



Office of
Local Government

Office of Local Government

THE ELECTION PROCESS GUIDE



MAY 2017

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1. PURPOSE

This document is aimed at assisting those councils that will be administering their own elections, constitutional referendums and polls in September 2017. It does not apply to those councils that have engaged the services of the New South Wales Electoral Commission (NSWEC).

It is not intended to be an operational manual but an overview of the various stages of the election process and the tasks required to be completed at each stage. A checklist of key tasks is attached at Appendix A.

Where a commercial election provider has been engaged they have a contractual obligation to ensure the successful conduct of the elections occurs and all aspects are addressed. Despite this onus on the commercial election provider, the General Manager retains overall responsibility for the administration of the elections – section 296(1).

The document should be read in conjunction with the *Local Government Act 1993* (the Act) and the Local Government (General) Regulation 2005 (the Regulation). References in this document to ‘sections’ refer to the Act and ‘clauses’ to the Regulation.

The content reflects the Act and the Regulation as in force when the Guide was prepared.

If further legislative amendments are made before the September 2017 elections, updates will be provided by the Office of Local Government (the Office).

Any council that has resolved to administer its own elections should seek its own legal advice to ensure it complies with all requirements under these instruments.

Throughout this document mention is made of services that must be provided by the NSWEC to those councils administering their own elections. For the 2012 elections transition funding was supplied to the NSWEC by the State Government to acknowledge the fact that legislation had been changed to allow councils to conduct their own elections. For 2017 no such funding has been provided to the NSWEC and so the charge for the services it provides to the relevant councils must be established, as per Treasury guidelines, at a “full cost recovery” rate.

Of course a charge at those recovery rates ensures that there is no cross-subsidy from those councils that have engaged the services of the NSWEC to those that have chosen to administer their own elections.

By the end of May 2017, the NSWEC intends to discuss with and have in place uniform (pro-rated where relevant) charges for the services to be supplied to those councils administering their own elections in September 2017.

2. ELECTION OVERVIEW

An ordinary election of councillors is held on the second Saturday of September every 4 years. While ordinary elections were held for most councils in September 2016, a number of councils that were the subject of merger proposals had their elections postponed by a Ministerial Order issued under section 318B of the Act.

On 7 April 2017 the Minister for Local Government, the Hon. Gabrielle Upton MP, issued an order under section 318C(1) of the Act nominating **9 September 2017** as the date on which elections will be held for councils that are the subject of pending and discontinued merger proposals.

First elections for new councils formed by the 2016 mergers (and for the Hills Shire) are also to be held on 9 September 2017. Under section 296 of the Act, the NSWEC is to administer first elections for new councils after they are constituted.

WHAT ARE THE DIFFERENT TYPES OF ELECTIONS?

Election of councillors

A council must have at least 5 and not more than 15 councillors, one of whom is the Mayor, and it must determine the number of councillors it will have not less than 12 months before the next ordinary election. If it wishes to change the numbers of councillors it must first gain approval to do so by means of a constitutional referendum - section 224.

A councillor holds office for a maximum of 4 years.

Election of Mayor

Section 227 provides for the Mayor of a council to be elected in one of two ways: by the councillors from among themselves or by the electors where a decision has been made at a previous constitutional referendum.

If the Mayor is elected by the councillors this is done at the first meeting of the council after the election, and the Mayor is elected for a 12-month term.

If the Mayor is elected by the electors this takes place on election day, and the Mayor is elected for a four-year term. A separate ballot paper is required. All electors in the council area vote for the Mayor even if the council area is divided into wards. In the event that one or more wards are uncontested for the election of councillors, electors in these wards would still be required to vote for the Mayor on election day.

A person may be a candidate for both the position of councillor and Mayor. However, if elected as Mayor, the person will be excluded from the count of the votes for election as a councillor – clause 352.

Constitutional referendums and council polls

Certain changes that councils may wish to make can only be made following approval at a constitutional referendum – section 16. These are to:

- Create or abolish wards;
- Change the manner in which the Mayor is elected (ie by the councillors or by the electors);
- Increase or decrease the number of councillors; and

- Change the method of electing the councillors in a council with wards.

The result of a constitutional referendum is binding on the council.

Council polls are taken to gain the views of the electors on a particular issue (eg changing the name of the council area) and are merely for information and guidance as the results are not binding on the council - section 14.

As a matter of practicality constitutional referendums and council polls are often held on election day and require separate ballot papers set out in a yes-no question and answer format (Form 16 of Schedule 11 to the Regulation). The question is resolved by the majority of votes cast.

WHO IS ENTITLED TO VOTE?

Anyone already enrolled on the Commonwealth or NSW electoral roll will automatically be included on the residential roll for each council area.

If a person is an owner / occupier / or rate paying lessee with properties or businesses in a council area and they are eligible to be on the Commonwealth or NSW electoral roll then they can apply to the General Manager to be included on the non-residential roll. Their name must be on this roll as at 6pm, 40 days before the election to be entitled to vote (clause 278).

IS VOTING COMPULSORY?

Electors on the residential roll for a council area must vote in the election for councillors and for the Mayor, if the Mayor is popularly elected - section 286. It is also compulsory to vote in a constitutional referendum, if held, but voting at council polls is not compulsory (section 18).

