

Report on the conduct of the Willoughby state by-election

12 February 2022



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Contents

Foreword from the Electoral Commissioner	2
Legislative change	3
Election overview	4
Willoughby by-election results	4
By-election summary	5
By-election key dates	6
The election in detail	8
Willoughby electoral district map	8
Safety measures introduced due to COVID-19	8
Voting services	9
Advertising and communications campaign	10
Assistance for voters	11
Candidates, parties and other political participants	12
NSW Electoral Commission website	13
Election staff	14
Venues and logistics	16
Election costs	17
Results	17
Failure to vote notices	18
Compliance and enforcement operation	19
Appendices	21

Foreword from the Electoral Commissioner

The by-election held on Saturday, 12 February 2022 elected the sitting member for the New South Wales Legislative Assembly electoral district of Willoughby following the resignation of the Hon. Gladys Berejiklian MP on 30 December 2021.

The Writ for the Willoughby by-election was issued on Friday, 21 January 2022 by the Speaker of the New South Wales Legislative Assembly, the Hon. Jonathan O’Dea MP.

Mr Timothy Charles James (The Liberal Party of Australia, NSW Division) was elected as the member for Willoughby.

The result was declared on Wednesday, 2 March 2022.

The Writ was returned to the Speaker of the Legislative Assembly on Tuesday, 22 March 2022.

The conduct of the Willoughby by-election proceeded smoothly, with turnout and formality rates of 80.49 per cent and 98.43 per cent, respectively.

Three other NSW state by-elections were conducted on Saturday, 12 February 2022, along with Willoughby. These were Bega, Monaro and Strathfield.

As permitted by amendments to the *Electoral Regulation 2018*, I declared the Bega, Monaro, Strathfield and Willoughby state electoral districts as ‘COVID-19 affected’. Postal vote packs were subsequently issued to all enrolled electors without the need for a postal vote application.

As Electoral Commissioner for New South Wales I have conducted a review of the administration of the Willoughby State by-election pursuant to section 271 of the *Electoral Act 2017*. This report reflects the outcomes of that review.

The delivery of efficient, accurate and trusted elections, in accordance with New South Wales electoral legislation, relies heavily upon the capability of NSW Electoral Commission staff. I extend my gratitude to everyone at the NSW Electoral Commission, the temporary election workforce, suppliers and contractors for the successful conduct of this election event.



John Schmidt

Electoral Commissioner for New South Wales

Legislative change

The *Electoral Amendment (COVID-19) Act 2021* amended the *Electoral Act 2017* to provide that, for any state by-election held between 21 November 2021 and 30 June 2022:

- all electors were eligible for early voting
- the eligibility for postal vote was expanded to include those electors who:
 - are self-isolating because of COVID-19 related reasons
 - reasonably believe that attending a voting centre on election day would pose a risk to their health or safety, or the health or safety of another person, because of the COVID-19 pandemic
 - are a permanent or temporary resident in a hospital, nursing home, retirement village or similar facility.
- regulations could, in certain circumstances modify the application of the Electoral Act for the purpose of responding to the public health emergency caused by the COVID-19 pandemic.

In January 2022, the *Electoral Amendment (COVID-19) Regulation 2022* amended the *Electoral Regulation 2018* to provide that the Electoral Commissioner could, if satisfied it was necessary to comply with a public health order or to reduce the risk of infection from COVID-19, declare that electors of a specified electoral district were COVID-19 affected electors for a by-election. The effect of this was to enable a postal vote pack to be sent to all electors enrolled in the specified district. This provision only applied to the conduct of state by-elections conducted up to 30 June 2022.

The Electoral Commissioner subsequently declared the electoral districts of Bega, Monaro, Strathfield and Willoughby as being 'COVID-19 affected' and the NSW Electoral Commission sent postal voting packs to every voter enrolled in those four districts for those by-elections.

Additional changes to the Regulation extended the time for return of postal votes to the NSW Electoral Commission to 6pm on the thirteenth day following the election day (that is, 6pm on Friday, 25 February 2022 for the Willoughby state by-election). The *Electoral Act 2017* ordinarily requires a postal vote to be returned by 6pm on the fourth day after a state election. Thirteen days after the election day is the period in which postal votes may be returned at federal elections. It is also the period that applied for postal voting at the ordinary NSW local government elections held in December 2021.

Technology-assisted voting was not used at the February 2022 state by-elections, other than telephone voting for electors who are blind or have low vision.

Election overview

Willoughby by-election results

Mr Timothy Charles James (The Liberal Party of Australia, NSW Division) was elected at the Willoughby state by-election conducted Saturday, 12 February 2022.

Table 1: Willoughby state by-election 12 February 2022 – first preference votes

Candidate	Affiliation	Formal votes	Percentage of first preference
BOURKE William	Sustainable Australia Party – Stop Overdevelopment /Corruption	2,122	4.87%
PENN Larissa	Independent	12,920	29.66%
GUNNING Samuel	Liberal Democratic Party	1,104	2.53%
SAVILLE Lynne	The Greens NSW	5,892	13.53%
JAMES Tim	The Liberal Party of Australia, NSW Division	18,949	43.50%
HACKETT Penny	Reason Party NSW	2,576	5.91%
Total formal votes		43,563	

Note: The order of candidates in the above table is the order in which candidates' names appeared on the ballot paper (see [Appendix C](#)) as per the ballot paper draw.

Following the distribution of preferences, Mr Timothy Charles James was elected with 19,886 votes, 53.30 per cent of the total. The full distribution of preferences is available on the NSW Electoral Commission's [website](#).

By-election summary

Table 2: Willoughby state by-election 12 February 2022 – election summary

Enrolment	
Total electors	54,988
Venues and staff	
Early voting centres	3
Voting centres (election day)	21
Staff employed	349
Voter turnout	
Formal votes	43,563
Informal votes	697
Total votes	44,260
Voter turnout rate	80.49%
Formality rate	98.43%
Non-voting penalty notices issued	7,594
Voting channels used (includes informal votes)	
Ordinary (election day)	12,712
Ordinary (early voting)	5,284
Postal vote	25,552
Enrolment/provisional/absent	712
Candidates	
Candidates contesting the election	6
Candidates registered for electoral funding purposes	7

See [Appendix D](#) for a comparison of the February 2022 Willoughby by-election statistics with the 2019 NSW state election statistics for Willoughby.

