

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

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

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"> • Arthur Emmett • Alan Robertson • John Schmidt
Monday, 23 May 2022	<ul style="list-style-type: none"> • Arthur Emmett • Alan Robertson • Sandie Boswell • John Schmidt

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
Total	22,636

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
Total	4,362	778	52	93

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"> • 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. 	\$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](#)¹.

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

¹ 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%
Total	2,282	1,449	696	136	64%

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%
Total	1,459	66%

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	\$5,967,920.62
Elected members	\$96,298.60	\$57,126.56	N/A	\$890,000.00	\$1,043,425.16
Candidates	\$67,301.44	\$141,882.50	N/A	\$0	\$209,183.94
Groups	\$60,733.31	\$301,174.76	N/A	\$0	\$361,908.07
Third-party campaigners	N/A	\$0	N/A	\$0	\$0
Associated entities	\$0	\$0	N/A	\$0	\$0
Total	\$1,495,413.51	\$2,939,321.75	\$1,400,810.82	\$1,746,891.71	\$7,582,437.79

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	\$5,070.00
Elected members	\$92,139.55	\$645,112.93	\$737,252.48
Candidates	\$19,230.63	\$69,092.25	\$88,322.88
Groups	\$6,485.42	\$42,567.42	\$49,052.84
Third-party campaigners	N/A	\$95,829.04	\$95,829.04
Associated entities	\$0	\$0	\$0
Total	\$118,925.60	\$856,601.64	\$975,527.24

*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
Total	\$461,975.30

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
Total	\$348,566.03

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	16
Financial records	19	33	52
Chart of accounts	12	40	52
Trial balance	16	36	52
Bank statements	23	29	52

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%
Total	2,280	1,437	668	175	63%

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%
Total	1,894	90%

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
Total	1,698,193.19	141,256.43	990,220.35	159,085.58	80,735.47	3,069,491.02

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%
Total	6,973	4,517	1,446	1,010	65%

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%
Total	1,137	74%

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	\$9,158,654.25
Elected members	\$193,867.12	\$133,393.50	N/A	\$13,590.76	\$340,851.38
Candidates	\$365,418.64	\$369,389.84	N/A	\$1,608.00	\$736,416.48
Groups	\$644,489.88	\$1,601,521.97	N/A	\$45,848.86	\$2,291,860.71
Third-party campaigners	N/A	\$14,615.70	N/A	\$5,000.00	\$19,615.70
Associated entities	\$0	\$0	N/A	\$0	\$0
Total	\$2,199,311.17	\$5,046,170.35	\$1,100,244.60	\$4,201,672.40	\$12,547,398.52

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	\$13,615.01
Elected members	\$109,659.10	\$546,647.46	\$656,306.56
Candidates	\$130,526.86	\$518,989.76	\$649,516.62
Groups	\$41,639.00	\$194,566.02	\$236,205.02
Third-party campaigners*	N/A	\$14,900.00	\$14,900.00
Associated entities	\$0	\$0	\$0
Total	\$286,422.27	\$1,284,120.94	\$1,570,543.21

*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
Total	\$616,850.42

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
Total	\$27,763.55

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

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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
Total			\$171,623.39	

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](#).

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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
Total of all payments				\$8,850,745.05	

* 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
Total of all payments				\$4,749,943.25	

* 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		
Totals	\$344,143.24		\$41,805.18	

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
Total amount repaid		\$165,489.84	

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
Total	4,744	6,109	46	131

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
Total warnings issued from compliance audits and reviews	111

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
Total		56

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
Total	2	\$16,291

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
Total		50

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



Report on the Electoral Commission's 2022-23 Regulatory Priorities



Pre-election period disclosures for the 2023 State election



Implementation of the *Electoral Legislation Amendment Act 2022*

Government response to lobbying regulation recommendations of the ICAC



Further enhancements to Funding and Disclosure Online

Publication of political donation disclosures for the 2023 State election



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"> • 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 • for a State by-election – is incurred by a candidate during the three-month period leading up to, and including election day.
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"> • the administration or management of the activities of the eligible party or elected member • conferences, seminars, meetings or similar functions at which the policies of the eligible party or elected member are discussed or formulated • providing information to the public or a section of the public about the eligible party or elected member • providing information to members and supporters of the eligible party or elected member • the audit of the financial accounts of the eligible party or elected member • equipment and training to ensure compliance by the eligible party, elected member or endorsed candidates of the party with obligations under the EF Act • 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) • office accommodation for the above staff and equipment • interest payments on loans. Administrative expenditure does not include: <ul style="list-style-type: none"> • 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 and • expenditure prescribed by the regulations.

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"> in relation to State elections—a by-election for the Assembly, or in relation to local government elections—a by-election for a councillor (including the mayor) of the council of a local government area.
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"> • for a State general election – from 1 October in the year before the election to the end of election day • for a State by-election – from the day the writ is issued for the by-election, to the end of election day.
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"> • a director or officer of the corporation or the spouse of such a director or officer • a related body corporate of the corporation • 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 • if the corporation or a related body corporate of the corporation is a stapled entity in relation to that stapled entity • 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 • 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).