Electors on the non-residential rolls have the choice as to whether or not they vote in any election for a particular council.

Failing to vote at a compulsory election is an offence unless an elector has a sufficient reason (section 314), and carries a penalty of \$55. Enforcing the non-voter regime remains the responsibility of the NSWEC.

The NSWEC has a strict policy regarding the excusing of people prior to an election to ensure that it only occurs in very limited circumstances. These are where the NSWEC is advised that an elector has moved interstate or overseas or has died. Councils conducting their own elections should apply the same approach.

Once no further postal ballot papers can be accepted (after 6pm on the Monday following election day), the Returning Officer must prepare a list of all such people 'excused' and provide it to the General Manager, who will then send the information to the NSWEC to ensure penalty notices are not sent to those on the list.

As voting is compulsory for residential electors, there is an obligation on each person to attempt to comply with the law. Even though they may not be able to attend on election day there are other options such as pre-poll and postal voting available. Electors are to be encouraged to vote using whichever means is most suitable to their particular circumstances, and only excused in the instances listed above.

In all other cases if an elector states that they are unable to vote by any of the voting options, they are to be advised to wait until they receive their penalty notice from the NSWEC and to then provide details of why they were unable to vote. If their reason is 'sufficient', as provided

for under the legislation, they will not incur a fine. Under section 314(6) a reason will be sufficient if the Electoral Commissioner is satisfied that the resident:

- is dead, or
- was absent from the area on polling day, or
- was ineligible to vote, or
- had an honest belief that he or she had a religious duty to abstain from voting, or
- was unable to vote for any other reason acceptable to the Electoral Commissioner.

WHAT ARE THE KEY DATES IN THE ELECTIONS?

The non-residential rolls close 40 days prior to election day, and any reference to 'closing date for the election' in this document means the date of the 40th day preceding election day (31 July 2017) - clause 278.

Candidate nominations open 40 days prior to election day (31 July 2017 and close at noon on the Wednesday in the 5th week prior to election day (9 August 2017). All nominations, withdrawal of nominations and requests to form groups on the ballot paper must be lodged by noon on this day - clause 286.

Applications for postal voting open on 31 July 2017 and close at 5pm on the Monday prior to election day (4 September 2017) - clause 314. Postal voting is available once ballot papers are printed.

Pre-poll voting takes place in the two weeks prior to election day (28 August to 8 September 2017) - clause 326.

Declared Institution voting takes place on any day during the 7 days before election day (2 September to 8 September 2017) - clause 328.

By the day before election day, the Returning Officer is to provide the Election Manager with a return on the allocation of ballot papers - clause 310.

Election day for ongoing councils is the day set by the Ministerial Order of 7 April 2017 made under section 318C of the Act (9 September 2017).

Counting of votes takes place from 6pm on election day and during the week following election day - clauses 348 and 351.

Completed postal vote ballot papers must be received by the Returning Officer by 6pm on the Monday after election day (11 September 2017) - section 310A.

WHO ARE THE ELECTION OFFICIALS AND WHAT ARE THEIR ROLES?

Election Manager

This refers to the person responsible for the administration of the elections and is either the General Manager where council is conducting its own elections or the Electoral Commissioner where the elections are being conducted by the NSWEC - section 296.

General Manager

If a council conducts its own elections the General Manager is responsible for its administration - section 296A. In addition to the specific responsibilities assigned to the General Manager under the Act, he or she must be aware of all the relevant legislative provisions and ensure that mechanisms and strategies are in place to achieve full compliance. Failure to do so could call into question the validity of the elections.

A General Manager cannot be appointed as a Returning Officer, substitute Returning Officer or election official for any area – section 296A(5).

The duties of the General Manager if he or she is the Election Manager are to:

- **Advertise various aspects of the election – clause 277B.**

Details to be advertised include the fact that an election is to be held, information about the nomination process, that voting is compulsory, the location of pre-poll voting offices and polling places and who may vote at the respective polling places.

This information is to be imparted by way of advertisements in newspapers, displayed on council's website or in any other manner the Election Manager thinks fit. The publication of information may relate to one or more areas.

Specific requirements are contained in clause 280 regarding enrolment, clause 288 regarding nomination and clause 300 regarding the election and these are discussed in section 7 below.

- **Appoint the Returning Officer and substitute Returning Officer (who exercises the functions of the Returning Officer in their absence) – section 296A(2).**

General Managers need to appoint as the Returning Officer (and substitute Returning Officer) a person who can demonstrate the following key skills and competencies:

- leadership and management experience;
- excellent communication skills;
- excellent interpersonal skills including an ability to deal with people from all backgrounds;
- excellent organisation and time management skills;
- ability to work under pressure and meet deadlines as required;
- ability to deal with challenging situations and determine appropriate solutions; and
- ability to work in a methodical manner and with attention to detail.

- **Appoint the polling places - section 296A(7)(a).**

The appropriate number of polling places for any one council will depend on its individual characteristics and factors such as the number of electors, the geographic area it covers, available transport options, and suitable venues will also have a bearing on the final number of polling places appointed. It is likely that the more electors a council area has the more polling places it will need.