By-election key dates

Table 3: Willoughby state by-election 12 February 2022 – timeline

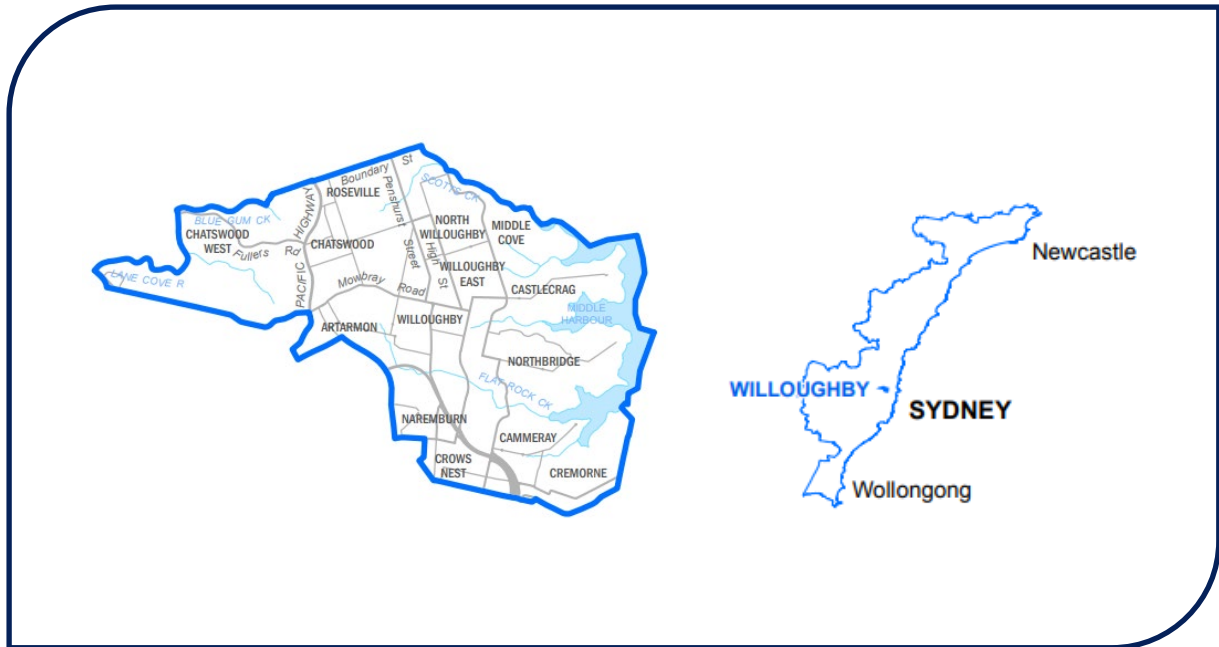
Date	Activity/matter
Friday, 21 January 2022	Start of electoral funding registration period for candidates and third-party campaigners
	Issue of Writ
	Nominations open
	Start of capped expenditure period
	Start of regulated period for electoral material
	6pm: Close of roll for being a candidate
Thursday, 27 January 2022	12noon: Close of nominations
	Registration of electoral material open
	Close of registration of candidates
Friday, 28 January 2022	8.30am: Conduct of ballot paper draw
Monday, 31 January 2022	Start of early voting
	Postal packs sent to all electors during this week
Friday, 4 February 2022	5pm: Close of registration of electoral material
Monday, 7 February 2022	Close of registration of third-party campaigners
Friday, 11 February 2022	Close of early voting
Saturday, 12 February 2022	ELECTION DAY 8am – 6pm
	End of capped expenditure period
	6pm: Elector to complete their postal vote and postal vote certificate
	6pm: End of regulated period for electoral material
Friday, 25 February 2022	6pm: Close of return of postal votes
Tuesday, 1 March 2022	Distribution of preferences
Wednesday, 2 March 2022	Results declared
Tuesday, 22 March 2022	Return of Writ
Wednesday, 4 May 2022	'Apparent failure to vote' notices issued

Date	Activity/matter
Wednesday, 20 July 2022	Due date for eligible candidates to make a claim for payment from the Election Campaigns Fund*
Thursday, 28 July 2022	Disclosures of political donations for the half-yearly period 1 January to 30 June 2022 due
Thursday, 22 September 2022	Disclosures of electoral expenditure for the annual period 1 July 2021 to 30 June 2022 due

*To be eligible to claim, candidates must receive at least four per cent of the total first preference votes. The legislation provides that eligible candidates must lodge a claim for payment from the Election Campaigns Fund with the NSW Electoral Commission within 120 days after the date for the return of the Writ for the applicable election. For the Willoughby state by-election, valid claims had to be lodged between 22 March 2022 and 20 July 2022.

The election in detail

Willoughby electoral district map



Safety measures introduced due to COVID-19

Due to the continued impact of the COVID-19 pandemic in January and February 2022, the NSW Electoral Commission’s *COVID-19 Action Plan* was implemented for the Willoughby state by-election to safeguard the health, safety and wellbeing of voters, election staff, political participants and the public. Key measures included:

- encouraging electors, election staff and political participants to check-in at voting and count centres using the Service NSW QR code
- encouraging electors to bring their own pen, or use the single-use pens provided at voting centres, to mark their ballot papers
- maintaining physical distancing at voting centres by managing elector numbers at these venues and ensuring there was sufficient space between voting screens and issuing tables
- employing additional election staff to assist in managing physical distancing and implement hygiene measures
- regularly cleaning surfaces, including voting screens and ballot paper issuing tables
- providing hand sanitiser and other personal protection equipment for use by election staff, electors and political participants.

