Electoral Commissioners and agency staff to establish a new Electoral Commission that fairly and transparently investigates possible contraventions of electoral and third-party lobbying laws and takes enforcement action where it considered it to be warranted. During the Electoral Commission's establishment phase, the outgoing members also oversaw the development of a suite of policies and procedures to manage the day-to-day administration of campaign finance and third-party lobbying laws in New South Wales. More recently, the Electoral Commission has expanded its education activities to support political participants in meeting their statutory obligations across all the functions of our organisation.

I thank the former members for their commitment and effort in ensuring that the Electoral Commission has delivered trusted and independent systems, processes, oversight, and engagement that support democracy in New South Wales. Through their efforts, the Electoral Commission plays a central role in enhancing transparency and integrity in democracy.

On 1 December 2021, I commenced my term as Chairperson of the Electoral Commission and was joined by the new Deputy Chairperson, the Hon. Alan Robertson SC. We met for the first time in our new roles on 8 December 2021 at the Electoral Commission's centralised count centre (located at that time in Sydney Olympic Park) for the 2021 Local Government elections. This provided us with the opportunity to view first-hand the complexity of election operations on a state-wide scale. We were then joined on 11 May 2022 by Ms Sandie Boswell who was appointed as the new member of the Electoral Commission with skills particularly relevant to its responsibilities for the oversight and audit of the financial arrangements of political participants in New South Wales.

During the first six months of our term, we published the Electoral Commission's first *Statement of Regulatory Priorities*. The Statement lists items that will receive focussed regulatory effort in the coming year. Being an election year, with the 2023 NSW State election scheduled for 25 March, the priorities largely revolve around that event, and we will report on the outcomes of those efforts in our *2022-23 Report to Parliament*.

During the year, in response to the decision of the Supreme Court of New South Wales that three councillor elections held in December 2021 were void due to a problem with the iVote platform, the Electoral Commission was authorised by the NSW Government to establish an act of grace payment scheme to assist affected political participants in those elections. Under the scheme, candidates and political parties that endorsed candidates at the three voided elections in December were offered reimbursement for electoral expenditure that had been legally incurred. The Electoral Commission examined and approved 27 applications made by political participants and reimbursed a total of \$97,616.95 to those affected.

Following the June 2021 launch of the Electoral Commission's online funding and disclosures portal, disclosures were lodged online for the first time in July 2021. Across the year more than 3,000 users have undertaken more than 4,000 registration and disclosure transactions through the new portal. *Funding and Disclosure Online* is the outcome of a number of reviews about how to improve electoral funding regulation in New South Wales through technology. Across this financial year we have enhanced and extended the functionality of the portal and political participants can now submit applications for registration as candidates and groups, as well as lodge disclosures as required under the *Electoral Funding Act 2018*. The Electoral Commission delivered webinars showing users how to complete online processes, created explainer videos, and provided extensive call centre support, particularly following the December 2021 Local Government elections in which thousands of candidates participated and acquired disclosure obligations as a result, regardless of whether they were elected. I wish to extend my thanks to the Electoral Commission's dedicated staff for managing this important transition, in a very difficult COVID-19 environment that included months of mandatory remote working. I would also like to acknowledge all those political participants who have been early adopters of this new way of fulfilling their obligations.

Education and awareness-raising remained a key priority of the Electoral Commission, particularly in the lead-up to elections, disclosure periods and the introduction of legislative or policy change. During the year, we created

a range of educational videos as an additional tool to enhance the awareness of political participants (and the community more broadly) about the rules around electoral funding. The video content is applicable to both state and local government elections and is available in translations into key community languages. Although regulators cannot provide legal advice, the Electoral Commission is specifically authorised to educate and inform participants about their obligations under the Electoral Funding Act (section 151). Our client services officers have continued to provide guidance to election participants over the telephone and in writing throughout the year.

During the year our compliance audit team completed 10,853 audits of donations and electoral expenditure disclosures and commenced a further 177. During these audits, our auditors liaise closely with political participants and their staff to ensure the accuracy of published disclosures and support the transparency objectives around campaign finance regulation in New South Wales. Where compliance issues including financial or factual anomalies are identified through an audit or review, enforcement action may be taken, including issuing warnings, cautions or penalty notices. During 2021-22, our investigators reviewed 243 matters identified by the audit team and further action was taken in relation to 111 of these matters.

Compliance reviews are also conducted in relation to registered third-party lobbyists and the Electoral Commission may issue warnings, place lobbyists on the lobbyist watch-list, suspend or cancel the registration of a third-party lobbyist where there is a failure to comply with the *Lobbying of Government Officials Act 2011* or the Lobbyists Code of Conduct. The Electoral Commission implemented an enhanced communications strategy to improve third-party lobbyist compliance with their obligation to confirm their registered details three times a year. While 31 warnings were issued to third-party lobbyists during the period in relation to this confirmation process, compliance with this requirement was achieved during 2021-22.

In addition to its compliance audit activities, the Electoral Commission's investigations team also conducted compliance field operations at voting centres across New South Wales for the 4 December 2021 Local Government elections, as well as for the 12 February 2022 State by-elections held for Bega, Monaro, Strathfield and Willoughby. During the 2021 Local Government elections, five field teams visited numerous pre-poll and election day venues throughout New South Wales. Due to the prevailing COVID-19 conditions at these elections, the rules for campaigning around voting centres were modified by the Electoral Commissioner to protect public health and safety. Although this created new challenges compared to

previous elections, the team found that most participants were respectful of the changes. The team was otherwise able to deal effectively with the usual types of disputes and allegations about the placement of posters, the proximity of campaign volunteers and candidates to polling place entrances and the proper authorisation of electoral material.

For a number of years, the Electoral Commissioner has raised concerns regarding the longstanding funding model for our agency and its inability to support the extension of our functions, changes to the labour market and increased corporate governance requirements on small agencies. In the last year, however, a positive response was received to all the specific budget submissions made to the NSW Government. The Premier also announced that a new model for funding integrity agencies would be developed. This was welcome news as it will involve a re-baselining of our agency's funding needs. The Electoral Commission is looking forward to the establishment of new arrangements that can sustain the proper administration and regulation of the New South Wales electoral system.

The Electoral Commission continued to meet regularly during the year despite the continuing challenges of the COVID-19 pandemic, and to consider matters out of session and at additional *ad hoc* meetings. The Electoral Commission reviewed current activities and policies, monitored the progress of compliance matters, and made decisions as required. At the time of writing, the Electoral Commission was also pleased to note that amendments to the Electoral Act were being debated by the NSW Parliament that would authorise the disclosure of information about its investigations providing the Electoral Commission considers it to be in the public interest to do so. This was an important issue of policy reform going to the integrity of the regulatory framework that my predecessor raised in his Foreword to the 2020-21 report.

I commend the NSW Electoral Commission's staff for their continued dedicated and skilful work in the face of many challenges during the year. I also thank my fellow members Sandie Boswell and John Schmidt, as well as my Deputy Chairperson, the Hon Alan Robertson SC, for their contributions to the Electoral Commission remaining the trusted election administrator and regulator that it is.

I am proud to have been appointed as the Chairperson of the Electoral Commission and look forward to contributing further to its work in the years ahead.



The Hon Arthur Emmett, AO KC  
Chairperson

# Constitution and members of the Electoral Commission

The Electoral Commission was constituted on 1 December 2014 under the Electoral Act as a statutory body representing the Crown. The Electoral Commission consists of three members:

- a former Judge appointed by the NSW Governor as Chairperson
- the Electoral Commissioner for NSW, *ex officio*
- a person appointed by the NSW Governor who has financial or audit skills and qualifications relevant to the functions of the Electoral Commission.

The inaugural members of the Electoral Commission completed their terms on 30 November 2021:

- Hon. Keith Mason AC KC, as Chairperson
- Len Scanlan, as member.

The Hon. Joseph Campbell SC was deputy Chairperson of the Electoral Commission until 30 November 2021. A new Chairperson was appointed on 1 December 2021, Hon. Arthur Emmett AO KC. Ms Sandie Boswell was appointed as member on 11 May 2022. The Hon. Alan Robertson SC was appointed as deputy Chairperson of the Electoral Commission on 1 December 2021.

The appointed members and deputy member of the Electoral Commission have been appointed for a seven-year term which for the Chairperson and deputy commenced on 1 December 2021 and will expire 30 November 2028; and for the member commenced on 11 May 2022 and will expire 10 May 2029.



**Hon. Arthur Emmett AO KC**  
*Chairperson*

The Hon Arthur Emmett AO KC graduated from the University of Sydney with a Bachelor of Arts (1964), Bachelor of Laws (1967) and Master of Laws with honours (1976). Arthur has been Challis Lecturer in Roman Law at the University of Sydney since 1990. In 2009, the University conferred on him the degree of Doctor of Laws (*honoris causa*). In 2016 Arthur was appointed as an Officer of the Order of Australia.

In 1967 Arthur was admitted as a solicitor in New South Wales, in 1978 he was admitted as a barrister in New South Wales and in 1985 he was appointed Queen's Counsel. Arthur was a judge of the Federal Court of Australia from 1997 until 2013, a Judge of Appeal of the Supreme Court of New South Wales from 2013 to 2015, and for six years from October 2015, was an Acting Judge of Appeal, also sitting in the Commercial and Real Property Lists of the Equity Division.

From October 2007 to March 2011, Arthur was the President of the Copyright Tribunal of Australia.

Prior to commencing as Chair of the NSW Electoral Commission, Arthur served as Chair of the Electoral Districts Redistribution Panel to determine the 2021 redistribution of names and boundaries of NSW electoral districts.





**John Schmidt**

*Electoral Commissioner for NSW*

John Schmidt was appointed NSW Electoral Commissioner on 8 August 2016. From 2009 to 2014 John was the Chief Executive Officer of the Australian Transactions Reports & Analysis Centre (AUSTRAC), after serving in senior NSW Government positions within the Department of Premier and Cabinet and the Department of Fair Trading. John holds a Bachelor degrees in Arts and Laws, and a Master's degree in Arts.



**Sandie Boswell**

*Member*

Ms Sandra (Sandie) Boswell graduated from the University of Sydney with a Bachelor of Economics and a Graduate Diploma of Education and has over 25 years' experience in professional services.

Sandie is a partner of Grant Thornton Australia. Prior to this, Sandie was a partner for 15 years with PwC Australia and was also a member of the Australian Governance Board of Partners. Sandie chaired the Finance and Operations (Audit) Committee while on the board and was a member of several other committees. In 2017 Sandie was appointed as a member of the PwC Asia Pacific Board.

Sandie is also a non-executive director of the Global Legal Identity Foundation (GLEIF) based in Switzerland, where she is currently a member of the audit committee having been chair of that committee from 2019 to 2021. Sandie has held several other board appointments including board member and chair of the audit committee for the Sisters of Charity Foundation as well as a board member of the Heart Research Institute where she was chair of the commercialisation committee.



**The Hon. Alan Robertson SC**

*Deputy Chairperson*

The Hon Alan Robertson SC graduated from the Australian National University with a Bachelor of Arts (Hons) (1972) and Bachelor of Laws (Hons) (1980). Alan was admitted in 1980 as a Legal Practitioner of the Supreme Court of the Australian Capital Territory.

After working in the Commonwealth Attorney General's Department from 1980 to 1983, Alan moved to the New South Wales Bar and, in 1995, was appointed Senior Counsel.

Alan was a part-time member of the Administrative Review Council between 1992 and 1997 and was appointed a judge of the Federal Court in April 2011, retiring from that court in 2020. While a judge of the court, Alan was a Deputy President of the Administrative Appeals Tribunal and a Deputy President of the Australian Competition Tribunal. Alan is an Honorary Professor at the Australian National University and President of the Australian Academy of Law.

# Meetings of the NSW Electoral Commission

The Electoral Commission meets on the second Wednesday of every alternate month and as agreed by the members. The quorum for a meeting is two members (one of whom is the Chairperson or the deputy of the Chairperson).

The Chairperson (or, in Chairperson's absence, the deputy of the Chairperson) presides at each meeting. The presiding member has a vote and, in the event of an equality of votes, has a second or casting vote.

A decision of the Electoral Commission is one that is supported by a majority of the votes cast at a meeting of the Electoral Commission at which a quorum is present.

The membership of the Electoral Commission changed on 1 December 2021 with the last meeting of the previous members held on 30 November 2021 and the first meeting of the new members held on 8 December, noting the Audit member was appointed on 11 May 2022 and attended a meeting for the first time on 23 May 2022.

During 2021-22, the Electoral Commission met at the following scheduled times:

*Table 1. Scheduled meetings of the Electoral Commission during 2021-22*

Date	Attendees
Wednesday, 11 August 2021	<ul style="list-style-type: none"> <li>• Keith Mason</li> <li>• Joe Campbell</li> <li>• Len Scanlan</li> <li>• John Schmidt</li> </ul>
Wednesday, 13 October 2021	<ul style="list-style-type: none"> <li>• Keith Mason</li> <li>• Joe Campbell</li> <li>• Len Scanlan</li> <li>• John Schmidt</li> </ul>
Tuesday, 30 November 2021	<ul style="list-style-type: none"> <li>• Keith Mason</li> <li>• Joe Campbell</li> <li>• Len Scanlan</li> <li>• John Schmidt</li> </ul>
Wednesday, 8 December 2021	<ul style="list-style-type: none"> <li>• Arthur Emmett</li> <li>• Alan Robertson</li> <li>• John Schmidt</li> </ul>
Wednesday, 9 February 2022	<ul style="list-style-type: none"> <li>• Arthur Emmett</li> <li>• Alan Robertson</li> <li>• John Schmidt</li> </ul>

Date	Attendees
Wednesday, 13 April 2022	<ul style="list-style-type: none"> <li>• Arthur Emmett</li> <li>• Alan Robertson</li> <li>• John Schmidt</li> </ul>
Wednesday, 15 June 2022	<ul style="list-style-type: none"> <li>• Arthur Emmett</li> <li>• Alan Robertson</li> <li>• Sandie Boswell</li> <li>• John Schmidt</li> </ul>

Between scheduled meetings, some matters that required attention by the Electoral Commission were dealt with 'out-of-session' by circulating the relevant papers electronically. Votes on decisions are cast by email, are recorded, and are then noted at the following scheduled meeting. 'Out-of-session' decisions are generally in relation to the approval of public funding payments of more than a delegated amount that have a statutory deadline. During 2021-22, the members voted on 44 matters out-of-session.

From time to time the Electoral Commission will schedule an ad hoc meeting to address a specific matter and in 2022-22 held two such meetings.

*Table 2. Ad hoc meetings of the Electoral Commission during 2021-22*

Date	Attendees
Tuesday, 29 March 2022	<ul style="list-style-type: none"> <li>• Arthur Emmett</li> <li>• Alan Robertson</li> <li>• John Schmidt</li> </ul>
Monday, 23 May 2022	<ul style="list-style-type: none"> <li>• Arthur Emmett</li> <li>• Alan Robertson</li> <li>• Sandie Boswell</li> <li>• John Schmidt</li> </ul>

# Highlights from 2021-22



A new chairperson, member and deputy appointed to the Electoral Commission



Regulatory  
Priorities  
launched

3,000



users of Funding and  
Disclosure Online



5,285

candidates, groups, and third-party  
campaigners registered for elections



10,733

disclosures  
published

10,853

Compliance  
operations conducted



\$14 million  
paid in public  
funding

# Functions of the Electoral Commission

The functions of the Electoral Commission are set out in the *Electoral Act 2017* (Electoral Act). The Electoral Commission has a duty to exercise its functions in a way that is not unfairly biased against or in favour of any party, group, candidate or other person, body, or organisation.

Staff employed in the NSW Electoral Commission Public Service agency (agency) support the Electoral Commission in the exercise of its functions, those that are exercised as part of the day-to-day operations of the agency.

The Electoral Commission has the functions conferred or imposed on it under several acts, including the:

- *Electoral Act 2017*
- *Electoral Funding Act 2018*
- *Lobbying of Government Officials Act 2011*
- electoral provisions of the *Local Government Act 1993*.

In addition, functions of the Electoral Commission include:

- instituting proceedings for offences under New South Wales electoral and lobbying laws
- assisting the Electoral Commissioner with the conduct of elections
- conducting, promoting, and publishing research into electoral and other matters that relate to its functions
- promoting public awareness of electoral matters that are in the public interest by means of education and information programs.

## Delegations

The Electoral Commission is authorised under the Electoral Act to delegate any of its functions to:

- the Electoral Commissioner
- a member of staff of the Electoral Commission Public Service agency
- an officer or member of staff of an electoral commission or electoral office of the Commonwealth or of a State or Territory
- any person, or any class of persons, authorised by the Electoral Regulation.

## Guidelines

The Electoral Commission is authorised under the Electoral Funding Act to determine and issue guidelines, consistent with the Act and regulations, for or in relation to any matters dealt with under the Act. The Electoral Commission is required to have regard to its guidelines in the operation, application and enforcement of the Act including dealing with any applications, claims or disclosures.

During 2021-22 the Electoral Commission did not issue any new guidelines, nor did it update any existing guidelines.

The guidelines are published on the NSW Electoral Commission website.

## Extensions of time

The Electoral Commission is authorised under the Electoral Funding Act to, in any case, extend the time for doing anything under the Act, if satisfied that proper reasons exist justifying the extension. There is also specific provision under the Act for the Electoral Commission to extend the due date for the making of disclosures (see How are disclosures made?).

During 2021-22, the Electoral Commission extended the time in relation to matters listed in Table 3.

Table 3. Exercise of the general extension power under section 153 of the Electoral Funding Act

Provision	Description	Extensions granted
s.73(1)	The time by which a claim for payment from the Election Campaigns Fund must be made	1
s.97(1)	The time by which a registered party must provide a copy of its audited annual financial statements	2

## Policies

The Electoral Commission has policies and procedures that set out frameworks for how the various administrative and enforcement functions are carried out in accordance with the relevant legislation. The policies are reviewed and updated every three years and as required.

During 2021-22 the Electoral Commission did not publish any new policies but did update the *Disclosure policy and procedures* and the *Non-prohibited donor determinations policy and procedures*. The Electoral Commission's policies are set out below and can also be found on our website:

- Administration fund procedures
- Compliance audit policy
- Compliance and enforcement policy
- Compliance and enforcement procedures
- Compliance and enforcement publication policy and procedures
- Disclosure policy and procedures
- Election campaigns fund procedures
- Delegations' policy and procedures
- New parties fund procedures
- Non-prohibited donor determinations policy and procedures
- Penalty notice and caution procedures
- Prosecution policy
- Public funding policy
- Public interest disclosures policy
- Registration of electoral participants policy.

# Regulatory priorities 2022-23

On 15 June 2022 the Electoral Commission adopted a regulatory strategy and for the first time published an annual *Regulatory priorities statement*, which sets out the Electoral Commission’s strategic regulatory focus for 2022-23. This is the Electoral Commission’s first such statement, and the period includes the NSW State election in March 2023, local government by-elections and, potentially, state by-elections. The regulatory priorities will be updated and published at the beginning of each financial year to reflect emerging issues and key events in the election cycle.

The regulatory priorities support the NSW Electoral Commission to optimise the efficiency and value of its regulatory effort and ensure responses to non-compliance are targeted and proportionate. They are informed by a

risk-based assessment of legislated regulatory functions and anticipated events. The benefits of publicly identifying the agency’s priorities include greater efficiency and value for its regulatory effort and ensuring responses to other identified non-compliances are proportionate. Taking a more strategic approach is also consistent with the NSW Government’s 2016 *Guidance for regulators to implement outcomes and riskbased regulation*.

The Electoral Commission will provide an account of the annual regulatory priorities with the first account to be included in the *2022-23 Report to Parliament*. It is proposed that regulatory priorities be updated and published at the beginning of each financial year, to reflect emerging issues and key events in the election cycle.



Electoral material and other election-related material does not mislead electors about the electoral process



Voting in person at NSW elections is free of interference



State registered political party membership information is accurate in the lead-up to the 2023 NSW State election



Election participants meet their political donation disclosure obligations for the 2023 NSW State election pre-election period



Regular recipients of enrolment information – such as registered political parties and candidates – handle this personal information securely



Third-party lobbyists comply with their Code of Conduct obligations around meeting disclosures



Electors who vote more than once are considered for enforcement action



Regulated participants in NSW elections have access to useful and timely information about their key obligations

# Education and information activities

The Electoral Funding Act provides that the Electoral Commission may undertake education and information programs to inform parties, elected members, candidates, groups, third-party campaigners, party agents, official agents, donors and associated entities of their obligations under the Act. The Electoral Commission delivered a range of educational activities and information during 2021-22.