While the cost of hiring venues will be a consideration, General Managers should also have regard to the following when determining the number and type of venues to be used:

- how many voters are there in total in the area, and how many voters can each venue comfortably handle?
- what venues have been used in the past by either the Australian Electoral Commission for federal elections or the NSWEC for either state or local government elections? What was the previous attendance pattern at these venues?
- is the venue conveniently located, particularly in light of transport options?
- is it suitable for the purpose of conducting an election? For example, is there sufficient space for the various tables, voting screens, ballot boxes, throughput of voters? Is there appropriate furniture for the election officials? For example, if a primary school is being used and it is furnished with small tables and chairs these are not suitable for adults involved in election-related activities.
- is the venue easily accessible for all voters and in particular those with a disability, mobility issues, the elderly or frail and parents with prams?
- are there venues located close to ward boundaries that are able to issue ballot papers for both the ward in which they are located and for the adjoining ward/s? Or in the case of an undivided council, venues located close to the boundary of another council or councils? If a venue is to be used to issue ballot papers for adjoining wards and/or councils, consideration will need to be given as to how they will be set up, staffed, resourced and run.
- is appropriate public liability insurance in place?

Clause 297 requires the Election Manager to appoint at least one polling place for each ward, and if the area is divided into wards, at least one polling place is to be appointed for all wards at which a person enrolled in any such ward may vote. The clause permits an Election Manager to appoint a place as a polling place for an area or ward even if it is outside the area or ward concerned.

Clause 298 requires the Election Manager to also appoint one or more places as pre-poll voting offices so that electors are able to vote in person before election day. The Returning Officer's office is taken to be a pre-poll voting office. The clause permits the Election Manager to appoint a place as a pre-poll voting office even if it is outside the area or ward concerned.

The Election Manager may, not later than on the nomination day, declare an institution in an area to be a Declared Institution for the purpose of enabling permanent or temporary residents of the institution, who are electors of the area, to vote in person before election day – clause 327.

- **Determine the fees payable to the Returning Officer, substitute Returning Officer and election officials – section 296A(7)(b).**

Information regarding the amounts paid to the staff employed at polling venues conducted by the NSWEC will be available on its website (www.votensw.info).

- **Confirming the roll of non-resident owners of rateable land and the roll of occupiers and rate paying lessees – sections 299(3) and 300 (3).**

Anyone wishing to be on the non-residential roll for a council area needs to apply to the General Manager. To be eligible a person has to be an owner / occupier / rate paying lessee with properties or businesses in the local government area, and eligible to be on the Commonwealth or NSW electoral roll. The rolls of non-resident owners, occupiers and ratepaying lessees are to include the names of persons who have applied at any time for inclusion of their names on the rolls and are, in the opinion of the general manager, qualified for inclusion on the roll – sections 299(2A) and 300(2A).

In those elections administered by the council, the non-residential rolls are prepared by the General Manager, who must also confirm that on the date that rolls close the electors appearing on it are not on the residential roll for the same area – sections 299 and 300.

- **Forward copies of the rolls to NSWEC after the election to enable a check to be made on double voting and failure to vote – section 313.**

As the responsibility for managing the non-voter process remains with the NSWEC, in those elections being administered by councils, the General Manager is required to return the rolls to the NSWEC, including all used and unused printed markoff (Authorised Rolls) and all other printed rolls including reference rolls. All roll files (ie “softcopy” versions) provided must be destroyed.

The NSWEC will provide further details on when the rolls need to be received by it to ensure the scanning of the rolls is done in a timely fashion.

The General Manager will need to put in place a process for managing any excuses received after the rolls have been returned to the NSWEC.

- **Manage the relevant election costs**

As provided for in the Guidelines, the General Manager is to prepare the budget for all facets of the council’s elections, and record and monitor expenditure to ensure a shortfall does not occur. Activity based costing will need to be applied to ensure that all costs and expenses are identified.

Areas to be covered include:

- Wages of all election officials and any council staff engaged in election-related work;
 - Recruitment and training;
 - Advertising including the placement of statutory advertisements;
 - Provision of candidate and elector information;
 - Hire of venues, furniture and equipment;
 - Production of all election-related material, including forms, envelopes and cardboard material;
 - Printing of all ballot papers including in Braille, if requested;
 - Transportation of election-related materials;
 - IT software and hardware;
 - Administration expenses such as telephone, postage, courier services, photocopiers and printers, and
 - Insurance.
- **Provide a written report to the Minister for Local Government on the conduct of each election within six months of the declaration of the election.**

Clause 393A states that this report must include (but is not limited to) the following information:

- time spent on the election by the General Manager as a proportion of the General Manager’s remuneration,
- time spent on the election by council staff as a proportion of council staff remuneration,

- the remuneration of council staff employed specifically for the purpose of the election,
- the remuneration, recruitment and training costs of election officials, including the Returning Officer and substitute Returning Officer,
- the cost of running any candidate information seminars,
- the cost of hiring venues and equipment for the election, including council venues and equipment and any associated costs,
- the cost of any technological support, including the development of any counting software,
- the cost of preparing a written report under this clause,
- any electoral services provided to electors,
- any electoral services provided to candidates,
- operational details of the election, and
- an overall evaluation of the conduct of the election, including feedback from stakeholders.
- the number of electors entitled to vote at the election and the number of electors who voted, specifying the number of electors who voted personally or by post.