Training modules covering COVID-19 infection control practices were undertaken by all staff. The NSW Electoral Commission also produced a series of videos explaining the key health protection measures and displayed posters in voting and count centres as a safety reminder. The Willoughby state by-election *COVID-19 Safety Plan* was published on the NSW Electoral Commission [website](#).

Voting services

The following voting options were available for the Willoughby state by-election:

- postal voting – a postal vote pack was sent to all electors enrolled in the Willoughby electorate (sent week commencing 31 January 2022)
- early voting in person – available two weeks prior to election day (including Saturday, 5 February 2022). All electors were eligible to vote early at this election
- telephone voting – available from Monday, 7 February to Friday, 11 February (9am – 5pm for registration and voting) and on election day Saturday, 12 February (registration closed at 1pm, voting closed at 1:30pm) for electors who are blind or low vision
- in-person voting on election day Saturday, 12 February 2022 from 8am to 6pm.

Postal voting

Table 4: Willoughby state by-election 12 February 2022 – postal vote key dates

Date	Process
Monday, 31 January 2022	Commenced distribution of postal vote packs
Saturday, 12 February 2022	6pm: Elector to complete their postal vote and postal vote certificate
Friday, 25 February 2022	6pm: Completed postal votes to be returned to the NSW Electoral Commission

Early voting (in person)

Voting in person before election day was available at three locations (see [Appendix B](#)) for the Willoughby by-election, including the election manager's office. The early voting locations were listed on the NSW Electoral Commission's website, including information about accessibility, opening hours and the COVID-19 safety measures in place.

Based on public health guidelines in place at the time of the election, onsite voting in declared facilities¹ was not offered at the Willoughby by-election due to public health and safety concerns relating to the COVID-19 pandemic.

Telephone voting

Telephone voting was available for electors who are blind or have low vision. To use this service, eligible electors called the NSW Electoral Commission's Elector Enquiry Centre. Telephone voting was available from Monday, 7 February to Friday, 11 February (9am – 5pm for registration and voting) and on election day Saturday, 12 February (registration closed at 1pm, voting closed at 1:30pm).

To maintain the secrecy of the telephone vote the NSW Electoral Commission established a two-step process i) application and ii) voting. An application operator confirms the elector's eligibility and personal details and issues a unique registration number. A second operator then records the elector's vote, using only the unique registration number as identification. This separation ensures that the voting operator cannot personally identify the elector.

¹ Declared facilities include hospitals, nursing homes, retirement villages or similar facilities that are appointed by the Electoral Commissioner to receive mobile voting services to enable onsite in-person voting.

Voting in-person on election day

Voting centres were open on election day from 8am to 6pm. See [Appendix B](#) for a list of the 21 voting centres available on election day. As with the early voting centres, these election day voting centres were listed on the NSW Electoral Commission's website.

Advertising and communications campaign

The NSW Electoral Commission conducted an advertising and communications campaign to raise awareness of the four state by-elections and provide information to electors and political participants.

All communications and advertising activities directed people to the Electoral Commission's [website](#). Examples of advertisements and social media posts are reproduced at [Appendix E](#).

Print and digital advertising

- Print advertising in the Sydney Morning Herald and Daily Telegraph on Saturday, 22 January following the issue of the Writs.
- Print and digital advertising was conducted in the Australian Chinese Daily.
- Advertising was placed with SBS digital in the seven main languages spoken by NSW electors who are not also proficient in English: Arabic, Chinese (Simplified), Chinese (Traditional), Greek, Italian, Korean and Vietnamese).
- Social media posts translated into Chinese (Traditional and Simplified) linked to in-language resources on the NSW Electoral Commission's website.
- Ads were placed with Chinese language social media application WeChat in the Sydney Today group.
- Social media posts were rolled out across the NSW Electoral Commission's channels targeting political participants about nominations, disclosure obligations, candidate webinars and registration requirements.
- Social media posts were rolled out across the NSW Electoral Commission's channels to raise awareness of key dates in the election calendar, COVID measures in place at voting centres, voting options and locations and to answer any questions raised on each social platform. Topics included:
 - Save the date: 28 to 30 January
 - Early voting open: 31 January to 6 February
 - Look out for your postal pack: 1 to 6 February
 - Vote early: 7 to 11 February
 - Fill in your postal vote: 7 to 12 February
 - Election day: 12 February.

Concurrent communications campaigns

The following communications campaigns were delivered to NSW Electoral Commission key audiences concurrently with the February 2022 state by-elections awareness campaign:

- workforce recruitment (for the state and local government by-elections being held in February 2022)
- local government by-elections awareness campaign
- political donations awareness and education campaign.

All electors enrolled in each of the four state electoral districts conducting a by-election in February 2022 were sent:

- an elector brochure with key dates, information about how to vote and where to vote; and
- a postal vote pack.

Media liaison

Targeted media releases supported the various phases of the election from the announcement of the election through to election day and results (see [Appendix E](#)). A media release was also issued about the postal pack that was sent to all electors enrolled in Bega, Monaro, Strathfield and Willoughby electoral districts. The Electoral Commission provided live and pre-recorded radio interviews and responded to media enquiries to assist with news coverage of the election.

Assistance for voters

Electors brochure

All electors enrolled in the Willoughby state electoral district were sent an addressed brochure containing information about the by-election such as how to vote, where to vote and an example of the ballot paper. The brochure is reproduced at [Appendix A](#).

Election reminder service

The election reminder service enables voters to subscribe to receive free SMS and/or email reminders about New South Wales state and local government elections relevant to their enrolled address.

For the Willoughby state by-election, 3,854 early voting reminders were sent by email and 3,440 early voting reminders were sent by SMS on Tuesday, 1 February.

On Thursday, 10 February 3,871 subscribers were sent a reminder email about voting on election day, and 3,465 SMS reminders were issued.

In-language resources and assistance for CALD electors

The NSW Electoral Commission provided in-language support for electors whose primary language is not English.