## 2021 NSW Local Government elections

### Election bulletins

The publication of bulletins by the Electoral Commissioner for the 2021 Local Government elections continued in the lead-up to and following the elections, to educate electoral participants and raise awareness of electoral funding requirements and election processes. The bulletins also provided regular updates on news, information, and deadlines. Ten bulletins were issued to political participants, and one was issued to the general managers of local councils.

The bulletins included information about the conduct of the elections, key dates, and electoral processes. They also informed and reminded recipients of their electoral funding obligations, for example, the requirement to register for electoral funding purposes, to submit political donation and electoral expenditure disclosures and the commencement of the capped expenditure period. The bulletins also communicated updates on the postponement of the elections due to the COVID-19 pandemic and how the agency was managing changing circumstances to ensure the safe and successful delivery of the elections.

### Candidate and electoral participant information webinars

A series of webinars were conducted in the lead-up to the elections on 4 December 2021. The purpose of the webinars was to provide participants with general information on the conduct of the elections and electoral funding and disclosure requirements that would apply. The webinar series was conducted by staff of the Electoral Commission Public Service agency. Between September and November, seven webinars were held providing participants with general information on the conduct of the elections regarding the registration of candidates, groups, and third-party campaigners, election funding and disclosure, the nomination process, voting, candidate workers and scrutineers, electoral material, and counting and results.

Webinars included an interactive function enabling participants to submit questions which the presenter could answer throughout the webinar. The webinars were open to all electoral participants and members of the public, and were promoted through election bulletins, on

our website and through our social media platforms, as well as through direct email communication to registered electoral participants. The webinars were recorded and published after each webinar on our YouTube channel for viewing by those who were not able to attend.

### Website updates

The Electoral Commission's website was progressively updated to include information about the elections, key dates, as well as detailed content on specific topics for voters, electoral participants, and people interested in working at the elections. Educational material published on the website included a candidate handbook, fact sheets and frequently asked questions for candidates and groups.

### Social media

The elections were promoted on our social media platforms with information on a range of topics: the postponement of the elections (from 4 September to 4 December 2021); registering as a candidate, group or third-party campaigner for electoral funding purposes; webinars; expenditure caps; enrolment and voting options; being nominated for the elections; and the rules around electoral material.

### Registration experience survey

Candidates and third-party campaigners who registered for the local government elections for electoral funding purposes from July 2021 to the close of registrations were asked to complete a survey about their experience registering with the NSW Electoral Commission.

The survey asked participants a range of questions about their registration experience such as how easy they found the process, whether they sought information or assistance from the Electoral Commission website or staff when registering, and whether they believed improvements could be made to the process. The survey did not ask questions about the nomination process.

Key findings of the survey include:

- Most respondents (73 per cent) did not find the online or paper form registration processes difficult. Of the respondents who did, most found the registration process hard to understand.
- Most respondents (81 per cent) reported accessing the Electoral Commission website for information about registration, and most (81 per cent) found the information on the website to be useful.
- Of the respondents who did not find the website useful, the feedback most commonly given indicated that the registration process could have been explained more clearly.

# Education and information activities

continued

- Fewer than half of the respondents (39 per cent) reported contacting the Electoral Commission for assistance, the majority of whom reported doing so by phone (83 per cent) and by email (35 per cent). Of the respondents who reported contacting us, most (81 per cent) reported that their questions were answered.
- Only 16 per cent of respondents to the survey reported that we provided too little support with the registration process.

The insights provided by the survey into the experience of candidates and third-party campaigners when registering will assist us in developing future communications, and process and system improvements.

## State by-elections: Bega, Monaro, Strathfield, Willoughby

A range of educational activities were undertaken for the Bega, Monaro, Strathfield and Willoughby by-elections held on 12 February 2022. During January and February, four by-election bulletins were issued to educate electoral participants about electoral processes and the applicable electoral funding laws. The Electoral Commission's website was progressively updated to provide information including key dates and information for electoral participants. Our social media channels were used to promote registration and electoral funding requirements for parties, candidates and third-party campaigners. A candidate webinar was held in January to provide participants with a general overview of the by-elections.

## Local government by-elections: Cobar Shire Council, Murray River Council, Tenterfield Shire Council

For the local government by-elections held for Cobar Shire Council, Murray River Council (two wards), and Tenterfield Shire Council (two wards) on 26 February 2022 one by-election bulletin was issued, and the Electoral Commission's website was progressively updated to provide information including key dates and information for electoral participants. Our social media channels also promoted the by-elections.

## Re-run elections: Kempsey Shire Council, Shellharbour City Council Ward A, Singleton Council

Preparations commenced during the year for the re-run elections to be held for Kempsey Shire Council, Shellharbour City Council Ward A, and Singleton Council in July 2022. The Electoral Commission's website was

updated to provide information and key dates on the elections, including information explaining why the elections were being held. In June, two political participant election bulletins were issued, and one candidate webinar was held to provide information about electoral processes and electoral funding requirements. The Electoral Commission's social media platforms were also used to inform and educate participants on the elections.

## Complying with the electoral funding rules – video animations

During the year, the Electoral Commission created a range of educational video animations to explain to electoral participants and the public the rules regarding various electoral funding obligations. Seven videos were created on the following topics:

- Disclosing political donations and electoral expenditure
- Pre-election period disclosures
- Caps on electoral expenditure
- Third-party campaigner registration
- Candidate and group registration
- Candidates and groups: Registration v nomination
- Duties of senior office holders

This video content is applicable to both state and local elections, making them a useful resource for all electoral participants. The videos will be published on our website and YouTube channel, and some will be translated into key languages, to support our engagement with members of culturally and linguistically diverse communities. The videos will be used in communications campaigns in the lead-up to state and local government elections as well as at key points during the electoral funding regulatory cycle such as during disclosure lodgement periods.

## Raising awareness of political donation and electoral expenditure obligations

The Electoral Commission promoted awareness and compliance with the disclosure obligation requirements of the Electoral Funding Act prior to, during, and following each of the disclosure lodgement periods.

The electoral expenditure and political donation caps for elections are published on the website and information about the caps is sent directly to election participants.



### Email and SMS reminders

Emails were sent to elected members, candidates, lead candidates of groups, party agents, third-party campaigners, associated entities, and major political donors to remind them of their disclosure obligations. These emails informed electoral participants about when and how to submit their disclosures and where to find more information and assistance. The emails were sent prior to and at the beginning of each disclosure lodgement period. Follow-up emails and SMS messages were sent to stakeholders who were late submitting their disclosures.

### Website updates

The website was updated in the lead-up to each disclosure lodgement period to promote the disclosure requirements. These updates included notifications on the website, information about how to disclose using *Funding and Disclosure Online*, as well as publication of forms and fact sheets to assist stakeholders to understand their disclosure obligations, and how and when to comply. The following fact sheets were published on the Electoral Commission's website:

- Disclosing political donations (half yearly period 1 July to 31 December 2021)
- Disclosing political donations (half yearly period 1 January to 30 June 2022)
- Disclosing electoral expenditure 2021-22
- Disclosures by major political donors 2021-22
- Timeline: Disclosure reporting periods and due dates 2021-22.

### Social media

Disclosure lodgement periods were promoted on our social media platforms prior to and during each disclosure lodgement period.

### Regulatory guidance services

Client services officers provide direct assistance to existing and prospective political participants by answering their enquiries over the telephone and in writing, Monday to Friday during business hours throughout the year. Additional officers are assigned to provide stakeholder support during high-volume periods. While client services staff cannot provide legal advice in relation to stakeholders' questions, they provide guidance and information about the provisions of the Electoral Funding Act. Where questions posed are more complex in nature, officers request that the inquirer email their question(s) and a written response is provided.

### Direct support by telephone and in writing

During 2021-22, client services officers responded to more than 4,000 telephone inquiries from political participants. Our staff provided a further 2,145 responses in writing to stakeholders on a range of complex matters. The subject of inquiries received was broad ranging and commonly included questions about:

- the applicable donation and expenditure caps
- the rules governing the operation of campaign accounts
- electoral material and record keeping
- the difference between registration and nomination
- how to report specific items in declarations of disclosure such as loan
- in-kind donations and contributions made by a candidate to their own campaign account
- acceptable methods for making payment out of a campaign account
- the quantum and type of disclosures requiring lodgement by a political participant
- how to register a group of candidates or as a third-party campaigner
- how to register a new political party at the NSW State or local government level
- how to change registered particulars and information required by legislation to be kept by the NSW Electoral Commission in its registers
- how to seek an extension of time to lodge a disclosure
- how to withdraw a candidate's registration
- how to report a suspected breach of electoral funding law.

### Correspondence with political participants

The administrative team continued to play a vital role in directing correspondence to the appropriate staff members for processing, despite the ongoing challenges of the COVID-19 pandemic. During 2021-22, the administrative team directed 22,636 items of correspondence as illustrated in Table 4.

Table 4. Funding and disclosure correspondence processed during 2021-22

Correspondence type	Number
Emails received	21,382
Faxes received	136
Letters and hand deliveries received	1,118
<b>Total</b>	<b>22,636</b>

## Legislative change

In June 2021, the *Electoral Legislation Amendment (Local Government Elections) Act 2021* amended the *Electoral Funding Act 2018* to allow the party agent of a registered party to decide to be the person responsible for the disclosure of political donations and electoral expenditure of a local government mayor or councillor, candidate or group of candidates, who are members of that party. This amendment came into effect on 1 July 2021. Ahead of the 2021 Local Government elections party agents from two parties notified of the decision to be responsible for disclosing for the candidates of their parties. This arrangement is in place for the financial year 2021-22.

For the purposes of s. 15(1)(b) of the *Electoral Funding Act 2018*, the period for the disclosure of political donations made during the half-year ending on 31 December 2021 was prescribed as a period of eight weeks after the end of the half-year by the *Electoral Funding Amendment (Political Donations Disclosure Period) Regulation 2021*. The amendment came into effect on 3 December 2021.



# Online registrations and disclosures

In April 2021 the NSW Government accepted Recommendation 53 of the JSCEM's *Final Report – Administration of the 2019 NSW State Election* that, as a matter of priority, the NSW Electoral Commission implement an online system that allows the electronic lodgement and management of: disclosures of electoral expenditure and political donations and funding claims. This expanded on Recommendation 23 of the June 2016 JSCEM *Final Report of the Expert Panel – Political Donations*, that the NSW Electoral Commission replace paper-based disclosures with an online disclosure system as soon as possible. Funding has been provided to the Electoral Commission for a major digital transformation project to implement this reform.

Disclosures were able to be lodged by stakeholders online for the first time in July 2021 following the launch of the Electoral Commission's portal, *Funding and Disclosure Online* in June. *Funding and Disclosure Online* is intended to make it easier for registered parties and their senior officers, candidates, elected members, donors and other political participants to disclose information to the Electoral Commission and manage their electoral funding obligations. Throughout 2021-22, candidates and groups were able to register for state and local government elections and meet many of their obligations online rather than by using paper forms.

By June 2022 the Electoral Commission had approved access to *Funding and Disclosure Online* to more than 3,000 electoral participants and most state registered political parties were using the portal. During 2021-22, portal users completed and submitted online disclosures for the second half-yearly donations, annual electoral expenditure, and major donors' disclosure periods for 2020-2021; and the first half-yearly donations disclosure period for 2021-22. By 30 June 2022, almost 4,000 disclosures had been lodged using the portal. Portal users also completed and submitted disclosure amendments, extension requests and applications for registration as candidates and groups for the 2021 Local Government elections; the 2023 State election; four state and eight local government by-elections held during 2021-22; and ordinary local government elections.

Across the year, webinars were delivered to political participants to demonstrate how to undertake processes in *Funding and Disclosure Online* and our teams provided call centre support to users who had queries about how to log in or use the online functions. Users were provided with support to set up their secure portal access, request access for their administrative staff, and are provided with guidance about how to complete transactions online.

During 2021-22, additional funding was approved by the NSW Government for the next phases of the project, which will include new functionality to lodge public funding claims online and manage party registration. Across this year the project team also participated in NSW Government's ICT Assurance Framework reviews and reported progress on the project to Digital.NSW within the Department of Customer Service.

# Act of grace payments

On 5 April 2022 the Supreme Court of NSW made orders, which took effect from 3 May 2022, voiding the 4 December 2021 local government councillor elections for Kempsey, Singleton and Shellharbour Ward A due to a failure of the iVote electronic voting system. Those orders were sought by the Electoral Commissioner in the public interest, to support the integrity of the electoral system.

To alleviate the financial impact of the voided elections on candidates, and political parties that endorsed candidates in those elections, delegated authority was sought to offer act of grace payments to those candidates and parties affected. The authorisation to do so was granted by the Acting Premier (on 31 March 2022) under section 5.7 of the *Government Sector Finance Act 2018*. The affected candidates and parties were offered reimbursement for electoral expenditure that was legally incurred campaigning for the voided elections.

There were 41 eligible candidates and three political parties in the three affected elections. Candidates and parties were contacted via email and by post, informing them of their eligibility to apply for an act of grace payment to reimburse them for legally incurred expenditure. Eligible applicants were provided with contact details for staff to assist directly with queries related to the payment scheme. As the primary purpose of the scheme was to reimburse candidates for expenditure on campaigning for an election that was subsequently voided, no obligation was imposed on candidates to recontest the new elections held later in 2022 in order to receive payment.

Applications for payments were made by 25 candidates and two parties. Fourteen applications were from candidates and a political party who endorsed candidates in the Kempsey Shire local government councillor election, 11 applications were from candidates and a political party who endorsed candidates in the Singleton local government councillor election and two applications were from candidates in the Shellharbour A Ward local government councillor election. Each application was audited to ensure compliance with the scheme's terms and conditions and was then considered for approval by the Electoral Commission. All 27 applications were approved with a total amount paid of \$97,616.95.

In accordance with requirements of the Government Sector Finance Act, the Electoral Commission must keep an internal register of act of grace payments made. Particular information is to be recorded in the register and retained by the agency for five years from the date of payment. A copy of the register must be published on the Electoral Commission's website.

# Electoral funding registrations

Candidates, groups, and third-party campaigners are registered for a state or local government election under the Electoral Funding Act. Registration enables a candidate, group or third-party campaigner to accept political donations and pay for electoral expenditure for the election in which they are registered. Associated entities, party agents and official agents are also registered under the Electoral Funding Act.

Candidates, groups of candidates, third-party campaigners and associated entities are registered following the Electoral Commission receiving an application for registration. Party agents and official agents are registered following the Electoral Commission being notified of an agent's appointment.

The Electoral Commission maintains registers for each type of electoral participant and information contained in the registers is published on the Electoral Commission's website.

## Candidate, group, third-party campaigner, associated entity, party agent and official agent registrations

**Candidates** – a person must be registered as a candidate before accepting a gift or making a payment for electoral expenditure for their proposed candidacy at a future election. A person nominated as a candidate for the purpose of having their name included on the ballot paper is deemed to be registered as a candidate from the time of nomination.

**Group of candidates** – two or more individuals must be registered as a group of candidates before accepting a gift or making a payment for electoral expenditure for the proposed candidacy of the individuals at a future election. Nominated candidates who comprise a group for the purpose of a ballot paper are deemed to be registered as a group of candidates from the time of nomination.

**Third-party campaigners** – an entity or person must be registered as a third-party campaigner before paying for more than \$2,000 in electoral expenditure incurred in the capped expenditure period for an election.

**Associated entities** – a corporation or other entity that operates solely for the benefit of one or more registered parties or elected members must be registered as an associated entity.

**Party agents and official agents** – each party must appoint a party agent and each third-party campaigner and associated entity must appoint an official agent. Agents are responsible for disclosing political donations and electoral expenditure on behalf of parties, third-party campaigners, associated entities and, in certain cases, candidates, groups, and elected members.

During 2021-22, the Electoral Commission registered candidates, groups of candidates and third-party campaigners for various elections as listed in tables 5 to 22.

Table 5. Local government general elections

2021 Local Government elections 4 December 2021	Number
Separate election events	306
• registered candidates prior to nomination	2,408
• registered groups of candidates prior to nomination	406
• deemed registered groups of candidates upon nomination	354
• deemed registered candidates upon nomination	1,832
• candidate registration cancelled	89
• third-party campaigners registered	22
• third-party campaigner registration cancelled	1

Table 6. State general election

2023 NSW State election	Number
Separate election events	94
• registered candidates prior to nomination	10
• groups of candidates	0
• deemed registered upon nomination	n/a
• candidate registration cancelled	3
• third-party campaigners registered	3
• third-party campaigner registration cancelled	0

# Electoral funding registrations continued

Table 7. Bega 2022 State by-election

Bega 2022 State by-election 12 February 2022	Number
• registered candidates prior to nomination	2
• deemed registered candidates upon nomination	5
• failed to nominate	0
• candidate registration cancelled	0
• third-party campaigners registered	8
• third-party campaigner registration cancelled	0

Table 8. Strathfield 2022 State by-election

Strathfield 2022 State by-election 12 February 2022	Number
• registered candidates prior to nomination	2
• deemed registered candidates upon nomination	5
• failed to nominate	1
• candidate registration cancelled	0
• third-party campaigners registered	6
• third-party campaigner registration cancelled	0

Table 9. Monaro 2022 State by-election

Monaro 2022 State by-election 12 February 2022	Number
• registered candidates prior to nomination	2
• deemed registered candidates upon nomination	4
• failed to nominate	0
• candidate registration cancelled	0
• third-party campaigners registered	6
• third-party campaigner registration cancelled	0

Table 10. Willoughby 2022 State by-election

Willoughby 2022 State by-election 12 February 2022	Number
• registered candidates prior to nomination	4
• deemed registered candidates upon nomination	3
• failed to nominate	1
• candidate registration cancelled	0
• third-party campaigners registered	5
• third-party campaigner registration cancelled	0

Table 11. Cobar Shire local government by-election

Cobar Shire 2022 local government by-election 26 February 2022	Number
• registered candidates prior to nomination	0
• deemed registered candidates upon nomination	2
• failed to nominate	0
• candidate registration cancelled	0
• third-party campaigners registered	0
• third-party campaigner registration cancelled	0

Table 12. Murray River Council Great Murray Ward local government by-election

Murray River Council Greater Murray Ward 2022 local government by-election 26 February 2022	Number
• registered candidates prior to nomination	0
• deemed registered candidate upon nomination, declared elected unopposed on 28 January 2022	1
• failed to nominate	0
• candidate registration cancelled	0
• third-party campaigners registered	0
• third-party campaigner registration cancelled	0

Table 13. Murray River Council Greater Wakool Ward local government by-election

Murray River Council Greater Wakool Ward 2022 local government by-election 26 February 2022	Number
• registered candidates prior to nomination	0
• deemed registered candidates upon nomination, declared elected unopposed on 28 January 2022	1
• failed to nominate	0
• candidate registration cancelled	0
• third-party campaigners registered	0
• third-party campaigner registration cancelled	0

Table 14. Tenterfield Shire Council Ward C local government by-election

Tenterfield Shire Council Ward C 2022 local government by-election 26 February 2022	Number
• registered candidates prior to nomination	0
• deemed registered candidates upon nomination, declared elected unopposed on 28 January 2022	1
• failed to nominate	0
• candidate registration cancelled	0
• third-party campaigners registered	0
• third-party campaigner registration cancelled	0

Table 15. Tenterfield Shire Council Ward E local government by-election

Tenterfield Shire Council Ward E 2022 local government by-election 26 February 2022	Number
• registered candidates prior to nomination	0
• deemed registered candidates upon nomination, declared elected unopposed on 28 January 2022	1
• failed to nominate	0
• candidate registration cancelled	0
• third-party campaigners registered	0
third-party campaigner registration cancelled	0

### Countback elections

During 2021-22 candidates successfully elected at four countback elections administered by the agency have elected member disclosure obligations and must comply with electoral funding laws. Candidates are not registered for countback elections.