Once the report has been provided to the Minister for Local Government it must be made public on the council's website as part of the election record.

Returning Officer

The Returning Officer is appointed by the General Manager, where he or she is the Election Manager, and is the front-line manager for the conduct of the elections in the particular council area.

In appropriate circumstances General Managers may appoint the same individual as a 'shared' Returning Officer to conduct the elections for more than one council area. If a shared Returning Officer is to be used, each General Manager in the combined group must issue an instrument of appointment nominating the same person as the Returning Officer for the group. The allocation of tasks and the costs to be apportioned to each council in the group must also be documented up front.

To ensure the conduct of an election is seen to be at arms length from the council, an employee of the same council cannot be appointed as the Returning Officer or substitute Returning Officer - section 296A(4). For this reason and to avoid any perception of bias, friends or relatives of the Mayor, councillors, General Manager or candidates for election should not be appointed as the Returning Officer or substitute Returning Officer.

Election officials, including the Returning Officer, should not have current or recent affiliation with any political party nor be involved in any activities that may become election issues.

The Returning Officer (and the substitute Returning Officer) are not permitted to vote at any election that they are conducting – section 296A(10).

Election officials

The Polling Place Manager is responsible for the conduct of a polling place on election day.

Issuing Officers work in the polling place on election day to assist electors to cast ordinary and provisional votes.

Depending on the expected turnout at a particular polling place it may be necessary to employ additional staff as queue controllers, information officers, and ballot box guards.

Employees of councils can be appointed as election officials in the same council areas in which they are employed – section 296A(4).

ELECTION CAMPAIGN FINANCES

The NSWEC also regulates and enforces the *Election Funding, Expenditure and Disclosures Act 1981* and the *Election Funding Expenditure and Disclosure Regulation 2009*.

Registration of candidates and groups with the NSWEC is necessary before accepting any donations or incurring any electoral expenditure. Each candidate and group must appoint an official agent upon registration with the NSWEC.

The official agent of each candidate and group is required each year to disclose to the NSWEC the political donations made and received and electoral expenditure incurred by the candidate or group.

Section 328A of the Act requires the General Manager to keep a register of copies of the current declarations lodged with the NSWEC by or on behalf of councillors and the Mayor of the council concerned.

Rather than attend candidate seminars, an election campaign finances webinar will be available on www.elections.nsw.gov.au/fd and will cover the legal obligations of candidates, groups and their agents under the *Election Funding, Expenditure and Disclosures Act 1981*.

For more information candidates, groups and their agents can contact the Funding, Disclosure and Compliance Branch of the NSWEC directly on 1300 022 011 or email fdc@elections.nsw.gov.au.

The detailed legal requirements regarding the election campaign finances of candidates and groups is available from www.elections.nsw.gov.au/fd.

3. VOTING AND COUNTING - OVERVIEW

Section 285 provides for candidates to be elected in one of two ways:

Where there is only one councillor to be elected (or a popularly elected Mayor – section 284) an optional preferential system is used. This means an elector only has to place '1' in the square next to the name of the candidate who is their first choice. No other vote need be made, but the elector has the option of allocating further preferences by placing consecutive numbers, beginning with the number '2', in the squares next to the names of additional candidates, if they wish.

To be elected directly, a candidate must receive more than half the number of the formal first preference votes taken in that area or ward. If no candidate receives this number, a distribution of preferences takes place. In this process, set out in Schedule 4 to the Regulation, the candidate with the fewest votes is eliminated, and their ballot papers are distributed to the remaining candidates according to the next available preference shown on them. Those ballot papers on which only a first preference is shown cannot be distributed and are set aside as exhausted. This process is repeated with one candidate being eliminated each time, until finally one candidate has more than half the number of the votes remaining in the count.

Where there are two or more councillors to be elected a proportional representation system is used. This means that candidates are elected in proportion to the number of votes they receive. In order to be elected, candidates generally need to obtain a quota of the total formal votes cast. Achieving a final result can be complex as surplus votes (ie those a candidate receives above the quota) are redistributed to other candidates using a formula and process set out in Schedule 5 to the Regulation.

GROUPS OF CANDIDATES AND GROUP VOTING SQUARES

If there are two or more councillors to be elected, candidates may choose to form groups and may also request a Group Voting Square 'above the line' on the ballot paper.

There must be at least two groups requesting Group Voting Squares for there to be Group Voting Squares on the ballot paper.

In addition, for a group to be eligible for a Group Voting Square on a ballot paper for an undivided council the number of candidates in the group must be at least half the number of candidates to be elected.

For a group to be eligible for a Group Voting Square where there are wards, there needs to be at least as many candidates in the group as there are candidates to be elected.

To vote 'above the line' the elector must place '1' in the Group Voting Square for the group for whom they wish to vote. By doing this, they automatically give their preferences to each candidate in that group in the order the candidates appear on the ballot paper in the column appearing under that square below the line. If the elector wishes to vote for additional groups they can, by placing consecutive numbers beginning with '2', in the Group Voting Squares above the line in the order of their preference - section 308B.