- Translated voting information, including instructions on how to postal vote, was available on the NSW Electoral Commission's website in the seven main languages spoken by NSW electors who are not also proficient in English: Arabic, Chinese Simplified), Chinese (Traditional), Greek, Italian, Korean and Vietnamese.
- Translation and interpreting services are available via the National Translation and Interpreting Service (131 450).

- Election staff with language skills were available to assist voters at voting centres. Staff wore badges indicating the language(s) they spoke.

In-language services and information that support culturally and linguistically diverse electors were promoted via digital advertising, displayed on posters at all voting centres and shared with the NSW Electoral Commission's standing Culturally and Linguistically Diverse (CALD) reference group members, for distribution to their members and networks.

Other support available for electors

The NSW Electoral Commission has support available for electors who may need help casting their vote.

- All voting centres had accessible voting screens, maxi pens and magnifying sheets available for use by electors.
- Braille ballot papers were offered for this election.
- All electors had access to the NSW Electoral Commission via the National Relay Service.
- Auslan interpreters were available on early voting Saturday (5 February) and election day (12 February) to connect with electors remotely via Skype.

These services and information that support electors were promoted via digital advertising, displayed on posters at all voting centres and shared with the NSW Electoral Commission's standing Equal Access to Democracy Disability reference group members, for distribution to their members and networks.

Candidates, parties and other political participants

Electoral funding registration

Candidates must be registered for a by-election before accepting a political donation or making a payment for electoral expenditure for the by-election. It is an offence for a candidate to accept a political donation or make a payment for electoral expenditure without being registered.

Registration is a separate process to being nominated as a candidate. All candidates who do not accept political donations or make payments for electoral expenditure before being nominated are deemed registered when they are nominated for the election. This occurs on the day the candidate validly lodges their nomination form. From that time, all nominated candidates can lawfully accept political donations and make payments for electoral expenditure for the by-election.

A person or entity (not being a party, associated entity, elected member or candidate) who incurs electoral expenditure of more than \$2,000 during the capped state expenditure period is a third-party campaigner. The third-party campaigner must be registered before making payments for that expenditure. It is an offence for a person or entity to make such payments or accept political donations for that purpose without being registered.

For the Willoughby by-election, electoral funding registration forms were available on the NSW Electoral Commission's website and could be lodged with the Electoral Commission from 21 January 2022. The registration period for candidates closed on Thursday 27 January 2022 and Monday, 7 February 2022 for third-party campaigners.

Seven candidates were registered for the by-election, three of whom were deemed to be registered upon nomination. Five third-party campaigners were registered for the by-election. Registers are published on the NSW Electoral Commission's [website](#).

Nominations

Nomination forms were available from the NSW Electoral Commission's website and could be lodged after the issue of the Writ on 21 January 2022.

Of the seven candidates registered for electoral funding purposes, one did not nominate to run in the Willoughby by-election.

Anyone who registered, even if they did not nominate, is still required to manage and disclose political donations and electoral expenditure in accordance with the requirements of the *Electoral Funding Act 2018*.

Following the close of nominations, the ballot paper draw was conducted at 8:30am on Friday, 28 January 2022 at the Election Manager's office to determine the order that the six candidates would appear on the ballot paper.

Electoral material

The regulated period for electoral material (including how-to-vote material) commenced Friday, 21 January 2022 and ended at 6pm on election day, 12 February 2022. Electoral material produced, published, distributed or displayed during the regulated period for the by-election had to comply with the requirements of the *Electoral Act 2017*.

Electoral material distributed on election day had to be registered with, and approved by, the Electoral Commissioner. It is an offence to distribute unregistered electoral material on election day. The registration of electoral material period commenced Thursday, 27 January 2022 and closed 5pm, Friday 4 February 2022.

Election bulletins and webinars

The NSW Electoral Commission distributed four election information bulletins during the election period to provide political participants with key information about the election and their obligations and entitlements. Political participants were supported by three webinars conducted by the NSW Electoral Commission. These webinars were recorded and published on the Electoral Commission's website.

NSW Electoral Commission website

The NSW Electoral Commission's website provided a range of information concerning participation in the by-election by electors and political participants, including the election timetable, candidate obligations, electoral material, employment opportunities, enrolment, early voting locations, names of candidates, voting options, voting centres for election day, information on COVID-19 safety measures at venues, and election results.

The Willoughby by-election web pages received more than 153,000 views over the duration of the election website campaign, with the results page on election night receiving 40 per cent of those views.

The Electoral Commission published pre-election metrics for this by-election, including the number of postal vote applications received, postal votes returned and early voting totals. The figures were updated daily from Thursday, 20 January to Friday, 11 February 2022.

Election staff

The NSW Electoral Commission employed 349 people to work at the Willoughby by-election. Recruitment of election staff took place via the Electoral Commission's online registration system.

The majority of casual staff were employed to work on election day in voting centres, or in the two weeks prior to election day in early voting centres. Some roles were based in the election manager's office to help recruit staff, prepare materials for each voting centre and early voting centre, count votes and decommission the venue after the election.

Table 5: Number of employees for each role for the Willoughby by-election

Role	Number employed	Responsibilities
Voting centre managers	21	The election official responsible for managing an early voting centre, or a voting centre on election day.
Deputy voting centre managers	21	Supports the voting centre manager on election day. Undertakes key election operational activities under the guidance of the voting centre manager.
Declaration vote issuing officers	49	The role responds to elector enquiries, determines the type of declaration vote issued to the elector.
Election officials	190	The task of election officials is to issue ordinary votes, respond to elector enquires and manage queues (internal and external to voting centre). In response to COVID-19 we employed additional election officials to manage physical distancing requirements and conduct safe hygiene practices.
Office assistants	60	Reports to senior office assistant. Performs general office administration, packing and checking of election materials, issuing ballot papers during early voting, and counting ballot papers.
Senior office assistants	7	Senior office assistants manage key tasks during the election period including staffing and venue management, the secure receipt and return of election material, and managing counting and results.
Election manager	1	Appointed as an election manager under section 81(3) of the <i>Electoral Act 2017</i> to conduct an election for one or more Legislative Assembly districts. Duties include staffing the election manager's office, conducting the ballot paper draw and liaising with political parties, candidates and the public.
Total	349	

Of the staff employed throughout the election period, nine staff members identified as Aboriginal, six election staff members live with disability, 125 staff members speak a language other than English, and 14 staff had not previously worked at an election.