Table 16. Countback elections

Local government countback by-elections
Edward River Council 2022 local government countback election
Weddin Shire Council 2022 local government countback election
Upper Lachlan Shire Council 2022 local government countback election
Wentworth Shire Council 2022 local government countback election

# Electoral funding registrations continued

## Postponed elections

Table 17. Postponed election – Wingecarribee Shire

Wingecarribee Shire local government election	Number
• registered candidates (3 groups)	39
• candidate registration cancelled	0
• third-party campaigners registered	0
• third-party campaigner registration cancelled	0

Table 18. Postponed election – Central Coast Council Gosford East Ward

Central Coast Council Gosford East Ward local government election	Number
• registered candidates	0
• candidate registration cancelled	0
• third-party campaigners registered	0
• third-party campaigner registration cancelled	0

Table 19. Postponed election – Central Coast Council Budgewoi Ward

Central Coast Council Budgewoi Ward local government election	Number
• registered candidates	0
• candidate registration cancelled	0
• third-party campaigners registered	0
• third-party campaigner registration cancelled	0

Table 20. Postponed election – Central Coast Council Gosford West Ward

Central Coast Council Gosford West Ward local government election	Number
• registered candidates	0
• candidate registration cancelled	0
• third-party campaigners registered	0
• third-party campaigner registration cancelled	0

Table 21. Postponed election – Central Coast Council Gosford Wyong Ward

Central Coast Council Gosford Wyong Ward local government election	Number
• registered candidates (0 groups)	1
• candidate registration cancelled	0
• third-party campaigners registered	0
• third-party campaigner registration cancelled	0



Table 22. Candidate, group and third-party campaigner registrations during 2021-22

Election event	Candidates	Groups	TPCs	Cancelled
2021 Local Government elections	4,240	769	22	90
2023 NSW State election	10	0	3	3
Bega 2022 State by-election	7	0	8	0
Strathfield 2022 State by-election	7	0	6	0
Monaro 2022 State by-election	6	0	6	0
Willoughby 2022 State by-election	7	0	5	0
Cobar Shire Council 2022 Local Government by-election	2	0	0	0
Murray River Council Greater Murray Ward 2022 Local Government by-election	1	0	0	0
Murray River Council Greater Wakool Ward 2022 Local Government by-election	1	0	0	0
Tenterfield Shire Council Ward C 2022 Local Government by-election	1	0	0	0
Tenterfield Shire Council Ward E 2022 Local Government by-election	1	0	0	0
Kempsey Shire Council Local Government by-election	21	3	0	0
Shellharbour City Council A Ward 2022 Local Government by-election	6	3	1	2
Singleton Council 2022 Local Government by-election	12	0	1	0
Wingecarribee Shire Council 2022 Local Government by-election	39	3	0	0
Central Coast Council Wyong Ward 2021 Local Government election	1	0	0	0
<b>Total</b>	<b>4,362</b>	<b>778</b>	<b>52</b>	<b>93</b>

# Electoral funding registrations continued

## Agents responsible for complying with electoral funding laws in 2021-22

A party agent is the person who is legally responsible for making disclosures for a political party. Party agents of registered parties are also responsible for the management and disclosure of political donations and electoral expenditure on behalf of elected members of the NSW Parliament and groups and candidates for state elections that are members of the party; as well as local government elected members, groups and candidates that are members of the party (in certain circumstances and only where the NSW Electoral Commission has been notified in writing).

The Electoral Commission registered six new party agents during the year and registered two new parties: Legalise Cannabis NSW Party, and Informed Medical Options Party (IMOP). As of 30 June 2022, all registered and unregistered parties had an appointed party agent. There were 21 party agents on the state register of party agents and 49 party agents on the local government register of party agents. The details of party agents appointed by parties are published on publicly available registers.

An official agent is the person who is legally responsible for the management and disclosure of political donations and electoral expenditure for an associated entity or third-party campaigner.

Fifty-two official agents of third-party campaigners were registered. The appointed official agents of the four registered associated entities did not change and remained the appointed official agents during the year. If, at any time, a third-party campaigner or associated entity does not have an appointed official agent the Electoral Commission may designate a person as official agent. The Electoral Commission did not designate any person to be an official agent. No official agent registrations were cancelled.

There were no new associated entities registered. As of 30 June 2022, there were four registered associated entities. Each of the four associated entities were registered prior to 1 July 2021. Each registered associated entity had a registered official agent.

To be eligible to be appointed as a party agent or official agent a person must satisfy several criteria including successfully completing an online agent training program provided by the Electoral Commission. Individuals who have certain accounting qualifications are not required to complete the agent training program. Twenty people successfully completed the online agent training program during 2021-22.

## Notification of party agent agreement

At local government elections each candidate is responsible for the management and disclosure of their political donations and electoral expenditure. The lead candidate of each group is responsible for the management and disclosure of the group's political donations and electoral expenditure. Each local government elected member is responsible for the management and disclosure of their political donations and electoral expenditure.

If a candidate or elected member is a member of a registered party, or group members are members of a registered party, the candidate, group, or elected member can enter into an agreement with the party agent of the party for the party agent to be responsible for the management and disclosure of the candidate, group or elected member's political donations and electoral expenditure. Such an agreement is only in effect if the Electoral Commission has been notified that the party agent has consented to such an agreement.

On 1 July 2021, the Electoral Funding Act was amended to provide for a party agent to notify the Electoral Commission of a decision to be responsible for the disclosures of local government elected members, candidates and groups who are members of the party. Refer to the Legislative change section of this report for more details.

During 2021-22, the Electoral Commission was notified by two party agents that they had decided to become responsible for the management and disclosure of political donations and electoral expenditure on behalf of local government elected member, candidate or group of candidates where were members of the party.

A total of 483 "Notice of Decision" forms were processed, with seven of these being received from the Liverpool Community Independents and 476 being received from The Liberal Party of Australia New South Wales Division.

# Registration of third-party lobbyists

Third-party lobbyists and individuals engaged to undertake lobbying on behalf of a third-party lobbyist must be registered in the Lobbyist Register, which is kept and maintained by the Electoral Commission under the *Lobbying of Government Officials Act 2011*. The Lobbyist Register is published on the Electoral Commission's website.

Twenty-two new third-party lobbyists were registered during 2021-22. As at 30 June 2022, 160 third-party lobbyists were registered.

Each registered third-party lobbyist is required to appoint a person as the officer responsible for the lobbyist's compliance with New South Wales lobbying laws. Such officers are responsible for completing the Electoral Commission's online training on an annual basis.

Registered third-party lobbyists are responsible for updating the Lobbyist Register within 10 days of any change to the information on the register including the details of their clients and details of foreign principals whose interests the lobbyist is representing. On 30 June 2022, 25 third-party lobbyists had declared that 39 clients met the legislated definition of foreign principal.

Registered third-party lobbyists are also required to provide to the Electoral Commission, on 31 January, 31 May and 30 September each year, confirmation that their registered details are up to date.

Failure to comply with the requirements of the Lobbying of Government Officials Act or the Lobbyists Code of Conduct can result in the suspension or cancellation of a lobbyist's registration. Decisions made by the Electoral Commission to suspend or cancel a third-party lobbyist's registration or to issue a warning are detailed in the Compliance and enforcement section of this report.

The Electoral Commission cancelled the registration of 18 third-party lobbyists at their request as they were no longer carrying on the business of lobbying. No lobbyists had their registration suspended or cancelled for failure to confirm their details when required during 2021-22.

Details of the decisions made by the Electoral Commission in relation to the registration of third-party lobbyists and the reasons for those decisions are published on the Electoral Commission's website.



# Adjustment of monetary amounts

The Electoral Funding Act requires the caps on political donations, indirect campaign contributions, electoral expenditure, and public funding amounts to be adjusted for inflation periodically. The Electoral Commission is required to publish notice of adjusted amounts on its website and on the NSW legislation website.

## Political donations and indirect campaign contributions

Political donations and indirect campaign contributions are subject to caps. The caps on political donations apply to:

- political parties (registered and unregistered)
- groups of candidates
- candidates
- elected members
- third-party campaigners
- associated entities.

The caps on indirect campaign contributions apply to:

- political parties (registered and unregistered)
- groups of candidates
- candidates
- elected members.

The caps on political donations and indirect campaign contributions were adjusted for inflation for the 2022-23 financial year and are published on the Electoral Commission's website.

Table 23. Caps on political donations and indirect campaign contributions 2022-23

Political participant type	Donation cap 2021/22	Donation cap 2022/23
Registered political parties	\$6,700	\$7,000
Unregistered political parties	\$3,100	\$3,300
Groups of candidates	\$6,700	\$7,000
Candidates	\$3,100	\$3,300
Elected members		\$3,300
Third-party campaigners		\$3,300
Associated entities		\$3,300

There are exemptions to the caps on political donations that apply to donations made in the financial year in which a state general election is held. These amounts were also adjusted for inflation for the 2022-23 financial year.

Table 24. Exemptions to the donation caps 2022-23

Category	Exemption
A candidate for a Legislative Assembly election, can donate to their party up to a certain amount, during the financial year in which the election is held:	
<ul style="list-style-type: none"> <li>• for State elections held during the four-year period up to, and including, the financial year in which the 2023 NSW State election is held.</li> </ul>	\$66,400
Donations made to a party by a candidate in a Legislative Council election who is a member of the party	\$55,800
Donations made to a group of candidates by a candidate in Legislative Council election who is a member of the group but is not a member of a party	\$55,800

## Electoral expenditure

Electoral expenditure is subject to caps at state and local government elections. At state elections the caps on electoral expenditure apply to:

- political parties (registered and unregistered)
- independent groups for a Legislative Council election
- candidates
- third-party campaigners.

Expenditure caps applicable at state elections are adjusted for inflation every four years after each state general election. With the last general election held in March 2019, there were not adjusted for inflation during 2021-22. The expenditure caps applied at the state by-elections held for Bega, Strathfield, Monaro and Willoughby during 2021-22 are listed in Table 25.

Table 25. Caps on electoral expenditure incurred for 2021-22 state by-elections

Political participant	Applicable expenditure cap
Candidate in a Legislative Assembly by-election	\$265,000
Third-party campaigner at a state by-election	\$21,600

The caps for state elections are published on the Electoral Commission's website.

At local government elections the expenditure caps apply to:

- political parties (registered and unregistered)
- groups of candidates
- ungrouped candidates
- third-party campaigners.

Expenditure caps applicable at local government elections are adjusted for inflation after each local government ordinary election. The expenditure caps applicable to each local government area and ward are based on the number of enrolled electors in each local government area or ward as determined by the Electoral Commissioner as at 12 months before the next local government ordinary elections.

In July 2021, the previously postponed local government ordinary elections due to be held on 4 September 2021 were again postponed to 4 December 2021 due to the ongoing impacts of the COVID-19 pandemic. As a result, caps on electoral expenditure were adjusted during 2021-22.

There are eight levels of expenditure caps based on the number of enrolled electors in a local government area or ward. These are set out in Table 26.

#### Caps for mayoral candidates in areas divided into wards

The cap for a candidate for mayor (or a group that includes a candidate for mayor) in a local government area that is divided into wards is equal to:

- 100 per cent of the cap for a non-mayoral candidate in a ward of the area plus 25 per cent of the non-mayoral candidate cap in each of the other wards of the area.

Example: if an area has four wards and the expenditure cap for a non-mayoral candidate in a ward is \$10,000, the expenditure cap for a mayoral candidate in that area is \$10,000 (ward 1) + \$2,500 (ward 2) + \$2,500 (ward 3) + \$2,500 (ward 4) = \$17,500.

#### Caps for candidates running for mayor and councillor at the same time

The cap for a candidate running for mayor and councillor at the same election is the applicable cap for a mayoral candidate.

#### Determination of number of enrolled electors

The expenditure caps applicable to a local government area or ward are based on the number of enrolled electors in the local government area or ward. Only the residential roll is used for the purpose of determining expenditure caps for councils and wards across New South Wales, with the exception of the City of Sydney, which also uses the non-residential roll.

Table 26. Applicable caps that apply to electoral expenditure incurred for local government elections held from 1 July 2021

Number of enrolled electors for a local government area or ward	Non-mayoral candidates (and groups that do not include mayoral candidates)	Mayoral candidates in undivided areas (and groups that include mayoral candidates)	Third-party campaigners
1-5,000	\$6,000	\$7,500	\$2,000
5,001-10,000	\$10,000	\$12,500	\$3,340
10,001-20,000	\$18,000	\$22,500	\$6,000
20,001-30,000	\$25,000	\$31,250	\$8,340
30,001-50,000	\$36,000	\$45,000	\$12,000
50,001-75,000	\$46,000	\$57,500	\$15,340
75,001-125,000	\$63,500	\$79,375	\$21,170
125,001 or more	\$72,000	\$90,000	\$24,000

# Adjustment of monetary amounts

## continued

Due to the postponement of the local government elections the number of enrolled electors in each local government area and ward were redetermined by the Electoral Commissioner based on the number of enrolled electors as of 4 September 2020.

For a local government by-election held after the 2021 local government elections, the number of enrolled electors is determined as at 4 December 2021.

The NSW Electoral Commission is required to publish on its website the details of the enrolled electors and applicable caps and notify registered candidates, groups and third-party campaigners of the applicable caps. The caps applicable at local government elections are published on the Electoral Commission's website for each local government and ward at each election.

### Public funding

The maximum amount of applicable to payments from the Administration Fund and New Parties Fund are adjusted each calendar year and are published on the Electoral Commission's website.

The maximum amount an eligible party or elected member can receive from the Administration Fund in relation to a quarterly period is the lesser amount of the party or elected member's applicable cap or the amount of administrative and operating expenditure incurred in a quarterly period. The applicable maximum amounts for the Administration Fund for the 2022 calendar year are listed in Table 27.

Table 27. Caps applicable to quarterly payments from the Administration Fund for expenditure incurred in 2022

Category	Amount
If a Parliamentary party has one endorsed elected member	\$93,800
If a Parliamentary party has two endorsed elected members	\$160,600
If a Parliamentary party has three endorsed elected members	\$200,600
If a Parliamentary party has more than three endorsed elected members	\$200,600 + \$32,200 for each additional elected member up to 22 elected members
An independent elected member	\$60,600

The annual amount payable to an eligible party from the New Parties Fund is the amount of actual policy development expenditure incurred by or on behalf of the party during the calendar year to which the payment relates, but not exceeding the relevant maximum amount applicable to the party. The relevant maximum amounts for the New Parties Fund for the 2022 calendar year are shown in Table 28<sup>1</sup>.

Table 28. Relevant annual maximum amounts payable from the New Parties Fund for expenditure incurred in 2022

Category	Amount
Per first preference vote received by each endorsed candidate of the party at the previous state general election	\$0.70
Maximum amount for a party that is registered less than eight years	\$13,300

<sup>1</sup> The amounts reflect the provisions made in the *Electoral Legislation Amendment Bill 2022* which was passed by both houses of the NSW Parliament on 19 October 2022.



# Disclosures of political donations and electoral expenditure

The Electoral Funding Act requires political donations and electoral expenditure to be disclosed to the Electoral Commission by:

- political parties
- elected members of the NSW Parliament and local councils
- associated entities of registered parties and elected members
- candidates, groups and third-party campaigners for NSW state and local government elections
- political donors who make reportable political donations.

The Electoral Commission is responsible for publishing the disclosures of political donations and electoral expenditure on its website and for enforcing the laws that apply to political donations and electoral expenditure.

## Disclosures required to be made

Political donations made or received by, or on behalf of, political parties, elected members, candidates, groups of candidates and associated entities must be disclosed every six months.

Reportable political donations received by, or on behalf of, third-party campaigners for the purpose of incurring electoral expenditure in the capped expenditure period for an election must be disclosed every six months.

The half-yearly disclosure periods for the disclosure of political donations are 1 July to 31 December and 1 January to 30 June. The usual due date for lodgement is within four weeks of the end of the disclosure period, that is, by 28 January and 28 July, respectively. As a result of a regulation made in December 2021 (Electoral Funding Amendment (Political Donations Disclosure Period) Regulation 2021) the due date for lodgement of political donation disclosures for the half-yearly period 1 July to 31 December 2021 was changed from 28 January to 25 February 2022. The due date was extended to accommodate the impact of the postponement of the 2021 Local Government elections and applied to all political participants who were required to submit a half-yearly disclosure for the period ending 31 December 2021.

Political donors that make reportable political donations, known as major political donors, must disclose those donations annually. Political donors include third-party campaigners that make reportable political donations. The annual disclosure period is 1 July to 30 June with disclosures due by 28 July.

All reportable political donations made or received in the lead-up to a state general election must be disclosed to the NSW Electoral Commission within 21 days as part of a pre-election period disclosure. The pre-election disclosure period for the 2023 State general election commences on 1 October 2022.

Electoral expenditure incurred by, or on behalf of, political parties, associated entities, elected members, candidates, groups, and third-party campaigners must be disclosed annually. The annual disclosure period is 1 July to 30 June with disclosures due by 22 September. Third-party campaigners are only required to disclose electoral expenditure incurred in the capped expenditure period for an election.

## Who is responsible for making disclosures?

The Electoral Funding Act sets out the rules that determine the person responsible for making disclosures that were due to be submitted to the Electoral Commission during 2021-22 as set out in Table 29.

## How are disclosures made?

Disclosures due during 2021-22 were required to be made using *Funding and Disclosure Online*, or the downloadable forms published on the Electoral Commission's website. Individuals who are responsible for submitting a disclosure are notified when the forms are available for use and provided with information on how and when to disclose.

*Funding and Disclosure Online* was available to prepare and submit disclosures for the disclosure lodgement period ending 30 June 2021 which were due to be received from 1 July 2021. *Funding and Disclosure Online* was also available for amended disclosures to be submitted for disclosure lodgement periods 31 December 2018 onwards.

Fact sheets were published on the Electoral Commission's website to help people comply with the disclosure requirements. The disclosure requirements are promoted on the Electoral Commission's website at the time disclosures are due to be submitted. The Electoral Commission aims to increase awareness of the disclosure requirements more broadly by promoting the disclosure requirements on social media platforms.

The disclosure forms include a declaration that must be made by the person responsible for making the disclosure. The declaration is to the effect that all that is required to be disclosed has been disclosed. Each disclosure received is checked to make sure the person who is lawfully required to submit the disclosure has signed the declaration and used the approved form.



Table 29. Person responsible to submit disclosures due during 2021-22

Category	Person responsible
Political party	Party agent
Member of Parliament (MP)	Party agent, if the MP is a member of a party that is registered for state elections MP in all other cases
State election candidate	Party agent, if the candidate is a member of a party that is registered for state elections State candidate in all other cases
State election group of candidates	Party agent of a party registered for state elections where all candidates in the group are members of the party Party agent of a party registered for state elections where the lead candidate is a member of the party and one or more other candidates in the group are members of another party that is registered for state elections Lead candidate* of the group in all other cases
Councillor or mayor	Councillor or mayor Party agent of a registered party where the councillor or mayor is a member of the party and the party agent has consented, or made a decision, to be the person responsible**
Local government election candidate	Candidate Party agent of a registered party where the candidate is a member of the party and the party agent has consented, or made a decision, to be the person responsible**
Local government election group of candidates	Lead candidate* of the group Party agent of a registered party where one or more of the candidates are members of the party and the party agent has consented, or made a decision, to be the person responsible**
Associated entity	Official agent of associated entity
Third-party campaigner	Official agent of third-party campaigner
Major political donor	If the donor is an individual, the individual If the donor is an entity, the entity

\*The lead candidate is the candidate in the group whose name is first in the order of names in the Register of Candidates in relation to the group; or if the group is not registered, the candidate whose name is first in the order of names of candidates on a ballot paper (whichever occurs first).

\*\*A party agent for a registered party can be responsible for making disclosures on behalf of a local government elected member, candidate or group in certain circumstances. In such cases, the NSW Electoral Commission must be notified in writing.

# Disclosures of political donations and electoral expenditure continued

Political parties are provided with a worksheet to populate the information required to be disclosed in lieu of using the tables in the disclosure forms. A disclosure form must be signed and submitted even if a worksheet has been used.

If a person responsible for making a disclosure is not able to lodge the disclosure form on time, they can request an extension. The request must be made before the due date for submitting the disclosure and the Electoral Commission can only approve an extension if proper reasons exist to justify the extension. The Electoral Commission can grant a conditional extension where the person is asked to disclose what they can by the due date and then disclose the remaining information by the extended due date.

If a disclosure has not been submitted in the form and manner approved by the Electoral Commission or in accordance with the Electoral Funding Act the disclosure is taken to be 'invalidly' submitted. An invalid disclosure generally occurs where:

- the approved form is not used
- the declaration was not made by the person responsible.

In such cases, the person responsible for submitting the disclosure is notified and advised how to validly submit the disclosure.

An 'incomplete' disclosure form is one where the information submitted is not complete. When an 'incomplete' disclosure form is received the person responsible for making the disclosure is notified and is given an opportunity to provide the required information.

The Electoral Funding Act provides that a person who submitted a disclosure (or that person's successor as the agent of the party, elected member, group, candidate, third-party campaigner or associated entity concerned) may amend the disclosure by submitting an amended disclosure with the Electoral Commission. An amended disclosure must be in the manner and form approved by the Electoral Commission. An amended disclosure can alter, omit, add or substitute information disclosed.

The Electoral Commission is authorised under the Electoral Funding Act to audit disclosures that are received and to enforce breaches of the disclosure requirements. Detailed information about the audit activities of the Electoral Commission is set out in the Compliance and enforcement section of this report.