If an elector does not wish to vote 'above the line' they can give preferences to individual candidates by voting 'below the line'. Electors must show preferences for at least half the number of candidates to be elected, but they may show preferences for as many candidates as they wish.

COUNTING METHODS

Different counting methods apply depending on the number of candidates to be elected.

Election of one councillor or a popularly elected Mayor

Electors are directed to mark '1' in the square next to their first choice candidate. Any or all of the other squares may be marked with as many preferences as the elector wishes. These votes are counted by sorting the ballot papers into first preference votes, and if any candidate receives an absolute majority (50% +1 of formal votes) they are elected.

If no candidate receives an absolute majority of first preference votes, then the candidate with the least number of first preference votes is excluded and their ballot papers are distributed according to the second preference indicated. If there is no second preference shown the ballot paper is said to 'exhaust'.

This process of excluding the candidate with the lowest number of votes continues until one candidate has received an absolute majority (50% + 1 of formal votes remaining in the count). The absolute majority is recalculated at each stage of the count.

The count and distribution of preferences for this type of election can be done manually.

Election of two or more councillors

Electors are directed to vote for at least half the number of candidates to be elected. Each ballot paper will contain directions for voting which will prescribe the number of preferences required for a formal vote as each council varies in the number of councillors on it. Electors may vote for additional candidates if they wish.

A candidate will be elected if they receive a 'quota' of formal votes. The quota is calculated by dividing the number of formal first preference votes by the total number of candidates to be elected plus one, disregarding any fraction and then adding one – clause 4 of Schedule 5. Votes are distributed until a candidate has obtained the quota at which time they are elected.

The counts continue until the requisite number of candidates has been elected. As these counts can be complex, vote-counting software is generally used.

Constitutional referendums and council polls

In the case of referendums and polls, a question is put to the elector that requires a 'yes' or 'no' answer, and the outcome is determined by the side that obtains the majority of the formal votes cast.

TYPES OF VOTES

Ordinary votes

People who attend a polling place on election day and whose name and address appears on the certified list of voters at that polling place are issued with ordinary votes. These voters have their name marked off this list when they are given their ballot papers and they place their completed ballot papers in the appropriate ballot box.

Provisional votes

In certain circumstances the elector is required to complete and sign a declaration before they can vote. This declaration is printed on an envelope into which the completed ballot papers are then inserted. The envelope is sealed, placed in a separate ballot box and checked by the Returning Officer after the close of polls to ensure the elector is eligible to vote. As the vote will not be admitted to the count until the eligibility of the elector is ascertained, it is treated as a 'provisional' vote.

Note that there is no absentee declaration voting available at local government elections

The various categories requiring a declaration to be given are:

Name not on roll

If an elector presents to vote at a pre-poll voting office, a Declared Institution or at a polling place on election day and their name cannot be found on the roll (either residential or non-residential) and they claim it should be, they are entitled to cast a vote if they sign a declaration to that effect – section 305 and clause 320B.

Name marked off roll

If an elector finds their name has already been marked off the roll as having voted but they claim that they have not already done so, they are entitled to vote provided they complete the appropriate declaration envelope – section 305 and clause 320A.

Silent electors

Silent electors are people whose name appears on the roll but their address, for reasons of personal safety, does not – section 739 and clause 339(6).

A silent elector is required to complete a declaration envelope on which they write their full address details. This declaration will be in a form approved by the Chief Executive of the Office (see Appendix B). This envelope is then placed inside another envelope that does not contain these details so that the confidentiality of their address is protected. Only the Returning Officer handles these declarations and as confirmation of silent elector details requires authorised access to the database maintained by the Australian Electoral Commission (the AEC) and the NSWEC, the Returning Officer will need to liaise with the NSWEC.

Enrol and vote on the day

A residential elector, who knows they are not enrolled anywhere in NSW or has moved address since the certified list was printed to enrol and vote on the day, provided they can demonstrate their eligibility to vote by showing the required identification (a NSW driver licence or NSW Photo Card) to the issuing officer - section 305 and clauses 320C to 320E.

As these declaration envelopes are effectively "enrolment forms" and are agreed between the NSWEC and the AEC, the NSWEC will supply councils with unfilled declaration forms at the cost of production.

This category of vote is not available at declared institutions – clause 320F(2).

WHERE AND HOW CAN ELECTORS VOTE?

As there is no absent voting available at local government elections if an elector is unable to attend a polling place on election day, and they meet the various eligibility criteria they may

be entitled to vote before the election by post, at a pre-poll voting office or at a Declared Institution. (see Parts 15, 16 and 17 of this Guide)

On election day a person living in an undivided council area can attend any polling place.

If they live in a council area with wards they must attend a polling place within the ward in which they are enrolled, unless they attend a specific polling place appointed to issue all ballot papers.

4. RETURNING OFFICER'S RESPONSIBILITIES

Elections are conducted in a legal environment and as such the Returning Officer is required to conduct the election and, if applicable, the referendum or poll in the council area for which they are appointed, according to the Act and the Regulation.

Returning Officers appointed by the General Manager of those councils administering their own elections need to be aware that while liaison with the NSWEC will be required in relation to certain aspects such as the provision of the rolls, the NSWEC will not be providing other assistance such as forms, manuals or general advice.