All staff were required to complete online training, mapped to their job role. An additional online module was developed to provide staff with safe work practice guidelines relating to COVID-19.

Election manager

The election manager's office was located at Ground Floor, 501 Victoria Avenue, Chatswood 2067. The duties of the election manager include:

- set up and decommissioning of the temporary office
- training of office staff, voting centre managers and deputy voting centre managers
- arranging voting at voting centres
- issuing and processing postal and early votes
- dealing with enquiries from candidates and electors
- processing candidate nominations and electoral material
- counting votes.

An election manager support officer was appointed in the NSW Electoral Commission's head office to monitor, guide and support the election manager on electoral matters and procedures in the preparation and conduct of the by-election.

Work health and safety principles

Work health and safety principles focussing on fatigue management were implemented for the Willoughby by-election in the interests of staff safety and wellbeing. The principles included cut-off times for counting on election night and closing times for voting centres.

General principles

- staff will not work in isolation
- one 30-minute break to be taken every five hours
- a minimum break of eight consecutive hours between rostered shifts
- staff should not work more than six consecutive days
- maximum 10-hour shifts, with the exception of election day

Election day operations

- all counting to cease at 10:30pm on election night
- staff working in the election manager's office will not work past 11pm on election night
- voting centre staff to cease work no later than 11pm on election night
- on election night, staff should not be expected to drive more than one hour from their voting/count venue to a nominated material drop-off point
- staff responsible for returning materials on election night will finish no later than 12.30am.

Election staff survey

Election staff were surveyed on a range of topics including recruitment, training, facilities, work practices, COVID-safe measures, and work health and safety. Some questions were role-specific while others were common to all election roles. The survey was sent to all 349 election staff; of whom 121 responded, giving a response rate of 35 per cent. The results will support the continuous improvement of Electoral Commission election processes.

Willoughby election staff were generally satisfied with how the election was run, and overall the work health and safety and COVID-safe measures were well received:

- 94.2 per cent of respondents did not have any work health and safety concerns
- 95.9 per cent of respondents were satisfied with the COVID-safe measures implemented.

Centralised count operations

A recruitment agency was engaged to provide 120 contingent staff to work at the NSW Electoral Commission's centralised count centre. The count centre operated from 7 to 28 February 2022 to support the four state by-elections conducted in February. The responsibilities included postal vote receipt, and postal and declaration vote scrutiny, extraction and counting.

The centralised operations helped to ensure consistency of process and allowed staff numbers to be easily scaled.

Venues and logistics

Voting centres and office premises

The NSW Electoral Commission does not own facilities within electoral districts. The Electoral Commission selected the most suitable premises from those available. Venue considerations are extensive and include size, location, accessibility, amenities, street frontage, access for deliveries, internet connectivity and workplace health and safety. The ability to secure premises that met functional requirements presented challenges, particularly in negotiating agreements to enter short-term leases when the supply of premises is limited.

Table 6: Willoughby state by-election venues and accessibility

Venue type	Fully accessible (percentage of total)	Assisted access (percentage of total)	No wheelchair access (percentage of total)	Total
Voting centre	7 (33%)	11 (52%)	3 (15%)	21
Early voting centre	3 (100%)			3

The early voting centre data includes the Election Manager's office. Refer to [Appendix B](#) for full list of venues.

Supplies

A total of 140,950 ballot papers were printed (83,200 ordinary and 57,750 postal). A sample of the ballot paper is reproduced at [Appendix C](#). As part of the *COVID-19 Safety Plan* for the Willoughby by-election, voters were encouraged to bring their own pen. Single-use pens were provided and voters were able to take these with them when leaving the voting centre.

Waste management

The NSW Electoral Commission operates within the NSW Government's waste management policy framework. In providing electoral services, wherever possible the Electoral Commission seeks to use paper and cardboard items comprising recycled content and to ensure that the paper and cardboard items are themselves recycled. For the Willoughby by-election, standard cardboard items used in voting centres included voting screens, accessible voting screens, ballot boxes, caution signs and recycle bins.

Election costs

The final cost of conducting the Willoughby state by-election was \$998,794 (GST exclusive), which equates to \$18.16 per elector.

Table 7: Willoughby by-election cost breakdown

Expense item	Amount
Staffing	\$340,270
Venue rent (early voting centres, election-day voting centres, election manager's office)	\$141,484
Logistics	\$39,744
Ballot papers and electoral rolls	\$13,009
Technology-assisted voting (telephone voting)	\$7,415
Miscellaneous items	\$456,872
Total election cost	\$998,794
Number of electors	54,988
Total cost per elector	\$18.16

Results

All ballot papers undergo the following counts:

- first preference initial count
- two-candidates preferred count
- check count using the NSW Electoral Commission's Legislative Assembly data entry system.

Counts were conducted for each voting centre and selected early voting centres on election night for the first preference vote for each candidate, and the result of the notional count for the two candidates considered most likely to receive the greatest number of votes (the two-candidates preferred count). The results were updated progressively on the Electoral Commission's website from 6:30pm on election night.

In the week after election day, all ballot papers from every voting centre and early voting centre were recounted to ensure the election night count was accurate (the check count). Declaration votes were added progressively with postal votes accepted up to 6pm on the Wednesday after election day. On Tuesday, 1 March 2022, the distribution of preferences was conducted within the NSW Electoral Commission's Legislative Assembly data entry count system. Candidates' scrutineers were able to attend all counts. Count reports are available on the Electoral Commission's website.

There was no request for a recount. The result of the election was declared on Wednesday, 2 March 2022.