## Disclosures received during 2021-22

During 2021-22, 12,493 disclosures were expected to be received for the disclosure periods listed in Table 30, which is more than any year since electoral funding regulation began. The number of disclosures submitted on time was 7,642 representing an overall 'on-time' lodgement rate of approximately 61 per cent. There were 3,091 disclosures submitted after the due date. Amended disclosures were also received and several disclosures and amended disclosures were also received for prior periods.

The Electoral Commission is required to publish, as soon as practicable, disclosures of reportable political donations and electoral expenditure and any other information it considers relevant. During 2021-22 we published 1,517 disclosures that were received. These included disclosures and amended disclosures received for prior periods.

Detailed information about prior periods can be found in annual reports on the Electoral Commission's website.

### On-time lodgement rates

A comparison of 'on-time' lodgement rates in Table 31 shows a decline in the level of compliance by some categories of political participants since the previous year. This may be partly explained by the COVID-19 pandemic impacting the capacity of people to disclose on time if they were working from home and did not have ready access to political donation and electoral expenditure records. In addition, the Electoral Commission did not hold email addresses for several major political donors, so those donors could not be reminded electronically of their disclosure obligation. Previous years' data, however, shows an overall decline from a low compliance baseline in the first year of the current Electoral Commission's operations. The Electoral Commission makes contact with donors reported in the disclosures lodged by political parties and other political participants who have not lodged a reportable political donor disclosure. Donor disclosures made in response to Electoral Commission follow-up account for a substantial proportion of late lodgements.

The decline in compliance from major political donors suggests there is still a significant lack of awareness by donors of their disclosure obligations. That will be the focus of awareness-raising activities – including the recipients of such donations – in the future.

Table 30. Disclosures received and relevant disclosure periods 2021-22

Disclosure period	Disclosure period	First date of lodgement	Disclosures due
Second-half yearly political donation 2020-21	1 January 2021 to 30 June 2021	1 July 2021	28 July 2021
Annual electoral expenditure 2020-21	1 July 2020 to 30 June 2021	1 July 2021	22 September 2021
Annual reportable political donations by donors 2021-22	1 July 2020 to 30 June 2021	1 July 2021	28 July 2021
First-half period political donation 2021-22	1 July 2021 to 31 December 2021	1 January 2022	28 January 2022

Table 31. On-time lodgement rates for disclosures received since 2014-15

Political participant	2014-15	2015-16	2014-15	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Political parties	81%	78%	81%	64%	72%	76%	76%	72%	71%
Elected members	83%	76%	83%	67%	74%	76%	70%	75%	69%
Candidates	63%	71%	63%	64%	60%	78%	78%	56%	59%
Groups of candidates	71%	67%	71%	65%	58%	75%	68%	53%	74%
Third-party campaigners	85%	N/A	85%	54%	47%	98%	80%	100%	74%
Associated entities	N/A	N/A	N/A	N/A	N/A	100%	67%	100%	100%
Donors	52%	57%	52%	50%	47%	43%	43%	31%	N/A

Note: Where "N/A" is shown, the political participant category was not required to submit disclosures or there were no political participants of that category for that year.

### Second half-yearly political donation disclosures 2020-21

Political donation disclosures for the second half-yearly period ending 30 June 2021 were due to be submitted between 1 July and 28 July 2021. No elections were held in the second half-yearly period, so this was not a major period for disclosure.

We expected to receive 2,282 half-yearly disclosures. We received 1,449 by the due date, taking into account that the due date was extended in a number of cases mainly due to COVID-19 impacts. 696 disclosures were received in 2021-22 after the due date and 136 were not received when due.

Table 32. Disclosure obligations and disclosures received second half-yearly period 2020-21

Political participant	Disclosure obligations	Received on time	Received late	Not received	On time lodgement
Political parties	52	37	12	3	71%
Elected members	1387	984	345	58	71%
Candidates	709	348	295	66	49%
Groups of candidates	116	67	41	8	58%
Third-party campaigners	13	9	3	1	69%
Associated entities	4	4	0	0	100%
<b>Total</b>	<b>2,282</b>	<b>1,449</b>	<b>696</b>	<b>136</b>	<b>64%</b>

# Disclosures of political donations and electoral expenditure continued

The due date was extended in 87 cases with respect to disclosures to be made by or on behalf of six political parties, 64 elected members, five groups of candidates and 12 candidates.

In addition to disclosures lodged there were 64 amended disclosures lodged by or on behalf of six political parties, 29 elected members, six groups and 23 candidates.

There were 115 disclosures that were not validly lodged. In 101 cases a valid disclosure form was subsequently lodged. The most common reasons for a disclosure form not being validly lodged were that the wrong disclosure form was used or that the declaration made on the form did not comply (for example, was not signed or was signed by the wrong person).

There were 1,459, or 66 per cent of disclosures received that were 'nil' disclosures. A 'nil' disclosure is one where no political donations were disclosed. Table 33 shows the 'nil' disclosures received.

Based on the disclosures and amended disclosures received in 2021-22, a total of \$7,582,437.79 in political donations and reportable loans were received in the half-yearly period, as shown in Table 34.

Based on the disclosures and amended disclosures received 2021-22, a total of \$975,527.24 in political donations were made by political participants in the half-yearly period as shown in Table 35.

Table 33. 'Nil' disclosures received for the second half-yearly period 2020-21

Political participant	Number of 'nil' disclosures received	'Nil' disclosures as a percentage of all disclosures received by political participant
Political parties	19	39%
Elected members	898	66%
Candidates	481	72%
Groups of candidates	50	45%
Third-party campaigners	7	58%
Associated entities	4	100%
<b>Total</b>	<b>1,459</b>	<b>66%</b>

Table 34. Political donations and loans received second half-yearly period 2020-21

Political participant	Small political donations received	Reportable political donations received	Membership and affiliation fees received	Reportable loans received	Total donations and loans received
Political parties	\$1,271,080.16	\$2,439,137.93	\$1,400,810.82	\$856,891.71	<b>\$5,967,920.62</b>
Elected members	\$96,298.60	\$57,126.56	N/A	\$890,000.00	<b>\$1,043,425.16</b>
Candidates	\$67,301.44	\$141,882.50	N/A	\$0	<b>\$209,183.94</b>
Groups	\$60,733.31	\$301,174.76	N/A	\$0	<b>\$361,908.07</b>
Third-party campaigners	N/A	\$0	N/A	\$0	<b>\$0</b>
Associated entities	\$0	\$0	N/A	\$0	<b>\$0</b>
<b>Total</b>	<b>\$1,495,413.51</b>	<b>\$2,939,321.75</b>	<b>\$1,400,810.82</b>	<b>\$1,746,891.71</b>	<b>\$7,582,437.79</b>

Note: N/A means the political participant category is not required to disclose the category of political donations.

Table 35. Political donations made second half-yearly period 2020-21

Political participant	Small political donations made	Reportable political donations made	Total
Political parties	\$1,070.00	\$4,000.00	<b>\$5,070.00</b>
Elected members	\$92,139.55	\$645,112.93	<b>\$737,252.48</b>
Candidates	\$19,230.63	\$69,092.25	<b>\$88,322.88</b>
Groups	\$6,485.42	\$42,567.42	<b>\$49,052.84</b>
Third-party campaigners	N/A	\$95,829.04	<b>\$95,829.04</b>
Associated entities	\$0	\$0	<b>\$0</b>
<b>Total</b>	<b>\$118,925.60</b>	<b>\$856,601.64</b>	<b>\$975,527.24</b>

\*Third-party campaigners can disclose reportable political donations made in a third-party campaigner disclosure form or in an annual major political donor form.

The disclosures and amended disclosures received also included the net or gross proceeds from fundraising ventures and functions. The legislation provides that in connection with fundraising ventures or functions, during the relevant disclosure period, disclosures of political donations may include either the net or gross proceeds for the venture or function. The amounts disclosed are listed in Table 36.

Table 36. Net or gross proceeds from fundraising ventures and functions second half-yearly period 2020-21

Political participant	Net or gross proceeds from fundraising ventures and functions
Political parties	\$388,770.93
Elected members	\$39,384.41
Candidates	\$25,096.95
Groups	\$8,723.01
Third-party campaigners	\$0
Associated entities	\$0
<b>Total</b>	<b>\$461,975.30</b>

The disclosures and amended disclosures received also included the payments made by candidates, elected members and groups of candidates into a campaign account. The amounts disclosed are listed in Table 37.

Table 37. Payments made by candidates, groups, and elected members into a campaign account second half-yearly period 2020-21

Political participant	Payments made into a campaign account
Elected members	\$139,657.71
Candidates	\$208,908.32
<b>Total</b>	<b>\$348,566.03</b>

Note: the disclosure of payments into a campaign account only applies where a party agent is not the person responsible to disclose on behalf of an elected member, candidate or group.

# Disclosures of political donations and electoral expenditure continued

## Financial records of political parties

Political parties are required to lodge copies of their financial records with their second half-yearly disclosure. The financial records covered the 2020-21 financial year. These records are used as part of the audits of political party disclosures. Table 38 shows the number of parties that complied with this requirement.

Table 38. Lodgement of financial records by parties second half-yearly disclosure 2020-21

Document	Lodged	Not available/not lodged	Total
Audited financial statements (only for parties registered for state elections)	13	3	<b>16</b>
Financial records	19	33	<b>52</b>
Chart of accounts	12	40	<b>52</b>
Trial balance	16	36	<b>52</b>
Bank statements	23	29	<b>52</b>

## Annual electoral expenditure disclosures 2020-21

Electoral expenditure disclosures for the annual period ending 30 June 2021 were due to be lodged between 1 July and 22 September 2021. The annual period did not include any elections so was not a major period for electoral expenditure disclosures.

We expected to receive 2,280 electoral expenditure disclosures. We received 1,437 by the due date; 668 disclosures were received during 2020-21 after the due date and 175 were not received by the end of the disclosure period.

Table 39. Disclosure obligations and disclosures received annual electoral expenditure period 2020-21

Political participant	Disclosure obligations	Received on time	Received late	Not received	On-time lodgement rate
Political parties	52	37	12	3	71%
Elected members	1,387	966	351	70	70%
Candidates	708	346	268	94	49%
Groups of candidates	116	73	35	8	63%
Third-party campaigners	13	11	2	0	85%
Associated entities	4	4	0	0	100%
<b>Total</b>	<b>2,280</b>	<b>1,437</b>	<b>668</b>	<b>175</b>	<b>63%</b>

There were six disclosures due date extensions. In addition to disclosures lodged there were 12 amended disclosures lodged by or on behalf of one political party, four elected members, two groups and five elected members.

There were 81 disclosures that were not validly lodged. In 77 cases a valid disclosure was subsequently lodged. The most common reasons for a disclosure form not being validly lodged were that the wrong disclosure form was used or that the declaration made on the form did not comply (for example, was not signed or was signed by the wrong person).

During 2020-21, 1,894, or 90 per cent of disclosures received were 'nil' disclosures. A 'nil' disclosure is one where no electoral expenditure was disclosed. Table 40 shows the 'nil' disclosures by each category of political participant.

Table 40. 'Nil' disclosures lodged annual electoral expenditure period 2020-21

Political participant	Number of 'nil' disclosures received	'Nil' disclosures as a percentage of all disclosures received
Political parties	30	61%
Elected members	1,239	94%
Candidates	548	89%
Groups of candidates	68	62%
Third-party campaigners	5	38%
Associated entities	4	100%
<b>Total</b>	<b>1,894</b>	<b>90%</b>

Based on the disclosures and amended disclosures received in 2021-22, a total of \$3,069,491.02 in electoral expenditure was incurred in the annual period as shown in Table 41.

Table 41. Electoral expenditure incurred annual period 2020-21

Political participant	Political parties	Elected members	Candidates	Groups	Third-party campaigners	Total
Advertising	561,457.77	79,028.69	530,748.60	73,343.45	35,040.18	1,279,618.69
Production and distribution of electoral material	50,551.65	13,804.94	206,043.28	59,499.02	1,868.47	331,767.36
Internet, telecommunications, stationery, and postage	37,102.19	11,941.11	48,509.69	4,753.31	2,115.11	104,421.41
Employing staff engaged in election campaigns	190,386.63	6,000.00	111,835.81	9,162.51	17,933.84	335,318.79
Office accommodation for staff and candidates	21,974.21	0	7,396.64	0	36.09	29,406.94
Travel and travel accommodation for staff and candidates	30,486.71	4,949.60	32,279.32	60	7,741.78	75,517.41
Election campaign research	275,969.01	6,600.00	39,637.38	0	9,900.00	332,106.39
Fundraising and audit expenses	530,265.02	18,932.09	13,769.63	12,267.29	6,100.00	581,334.03
<b>Total</b>	<b>1,698,193.19</b>	<b>141,256.43</b>	<b>990,220.35</b>	<b>159,085.58</b>	<b>80,735.47</b>	<b>3,069,491.02</b>

# Disclosures of political donations and electoral expenditure continued

## Annual major political donor disclosures 2020-21

Major political donor disclosures for the annual period ending 30 June 2021 were due to be received between 1 July and 28 July 2021. As there were no elections, this was not a major period for major political donor disclosures.

We expected to receive approximately 959 major political donor disclosures. We received 239 by the due date, representing an 'on-time' lodgement rate of 25 per cent; 281 disclosures were received during 2021-22 after the due date and 439 were not received during 2021-22.

In no case was the due date extended. In addition to disclosures received, there were nine amended disclosures received during 2021-22.

There were 30 disclosure forms that were not validly lodged. In 26 cases a valid disclosure form was subsequently received. The most common reasons for a disclosure form not being validly lodged were that the form was not signed or that incorrect form was used.

Based on the disclosures and amended disclosures received during 2021-22, a total of \$3,627,040.71 in reportable political donations were disclosed by major political donors as having been made during the annual period ending 30 June 2021.

## First half-yearly political donation disclosures 2021-22

Political donation disclosures for the first half-yearly period ending 31 December 2021 were due to be received between 1 January and 28 January 2022.

There were a number of candidates, groups and third-party campaigners registered for the 2021 Local Government elections held during this period and therefore were required to submit disclosures for this period.

We expected to receive 6,973 half-yearly disclosures. We received 4,517 by the due date, taking into account that the due date was extended in a number of cases; 1,446 disclosures were received during 2021-22 after the due date and 1,010 were not received during 2021-22.

The due date was extended in four cases with respect to disclosures to be made by or on behalf of four elected members. In addition to disclosures lodged there were 19 amended disclosures lodged by or on behalf of five political parties, 12 elected members and two candidates.

There were 91 disclosure forms that were not validly lodged. In 88 cases a valid disclosure form was subsequently received. The most common reasons for a disclosure form not being validly lodged were that the wrong disclosure form was used or that the declaration made on the form did not comply (for example, was not signed on a date following the end of the period).

Table 42. Disclosure obligations and disclosures received first half-yearly period 2021-22

Political participant	Disclosure obligations	Received on time	Received late	Not received	On-time lodgement rate
Political parties	49	35	13	1	71%
Elected members	1,983	1,347	394	242	68%
Candidates	4,149	2,528	917	704	61%
Groups of candidates	770	589	119	62	76%
Third-party campaigners	18	14	3	1	78%
Associated entities	4	4	0	0	100%
<b>Total</b>	<b>6,973</b>	<b>4,517</b>	<b>1,446</b>	<b>1,010</b>	<b>65%</b>



There were 1,137 'nil' disclosures lodged. A 'nil' disclosure is one where no political donations were disclosed. Table 43 shows the 'nil' disclosures by political participant.

Table 43. 'Nil' disclosures lodged first half-yearly period 2020-21

Political participant	Number of 'nil' disclosures lodged	'Nil' disclosures as a percentage of all disclosures lodged
Political parties	30	63%
Elected members	1,017	74%
Candidates	79	87%
Groups of candidates	7	78%
Third-party campaigners	N/A	N/A
Associated entities	4	100%
<b>Total</b>	<b>1,137</b>	<b>74%</b>

Note: No third-party campaigner disclosures were expected to be received and none were received.

Based on the disclosures and amended disclosures received during 2021-22, a total of \$12,547,398.52 in political donations and reportable loans were received in the half-yearly period as shown in Table 44.

Table 44. Political donations and loans received first half-yearly period 2021-22

Political participant	Small political donations received	Reportable political donations received	Membership and affiliation fees received	Reportable loans received	Total donations and loans received
Political parties	\$995,535.53	\$2,927,249.34	\$1,100,244.60	\$4,135,624.78	<b>\$9,158,654.25</b>
Elected members	\$193,867.12	\$133,393.50	N/A	\$13,590.76	<b>\$340,851.38</b>
Candidates	\$365,418.64	\$369,389.84	N/A	\$1,608.00	<b>\$736,416.48</b>
Groups	\$644,489.88	\$1,601,521.97	N/A	\$45,848.86	<b>\$2,291,860.71</b>
Third-party campaigners	N/A	\$14,615.70	N/A	\$5,000.00	<b>\$19,615.70</b>
Associated entities	\$0	\$0	N/A	\$0	<b>\$0</b>
<b>Total</b>	<b>\$2,199,311.17</b>	<b>\$5,046,170.35</b>	<b>\$1,100,244.60</b>	<b>\$4,201,672.40</b>	<b>\$12,547,398.52</b>

Based on the disclosures and amended disclosures received during 2021-22, a total of \$1,570,543.21 in political donations were made in the half-yearly period as shown in Table 45.

# Disclosures of political donations and electoral expenditure continued

Table 45. Political donations made first half-yearly period 2021-22

Political Participant	Small political donations made	Reportable political donations made	Total
Political parties	\$4,597.31	\$9,017.70	<b>\$13,615.01</b>
Elected members	\$109,659.10	\$546,647.46	<b>\$656,306.56</b>
Candidates	\$130,526.86	\$518,989.76	<b>\$649,516.62</b>
Groups	\$41,639.00	\$194,566.02	<b>\$236,205.02</b>
Third-party campaigners*	N/A	\$14,900.00	<b>\$14,900.00</b>
Associated entities	\$0	\$0	<b>\$0</b>
<b>Total</b>	<b>\$286,422.27</b>	<b>\$1,284,120.94</b>	<b>\$1,570,543.21</b>

\* Third-party campaigners can disclose reportable political donations made in their third-party campaigner disclosure form or in an annual major political donor form.

The disclosures and amended disclosures lodged also included the net or gross proceeds from fundraising ventures and functions. The amounts disclosed are listed in Table 46.

Table 46. Net or gross proceeds from fundraising ventures and functions first half-yearly period 2021-22

Political participant	Net or gross proceeds from fundraising ventures and functions
Political parties	\$196,654.29
Elected members	\$52,797.03
Candidates	\$118,825.26
Groups	\$248,573.84
Third-party campaigners	\$0
Associated entities	\$0
<b>Total</b>	<b>\$616,850.42</b>

The disclosures and amended disclosures received also included the payments made by candidates, elected members, and groups of candidates into a campaign account. The amounts disclosed are listed in Table 47.

Table 47. Payments made by candidates, groups, and elected members into a campaign account first half-yearly period 2021-22

Political participant	Payments made into a campaign account
Elected members	\$13,790.71
Candidates	\$13,972.84
Groups	\$0
<b>Total</b>	<b>\$27,763.55</b>

Note: the disclosure of payments into a campaign account only applies where a party agent is not the person responsible to disclose on behalf of an elected member, candidate, or group.

### Disclosures received for past periods

During 2021-22, several disclosures and amended disclosures were received for prior disclosure periods as shown in Table 48. Disclosures that are received past the due date are dealt with in accordance with the Electoral Commission's Compliance and Enforcement Policy. Amended disclosures are generally received because of findings through a compliance audit.

Table 48. Disclosures and received during 2021-22 for past disclosure periods

Political participant	1st half yearly 2020/2021	2nd half yearly 2019/2020/H2	Pre-Election 2019 NSW State General Election	Annual Period 2019/2020	1st half yearly 2019/2020	2nd half yearly 2018/2019	Annual Period 2018/2019	Annual Period 2018/2019	Annual Period 2017/2018	Annual Period 2016/2017	Annual Period 2014/2015
Political parties	1		1								
Elected members	3	3	5		1	1			2		1
Candidates	1	1	1	1	1						
Groups											
Third-party campaigners											
Associated entities											
Major political donors				1			5				

Note: disclosures and amended disclosures received for disclosure periods 30 June 2018 and prior were submitted according to the now repealed *Election Funding, Expenditure and Disclosures Act 1981*. Under that Act disclosures were lodged annually.