The duties of the Returning Officer include:

- Recruiting election staff - section 296A(3).

There must be at least two election officials appointed at each polling place, one as the Polling Place Manager and the other to assist in taking the poll – clause 335. The functions of the Polling Place Managers and other election officials are determined by the Returning Officer. Appointments must be in writing – clause 335(4).

- Locating an appropriate venue for use as the Returning Officer's office.

While the council can use facilities it has available the Returning Officer should consider the following factors when determining whether the premises are suitable:

- it should be in a convenient location for electors and preferably close to public transport;
 - there should be appropriate access for the elderly or those with a disability;
 - some parking facilities should be available;
 - there must be adequate space to store all the election-related materials including ballot papers, to conduct pre-poll voting and to enable the ballot paper counts to occur;
 - access to the office should be available to authorised staff on a 24 hour unrestricted basis;
 - the premises must be able to be secured; and
 - deliveries should be able to be made easily.
- Managing the Returning Officer's office.

The office should be open to the public from Monday to Friday during the council's business hours from the closing date for the election until the declaration of the poll. It must be open at the following times as specified in the legislation:

- Until 5pm on the Monday before election day to receive any postal vote applications;
- Until 6pm on the Friday before election day to enable pre-poll voting to take place;
- From 8am until to 6pm on election day to enable inspection of registered electoral material and to answer any general elector enquiries; and
- Until 6pm on the Monday after election day to receive any postal votes.

- Ensuring all election officials receive appropriate training to undertake the various election tasks including how to determine formality of ballot papers. It is recommended that the Returning Officer develop manuals for the election officials to familiarise staff with the relevant processes and legal requirements.
- Providing information sessions for candidates and/or developing a manual to assist them comply with the legal and procedural requirements.
- Developing procedures to be followed by election officials issuing pre-poll, Declared Institution, postal and election day votes.
- Preparing all necessary printed election materials such as forms, provisional vote envelopes, signs and so on. See Appendix B for further information on forms.
- Obtaining all necessary election material for use in pre-poll voting offices and polling places such as voting screens, ballot boxes, pencils and so on.
- Determining the types and quantity of ballot papers required, and arranging for their printing, delivery and secure storage.

The Returning Officer must keep a record of the type and quantity of ballot papers allocated to each polling place to assist in the reconciliation process after the close of polls, and it is recommended that they retain a number of each type of ballot paper as a reserve for any emergency on election day.

- Making Braille ballot papers available, if requested (see section 12 below).
- Dealing with enquiries from political parties and candidates.
- Ensuring a mechanism is in place to deal with enquiries from the general public (as per the Guidelines the General Manager is to appoint the 'public officer' as the contact for enquiries from the community).

It is important that any enquiries relating to enrolment details be directed to the NSWEC to ensure the rolls that are produced are up to date and accurate. The Returning Officer should also have in place a system for noting the details of any advice they receive relating to electors who cannot vote on election day but only if the reason provided is that the elector has moved interstate or overseas or died. Other excuses are not to be accepted in advance of election day.

- Providing appropriate services for various special interest groups (electors with a disability including those with low literacy, the elderly or frail, Aboriginal and Torres Strait Islanders, and those from a non-English speaking background).

This ranges from information advising electors of their rights and responsibilities to physical assistance when an elector is casting their vote if unable to do so unassisted. Clause 388 provides that if such assistance is required, an elector can nominate any person except a candidate to assist them, and if the elector declines to nominate someone, then the Returning Officer, office assistant or election official may assist the elector.

- Processing candidates' nominations including acceptance of the deposit and conducting the draw for position of candidates on the ballot paper.
- Registering how to vote material that is to be distributed on election day.
- Putting in place all necessary arrangements to enable pre-poll, Declared Institution, postal and election day voting including the hire of appropriate venues.
- Ensuring delivery and collection of election materials to and from pre-poll voting offices and polling places.

- Receiving, processing and making available to candidates, political parties and the general public, the results from the polling places on election night.
- Conducting the count of the provisional votes.
- Conducting the 'check count' of the votes, and the full distribution of preferences (if required).
- Completing election returns and reports accurately.
- Advising candidates of the results.
- Conducting a recount, if required.
- Declaring the election, and
- Arranging secure storage (and ultimate destruction) of ballot papers and voting related materials for the statutory period of 6 months.

Expenses incurred by the Returning Officer, substitute Returning Officer and election officials in connection with an election are to be met by the council – section 296A(9).

The Returning Officer is to determine any other matter not provided for by the Act or the regulations – section 296A(8).

The Returning Officer should also be familiar with the offence provisions in the legislation and have in place strategies to deal with any breaches if they arise. General Managers should provide Returning Officers with access to legal advice from a qualified legal practitioner, as required.

Returning Officers need to conduct themselves in a strictly impartial manner in the administration and conduct of an election, referendum or poll, and be aware that any defects in the conduct of an election could be the subject of review by the NSW Civil and Administrative Tribunal.

5. RECRUITING ELECTORAL STAFF

OFFICE ASSISTANTS

While the majority of staff recruited will be required only on election day, the Returning Officer will need to employ one or more office assistants to work in the Returning Officer's office. These assistants will undertake a number of tasks during the election such as processing postal votes, issuing pre-poll votes, taking votes at Declared Institutions, packing polling place material, and processing and counting provisional votes.