Failure to vote notices

Under electoral legislation, the Electoral Commissioner is required to issue 'Apparent Failure to Vote' notices to those electors whose names were not marked off the electoral roll as having voted or recorded as providing a valid reason for not voting. The penalty for not voting in a state by-election is \$55.00. The funds generated from penalty notices are not retained by the NSW Electoral Commission but are paid into NSW Government consolidated revenue.

All electoral rolls used for voter name mark-off at voting centres or in the election manager's office were scanned after election day to create a list of apparent non-voters for the by-election. The NSW Electoral Commission issued 7,594 penalty notices on Wednesday, 4 May 2022 for the Willoughby state by-election. The remainder of electors who did not vote had provided a valid excuse for not voting either prior to or immediately after election day.

Responses to the notices can be submitted either by mail, email, or through the NSW Electoral Commission's online payments system. The notice provides options to satisfy the matter by either:

- paying the penalty of \$55.00
- advising of the voting centre attended
- submitting a reason for failure to vote for review
- electing for the matter to be dealt with by a court.

If the elector's reason for failing to vote is not accepted, a final notice will be issued giving two options:

- paying the penalty of \$55.00
- electing for the matter to be dealt with by a court.

If a person does not respond to the initial notice by the due date (28 days from the issue of the notice), a reminder notice is issued, giving a further 28 days to deal with the matter. If no response to the reminder notice or final notice is received by the due date, the matter is referred to Revenue NSW for enforcement action.

Compliance and enforcement operation

Overview and objectives

The NSW Electoral Commission, rather than the Electoral Commissioner, is responsible for ensuring compliance with, and enforcement of, the *Electoral Act 2017*, the *Electoral Funding Act 2018* and various other electoral legislation.

Compliance operations were conducted during the election period to support the fair and transparent conduct of the election.

Table 8: Potential offences under the *Electoral Act 2017*

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	Display of non-complying 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	Displaying, publishing or distribute material falsely appearing to be made by Electoral Commission	\$22,000 or 2 years imprisonment or both

Table 9: Potential offence under the *Electoral Funding Act 2018*

Reference	Offence	Maximum penalty
S.42 S.145(1)	Third-party campaigner – failure to register and appoint an agent	\$44,000 or 2 years imprisonment or both

Execution of the compliance operation



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 (Bega, Monaro, Strathfield and Willoughby). 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.


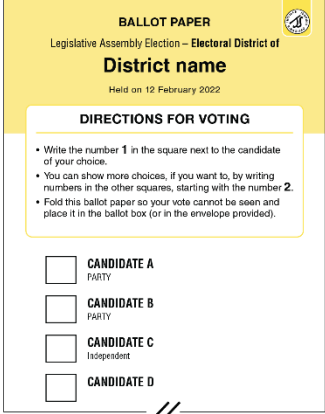
Investigators attended early voting centres to coincide with the start and close of early voting. On election day, investigators inspected voting centres and engaged with various stakeholders, including the election manager, voting centre manager, candidates, campaigners and volunteers. The presence 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. During the voting period, 10 early voting centres and 49 voting centres were visited across the four districts, with priority given to those voting centres with an expected high voter turnout.

Four matters were reviewed by investigators regarding alleged breaches of legislation in Willoughby. 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. All allegations were acknowledged in writing within 24 hours of receipt of the allegation. Details about the enforcement activities of the Electoral Commission are published in an annual report to the NSW Parliament.

Appendices

Appendix A: Willoughby by-election, 12 February 2022 – Elector brochure

<p>State by-elections</p> <p>Can I attend a voting center? If you do not want to postal vote you can vote at a voting center. Early voting commences on 31 January, and Election day is Saturday, 12 February 2022. Visit elections.nsw.gov.au for venues and opening hours.</p> <p>If you choose not to vote using the postal ballot paper in this pack you do not need to return it and can dispose of it.</p> <p>It is important to remember:</p> <ul style="list-style-type: none"> You must vote in this election The penalty for not voting is \$55 You must not vote more than once in this election Penalties apply to people who vote more than once. <p>Bring this brochure with you if you intend to vote in person</p> <ul style="list-style-type: none"> Wear a mask Bring your own pen Maintain recommended physical distancing Hand sanitiser will be provided. <p>Visit elections.nsw.gov.au for information on our COVID-19 safety measures.</p> <p>Making political donations to a candidate or political party If you donate \$1,000 or more to a candidate or political party, you must report it to the NSW Electoral Commission within 4 weeks after the end of the financial year. For more information visit elections.nsw.gov.au/fd</p>	<p>Saturday 12 February 2022</p> <p>Can I vote online? Online voting (iVote) is not available at this by-election.</p> <p>Telephone voting is available for electors who are blind or have low vision. Visit elections.nsw.gov.au or call 1300 135 736.</p> <p>Can I get assistance in any other language? Yes. Please call Translating and Interpreting Service National on 131 450 and ask them to call the NSW Electoral Commission on 1300 135 736. If you are deaf, hard of hearing and/or have a speech impairment, please contact us through the National Relay Service.</p> <p>How can I help someone who cannot read this brochure? If you or someone you know requires assistance reading this brochure, please call 1300 135 736.</p> <p>For more information Visit elections.nsw.gov.au or call 1300 135 736.</p>	<p></p> <p>Your guide to voting safely</p> <h1>State by-elections</h1> <p>• Bega • Monaro • Strathfield • Willoughby</p> <p>Saturday 12 February 2022</p> <p>Voting is compulsory.</p> 
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<p>State by-elections</p> <p>Why are these State by-elections being held? These State by-elections are being held following the resignation of the sitting member in each district.</p> <p>Do I need to vote? You must vote in this by-election. You have received this brochure because you are enrolled in one of the following districts:</p> <ul style="list-style-type: none"> Bega Monaro Strathfield Willoughby. <p>Why have I received a postal pack? To help reduce the risk of COVID-19 transmission the enclosed postal pack has been provided to you. The following items have been included in this postal pack:</p> <ul style="list-style-type: none"> This voting instruction brochure Postal ballot paper Postal vote certificate envelope Reply paid envelope. <p>Vote by completing the postal ballot paper and postal vote certificate envelope. Follow the Five easy steps to complete your postal vote.</p> <p>When should I complete my postal ballot paper? You must vote and complete your postal vote certificate envelope by 6pm, Saturday, 12 February (Election day).</p> <p>Completed postal ballot papers must be received by the election manager no later than 6pm, Friday, 25 February.</p>	<p>Saturday 12 February 2022</p> <p>Five easy steps to complete your postal vote</p> <ol style="list-style-type: none"> 1 Read, sign and date the certificate of elector in the presence of a witness. 2 Ask the witness to complete the witness section. A witness must not: <ul style="list-style-type: none"> Look at or ascertain how the elector voted or allow any other person to do so Disclose any knowledge he/she may have of the vote Influence or attempt to influence the elector Persuade the elector to hand the envelope to him/her for posting or delivery. 3 Complete your ballot paper. <ul style="list-style-type: none"> Read and follow the directions for voting on the Legislative Assembly ballot paper. 4 Fold and place the completed ballot paper inside the postal vote certificate envelope and seal it. Put the postal vote certificate envelope inside the reply paid envelope provided and seal. You do not need a stamp if you post it from within Australia.  <p>5 Post your envelope as early as possible.</p>	<p>State by-elections</p> <p>How to vote You must record a vote on the ballot paper by placing the number 1 in the square opposite the name of the candidate you want to give your first preference vote. You can show more choices, if you want to, by writing numbers in the other squares, starting with the number 2.</p> <p>Candidate information To view the list of candidates and registered electoral material please visit elections.nsw.gov.au</p>  <p>Information correct as at 20/01/2022</p>
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Appendix B: Willoughby by-election, 12 February 2022 – voting locations