Table 49. Amended Disclosures and received during 2021-22 for past disclosure periods

Political participant	1st half yearly 2020/2021	2nd half yearly 2019/2020/H2	Pre-Election 2019 NSW State General Election	Annual Period 2019/2020	1st half yearly 2019/2020	2nd half yearly 2018/2019	Annual Period 2018/2019	Annual Period 2018/2019	Annual Period 2017/2018	Annual Period 2016/2017	Annual Period 2015-2016
Political parties	3	4	4	2	7	4	4	2	1	1	1
Elected members	7	10	3	1	8	28	18	11			
Candidates	2	2	4			26	20	20			
Groups			0				1				
Third-party campaigners			1								
Associated entities											
Major political donors				3			9				

# Obligations of registered parties and senior office holders

The Electoral Funding Act imposes certain governance and accountability requirements on registered parties.

## Audited annual financial statements of registered parties

The Electoral Funding Act requires parties that are registered for state elections to provide the Electoral Commission with copies of the parties' audited annual financial statements. The annual financial statements must be prepared in accordance with the Australian Auditing Standards.

The annual financial statements are used as part of the audit and compliance program to ensure parties are complying with the disclosure and public funding requirements of the Electoral Funding Act.

A registered party is not entitled to receive public funding payments if the latest copy of the party's audited annual financial statements has not been lodged. The Electoral Commission is authorised to waive this requirement for parties that are not eligible to receive public funding or where the cost of compliance is unreasonable. The Electoral Commission has waived this requirement for parties that were not entitled to receive public funding payments during the financial year to which the financial statements relate.

During 2021-22, the audited annual financial statements were due to be received by 20 October 2021. Of the 16 parties registered for state elections at that time, 13 provided copies of the audited annual financial statements and three parties did not provide copies of the statements. These three parties will remain unable to receive public funding payments until they do.

## Senior office holders of registered parties

A senior office holder of a party is a person involved in the management or control of the party or the operations of the party. Senior office holders have a duty under the Electoral Funding Act to report to the Electoral Commission any conduct in connection with the party that the office holder knows or reasonably believes constitutes a contravention of the Act. This applies to senior office holders of parties registered for state elections and parties registered for local government elections.

The Electoral Funding Act states that a registered party is not eligible to receive public funding payments unless it provides the Electoral Commission with a list of senior office holders, their roles, and responsibilities. The NSW Electoral Commission must be notified as and when senior office holders change or the roles and responsibilities of a senior office holder changes.

During 2021-22 the registered parties that received public funding payments had all provided a list of senior office holders. The lists are published on the Electoral Commission's website. The Electoral Commission was notified on 22 occasions of changes to senior office holder lists. No public funding payments were withheld or delayed due to a party not providing a list or not notifying the Electoral Commission of changes to a list.

# Public funding

The Electoral Funding Act provides for three schemes where public funds may be approved by the Electoral Commission for payment to eligible political parties, candidates and members of the NSW Parliament. Information about public funding claims is published and updated on the Electoral Commission's website, in accordance with the legislation.

The three schemes are:

- the Election Campaigns Fund provides payments to eligible parties and candidates for electoral expenditure incurred at a state election
- the Administration Fund provides payments to eligible parties and independent members of the NSW Parliament for administrative expenditure incurred
- the New Parties Fund provides payments to eligible parties for policy development expenditure incurred.

Each scheme sets out criteria that determine eligibility to receive payments, the way claims for funding must be made and the rules for assessing the amount a claimant is entitled to receive.

One of the objects of the Electoral Funding Act is to provide for the effective administration of public funding of elections, recognising the importance of the appropriate use of public money for that purpose. To support this objective the Electoral Commission audits claims, and claimants are required to respond to requests for information and provide documents to support the audit process.

A risk-based audit is undertaken for each claim. A risk-based audit may include auditing a sample of expenditure included in a claim. A risk profile is determined for each claimant based on the likelihood and consequence of potential incidents of including unauthorised expenditure in a claim.

Each scheme reimburses claimants for expenditure incurred. In some cases, payments are made in advance where claimants subsequently provide evidence of expenditure incurred. Any excess amounts paid to claimants are payable back to New South Wales consolidated revenue.

The Electoral Commission is authorised under the legislation to withhold payments where a claimant has not met the disclosure requirements for political donations or electoral expenditure or where a party has not provided the Electoral Commission with a copy of its audited annual financial statements or an up-to-date list of senior office holders.

The Electoral Commission is authorised under the legislation to disallow items of expenditure included in a claim under certain circumstances, including if expenditure is not eligible to be included in a claim.

## Election Campaigns Fund

The purpose of the Election Campaigns Fund is to reimburse eligible political parties and candidates for electoral expenditure incurred in connection with a state election. Electoral expenditure is expenditure that promotes or opposes a party or candidate or influences the vote at an election. Electoral expenditure is capped in the lead-up to a state election, which means parties and candidates can only spend within the applicable cap amount.

Parties and candidates must meet the criteria to be eligible to receive payments from the fund. This includes that a party or candidate is registered for a NSW state general election or by-election and a candidate is elected, or an endorsed candidate of the party is elected, or receives at least four per cent of the first preference vote.

The expenditure that can be included in a claim is actual electoral expenditure incurred by the eligible party or candidate during the capped expenditure period for the election. In the case of a state general election expenditure incurred in the three months prior to the start of the capped expenditure period can also be included in a claim. The claim must list the expenditure incurred and the expenditure must be supported by evidence including invoices or receipts.

An eligible party or candidate is entitled to receive the lesser amount of the following:

- a specified dollar amount for each first preference vote received or
- the amount of electoral expenditure incurred in the claimable period that is within the expenditure cap of the party or candidate.

During 2021-22, the Electoral Commission made payments from the Election Campaigns Fund to five eligible candidates for the 2021 Upper Hunter State by-election and one eligible candidate for 2022 Bega State by-election.

The total amount paid from the Election Campaigns Fund during 2021-22 was \$182,397.31.

Following a state election all eligible parties and candidates are advised of the maximum amount payable and the process and deadline for making a claim. The maximum amount payable is based on the number of

# Public funding continued

first preference votes received by the eligible party or candidate. The maximum entitlement of eligible parties and candidates can be found on the Electoral Commission's website and the 'dollar per vote' amounts.

The due date for lodging a claim can be extended on a case-by-case basis if the Electoral Commission is satisfied that proper reason exists to justify an extension.

## 2021 Upper Hunter State by-election

The Upper Hunter state by-election was held 22 May 2021. Thirteen candidates registered under the *Electoral Funding Act 2018* were duly nominated for election. Six of those candidates received at least four per cent of the first preference votes at the by-election and were therefore eligible to make a claim from the Election Campaigns Fund. The due date for making a claim was 28 September 2021. The eligible candidates were:

1. DRAYTON, Jeff
2. GILROY, Sue
3. LAYZELL, Dave
4. McNAMARA, Dale
5. NORMAN, Tracey
6. O'CONNELL, Kirsty

Parties are not eligible to make claims with respect to a by-election. During 2021-22, five candidates made claims for payment and payments were made.

## 2022 Bega State by-election

During 2021-22, the Electoral Commission made a payment from the Election Campaigns Fund to one eligible candidate for 2022 Bega State by-election.

## Administration Fund

The purpose of the Administration Fund is to reimburse eligible political parties and independent members of the NSW Parliament for administrative and operating expenditure incurred. Administrative and operating expenditure includes:

- expenditure on the administration or management of the activities of the eligible party or elected member
- expenditure for conferences, seminars, meetings, or similar functions at which the policies of the eligible party or elected member are discussed or formulated
- expenditure on providing information to the public or a section of the public about the eligible party or elected member
- expenditure on providing information to members and supporters of the eligible party or elected member
- expenditure in respect of the audit of the financial accounts of the eligible party or elected member
- expenditure on equipment and training to ensure compliance by the eligible party, elected members or endorsed candidates of the eligible party with the obligations under the *Electoral Funding Act 1981*

Table 50. Payments made with respect to the Upper Hunter State by-election

Candidate name	Party affiliation	Maximum amount payable	Payment amount	Payment date
Dale McNamara	Pauline Hanson's One Nation	\$27,237.70	\$27,237.70	30/06/2022
Dave Layzell	National Party of Australia – NSW	\$68,991.30	\$68,991.30	25/11/2021
Jeff Drayton	Australian Labor Party (NSW Branch)	\$46,856.30	\$46,856.30	14/10/2021
Kirsty O'Connell	Independent	\$19,460.16	\$19,460.16	27/08/2021
Tracy Norman	Independent	\$9,091.66	\$9,077.93	18/11/2021
<b>Total</b>			<b>\$171,623.39</b>	

Table 51. Payments made with respect to the Bega State by-election

Candidate name	Party affiliation	Maximum amount payable	Payment amount	Payment date
Victor Hazir	Shooters, Fishers & Farmers Party (NSW) Incorporated	\$10,773.92	\$10,773.92	16/06/2022

Note: details of applications from parties received after the reporting period will be included in the 2022-23 Report to Parliament.

- expenditure on the reasonable remuneration of staff engaged in the above activities for the eligible party or elected member (being the proportion of that remuneration that relates to the time spent on those activities)
- reasonable expenditure on equipment or vehicles used for the purposes of the above activities (being the proportion of the cost of their acquisition and operation that relates to the use of the equipment or vehicles for those activities)
- expenditure on office accommodation for the above staff and equipment
- expenditure on interest payments on loans.

Administrative and operating expenditure does not include:

- electoral expenditure
- expenditure for which a member may claim a parliamentary allowance as a member
- expenditure incurred substantially in respect of operations or activities that relate to the election of members to a Parliament other than the NSW Parliament
- expenditure prescribed by the Electoral Funding Regulation.

Parties and elected members must meet the criteria to be eligible to receive payments from the fund. This includes that a party is registered for state elections and members of Parliament are endorsed by the party. A Member of Parliament is eligible to receive payments from the fund only if the elected member was not endorsed by a party at the election in which the elected member was last elected and continues not to be endorsed by a party.

The fund operates on a calendar-year basis where eligible parties and elected members have a maximum amount payable each quarter and a claim for quarterly payment may be made following the end of a quarter.

A claim for quarterly payment can only include actual administrative or operating expenditure incurred by or on behalf of the party or elected member in the relevant quarter. Eligible parties and elected members are not entitled to be reimbursed more than the amount of administrative and operating expenditure incurred and the amount payable is subject to the maximum amount payable.

The maximum amount payable to an eligible party is based on the number of endorsed elected members of the party. The maximum amounts payable are adjusted for inflation each calendar year. If an eligible party or elected

member claims expenditure more than the maximum amount payable, the amount payable to the eligible party or elected member cannot exceed the maximum amount payable. Excess amounts of expenditure can be carried over to the following quarter in the calendar year.

During 2021-22, payments were made with respect to expenditure incurred during the 2020, 2021 and 2022 calendar years. The maximum amounts payable for expenditure incurred in the 2021 calendar year are published on the Electoral Commission's website. The maximum amounts payable for expenditure incurred in the 2022 calendar year are in Table 27 of this report.

Eligible parties and elected members are entitled to claim an advance payment at the beginning of each quarter. A quarterly advance payment is equal to 50 per cent of what the eligible party or elected member would be entitled to claim in relation to the quarter once the quarter has ended. Quarterly advance payments are made on the first business day of each quarter.

To make a quarterly advance payment it is presumed the eligible party or elected member will continue to be eligible for payments at the end of the quarter. After a quarter has ended an eligible party or elected member is entitled to claim a quarterly payment for that quarter. Expenditure incurred in the quarter can be included in a quarterly claim and any expenditure from a previous quarter in the calendar year that has been carried over. Claims for quarterly payment must be made within three months of the end of a quarter.

Quarterly payments must be made by the Electoral Commission within 30 days of receiving a claim for payment, declaration of expenditure and the required supporting documentation in relation to the expenditure included in the claim. An advance payment made to a party or elected member is deducted from the quarterly amount payable.

If a party or elected member receives by way of an advance payment or quarterly payment more than the amount the party or elected member is entitled to receive the excess amount must be repaid.

The Electoral Commission paid over \$13.7 million from the Administration Fund to nine eligible parties and three eligible independent elected members during 2021-22. Copies of claims for payment received and payments and repayments made are published on the Electoral Commission's website.

Payments made with respect to expenditure incurred in the 2020 calendar year are shown in Table 52.

# Public funding continued

Table 52. Amounts paid during 2021-22 for administrative expenditure incurred during 2020

Name of party or MP	Quarterly maximum amount*	Payment type	Status	Amount	Date of Payment/Repayment
Country Labor Party/ Australian Labor Party (NSW Branch)	\$287,600.00	4th Quarterly Payment	Paid	\$143,800.00	21/07/2021

\* Maximum amount payable for a quarter may be different when the entitlement for payment is determined.

Payments made with respect to expenditure incurred in the 2021 calendar year are shown in Table 53.

Table 53. Amounts paid during 2021-22 for administrative expenditure incurred during 2021

Name of party or MP	Quarterly maximum amount*	Payment type	Status	Amount	Date of Payment/Repayment
Alexander Hart Greenwich	\$58,800.00	2nd Quarterly Payment	Paid	\$4,189.60	23/09/2021
	\$58,800.00	3rd Quarterly Advance	Paid	\$29,400.00	1/07/2021
		3rd Quarterly Payment	Paid	\$7,813.65	13/01/2022
	\$58,800.00	4th Quarterly Advance	Paid	\$29,400.00	1/10/2021
		4th Quarterly Payment	Paid	\$2,737.89	31/03/2022
Animal Justice Party	\$156,000.00	1st Quarterly Payment	Paid	\$78,000.00	21/07/2021
	\$156,000.00	2nd Quarterly Payment	Paid	\$78,000.00	30/09/2021
	\$156,000.00	3rd Quarterly Advance	Paid	\$78,000.00	1/07/2021
		3rd Quarterly Payment	Paid	\$77,827.07	11/01/2022
	\$156,000.00	4th Quarterly Advance	Paid	\$78,000.00	1/10/2021
		4th Quarterly Payment	Paid	\$78,000.00	13/04/2022
Australian Labor Party (NSW Branch)	\$881,300.00	2nd Quarterly Payment	Paid	\$440,650.00	5/08/2021
	\$881,300.00	3rd Quarterly Advance	Paid	\$440,650.00	1/07/2021
		3rd Quarterly Payment	Paid	\$440,650.00	11/11/2021
	\$881,300.00	4th Quarterly Advance	Paid	\$440,650.00	1/10/2021
		4th Quarterly Payment	Paid	\$440,650.00	3/02/2022
Christian Democratic Party (Fred Nile Group)	\$91,100.00	2nd Quarterly Payment	Paid	\$45,550.00	29/07/2021
	\$91,100.00	3rd Quarterly Advance	Paid	\$45,550.00	1/07/2021
		3rd Quarterly Payment	Paid	\$45,550.00	4/11/2021
	\$91,100.00	4th Quarterly Advance	Paid	\$45,550.00	1/10/2021
		4th Quarterly Payment	Paid	\$45,550.00	10/02/2022
Country Labor Party	\$288,500.00	1st Quarterly Payment	Repaid	\$141,770.01	21/07/2021



Name of party or MP	Quarterly maximum amount*	Payment type	Status	Amount	Date of Payment/Repayment
Gregory Michael Piper	\$58,800.00	1st Quarterly Payment	Paid	\$27,742.65	21/07/2021
	\$58,800.00	2nd Quarterly Payment	Paid	\$16,340.31	28/10/2021
	\$58,800.00	3rd Quarterly Advance	Paid	\$29,400.00	1/07/2021
		3rd Quarterly Payment	Paid	\$7,620.65	3/02/2022
	\$58,800.00	4th Quarterly Advance	Paid	\$29,400.00	1/10/2021
		4th Quarterly Payment	Paid	\$7,154.11	3/03/2022
Joseph Gregory McGirr	\$58,800.00	2nd Quarterly Payment	Paid	\$3,859.17	14/10/2021
	\$58,800.00	3rd Quarterly Advance	Paid	\$29,400.00	1/07/2021
		3rd Quarterly Payment	Repaid	\$4,424.68	24/01/2022
	\$58,800.00	4th Quarterly Advance	Paid	\$29,400.00	1/10/2021
		4th Quarterly Payment	Repaid	\$13,738.40	8/04/2022
National Party of Australia – NSW	\$631,700.00	1st Quarterly Payment	Paid	\$300,250.00	22/07/2021
	\$662,900.00	2nd Quarterly Payment	Paid	\$331,450.00	28/10/2021
	\$662,900.00	3rd Quarterly Advance	Paid	\$331,450.00	1/07/2021
		3rd Quarterly Payment	Paid	\$331,450.00	13/01/2022
	\$662,900.00	4th Quarterly Advance	Paid	\$331,450.00	1/10/2021
		4th Quarterly Payment	Paid	\$300,250.00	22/04/2022
Pauline Hanson's One Nation	\$156,000.00	2nd Quarterly Payment	Paid	\$4,314.22	23/12/2021
	\$156,000.00	3rd Quarterly Advance	Paid	\$78,000.00	1/07/2021
		3rd Quarterly Payment	Paid	\$57,664.58	3/02/2022
	\$156,000.00	4th Quarterly Advance	Paid	\$78,000.00	1/10/2021
		4th Quarterly Payment	Paid	\$1,714.24	30/06/2022
Shooters, Fishers and Farmers Party (NSW) Incorporated	\$257,300.00	2nd Quarterly Payment	Paid	\$128,650.00	12/08/2021
	\$257,300.00	3rd Quarterly Advance	Paid	\$128,650.00	1/07/2021
		3rd Quarterly Payment	Paid	\$128,650.00	2/12/2021
	\$257,300.00	4th Quarterly Advance	Paid	\$128,650.00	1/10/2021
		4th Quarterly Payment	Paid	\$128,650.00	14/03/2022

# Public funding continued

Name of party or MP	Quarterly maximum amount*	Payment type	Status	Amount	Date of Payment/ Repayment
The Greens NSW	\$288,500.00	1st Quarterly Payment	Paid	\$144,250.00	22/07/2021
	\$288,500.00	2nd Quarterly Payment	Paid	\$144,250.00	14/10/2021
	\$288,500.00	3rd Quarterly Advance	Paid	\$144,250.00	1/07/2021
		3rd Quarterly Payment	Paid	\$144,250.00	11/01/2022
	\$288,500.00	4th Quarterly Advance	Paid	\$144,250.00	1/10/2021
		4th Quarterly Payment	Paid	\$144,250.00	13/04/2022
The Liberal Party of Australia New South Wales Division	\$881,300.00	2nd Quarterly Payment	Paid	\$440,650.00	2/09/2021
	\$881,300.00	3rd Quarterly Advance	Paid	\$440,650.00	1/07/2021
		3rd Quarterly Payment	Paid	\$440,650.00	25/11/2021
	\$881,300.00	4th Quarterly Advance	Paid	\$440,650.00	1/10/2021
		4th Quarterly Payment	Paid	\$440,650.00	3/03/2022
<b>Total of all payments</b>				<b>\$8,850,745.05</b>	

\* Maximum amount payable for a quarter may be different when the entitlement for payment is determined.

Payments made with respect to expenditure incurred in the 2021 calendar year are shown in Table 54.