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"> • the spouse of the individual and • 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.
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"> a) the allotment of shares in a company, and b) the creation of a trust in property, and c) the grant or creation of any lease, mortgage, charge, servitude, license, power, partnership or interest in property, and 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 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 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.
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"> • party's that have been registered for State elections for 12 months • party's that have endorsed candidates in the election • for a Legislative Assembly election, the party's endorsed candidate(s) receives at least 4% of first preferential votes, or; • 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. <p>Eligible candidates are:</p> <ul style="list-style-type: none"> • candidates who are nominated for the election • candidates who are registered for the election • 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 • in the case of the Legislative Assembly election the candidate is elected, or receives at least 4% of the first preference votes, or; • 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.
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"> • promoting or opposing (directly or indirectly): <ul style="list-style-type: none"> - a political party - the election of a candidate or candidates, or • 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.
<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"> the provision of voluntary labour, and the provision of voluntary professional services to a party by an officer or an elected member of the party.

Name/Title	Definition
Government official	<p>The following:</p> <ul style="list-style-type: none"> a) a Minister or Parliamentary Secretary, b) a staff member of a Minister or Parliamentary Secretary (including a staff member in an electorate office), c) the head of a Public Service agency, 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, 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, f) a member (however expressed) of, or of the governing body of, a statutory body, but does not include <p>(except in Parts 5 and 6) a local government official.</p>
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"> • the manufacture or sale of liquor products <ul style="list-style-type: none"> - wagering, betting or other gambling (including the manufacture of machines used primarily for that purpose) or • a person who is a close associate of a such a corporation.
<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	<p>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:</p> <ul style="list-style-type: none"> a) legislation or proposed legislation or a government decision or policy or proposed government decision or policy, b) a planning application, c) the exercise by the official of his or her official functions.
Lobbyist/Third-party lobbyist	<p>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.</p>
Lobbyists Code	<p>The Lobbyists Code of Conduct prescribed by the Lobbying Regulations in accordance with Part 2 of the Lobbying Act.</p>
Lobbyists Register	<p>The Register of Third-Party Lobbyists established under Part 3 of the Lobbying Act.</p>
Lobbyists Watch List	<p>The Lobbyists Watch List established under Part 4 of the Lobbying Act.</p>
<i>Local Government Act 1993 (NSW)</i>	<i>Local Government Act 1993 (NSW)</i>
Local government election	<p>An election under the LG Act for the office of councillor or mayor under that Act (other than an election of mayor by councillors).</p>
Local Government Register of Political Parties	<p>Local Government Register of Political Parties – means the register kept by the Commissioner in accordance with section 319 of the Local Government Act.</p>
Major political donor	<p>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.</p>
Member	<p>Member – of a party, means a member of the party who is enrolled under the Electoral Act.</p>
New Parties Fund	<p>The purpose of the New Parties Fund is to reimburse eligible political parties for policy development expenditure incurred in a calendar year.</p> <p>A political party 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 New Parties Fund.</p>
Nil disclosure	<p>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.</p>

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"> • enforce the electoral laws • approve or decline the payment of public funds to eligible political participants • commence prosecutions for breaches of electoral laws • conduct and promote research into electoral matters. <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"> • a director or secretary of the corporation or <ul style="list-style-type: none"> - a person: • who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the corporation or • who has the capacity to affect significantly the corporation's financial standing or • 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 • a receiver, or receiver and manager, of the property of the corporation or • an administrator of the corporation or <ul style="list-style-type: none"> - an administrator of a deed of company arrangement executed by the corporation or - a liquidator of the corporation or - a trustee or other person administering a compromise or arrangement made between the corporation and someone else.
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"> • candidates and groups • political parties • members of Parliament and councillors • party agents and official agents • associated entities • third-party campaigners • political donors • third-party lobbyists.
Prohibited donor	Prohibited donor means: <ul style="list-style-type: none"> • a property developer or • a tobacco industry business entity or • a liquor or gambling industry business entity; • and includes any industry representative organisation if the majority of its members are prohibited donors listed above.

Name/Title	Definition
Property developer	<p>Property developer means:</p> <ul style="list-style-type: none"> • 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: • 1 relevant planning application has been made by or on behalf of the individual or corporation and is pending or • 3 or more relevant planning applications made by or on behalf of the individual or corporation have been determined within the preceding 7 years. • a person who is a close associate of an individual or corporation. <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"> • a holding company of the other body corporate <ul style="list-style-type: none"> - a subsidiary of the other body corporate or • a subsidiary of a holding company of the other body corporate.
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"> • a corporation engaged in a business undertaking that is mainly concerned with the manufacture or sale of tobacco products or • a person who is a close associate of such a corporation.

Name/Title	Definition
Unlawful political donation	<p>The following donations are unlawful under electoral funding legislation:</p> <ul style="list-style-type: none"> • Political donations in the form of cash over \$100 • Failure to record details of a reportable political donation • Anonymous reportable political donations • Identity of donors • Indirect campaign contributions valued at more than the allowable amount • Political donations to more than three third-party campaigners • Political donations by a party etc to independent candidates • Failure to record details of reportable loans • Prohibited donors • Donations exceeding the caps
Voting power	Voting power has the same meaning as in the Corporations Act 2001 of the Commonwealth.

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