The number of office assistants required and the length of time they are employed will depend on the size and locality of the council area.

When selecting office assistants the Returning Officer should ensure the applicants possess the following:

- office skills;
- computer skills;
- customer service skills;
- organisational skills; and
- time management skills.

POLLING PLACE STAFF

Returning Officers will need to determine the appropriate categories and numbers of staff based on the individual circumstances of their council.

The Returning Officer should also have a number of reserve election officials on standby in the event that some election officials do not report for duty on election day.

The NSWEC has previously used a staffing formula based on 600 votes being issued by one election official per table, and the overall projected number of votes for the polling place to determine the number of issuing tables at each venue. The number of issuing tables determines whether a particular polling place requires a Deputy Polling Place Manager, a ballot box guard, and/or an enquiry officer.

Polling Place Manager

Every polling place must have a Polling Place Manager and their general duties include:

- receiving and checking polling place materials and ballot papers for their polling place;
- setting up the polling place on the Friday night before election day;
- conducting on the job training for the election officials before the polling place opens on election day and then again before the count takes place on election night;
- managing and supervising the polling place on election day;
- providing accurate and consistent advice to electors, party workers and scrutineers;
- issuing provisional votes;
- supervising the count of ballot papers and advising the Returning Officer of the result; and
- supervising the packing of material to be returned to the Returning Officer.

In smaller polling places, the Polling Place Manager also performs the role of enquiry officer and issues ballot papers to allow election officials to take meal breaks and so on.

Deputy Polling Place Managers

Deputy Polling Place Managers are appointed to assist the Polling Place Manager at polling places that have four or more issuing tables. Those appointed as deputies should be willing, available and suitably skilled to carry out the same duties as Polling Place Managers, if required.

Election Officials

Election officials undertake the roles of issuing officers, enquiry officers, ballot box guards and scrutiny assistants.

Issuing Officers

Issuing officers issue ballot papers to electors whose name and address are on the certified list and mark off the elector's name to indicate they have received their ballot papers. One election official works at each issuing table.

Enquiry Officers

Enquiry officers are allocated to polling places with six or more issuing tables. Their role is to answer enquiries, provide assistance to the public, and perform queue control duties.

Ballot Box Guards

Ballot box guards are appointed to polling places that have five or more issuing tables. Their role is to ensure electors do not leave the polling place without placing ballot papers in the appropriate ballot box.

RECRUITMENT OF ELECTION OFFICIALS

It is recommended that the Returning Officer recruit the election officials through public advertisement as the details of those who have worked for either the NSWEC or Australian Electoral Commission cannot be provided by those organisations for privacy reasons.

All election officials, including the Returning Officer, must be on an electoral roll and eligible to vote at either Commonwealth or New South Wales state elections - clause 276A.

It is not necessary for polling place staff to have previous election experience as long as they:

- Have the skills and abilities to perform required duties;
- Have excellent customer service skills;
- Have the patience to undertake repetitive duties over a long period; and
- Are diligent and attentive.

Polling Place Managers and Deputy Polling Place Managers should be selected first and as early as possible and the Returning Officer should confirm their availability to undertake training and set up the polling place on election eve as well as work on election day.

Returning Officers should try to accommodate the following requirements wherever possible:

- Appoint staff to a polling place as near as possible to their home.
- Recruit staff who speak a language other than English appropriate to their council areas and place them in polling places where they will be of most assistance.
- Recruit Aboriginal and Torres Strait Islander election officials to work in polling places in council areas/wards with high indigenous populations.

6. POLLING PLACES

VENUES

Returning Officers must confirm arrangements with the appropriate person at each venue to be used as a polling place to ensure that materials can be delivered and securely stored, the area can be set up on election eve, there are adequate toilet and kitchen facilities for staff and any potential issues addressed (for example, adult size furniture is available if the polling place is located in a primary school, or inadequate lighting is fixed).

The Polling Place Manager should be advised of the appropriate entrances to be used on election day and candidates and parties should also be provided with this information.

Polling Place Managers should set up as much of the polling place the afternoon or evening before to allow them to explain duties to election officials on election day before the polling place opens at 8am. They should set up voting screens, tables, chairs, and distribute any materials that are not required to be securely stored.

In an undivided council area an elector can vote at any polling place within the area for which they are enrolled.

In council areas with wards, polling places generally only issue ballot papers to electors enrolled for the ward in which the polling place is located. The exceptions are:

- Where a particular polling place has been designated to issue ballot papers for all wards of the council. In this situation it is usual for each of the wards to have its own issuing tables and separate ballot boxes.
- Where a polling place is located close to the boundary of another ward, it may issue ballot papers for both the ward in which it is located as well as the adjoining ward. If a polling place is located close to several boundaries it may issue ballot papers for all neighbouring wards. It is usual for each of the wards to have their own issuing tables and separate ballot boxes.
- Where a single polling place is being used to issue ballot papers for two or more council areas. This occurs where a polling place is located close to the boundary of adjoining council areas and a large number of voters from the neighbouring council area are likely to attend. It is usual in this case for each council area sharing the polling place to provide a Polling Place Manager and staff and run its own voting facility to issue ballot papers for its area.
- Where a hospital has been appointed as a polling place on election day although the main purpose is to provide a mobile voting service for patients who are enrolled for the council area in which the hospital is located, stationary issuing tables are also provided for use by hospital staff and visitors – clause 332.