Table 54. Amounts paid during 2021-22 for administrative expenditure incurred during 2022

Name of party or MP	Quarterly maximum amount*	Payment type	Status	Amount	Date of Payment/ Repayment
Alexander Hart Greenwich	\$60,600.00	1st Quarterly Advance	Paid	\$30,300.00	11/01/2022
	\$60,600.00	2nd Quarterly Advance	Paid	\$30,300.00	1/04/2022
Animal Justice Party	\$160,600.00	1st Quarterly Advance	Paid	\$80,300.00	11/01/2022
	\$160,600.00	2nd Quarterly Advance	Paid	\$80,300.00	1/04/2022
Australian Labor Party (NSW Branch)	\$909,000.00	1st Quarterly Advance	Paid	\$454,500.00	11/01/2022
		1st Quarterly Payment	Paid	\$454,500.00	19/05/2022
	\$909,000.00	2nd Quarterly Advance	Paid	\$454,500.00	1/04/2022
Christian Democratic Party (Fred Nile Group)	\$93,800.00	1st Quarterly Advance	Paid	\$46,900.00	11/01/2022
Gregory Michael Piper	\$60,600.00	1st Quarterly Advance	Paid	\$30,300.00	11/01/2022
	\$60,600.00	2nd Quarterly Advance	Paid	\$30,300.00	1/04/2022
Joseph Gregory McGirr	\$60,600.00	1st Quarterly Advance	Paid	\$30,300.00	11/01/2022
		1st Quarterly Payment	Repaid	\$5,556.75	28/06/2022
	\$60,600.00	2nd Quarterly Advance	Paid	\$30,300.00	1/04/2022

Name of party or MP	Quarterly maximum amount*	Payment type	Status	Amount	Date of Payment/Repayment
National Party of Australia – NSW	\$683,600.00	1st Quarterly Advance	Paid	\$341,800.00	11/01/2022
	\$683,600.00	2nd Quarterly Advance	Paid	\$341,800.00	1/04/2022
Pauline Hanson's One Nation	\$160,600.00	1st Quarterly Advance	Paid	\$80,300.00	11/01/2022
	\$160,600.00	2nd Quarterly Advance	Paid	\$80,300.00	1/04/2022
Shooters, Fishers and Farmers Party (NSW) Incorporated	\$232,800.00	1st Quarterly Advance	Paid	\$132,500.00	11/01/2022
		1st Quarterly Payment	Paid	\$100,300.00	9/06/2022
	\$232,800.00	2nd Quarterly Advance	Paid	\$116,400.00	1/04/2022
The Greens NSW	\$297,200.00	1st Quarterly Advance	Paid	\$148,600.00	11/01/2022
		1st Quarterly Payment	Paid	\$148,600.00	16/06/2022
	\$297,200.00	2nd Quarterly Advance	Paid	\$148,600.00	1/04/2022
The Liberal Party of Australia New South Wales Division	\$909,000.00	1st Quarterly Advance	Paid	\$454,500.00	11/01/2022
		1st Quarterly Payment	Paid	\$454,500.00	9/06/2022
	\$909,000.00	2nd Quarterly Advance	Paid	\$454,500.00	1/04/2022
<b>Total of all payments</b>				<b>\$4,749,943.25</b>	

\* Maximum amount payable for a quarter may be different when the entitlement for payment is determined.

## New Parties Fund

The purpose of the New Parties Fund is to reimburse eligible political parties for policy development expenditure incurred. Policy development expenditure includes:

- expenditure on providing information to the public about the eligible party
- expenditure for conferences, seminars, meetings, or similar functions at which the policies of the eligible party are discussed or formulated
- expenditure on providing information to members and supporters of the eligible party
- expenditure in respect of the audit of the financial accounts of the eligible party
- expenditure on the reasonable remuneration of staff engaged in the above activities for the eligible party (being the proportion of that remuneration that relates to the time spent on those activities)
- reasonable expenditure on equipment or vehicles used for the purposes of the above activities (being the proportion of the cost of their acquisition and operation that relates to the use of the equipment or vehicles for those activities)
- expenditure on office accommodation for the above staff and equipment
- expenditure on interest payments on loans.

Policy development expenditure does not include:

- electoral expenditure incurred outside the capped expenditure period for a state election
- expenditure incurred substantially in respect of operations or activities that relate to the election of members to a Parliament other than the NSW Parliament
- expenditure prescribed by the Electoral Funding Regulation.

Parties must meet criteria to be eligible to receive payments from the fund. This includes that a party is registered for state elections, the Electoral Commission is satisfied the party operates as a genuine party and the party is not eligible to receive payments from the Administration Fund.

The fund operates on a calendar-year basis where eligible parties are each entitled to make a claim for payment from the fund in the six months following the end of the calendar year.

## Public funding continued

A claim for payment can only include actual policy development expenditure incurred by a party in the relevant calendar year. Eligible parties are not entitled to be reimbursed more than the amount of policy development expenditure incurred and the amount payable is subject to a cap called a 'maximum amount payable'.

The maximum amounts payable to an eligible party are based on the number of first preference votes received by the party's endorsed candidates at the previous NSW State general election. The maximum amounts payable are adjusted for inflation each calendar year. If an eligible party claims expenditure more than the maximum amount payable, the amount payable to the eligible party cannot exceed the maximum amount payable.

The maximum amounts payable for the 2021 calendar year are published on the Electoral Commission's website.

After a calendar year has ended, an eligible party is entitled to claim a payment for expenditure incurred in that year. Claims for payment must be made within six months of the end of a calendar year. Payments must be made by the Electoral Commission within 30 days of receiving a claim for payment, declaration of expenditure and the required supporting documentation in relation to the expenditure included in the claim.

The Electoral Commission paid \$59,414.16 from the New Parties Fund to three eligible parties during 2021-22. The payments were made in relation to expenditure incurred by the parties in the 2020 and 2021 calendar years. Copies of claims for payment received and payments made are published on the Electoral Commission's website. Five eligible parties did not lodge a claim for payment for expenditure incurred in 2021.

### Public funding payments not made

If, at the time a payment is due to be made, a party, elected member or candidate has any outstanding disclosures of political donations or electoral expenditure, or, in the case of a party, the party has not provided us with copies of its audited annual financial statements, they are ineligible to receive public funding payments.

During 2021-22, no party, elected member or candidate that made a claim for payment was ineligible for payment due to any outstanding disclosure or audited financial statement.

Table 55. Amounts paid during 2021-22 for expenditure incurred in calendar 2020

Name of party	Maximum entitlement	Status	Payment made	Date of payment
Liberal Democratic Party	\$72,044.43	Paid	\$17,608.98	26/08/2021

Table 56. Amounts paid during 2021-22 for expenditure incurred in calendar 2021

Name of party	Maximum entitlement	Status	Payment made	Date of payment
Flux NSW	\$11,498.80	No claim made		
Liberal Democratic Party	\$73,119.72	No claim made		
Open Party	\$102,397.12	No claim made		
Reason Party NSW	\$31,940.28	Paid	\$31,331.82	31/03/2022
Socialist Alliance	\$10,473.36	Paid	\$10,473.36	27/01/2022
Sustainable Australia (NSW)	\$91,754.44	No claim made		
The Small Business Party	\$22,959.52	No claim made		
<b>Totals</b>	<b>\$344,143.24</b>		<b>\$41,805.18</b>	

Note: not all eligible parties submitted a claim from the New Parties Fund.

## Repayments of public funding

The Electoral Commission is authorised to recover any excess public funding amounts paid to a party, candidate, or elected member. This generally occurs where the amount of expenditure actually incurred by an elected member or a party in a period is less than the amount paid in advance.

There were four repayments of public funding during 2021-22 totalling \$165,489.84. One repayment was in relation to payments made during 2020-21 and three were in relation to payments made during 2021-22.

Table 57. Repayments of public funding

Fund	Party, elected member or candidate	Amount repaid	Repayment date
Administration Fund	Country Labor Party/Australian Labor Party (NSW Branch)	\$141,770.01	21/07/2021
Administration Fund	Joseph McGirr	\$4,424.68	24/01/2022
Administration Fund	Joseph McGirr	\$13,738.40	08/04/2022
Administration Fund	Joseph McGirr	\$5,556.75	28/06/2022
<b>Total amount repaid</b>		<b>\$165,489.84</b>	

# Compliance and enforcement

The Electoral Commission is responsible for the monitoring and enforcement of compliance with New South Wales electoral and lobbying laws.

The Electoral Commission is required to report statistical information each year to the NSW Parliament about the use of its enforcement powers. These include issuing statutory notices to require the provision of documents or information or require a person to attend an interview and to undertake an inspection.

During 2021-22, the Electoral Commission continued to regulate and enforce the Electoral Act and the Electoral Funding Act and, the now repealed, *Parliamentary Electorates and Elections Act 1912* and the *Election Funding, Expenditure and Disclosures Act 1981*, for breaches of the legislation that occurred before 1 July 2018.

Additionally, the Electoral Commission regulated and enforced matters under the *Local Government Act 1993* (electoral provisions only) and the *Lobbying of Government Officials Act*.

In relation to the above legislation, the Electoral Commission seeks to detect, review and investigate potential non-compliance, initiating enforcement actions as appropriate and operate in accordance with key policies and procedures including the following that are published on the Electoral Commission's website:

- Compliance Audit Policy
- Compliance and Enforcement Policy
- Compliance and Enforcement Procedures
- Prosecution Policy.

## Limits on authority to disclose compliance and enforcement information

The Electoral Commission was not during 2021-22 generally authorised under its statutory framework to publish or otherwise disclose information about the existence or outcomes of specific investigations and enforcement actions, except with the agreement of the individuals concerned or where there has been a public enforcement action (for example, court proceedings).

On 22 June 2022, the *Electoral Legislation Amendment Bill 2022* was introduced into the NSW Parliament. The Bill contained amendments that would permit disclosure of information concerning investigations and other enforcement action in certain circumstances, in the public interest.

Under the *Lobbying of Government Officials Act*, the Electoral Commission is specifically required to publish on its website any decisions to refuse to register a third-party lobbyist, suspend or cancel the registration of a third-party lobbyist, place a third-party lobbyist or other lobbyist on the Lobbyist Watch List and determine that a third-party lobbyist is ineligible to be registered.

### ICAC Operation Aero

On 28 February 2022, the ICAC released its report *Investigation into political donations facilitated by Chinese Friends of Labor in 2015* (Operation Aero). This investigation was brought about following a referral from the Electoral Commission in January 2018 under section 13A of the *Independent Commission Against Corruption Act 1988* (the ICAC Act). In addition to assisting the ICAC with its investigation, officers of the Electoral Commission have, at the ICAC's request, provided input into the policy observations and recommendations to assist the NSW Government to strengthen the laws, policies and procedures concerning political donations in NSW.

The ICAC is seeking the advice of the Director of Public Prosecution (DPP) on whether any prosecution should be commenced in relation to offences under the EFED Act, the ICAC Act and the *Crimes Act 1900*. Under section 111 of the EFED Act, proceedings in respect of an offence under that Act may only be commenced with the consent of the Electoral Commission. The Electoral Commission may also institute proceedings for offences under the EFED Act.

### Compliance framework

The Electoral Commission's compliance framework is structured around core audit and investigation capabilities with the work, processes and procedures supported by ongoing compliance and intelligence functions.

The Electoral Commission receives allegations of breaches of electoral and lobbying laws directly from members of the public, the media, political stakeholders and other government agencies. Non-compliance with electoral funding and lobbying laws are also identified through compliance audits and other operational processes.

The Electoral Commission conducts compliance audits of parties, elected members, candidates, groups, third-party campaigners and associated entities to determine compliance with the requirements for political donations and electoral expenditure. Compliance reviews are undertaken of disclosures lodged by major political donors.

As part of the compliance audits the Electoral Commission audits disclosures of political donations and electoral expenditure. The Electoral Commission is able to appoint a registered company auditor to undertake an audit of a disclosure on its behalf. During 2020-21, the Electoral Commission did not appoint any registered company auditors, relying instead on its own audit team.

A political party, elected member, group of candidates, candidate, third-party campaigner or associated entity must assist the Electoral Commission with the audit of a disclosure by complying with reasonable requests for information, explanations, financial and other records.

A compliance audit includes assessing compliance with all aspects of the laws that apply to political donations and electoral expenditure including the use and operation of campaign accounts and the registration of electoral participants for the purposes of accepting political donations and making payments for electoral expenditure.

Using a risk-based approach, the validity and completeness of disclosures is determined and supporting documentation such as financial records, invoices and receipts are verified.

Table 58 summarises the compliance audits on disclosures received that were commenced or finalised during 2021-22.

Where compliance issues including financial or factual anomalies are identified through a compliance audit or review, enforcement action may be taken including issuing warnings, cautions or penalty notices.

Compliance reviews are also conducted on registered third-party lobbyists and the Electoral Commission may issue warnings, suspend or cancel the registration of third-party lobbyist where there is a failure to comply with the Lobbying of Government Officials Act or the Lobbyists Code of Conduct.

In certain cases, a compliance matter may be referred to another NSW government agency. This may occur where the matter is not within the Electoral Commission's remit, or the Electoral Commission is required by law to refer a matter in the case of referrals to the Independent Commission Against Corruption.

### Information management and case recording

All compliance and enforcement work undertaken by the Electoral Commission is recorded using systems designed for, and exclusively managed by, the Electoral Commission.

The Electoral Commission's Funding and Disclosure Management System (FADMS) is used to record and manage the audit of disclosures. The FADMS platform contains disclosure data inputted through the lodgement of disclosures and published to the Electoral Commission's website.

Another matter management platform has been customised to support the Electoral Commission's Investigations Matter Management System (IMMS). IMMS is used to manage compliance reviews and investigations. IMMS ensures that cases can be easily tracked with workflows of actions, activities, and milestones.

Both FADMS and IMMS also store audit, high volume non-compliance, and investigation and intelligence data securely in the agency's records management system.

Table 58. Compliance audits and reviews finalised and commenced for disclosures received during 2021-22

Political participant	Audits finalised for the 12-month disclosure period ending 30 June 2020	Audits finalised for the 12-month disclosure period ending 30 June 2021	Audits commenced for the 12-month disclosure period ending 30 June 2021	Audits to be started for the 12-month disclosure period ending 30 June 2021
Political parties	137	135	6	6
Elected members	4,130	3,967	13	34
Candidates	138	1,274	14	57
Groups	10	187	11	27
Third-party campaigners	3	25	0	0
Associated entities	12	12	0	0
Major political donors	314	509	2	7
<b>Total</b>	<b>4,744</b>	<b>6,109</b>	<b>46</b>	<b>131</b>

# Compliance and enforcement continued

## Audit and compliance activities

### Compliance operations for the 2021 Local Government elections

The objectives of the 2021 Local Government compliance operation were:

- to provide a visible NSW Electoral Commission compliance presence for the duration of the pre-poll period
- to provide a visible NSW Electoral Commission compliance presence on election day, particularly at polling places with projected high voter turnout
- respond to and review allegations relating to breaches of the LG Act, LG Regulation and EF Act
- proactively address compliance issues during the election event rather than after the fact.

During the election, five field teams (each comprising two investigators) visited numerous pre-poll and election day venues throughout New South Wales. The teams were mainly based in the Sydney metro area, the Illawarra and the Hunter. Two teams were sent to regional areas including the Northern Rivers, Mid-North Coast and Central West. Throughout pre-poll and on election day, the teams attended 47 of the 122 local government areas conducting elections, representing 38 per cent of all local government areas. The teams were deployed in accordance with intelligence gathered in the lead-up to and during the election period. Resourcing limitations and COVID safety considerations limited regional coverage; however, remote support was provided to the returning officers and teams were available to mobilise to regional areas as necessary.

Some pre-poll venues were attended a number of times as emerging issues were identified, including persistent breaches of the NSW Electoral Commissioner's COVID-19 directions for posters, and handing out electoral materials within 100 metres of a polling venue. While a number of isolated breaches were reported, only two local government areas were noted as experiencing ongoing issues with these arrangements. This resulted in written directions being issued to the relevant candidates within the Cumberland and Canterbury Bankstown local government areas. To manage the new handing out and poster rules consistently across New South Wales, the Investigation team put in place a *Compliance Strategy – 100 Metre Rules*, which was based on the guiding principles of safety, fairness and practicality. Guidelines were also

established to assist polling place officials in establishing the boundaries, communicating these to candidate workers and volunteers and to monitor compliance. In instances where polling place officers experienced continued non-compliance, they were advised to escalate the matter to the Candidate Help Desk at the Electoral Commission's head office to obtain further assistance. Election officials were able to give formal directions to any individuals who appeared to contravene the 100-metre rules. If the conduct of individuals was aggressive, officials were advised to immediately contact the NSW Police.

Overall, compliance with the COVID-19 directions was positive, noting candidates within some local government areas such as Dubbo and Sutherland agreed among themselves not to canvass for votes or display posters at polling places.

The Electoral Commission received a total of 322 allegations relating to the local government elections. Thirty-five of the allegations received fell outside the regulatory responsibility of the Electoral Commission. These included such issues as use of council resources, alleged criminal conduct that was not an election offence and accusations of defamation.

In anticipation of greater campaigning through social media, the Electoral Commission engaged with representatives of social media platforms informing them of the upcoming election and establishing reporting pathways should non-compliant electoral material be identified. Social media was monitored throughout the regulated period by the Investigation team and the Communications team. In most cases involving non-compliance in relation to social media material, the person responsible was contacted and voluntarily remediated the breach. No other significant issue was identified.

### Compliance operations for the February 2022 State by-elections

Compliance operations were conducted during the election period to support the fair and transparent conduct of the elections. Investigators were on the ground in Bega, Monaro, Strathfield and Willoughby during the voting period to identify any potential unlawful conduct and/or electoral material and worked with electoral participants to remedy non-compliance at the time it occurred.



Table 59. Potential offences under the Electoral Act

Reference	Offence	Maximum penalty
S.121	Conduct of scrutineers	\$5,500 or 6 months imprisonment or both
S.123(2)	Conduct at a voting centre	\$1,100
S.183	Printing, publishing and distributing non-complying electoral material	Corporation: \$11,000 Other: \$2,200 or 6 months imprisonment or both.
S.184(2)	Display of posters	Corporation: \$11,000 Other: \$2,200 or 6 months imprisonment or both
S.186	Name and address on electoral material	Corporation: \$11,000 Other: \$2,200 or 6 months imprisonment or both
S.198	Canvassing on election days	\$2,200
S.208	Obstructing access to a voting centre	\$1,100
S.209	Bribery, treating and selling of votes	\$22,000 or 3 years imprisonment or both
S.210	Interference with right to vote	\$22,000 or 3 years imprisonment or both
S.212	Multiple voting	\$22,000 or 3 years imprisonment or both
S.215	Display, publish or distribute material falsely appearing to be made by Electoral Commission	\$22,000 or 2 years imprisonment

Table 60. Potential offences under the Electoral Funding Act

Reference	Offence	Maximum penalty
s42 s145(1)	Third-party campaigner – failure to register and appoint an agent	\$44,000 or 2 years imprisonment or both

The compliance operation commenced from the opening of the early voting period on Monday, 10 May and concluded on election day Saturday, 12 February 2022. Twelve investigators from the Electoral Commission participated in the operation across the four state by-elections conducted. In addition to their functions as inspectors under the *Electoral Funding Act 2018*, the investigators were also appointed to the role of election official under the *Electoral Act 2017* so that they could exercise functions under that Act throughout the operation.

Investigators attended early voting centres to coincide with the start and close of early voting. On election day, investigators inspected voting centres and engaged with various stakeholders, including the election manager, voting centre manager, candidates, campaigners and volunteers. The presence of the investigators served the dual purpose of educating stakeholders on their

obligations under the Electoral Act and the Electoral Funding Act as well as acting as a deterrent for non-compliant behaviour. In total, 10 early-voting centres and 49 voting centres were visited, with priority given to those voting centres with an expected high voter turnout.

Fourteen matters were reviewed by investigators regarding alleged breaches of legislation. All allegations were reviewed in accordance with the NSW Electoral Commission Compliance and Enforcement Policy, with priority given to educating political participants so they could remediate non-compliance where possible. In a specific matter, the assistance of one social media platform was sought to take down a post in breach of electoral material laws during the regulated period. All allegations were acknowledged in writing within 24 hours of receipt of the allegation.

# Compliance and enforcement continued

## Focused reviews following compliance audits of disclosures

During 2021-22, investigators reviewed 243 matters identified by the audit team arising from compliance audits where further review was warranted. These mostly related to suspected failures to:

- maintain a campaign account
- pay for electoral expenditure from the campaign account
- disclose reportable political donations or ensure donors are on the electoral roll
- provide required vouching to support the disclosure of political donations or electoral expenditure
- disclose electoral expenditure
- identify donations in breach of the donation caps
- provide receipts for donations, which include statements regarding the obligation of a donors to disclose.

In relation to the above matters, no further action was taken in relation to 132 matters, and warnings were issued as shown in Table 61. A warning is issued to the person who was responsible for complying with the disclosure requirements. References to an official agent of an elected member, candidate or group refer to matters prior to 1 July 2018 when elected members, candidates and groups were required to have an official agent.

Table 61. Warnings issued because of compliance audit referrals to the investigations team

Political participant	Warnings issued
Party agents	4
Official agents of candidates	29
Official agents of groups of candidates	34
Official agents of third-party campaigners	15
Major political donors	9
Elected Members	5
Candidates	13
Lead Candidates of a Group of Candidates	2
<b>Total warnings issued from compliance audits and reviews</b>	<b>111</b>

## Failure to lodge disclosures

It is an offence to fail to submit a disclosure by the due date. The Electoral Commission may issue penalties or prosecute a person who commits an offence in relation to a disclosure. The Investigations team of the Electoral Commission Public Service agency manages, in accordance with an approved protocol, a measured process to encourage timely lodgement and penalise non-compliant behaviour. As an initial step, a 'first-level warning' is issued to a person or entity who failed to lodge a disclosure, after the due date has passed, giving them an opportunity to submit the disclosure. Warnings and Cautions are also issued to persons who lodged after the due date.

Final enforcement decisions consider responses to the 'first-level warning' and any aggravating or mitigating circumstance around the alleged breach.