Early voting locations


Location	Venue name	Address	Accessibility
Chatswood	Chatswood EVC	409 Victoria Avenue	Fully accessible
North Willoughby	North Willoughby EVC	10-12 Clanwilliam Street	Fully accessible
Chatswood	Election Manager's Office	Ground Floor, 501 Victoria Avenue	Fully accessible

Election day voting centres

Location	Venue name	Address	Accessibility
Cammeray	Anzac Pk Public	2 Anzac Avenue	Fully accessible
Artarmon	Artarmon Comm. Cntr	Tindale Road	Assisted access
Artarmon	Artarmon Public	McMillan Road	No wheelchair access
Cammeray	Cammeray Public	Bellevue Street	Assisted access
Castlecrag	Castlecrag Comm. Cntr	The Rampart	Assisted access
Chatswood	Chatswood Guide Hall	Anglo Street	Assisted access
Chatswood	Chatswood High	24 Centennial Avenue	No wheelchair access
Willoughby	Chatswood-Willoughby Uniting	10 Clanwilliam Street	Fully accessible
Chatswood	Civic Pavilion	409 Victoria Avenue	Fully accessible
Chatswood West	Holy Trinity Chatswood W	46 Beaconsfield Road	No wheelchair access
Mosman	Middle Harbour Public	Macpherson Street	Assisted access
Lane Cove	Mowbray Public	635 Mowbray Road	Fully accessible
Naremburn	Naremburn Anglican	Merrenburn Avenue	Assisted access
Naremburn	Naremburn Comm. Cntr	9 Central Street	Assisted access
Northbridge	Northbridge Public	Sailors Bay Road	Assisted access
Crows Nest	Nth Sydney Boys High	Falcon Street	Fully accessible
Roseville	St Barnabas Roseville	Macquarie Street	Assisted access
Northbridge	St Mark's Anglican	1A Malacoota Road	Assisted access

Location	Venue name	Address	Accessibility
Cremorne	St Peters Cremorne	29 Waters Road	Fully accessible
Willoughby	Willoughby Park Cntr	Warrane Road	Fully accessible
Willoughby	Willoughby Public	Oakville Road	Assisted access

Appendix C: Willoughby by-election, 12 February 2022 – ballot paper




BALLOT PAPER

Legislative Assembly Election – Electoral District of

Willoughby

Held on 12 February 2022



DIRECTIONS FOR VOTING

- Write the number **1** in the square next to the candidate of your choice.
- You can show more choices, if you want to, by writing numbers in the other squares, starting with the number **2**.
- Fold this ballot paper so your vote cannot be seen and place it in the ballot box (or in the envelope provided).

CANDIDATES

BOURKE, William
SUSTAINABLE AUSTRALIA PARTY - STOP OVERDEVELOPMENT/CORRUPTION

PENN, Larissa
Independent


GUNNING, Samuel
LIBERAL DEMOCRATIC PARTY

SAVILLE, Lynne
THE GREENS

JAMES, Tim
LIBERAL

HACKETT, Penny
REASON NSW

You must not take a ballot paper out of the voting centre



Appendix D: Comparison with the 2019 NSW State election

Table 10: Willoughby district – 2022 NSW state by-election versus 2019 NSW state general election

Metric	2022 Willoughby by-election	2019 NSW State general election
Willoughby electoral district enrolment	54,988	54,508
Total votes	44,260	48,791
Turnout	80.49%	89.51%
Formal	43,563	47,857
Informal	697	934
Formality %	98.43%	98.09%
Candidates (nominated)	6	8
Ordinary (in-person on election day)	12,712	32,241
Absent	22	4,218
Declared facility	N/A	293
Declaration (enrolment/provisional)	690	949
iVote	N/A	3,616
Postal	25,552	2,269
Early voting (in-person early voting)	5,284	5,205
Apparent failure to vote notices issued ²	7,594	3,331
Staff	349	245
Early voting centres	3	2
Election-day voting centres	21	25

Voting at declared facilities was not offered at this election due to COVID-19 public health concerns. iVote was not available at this election.

² A penalty notice is withdrawn if an elector provides a valid reason for not voting.