During 2021-22, the Investigations team worked on examining those who lodged a disclosure past the due date, or who had failed to lodge a disclosure. The following disclosure periods were examined:

- half-yearly political donation disclosures for the period 1 January 2021 to 30 June 2021, due 28 July 2021
- annual expenditure disclosures for the period 1 July 2020 to 30 June 2021, due 22 September 2021
- annual disclosures of reportable political donations by major political donors for the period 1 July 2020 to 30 June 2021, due 28 July 2021
- half-yearly political donation disclosures for the period 1 July 2021 to 31 December 2021, due 25 February 2021.

Table 62 shows the number of warnings issued through to enforcement actions taken in response to disclosures not lodged or not lodged by the due date. In these cases, the enforcement action is taken against the person responsible for submitting the disclosure. The examination of the 1st half-yearly disclosures for the period 1 July 2021 to 31 December 2021 continued beyond the reporting period.

Table 62. Enforcement actions in response to a failure to submit a disclosure by the due date

Enforcement action	2nd half-yearly disclosures 2020-21	Annual expenditure disclosures 2020-21	Annual major political donor disclosures 2020-21	1st half-yearly disclosures 2021-22	Total
Warning	633	758	330	1,901	3,622
Caution	185	140	0	0	325
Penalty Notice	20	30	0	0	50
Recommendation to prosecute	4	7	0	7	18

The Electoral Commission continues to exercise its discretion in some matters to issue a caution where it may have otherwise considered taking different enforcement action, such as issuing a penalty notice or prosecuting, in cases where the COVID-19 pandemic was having a significant impact on a stakeholder's ability to comply with the legislative requirements. A discretion was also exercised in cases of first-time candidates who were not elected at the December 2021 Local Government elections who had, by virtue of the elections being postponed, obligations to lodge disclosures for multiple periods and had nothing to disclose.

# Investigations

## Reviews and investigations

During 2021-22, the Investigations team considered 422 new matters of non-compliance and potential breaches under the legislation for which the Electoral Commission has authority to enforce. The team consists of investigators who are appointed by the Electoral Commission to exercise the Electoral Commission's enforcement and investigation functions.

### Electoral Funding Act

During 2020-21, 57 new matters were reviewed relating to potential breaches of the Electoral Funding Act. The breaches related mainly related to alleged unregistered third-party campaigners for the 2021 local government election and to unlawful political donations.

### Electoral Act

The majority of potential breaches under the Electoral Act during the 2021-22 period related to the Bega, Monaro, Strathfield and Willoughby by-elections held on 12 February 2022. A review or investigation into a failure to vote matter is only conducted if the matter is not resolved by a separate penalty notice process and is expected to be heard by a court.

### Local Government Act

During 2021-22 there were 349 new matters reviewed relating to potential breaches of the electoral provisions of the Local Government Act. Of those, 35 related to conduct that fell outside the regulatory responsibility of the NSW Electoral Commission and included such complaints as a candidate's use of local council resources or breach of a local council's code of conduct. Most of the remaining 314 matters related to electoral material for the 2021 Local Government elections held on 4 December 2021. A review or investigation into a failure to vote matter is only conducted if the matter is not resolved by a separate penalty notice process and is expected to be heard by a court.

### Lobbying of Government Officials Act

Where breaches of the Lobbying of Government Officials Act occur the registration of a third-party lobbyist may be suspended or cancelled, or the third-party lobbyist can be placed on Watch List.

Reviews are conducted following 31 January, 31 May, and 30 September to identify where a registered third-party lobbyist has not complied with the requirement to confirm the lobbyist's registered details are up to date.

Table 63. Outcomes of reviews and investigations conducted into breaches of the Electoral Funding Act

Activity	Total	No further action	Warnings	Cautions	Recovery of unlawful political donations	Prosecution	Ongoing
Review/ Investigation	57	36	9	0	2	0	10

Table 64. Outcomes of reviews and investigations conducted into breaches of the Electoral Act

Activity	Total	No further action	Cautions	Warnings	Prosecution	Ongoing	Fail to vote
Review/ Investigation	16	10	0	5	0	0	1

Table 65. Outcomes of reviews and investigations conducted into breaches of the Local Government Act

Activity	Total	No further action	Cautions	Warnings	Prosecution	Ongoing	Failure to vote
Review/ Investigation	314	128	0	101	0	5	80

Reviews are also undertaken where a registered third-party lobbyist has not appointed a responsible officer or where the responsible officer of a registered third-party lobbyist has not complied with the requirement to undertake the annual online training provided by the Electoral Commission.

During 2021-22 no registrations of third-party lobbyists were suspended or cancelled, and several registered third-party lobbyists received a warning for a breach of the Act or the Lobbyists Code of Conduct. There were no third-party lobbyists placed on the Watch List.

Table 66 shows the number of warnings issued and that no third-party lobbyist registrations that were suspended or cancelled during 2021-22 due to breaches of the Lobbying of Government Officials Act or Lobbyists Code of Conduct.

Details of the decisions made by the Electoral Commission in relation to the suspension or cancellation of registrations of third-party lobbyists and the reasons for those decisions are published on the Electoral Commission's website.

## Use of powers of compulsion

The Electoral Funding Act gives the Electoral Commission, and any person appointed by the Electoral Commission as an inspector, to issue notices that require the provision of information, documents, or attendance to answer questions. These powers enable inspectors in the Investigations team to conduct investigations.

The Electoral Commission's enforcement powers can also be used to investigate potential breaches of the Electoral Act, the Lobbying of Government Officials Act, electoral provisions of the Local Government Act as well as matters under the now repealed Parliamentary Electorates and Elections Act and Election Funding, Expenditure and Disclosures Act.

The Electoral Funding Act also provides that an inspector appointed by the Electoral Commission may enter premises to inspect documents for the purposes of ascertaining whether the Electoral Funding Act is being, or has been, contravened. During 2021-22 no inspections were undertaken.

Table 67 shows the number of notices issued under section 138 of the Electoral Funding Act.

Table 66. Suspensions and cancellations of third-party lobbyist registrations for breaches of the Act or the Lobbyists Code of Conduct 2021-22

Reason	Warnings issued	Suspension of registration	Cancellation of registration
Failure to confirm registered details are up to date	31	0	0

Table 67. Notices issued

Notice type	Purpose	Number issued
s.138(a) Electoral Funding Act	Require information	13
s.138(b) Electoral Funding Act	Require the provision of documents	21
s.138(c) Electoral Funding Act	Answer questions	15
s.138(d) Electoral Funding Act	Attend interview	7
<b>Total</b>		<b>56</b>

# Investigations continued

## Recovery of unlawful political donations and electoral expenditure

The Electoral Commission is authorised under the Electoral Funding Act to recover the value of unlawful political donations and electoral expenditure incurred in excess of an applicable expenditure cap and pay these amounts to the State.

During 2021-22 there were two matters that resulted in the recovery of unlawful political donations to the value of \$16,291. The political donations were unlawful because they were in excess of an applicable political donation cap. The value of the political donations was recovered voluntarily from those who accepted the unlawful donations.

There were no compliance cases where the value of electoral expenditure in excess of an expenditure cap was recovered.

Table 68. Recovery of unlawful political donations

Political participant	Number	Total value
Political parties	1	\$10,291
Candidates	1	\$6,000
<b>Total</b>	<b>2</b>	<b>\$16,291</b>

## Compliance agreements

Compliance agreements are a tool for remedying and/or avoiding breaches of electoral funding laws by way of a set of agreed actions between a duty-holder and the Electoral Commission. During 2021-22 one new agreement was entered into and the Electoral Commission continued to monitor, as required, compliance with agreements entered into in previous years.

## Determination by the Electoral Commission that a person is not a prohibited donor

Under section 56 of the Electoral Funding Act, a person may apply to the Electoral Commission for a determination they or another person or entity are not a prohibited donor. A person is a prohibited donor in New South Wales if they are, or are a close associate of, a property developer, a tobacco industry business entity or a liquor or gambling industry entity. The Electoral Commission is to make its determination solely based on the information provided by the applicant.

During 2021-22 the Electoral Commission received two applications. The Electoral Commission declined to make a determination in one instance and a determination was made in the other. This decision was published in the Register of Determinations under section 56 of the Electoral Funding Act on 15 June 2022.

## Penalty notices issued in accordance with the Fines Act and internal review of decisions

During the year, 50 penalty notices were issued by authorised officers of the Electoral Commission for breaches of the Electoral Funding Act.

Table 69. Penalty notices issued for apparent breaches of the Electoral Funding Act

Breach	Penalty Amount	Number of penalty notices issued
Failure to lodge a disclosure by a party agent – s.141(1)	\$2,750	3
Failure to lodge a disclosure by anyone other than a party agent – s.141(1)	\$1,100	47
<b>Total</b>		<b>50</b>

In accordance with the Fines Act a person can apply for a review of the decision to issue a penalty notice. Reviews of penalty notice decisions issued under the Electoral Funding Act are conducted by authorised officers of the Electoral Commission. The Electoral Commission received 28 applications to conduct an internal review of our decision to issue a penalty notice. In 12 instances the outcome of the review was for penalty to stand, and 16 penalty notices were withdrawn, and cautions were issued.

# Litigation

## Failure to vote proceedings

Two failure to vote prosecutions were brought forward from 2020-21 in respect of local government elections.

The first failure to vote prosecution brought forward from 2020-21 concluded in October 2021. The prosecution concerned an elector who had failed to vote at the 2018 City of Wollongong local council by-election. The court dismissed the charge pursuant to section 10(1)(a) of the *Crimes (Sentencing Procedure) Act 1999* and ordered the defendant to pay professional costs to the prosecutor.

The second failure to vote prosecution brought forward from 2020-21 concluded in December 2021. The prosecution related to an elector who failed to vote at the 2018 City of Penrith local council by-election. The defendant was convicted and ordered to pay a fine together with professional costs to the prosecutor.

Fourteen (14) fail to vote prosecutions from the 2019 NSW State election were brought forward from 2020-21 and were dealt with to finality in 2021-22. Six of the 14 matters were withdrawn in line with the prosecution policy of the Electoral Commission. The remaining eight matters were concluded with court outcomes ranging from a conviction and imposition of the maximum penalty (a fine of \$110) to an order dismissing the charge in accordance with section 10(1)(a) or section 10(1)(b) of the *Crimes (Sentencing Procedure) Act 1999*.

During 2021-22, The Electoral Commission responded to an appeal matter from an elector who had been convicted of failing to vote at the 2019 NSW State election. The elector withdrew the appeal in January 2022, with the conviction and sentence of the Local Court confirmed.

## Failure to lodge disclosure proceedings

There were no prosecutions carried over from 2020-21 or commenced in 2021-22 for the offence of failure to lodge a declaration under the Electoral Funding Act.

## Other Election Funding, Expenditure and Disclosures Act proceedings

In November 2021 a member of Orange City Council was sentenced for two offences under the Election Funding, Expenditure and Disclosures Act, namely:

- Section 96H(3) – giving information to their official agent knowing it would result in the making of a false statement in a disclosure required to be made under the Election Funding, Expenditure and Disclosures Act, and
- Section 96I(1) read with 96C(1)– accepting a reportable political donation being aware that a record of the donation has not been made or a receipt provided.

The defendant was convicted of both offences. The Court imposed a fine and ordered that the defendant pay the prosecutor's costs.

In November 2021, the defendant lodged a notice of appeal against the two convictions pursuant to the *Crimes (Appeal and Review) Act 2001*. The appeal was heard in October 2022.

## Civil proceedings

There were no civil proceedings in 2021-22 relating to the statutory functions of the Electoral Commission.

Table 70. Prosecutions and related proceedings commenced 2020-21 and 2021-22

Act	Matter	Number of matters in 2020-21	Number of matters in 2021-22
Election Funding, Expenditure and Disclosures Act	Failure to lodge a declaration of disclosure of political donations and electoral expenditure	0	0
Election Funding, Expenditure and Disclosures Act	Candidate gave false information to official agent knowing it would result in the making of a false statement in a disclosure	1	0
Election Funding, Expenditure and Disclosures Act	Accepting a reportable political donation being aware that a record has not been made or receipt not provided	1	0
Election Funding, Expenditure and Disclosures Act	Appeal (s 96H(3), 96I(1) and 96C(1))	0	1
Local Government Act	Failure to vote	4	0
Electoral Act	Failure to vote	34	0
Electoral Act	Appeal (failure to vote)	0	1

# Looking forward to 2022-23



**Registration of electoral participants for the 2023 State election**

The graphic features a large orange plus sign in the center, surrounded by abstract blue and orange shapes that suggest movement or registration.



**Report on the Electoral Commission's 2022-23 Regulatory Priorities**

The graphic shows a stack of three books or documents in blue and orange, with a yellow outline of a book cover on top.



**Pre-election period disclosures for the 2023 State election**

The graphic depicts a calendar icon with a blue border and orange highlights, symbolizing a specific time period.



**Implementation of the *Electoral Legislation Amendment Act 2022***

The graphic features a stylized blue and orange geometric shape resembling a book or a set of scales, with a yellow horizontal bar below it.



**Government response to lobbying regulation recommendations of the ICAC**

The graphic shows a blue shield with a yellow checkmark inside, indicating a positive response or approval.



**Further enhancements to Funding and Disclosure Online**

The graphic displays a blue square containing a yellow gear icon, representing digital technology or online systems.



**Publication of political donation disclosures for the 2023 State election**

The graphic features a large orange dollar sign (\$) centered within a blue circular frame, symbolizing financial transactions.



# Glossary

Refer also to the Glossary on the Electoral Commission's website.

Name/Title	Definition
Actual administrative expenditure	Administrative expenditure for which the elected member or party has a legal liability to pay or has paid.
Actual campaign expenditure	Actual electoral expenditure incurred in connection with a State election that is within a party or candidate's expenditure cap and: <ul style="list-style-type: none"> <li>• for a State election – is incurred by a party or candidate between 1 July in the year before the election, to the end of election day, or</li> <li>• for a State by-election – is incurred by a candidate during the three-month period leading up to, and including election day.</li> </ul>
Actual electoral expenditure	Electoral expenditure for which the candidate or party has a legal liability to pay or has paid, including electoral expenditure incurred by a party for, and invoiced to, a candidate (as provided in section 9(9) of the <i>Electoral Funding Act 2018</i> ).
Address	The residential address of a registered officer, deputy registered officer or party secretary and the street address of a party's headquarters.
Administrative expenditure	Expenditure for administrative and operating expenses and includes expenditure on or for: <ul style="list-style-type: none"> <li>• the administration or management of the activities of the eligible party or elected member</li> <li>• conferences, seminars, meetings or similar functions at which the policies of the eligible party or elected member are discussed or formulated</li> <li>• providing information to the public or a section of the public about the eligible party or elected member</li> <li>• providing information to members and supporters of the eligible party or elected member</li> <li>• the audit of the financial accounts of the eligible party or elected member</li> <li>• equipment and training to ensure compliance by the eligible party, elected member or endorsed candidates of the party with obligations under the EF Act</li> <li>• reasonable remuneration of staff engaged in the above activities for the eligible party or elected member (being the proportion of that remuneration that relates to the time spent on those activities)</li> <li>• reasonable expenditure on equipment or vehicles used for the purposes of the above activities (being the proportion of the cost of their acquisition and operation that relates to the use of the equipment or vehicles for those activities)</li> <li>• office accommodation for the above staff and equipment</li> <li>• interest payments on loans.</li> </ul> <p>Administrative expenditure does not include:</p> <ul style="list-style-type: none"> <li>• electoral expenditure</li> <li>• expenditure for which a member may claim a parliamentary allowance as a member</li> <li>• expenditure incurred substantially in respect of operations or activities that relate to the election of members to a Parliament other than the NSW Parliament and</li> <li>• expenditure prescribed by the regulations.</li> </ul>

# Glossary

continued

Name/Title	Definition
Administration Fund	<p>The purpose of the Administration Fund is to reimburse eligible political parties and independent members of parliament for administrative and operating expenditure incurred in a quarterly period.</p> <p>A political party or elected member that is eligible to receive a payment may make a claim with the NSW Electoral Commission for payment from the fund.</p> <p>The NSW Electoral Commission publishes reports on payments made from the Administration Fund.</p>
Aggregate political donation	Political donations added together. See also "political donation."
Associated entity	A corporation or another entity that operates solely for the benefit of one or more parties registered for State elections or members of the NSW Parliament.
Auditor	A registered company auditor within the meaning of the <i>Corporations Act 2001</i> of the Commonwealth.
By-election	<p>By-election means—</p> <ol style="list-style-type: none"> <li>in relation to State elections—a by-election for the Assembly, or</li> <li>in relation to local government elections—a by-election for a councillor (including the mayor) of the council of a local government area.</li> </ol>
Campaign account	<p>A campaign account is an account held by political parties, elected members, candidates, groups of candidates, third-party campaigners and associated entities for the purpose of isolating certain income and payments for an election from other income and payments. The account is held in Australian dollars with a financial institution. Campaign accounts allow election campaign finances to be more easily identified when a disclosure is audited by the NSW Electoral Commission. Political parties, elected members (NSW Members of Parliament and councillors), candidates, groups of candidates, third-party campaigners and associated entities may be required to use a campaign account.</p>
Candidate	<p>A person who is nominated in accordance with the <i>Electoral Act 2017</i> for election to political office and whose nomination has been accepted by the Electoral Commissioner. Only duly nominated candidates have their names included on a ballot paper. Under the <i>Electoral Funding Act 2018</i>, a candidate includes a person registered as a candidate under the <i>Electoral Funding Act 2018</i> for the purpose of accepting political donations and electoral expenditure.</p> <p>A candidate under the <i>Electoral Funding Act 2018</i> also includes an unregistered candidate who has accepted a political donation or made a payment for electoral expenditure for the election.</p>
Canvassing for votes	Soliciting votes in an election including the distribution of electoral material. It is an offence to canvas for votes within a pre-poll voting office, including canvassing for votes outside the pre-poll voting office using a loudspeaker or broadcasting device that can be heard within that office. It is also an offence to canvas for votes within six metres of the entrance of a polling place (or using a loudspeaker or broadcasting device that can be heard within that polling place).