Appendix E: Advertising, media and communications

Media releases

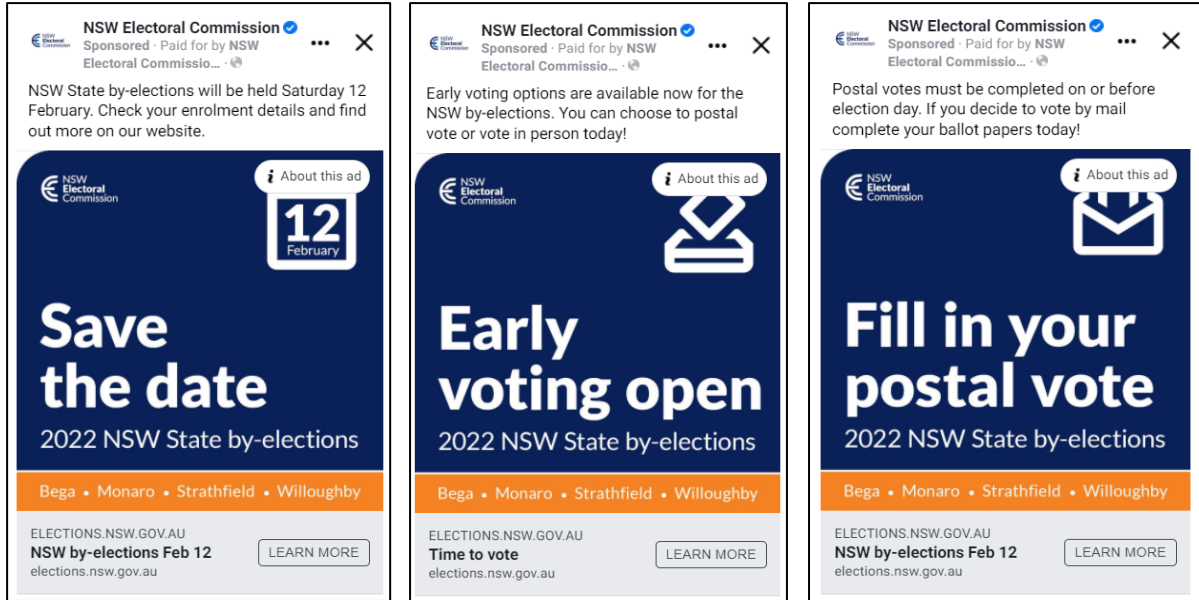
Media releases were distributed to promote key milestones of the election, including open of candidate nominations; ballot paper draw; postal voting, commencement of early voting; election day; and to announce the results.

Date of release	Link	Media release
21 January 2022	State by-elections – postal voting COVID measure	<p>State by-elections – postal voting COVID measure</p> <p>Bega, Monaro, Strathfield and Willoughby districts to vote 12 February</p> <p>Voters in four NSW districts will vote in by-elections on Saturday, 12 February 2022 to return members of the Legislative Assembly of the New South Wales Parliament.</p> <p>As a COVID-19 safety measure, the NSW Government has empowered the NSW Electoral Commissioner to determine that all electors in these districts are entitled to vote by post.</p> <p>John Schmidt, NSW Electoral Commissioner said postal voting packs would be sent to every voter enrolled in those districts, and voting in person would start from Monday, 31 January.</p> <p>"To help reduce the risk of COVID-19 transmission, postal voting will be open to everyone on the electoral roll in these districts, and postal voting packs will be automatically sent to them.</p>
28 January 2022	State by-election candidates announced	<p>State by-election candidates announced</p> <p>Bega, Monaro, Strathfield and Willoughby district candidates</p> <p>Candidates for the Bega, Monaro, Strathfield and Willoughby State by-election have been announced by the NSW Electoral Commission.</p> <p>Following ballot paper draws at 8:30am at the Election Manager's office in each district candidate details have been published in ballot paper order on the Commission's website.</p> <p>View candidates</p> <p>For these elections voters will have the choice of voting in person on election day, voting early at an early voting centre or voting by post.</p> <p>iVote electronic voting is not available for the February State or local by-elections. COVID-safety measures for these elections include that all voters are eligible to vote early in person, and all voters will be sent a postal voting pack. No application is</p>

Date of release	Link	Media release
03 February 2022	State by-elections: time for voters to check their letterboxes	<p>State by-elections: time for voters to check their letterboxes</p> <p>Bega, Monaro, Strathfield and Willoughby postal packs arriving</p> <p>Voters in the Bega, Monaro, Strathfield and Willoughby State by-elections should keep an eye on their mail as postal packs start arriving in letterboxes in each district.</p> <p>John Schmidt, NSW Electoral Commissioner said postal packs to vote in the upcoming State by-elections will have started arriving in letterboxes from Tuesday, 1 February.</p> <p>"In these elections voters have the choice of voting in person on election day, voting early at an early voting centre or voting by post.</p> <p>"For those who want to vote by post, make sure you're keeping a look-out in your letterbox for when your postal voting pack arrives. It will be sent to all enrolled voters in those districts automatically.</p>
11 February 2022	State by-elections: election day and results	<p>State by-elections: election day and results</p> <p>Bega, Monaro, Strathfield and Willoughby go to the polls</p> <p>More than 38 per cent of voters have already had their say in the Bega, Monaro, Strathfield and Willoughby State by-elections, but results will take longer than usual to be announced according to the NSW Electoral Commission.</p> <p>So far, 20.28 per cent of postal votes have been returned and 18.15 per cent of people have voted early in person.</p> <p>To help reduce the risk of COVID-19 transmission, a postal pack has been provided to every enrolled resident in each district.</p> <p>NSW Electoral Commissioner John Schmidt said the count and final declaration of results would take longer than in previous State by-elections due to the extended</p>

Social media

Facebook was utilised during the State by-election for information including ‘save the date’, information for candidates (such as nomination information) and postal vote information. It was also used to create awareness surrounding the translated material on how to vote.



NSW Electoral Commission

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