Name/Title	Definition
Cap on electoral expenditure	Electoral expenditure incurred by parties, groups, candidates and third-party campaigners is capped during the capped expenditure period of a state general election and the capped local government expenditure period of a local government election. There are different caps applicable to parties, groups, candidates and third-party campaigners.
Cap on political donations	Political donations made to registered political parties, unregistered parties, elected members, groups, candidates, associated entities and third-party campaigners are subject to caps. There are different caps applicable to registered political parties, unregistered parties, elected members, groups, candidates, associated entities and third-party campaigners.
Capped expenditure period	The period during which the electoral expenditure of parties, groups, candidates and third-party campaigners is capped for State elections. The capped expenditure period starts on 1 October in the year before the election is held and ends on election day.
Capped local government expenditure period	The period during which the electoral expenditure of parties, groups, candidates (including mayoral candidates) and third-party campaigners is capped for local government elections. For an ordinary election of the councillors, the capped local government expenditure period starts on 1 July in the year of the election. If an election is to be held where a council was constituted, has been dismissed, or has been declared to be non-functioning, the capped local government expenditure period will start 3 months before election day or on the day of proclamation of the election. In all other instances, it will start from and including the day on which the date of the election is publicly notified by the person conducting the election. The capped local government expenditure period for will end on election day.
Capped State expenditure period	<p>Capped State expenditure period- means:</p> <ul style="list-style-type: none"> <li>• for a State general election – from 1 October in the year before the election to the end of election day</li> <li>• for a State by-election – from the day the writ is issued for the by-election, to the end of election day.</li> </ul>
Claimant/s	A party or independent elected member eligible for administrative funding.
Close associate of a corporation	<p>A close associate of a corporation means each of the following:</p> <ul style="list-style-type: none"> <li>• a director or officer of the corporation or the spouse of such a director or officer</li> <li>• a related body corporate of the corporation</li> <li>• a person whose voting power in the corporation or a related body corporate of the corporation is greater than 20% or the spouse of such a person</li> <li>• if the corporation or a related body corporate of the corporation is a stapled entity in relation to that stapled entity</li> <li>• in relation to a corporation that is a property developer – a person in a joint venture or partnership with the property developer in connection with a relevant planning application made by or on behalf of the property developer who is likely to obtain a financial gain if the development that would be or is authorised by the application is authorised or carried out and</li> <li>• if the corporation is a trustee, manager or responsible entity in relation to a trust-a person who holds more than 20% of the units in the trust (in the case of a unit trust) or is a beneficiary of the trust (in the case of a discretionary trust).</li> </ul>

# Glossary continued

Name/Title	Definition
Close associate of an individual	<p>Close associate of an individual means each of the following:</p> <ul style="list-style-type: none"> <li>• the spouse of the individual and</li> <li>• in relation to an individual who is a property developer – a person in a joint venture or partnership with the property developer in connection with a relevant planning application made by or on behalf of the property developer who is likely to obtain a financial gain if development that would be or is authorised by the application is authorised or carried out.</li> </ul>
Delegation	<p>The formal assignment of functions of the Electoral Commission conferred or imposed on them under the Electoral Act and regulation, Electoral Funding Act and regulation, LG Act and regulation, and LOGO Act and regulation, to the and Electoral Commissioner and staff of the agency. In this document, delegation does not refer to financial delegations under the <i>Public Finance and Audit Act 1983</i> or other delegations in place for the NSWEC that relate to the day-to-day workings of the organisation, such as who can approve annual leave or staff travel.</p>
Deputy registered officer	<p>Deputy registered officer – of a registered party, means the person shown in the Register of Parties or the Local Government Register of Political Parties as the deputy registered officer of the party.</p>
Disclosure	<p>The disclosure of political donations and electoral expenditure by a party, elected member, candidate, group, third-party campaigner, associated entity or major political donor to the NSW Electoral Commission.</p>
Disposition of property	<p>Disposition of property means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes:</p> <ol style="list-style-type: none"> <li>a) the allotment of shares in a company, and</li> <li>b) the creation of a trust in property, and</li> <li>c) the grant or creation of any lease, mortgage, charge, servitude, license, power, partnership or interest in property, and</li> <li>d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property, and</li> <li>e) the exercise by a person of a special or general power of appointment of property in favour of any other person (or a hybrid of both), and</li> <li>f) any transaction entered into by any person with intent to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person.</li> </ol>
Donor	<p>A person or entity who makes a political donation to a party, elected member, candidate, group or other person or entity (including a third-party campaigner or associated entity). See also: Major political donor.</p>
Elected member	<p>A member of Parliament, or a councillor (including the mayor) of the council of a local government area, and includes a person who, during any period after ceasing to be a member of Parliament or a councillor, is entitled to remuneration as such a member or councillor.</p>
Election	<p>Election means a State election or a local government election in NSW. See also Local government election.</p>

Name/Title	Definition
Elector	A person eligible to vote at an election. To be eligible to vote, a person must be aged 18 years or over on the election day, an Australian citizen, and resident at an address in NSW for at least one month before they enrol. Note that a person can enrol to vote at a voting centre on election day.
Election Campaigns Fund	<p>A fund for the purpose of reimbursing eligible candidates and parties for certain electoral expenditure incurred in connection to a State election or a State by-election. Eligible parties can make a claim with the NSW Electoral Commission to receive payments from the fund at the conclusion of an election.</p> <p>Eligible parties are:</p> <ul style="list-style-type: none"> <li>• party's that have been registered for State elections for 12 months</li> <li>• party's that have endorsed candidates in the election</li> <li>• for a Legislative Assembly election, the party's endorsed candidate(s) receives at least 4% of first preferential votes, or;</li> <li>• for a Legislative Council election, the party's endorsed candidates(s) (and by all other candidates included in the same group) receives at least of first preferential votes.</li> </ul> <p>Eligible candidates are:</p> <ul style="list-style-type: none"> <li>• candidates who are nominated for the election</li> <li>• candidates who are registered for the election</li> <li>• in the case of a candidate for the Legislative Council election, the candidate was not included in a group, or if included in a group, none of the group's members were endorsed by a party</li> <li>• in the case of the Legislative Assembly election the candidate is elected, or receives at least 4% of the first preference votes, or;</li> <li>• in the case of the Legislative Council election the candidate is elected, or the candidate (and, if included in a group, all other candidates included in the same group) receives at least 4% of all first preference votes.</li> </ul>
Electoral Commissioner of NSW	The NSW Electoral Commissioner is the statutory officer appointed to manage the conduct of State and other elections, leads the staff agency and sits on the three-member statutory body.
Electoral expenditure	<p>Expenditure for or in connection with:</p> <ul style="list-style-type: none"> <li>• promoting or opposing (directly or indirectly): <ul style="list-style-type: none"> <li>- a political party</li> <li>- the election of a candidate or candidates, or</li> </ul> </li> <li>• influencing (directly or indirectly) the voting at an election and which is expenditure of one of the kinds set out in section 7 of the EF Act.</li> </ul>
<i>Electoral Act 2017 (NSW)</i>	<i>Electoral Act 2017 (Electoral Act)</i>
<i>Electoral Funding Act 2018 (NSW)</i>	<i>Electoral Funding Act 2018 (EF Act)</i>
Electoral Funding Regulation	<i>Electoral Funding Regulation 2018 (NSW)</i>

# Glossary continued

Name/Title	Definition
Election campaigns fund	<p>The purpose of the Election Campaigns Fund is to reimburse eligible candidates and parties for certain electoral expenditure incurred in connection to a State election or a State by-election.</p> <p>After an election, a political party or candidate that is eligible to receive a payment may make a claim with the NSW Electoral Commission to receive payments from the fund. The NSW Electoral Commission publishes reports on payments made from the Election Campaigns Fund.</p>
Eligible party	A party that has at least 750 members (or at least 100 members for registration under the Local Government Act) and that is established on the basis of a written constitution (however expressed).
Enrolment	The process of officially registering to be on the list of voters.
Endorsed	Endorsed, in relation to a party, means endorsed, selected or otherwise accredited to stand as a representative of the party in an election.
Entity	An incorporated or unincorporated body, or the trustee of a trust.
Expenditure period	In the case of a State election – the period from and including 1 October in the year before which the election is to be held to the end of polling day for the election; in the case of a State by-election – the period from and including the day of the issue of the writ or writs for the election to the end of polling day for the election; in the case of a local government general election – the period from and including 1 July in that year to the end of polling day for the election; and for another other local government election – the period from and including the day on which the date of the election is publicly notified by the person conducting the election to the end of polling day for the election.
Fines Act 1996 (NSW)	<i>Fines Act 1996 (NSW)</i>
First preference votes	The first preference votes recorded for a candidate that are not rejected as informal at the election
<i>Funding and Disclosure Online</i>	The NSW Electoral Commission’s secure portal for political participants to comply with NSW electoral funding laws online. It allows users to perform a range of tasks online including disclosing political donations and electoral expenditure.
Gift	<p>Any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money’s worth or with inadequate consideration, and includes the provision of a service for no consideration or for inadequate consideration, other than:</p> <ol style="list-style-type: none"> <li>a) the provision of voluntary labour, and</li> <li>b) the provision of voluntary professional services to a party by an officer or an elected member of the party.</li> </ol>

Name/Title	Definition
Government official	<p>The following:</p> <ul style="list-style-type: none"> <li>a) a Minister or Parliamentary Secretary,</li> <li>b) a staff member of a Minister or Parliamentary Secretary (including a staff member in an electorate office),</li> <li>c) the head of a Public Service agency,</li> <li>d) a person employed in the Public Service of New South Wales, the Transport Service of New South Wales or any other service of the Crown,</li> <li>e) an individual who is engaged under a contract to provide services to or on behalf of the Public Service of New South Wales, the Transport Service of New South Wales or any other service of the Crown,</li> <li>f) a member (however expressed) of, or of the governing body of, a statutory body, but does not include (except in Parts 5 and 6) a local government official.</li> </ul>
Group	<p>In relation to State elections means a group of candidates, or part of a group of candidates, for a Legislative Council election, or in relation to local government elections means a group of candidates, or part of a group of candidates, for a local government election. For the purposes of Part 2 of the EF Act, a group includes individuals who accept a gift for use solely or substantially for a purpose related to the proposed candidacy of the individuals at a future election.</p>
Independent	<p>An independent is a candidate for election/member of Parliament who is not endorsed by a political party.</p>
Independent elected member	<p>A member of Parliament who was not endorsed by any party when they were elected and is not a member or representative of any party.</p>
Legislative Assembly	<p>The lower house of Parliament in NSW. It has 93 members each representing an electoral district. All 93 members are elected at a general election, every four years.</p>
Legislative Council	<p>The upper house of the Parliament of New South Wales consisting of 42 members elected for an eight-year term, half of whom (that is, 21) are elected at each general election every four years.</p>
Liquor or gambling industry business entity	<p>A corporation engaged in a business undertaking that is mainly concerned with either or a combination of the following, but only if it is for the ultimate purpose of making a profit:</p> <ul style="list-style-type: none"> <li>• the manufacture or sale of liquor products <ul style="list-style-type: none"> <li>- wagering, betting or other gambling (including the manufacture of machines used primarily for that purpose) or</li> </ul> </li> <li>• a person who is a close associate of a such a corporation.</li> </ul>
<i>Lobbying of Government Officials Act 2011 (NSW)</i>	<i>Lobbying of Government Officials Act 2011</i>

# Glossary continued

Name/Title	Definition
Lobbying a Government official	Lobbying a Government official means communicating with the official for the purpose of representing the interests of others in relation to any of the following: <ol style="list-style-type: none"> <li>legislation or proposed legislation or a government decision or policy or proposed government decision or policy,</li> <li>a planning application,</li> <li>the exercise by the official of his or her official functions.</li> </ol>
Lobbyist/Third-party lobbyist	A third-party lobbyist is an individual or body carrying on the business (generally for money or other valuable consideration) of lobbying government officials on behalf of another individual or body.
Lobbyists Code	The Lobbyists Code of Conduct prescribed by the Lobbying Regulations in accordance with Part 2 of the Lobbying Act.
Lobbyists Register	The Register of Third-Party Lobbyists established under Part 3 of the Lobbying Act.
Lobbyists Watch List	The Lobbyists Watch List established under Part 4 of the Lobbying Act.
<i>Local Government Act 1993 (NSW)</i>	<i>Local Government Act 1993 (NSW)</i>
Local government election	An election under the LG Act for the office of councillor or mayor under that Act (other than an election of mayor by councillors).
Local Government Register of Political Parties	Local Government Register of Political Parties – means the register kept by the Commissioner in accordance with section 319 of the Local Government Act.
Major political donor	A person or entity (other than a party, elected member, group or candidate) who makes a reportable political donation of or exceeding \$1,000. See also: donor.
Member	Member – of a party, means a member of the party who is enrolled under the Electoral Act.
New Parties Fund	The purpose of the New Parties Fund is to reimburse eligible political parties for policy development expenditure incurred in a calendar year.  A political party that is eligible to receive a payment may make a claim with the NSW Electoral Commission for payment from the fund.  The NSW Electoral Commission publishes reports on payments made from the New Parties Fund.
Nil disclosure	Political participants who have an obligation to disclose, but who have not made or received any political donations or incurred any electoral expenditure during a reporting period, must make a disclosure declaring this.



Name/Title	Definition
NSW Electoral Commission	<p>The NSW Electoral Commission is an independent, three-member statutory authority constituted under the <i>Electoral Act 2017</i>.</p> <p>The chief responsibilities of the NSW Electoral Commission statutory authority are to:</p> <ul style="list-style-type: none"> <li>• enforce the electoral laws</li> <li>• approve or decline the payment of public funds to eligible political participants</li> <li>• commence prosecutions for breaches of electoral laws</li> <li>• conduct and promote research into electoral matters.</li> </ul> <p>It has the following members: a former judge; the Electoral Commissioner; a person who has financial or audit skills and qualifications relevant to the functions of the Electoral Commission.</p>
NSW Electoral Commission Public Service Agency	<p>The NSW Electoral Commission staff agency is led by the Electoral Commissioner. It was created as a separate public sector agency under the <i>Government Sector Employment Act 2013</i> and it sits within the <i>NSW Premier and Cabinet cluster</i>.</p> <p>The NSW Electoral Commission staff agency conducts State, local government and commercial elections in New South Wales, and maintains the roll of electors for the State. The Electoral Commissioner is responsible for the operations of the agency, which comprises four divisions, and reports to the NSW Parliament Joint Standing Committee on Electoral Matters.</p>
Nomination	<p>The process by which a person applies to become a candidate for election. Note that this is different from 'registration' under the <i>Electoral Funding Act 2018</i>.</p>
Officer	<p>Officer has the same meaning as in the Corporations Act 2001 of the Commonwealth. Section 9 of that Act defines an officer of a corporation as:</p> <ul style="list-style-type: none"> <li>• a director or secretary of the corporation or <ul style="list-style-type: none"> <li>- a person:</li> </ul> </li> <li>• who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the corporation or</li> <li>• who has the capacity to affect significantly the corporation's financial standing or</li> <li>• in accordance with whose instructions or wishes the directors of the corporation are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the directors or the corporation) or</li> <li>• a receiver, or receiver and manager, of the property of the corporation or</li> <li>• an administrator of the corporation or <ul style="list-style-type: none"> <li>- an administrator of a deed of company arrangement executed by the corporation or</li> <li>- a liquidator of the corporation or</li> <li>- a trustee or other person administering a compromise or arrangement made between the corporation and someone else.</li> </ul> </li> </ul>
Official agent	<p>Major political donor – means an entity or other person (not being a party, elected member, group or candidate) who makes a reportable political donation.</p>

# Glossary continued

Name/Title	Definition
Party	Party means a body or organisation, incorporated or unincorporated, having as one of its objects or activities the promotion of the election to Parliament of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part.
Party agent	A person appointed as a party agent by a political party.
Person responsible	The person responsible for making disclosures of political donations and electoral expenditure on behalf of another person, or on their own behalf.
Planning application	Planning application means an application or request by a person (other than a public authority within the meaning of the <i>Environmental Planning and Assessment Act 1979</i> ): a) to initiate the making of an environmental planning instrument or plan under that Act in relation to any development, project or activity on a particular site, or b) for consent to, or approval of, any development, project or activity under that Act or for the modification of any such consent or approval.
Political party	A body or organisation, incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the NSW Parliament or a local Council of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part. See also registered political party.
Political donor	A person who makes a gift. See also: Major political donor.
Political donation	A gift made to, or for the benefit of, a political party, elected member, candidate, group of candidates, or other person or entity including an associated entity or third-party campaigner in New South Wales. The precise meaning of political donation is different for each type of political participant, as defined in section 5 of the EF Act.
Political participant	Individuals and groups actively involved in the electoral process. Political participants include: <ul style="list-style-type: none"> <li>• candidates and groups</li> <li>• political parties</li> <li>• members of Parliament and councillors</li> <li>• party agents and official agents</li> <li>• associated entities</li> <li>• third-party campaigners</li> <li>• political donors</li> <li>• third-party lobbyists.</li> </ul>
Prohibited donor	Prohibited donor means: <ul style="list-style-type: none"> <li>• a property developer or</li> <li>• a tobacco industry business entity or</li> <li>• a liquor or gambling industry business entity;</li> <li>• and includes any industry representative organisation if the majority of its members are prohibited donors listed above.</li> </ul>

Name/Title	Definition
Property developer	<p>Property developer means:</p> <ul style="list-style-type: none"> <li>• an individual or a corporation that carries on a business mainly concerned with the residential or commercial development of land, with the ultimate purpose of the sale of the land for profit, and in the course of that business:</li> <li>• 1 relevant planning application has been made by or on behalf of the individual or corporation and is pending or</li> <li>• 3 or more relevant planning applications made by or on behalf of the individual or corporation have been determined within the preceding 7 years.</li> <li>• a person who is a close associate of an individual or corporation.</li> </ul> <p>Any activity engaged in by an individual or corporation for the dominant purpose of providing commercial premises at which the individual or corporation or a related body corporate of the corporation will carry on business is to be disregarded for the purpose of determining whether the individual or corporation is a property developer unless that business involves the sale or leasing of a substantial part of the premises.</p>
Public Funding	<p>The NSW Electoral Commission administers three public funding schemes in New South Wales. Public funding is available to eligible parties and candidates contesting state elections and to eligible parties and independent members of Parliament.</p> <p>Public funding is not available to political parties registered for local government elections.</p>
Redistribution	<p>To ensure the number of electors in each New South Wales electoral district remains approximately the same over time, the <i>Constitution Act 1902</i> requires that electoral district boundaries are reviewed and adjusted if necessary. This formal process is called a redistribution and must take place after every second New South Wales State general election. See the section in this report headed Redistribution of electoral districts for more information.</p>
Register of Third-Party Lobbyists	<p>The Electoral Commission is required to establish a Register of Third-Party Lobbyists and publish it on a website under their maintenance.</p>
Register of Parties	<p>The register kept by the Commissioner in accordance with section 58 of the Electoral Act.</p>
Registered party	<p>A political party on the Register of Parties kept by the Electoral Commissioner under the <i>Electoral Act 2017</i>. To be eligible to be registered, a party must have at least 750 members to be registered for State elections, or a minimum of 100 members for local government elections, and have a written constitution, however that is expressed.</p>
Registered officer	<p>Registered officer – of a registered party, means the person shown in the Register of Parties or the Local Government Register of Political Parties as the registered officer of the party.</p>
Registered party	<p>Registered party – means a party registered in accordance with Part 6 of the Electoral Act or Part 7 of Chapter 10 of the Local Government Act.</p>
Registration	<p>In relation to a candidate, group of candidates or third-party campaigner for the election, means being registered under the <i>Electoral Funding Act 2018</i> for the purposes of accepting political donations and making payments for electoral expenditure. (See also: Nomination).</p>

# Glossary

continued

Name/Title	Definition
Related body corporate	<p>Related body corporate has the same meaning as in the Corporations Act 2001 of the Commonwealth. Sections 9 and 50 of that Act defines a related body corporate as a body corporate that is related to another body corporate because it is one of the following:</p> <ul style="list-style-type: none"> <li>• a holding company of the other body corporate <ul style="list-style-type: none"> <li>- a subsidiary of the other body corporate or</li> </ul> </li> <li>• a subsidiary of a holding company of the other body corporate.</li> </ul>
Relevant planning application	Relevant planning application has the same meaning as in section 10.4 (Disclosure of political donations and gifts) of the Environmental Planning and Assessment Act 1979 of NSW.
Reportable political donation	A political donation of or more than \$1,000 made to or for the benefit of a party, elected member, group, candidate, associated entity or third-party campaigner.
Responsible officer	A person appointed by a third-party lobbyist who has a management, financial or other interest in the third-party lobbyist. The officer is responsible for the lobbyist's compliance with its obligations under the Lobbying Act on behalf of the third-party lobbyist.
Secretary	Secretary – of a party, means the person who holds the office (however expressed) the duties of which involve responsibility for the carrying out of the administration, and for the conduct of the correspondence, of the party.
Senior office holder (of political party)	A person involved in the management, control or the operations of the party. A person must be a senior office holder to be appointed as a party agent of a party. Seniors office holders may include the following: president, deputy president, chairperson, deputy chairperson, vice-chairperson, general secretary, assistant general secretary, secretary, deputy secretary, state director, deputy state director, treasurer, deputy treasurer, convenor, or deputy convenor.
Spouse	Spouse of a person includes a de facto partner of that person.
Stapled entity	The interests in which are traded, along with the interests in another entity as stapled securities and (in the case of a stapled entity that is a trust) includes any trustee, manager or responsible entity in relation to the trust.
State election	A Legislative Assembly general election, a Legislative Council election or a by-election for the Legislative Assembly
Third-party campaigner	In the case of a State election – means an entity or other person (not being an associated entity, party, elected member, group or candidate) who incurs electoral expenditure during the capped expenditure period for a State or local government election (as defined in Part 2 of the EF Act) that exceeds \$2,000 in total and includes an individual or entity that is registered as a third-party campaigner in accordance with Part 7 of the EF Act.
Third-party lobbyist	An individual or body carrying on the business (generally for money or other valuable consideration) of lobbying government officials on behalf of another individual or body.
Tobacco industry business entity	<ul style="list-style-type: none"> <li>• a corporation engaged in a business undertaking that is mainly concerned with the manufacture or sale of tobacco products or</li> <li>• a person who is a close associate of such a corporation.</li> </ul>

Name/Title	Definition
Unlawful political donation	<p>The following donations are unlawful under electoral funding legislation:</p> <ul style="list-style-type: none"> <li>• Political donations in the form of cash over \$100</li> <li>• Failure to record details of a reportable political donation</li> <li>• Anonymous reportable political donations</li> <li>• Identity of donors</li> <li>• Indirect campaign contributions valued at more than the allowable amount</li> <li>• Political donations to more than three third-party campaigners</li> <li>• Political donations by a party etc to independent candidates</li> <li>• Failure to record details of reportable loans</li> <li>• Prohibited donors</li> <li>• Donations exceeding the caps</li> </ul>
Voting power	Voting power has the same meaning as in the Corporations Act 2001 of the Commonwealth.

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