EQUIPMENT

Returning Officers need to estimate the number of tables and chairs (including any that may be required for electors who are elderly, frail or have a disability) and arrange with any furniture suppliers for its delivery and collection. Similar arrangements need to be made for the delivery and collection of cardboard election material and for waste collection, if the venue does not have an existing policy in place.

The amount of election material and furniture required is calculated on the number of votes taken at previous local government elections as well as current enrolment figures. The estimate was based on approximately 600 ballot papers being issued per table on election day, and for every table to allow three voting screens.

The number of ballot boxes will depend on the number of elections and ballot papers to be issued for that council or ward. For example, a council with an election for Mayor, an election for councillors and a constitutional referendum will need more ballot papers and ballot boxes than an undivided council with only an election for councillors.

The NSWEC has advised the Office that it will authorise the providers of its cardboard products to make the dies available to any council conducting its own election provided the NSWEC logo is removed and the council pays for any costs involved in altering the dies. The Returning Officer will be responsible for placing the order and arranging the delivery and storage of the cardboard material. The NSWEC will not act as a liaison with the supplier nor will the NSWEC purchase cardboard products on behalf of a council administering their own election.

7. ADVERTISING

The amount and type of advertising a council chooses to run is a matter for each council to determine having regard to its individual circumstances. For example, a council with a large population of people whose first language is not English may decide to place advertisements in multicultural media. This may not be a consideration in other councils where the large majority of electors has English as their first language.

It is also a matter for councils to determine the form the advertising should take eg local television, radio and/or press. In some areas councils may be able to run a combined advertising campaign that is jointly funded.

Once the advertisements start to appear electors will contact council for information and clarification. The General Manager should ensure that a specific person is designated to deal with these enquiries, and it is recommended that this person be the public officer to enable the Returning Officer to focus on planning and administrative tasks. However the Returning Officer should be the person to deal with any enquiries from candidates or political parties.

Although councils have some discretion regarding advertising, the legislation stipulates a number of advertisements that must be placed in local newspapers. These are:

ENROLMENT

The first statutory advertisement is to inform electors that an election is to be held and to encourage them to enrol. It also alerts non-resident electors of their ability to enrol and vote in those areas where they have business or property interests – clause 280.

This advertisement will be placed by the NSWEC across the State so councils conducting their own elections will not need to place this advertisement, but there will be a pro-rated charge for this service. This notice (which may relate to more than one area) is to appear at least once in the 14 days before the closing date for the election in a newspaper circulating generally in the State or another newspaper in the relevant area, or both.

Although the advertisement will be placed by the NSWEC the Election Manager is to ensure that the details contained in it are on the council's website until at least 6pm on the closing date.

Advertisements will be placed by the NSWEC prior to the elections informing candidates and groups of the requirement to register prior to accepting political donations or incurring electoral expenditure. There will be no charge for this service.

All remaining statutory advertisements will need to be placed by the Election Manager (or Returning Officer) and paid for by council.

CALL FOR NOMINATIONS

Not less than one week before nomination day (which is the fifth Wednesday before election day) the Election Manager is to give public notice of the election by advertisement in a newspaper circulating in the area - clause 288. This advertisement (which can contain notices relating to more than one area) must:

- Invite proposals for nomination
- Specify where nomination forms may be obtained
- Specify the date of the nomination day and the place of nomination

- Specify the date when the poll will be held, if the election is to be contested, and
- Give notice of the requirements for proposals for nominations (including the payment of deposits, the provision of Candidate Information Sheets, the grouping of candidates and the creation of Group Voting Squares.)

This information must appear on the council's website until at least noon on nomination day.

DECLARATION OF UNCONTESTED ELECTION

Section 311 provides that an election is uncontested if, on nomination day, the number of nominations received is equal to or less than the vacancies to be filled. The candidates, whose nominations have been accepted, are taken to have been elected to those positions on and from the day the election would have been held.

If this occurs, clause 296 requires the Returning Officer to declare in writing the names of the candidates so elected, and the ward or area for which they have been elected. The Returning Officer must also display a notice in a prominent position at the local council, insert a notice in a newspaper circulating in the relevant area, cause the information in the declaration to be published on council's website for at least one month and send a copy of the declaration to the relevant General Manager, the NSWEC, the Office and Local Government NSW (LGNSW).

If less than the required number of nominations is received, a by-election will need to be held.

NOTICE OF CONTESTED ELECTION

If there is to be a contested election in respect of any ward or area, clause 300 requires the Election Manager, on nomination day or as soon as practicable afterwards, to publish a notice in a newspaper circulating in the area stating:

- that a poll will take place and the date on which this will occur;
- that detailed information is available at the council's office and on the council's website relating to:
 - the names of the candidates and the registered political parties of which they are members;
 - the location of the pre-poll voting office or offices and the hours and days that they will be open for pre-poll voting; and
 - the location of the polling places on election day.

The notices to be displayed at the council's office and on the council's website until at least election day must state the following:

- that a poll will take place and the date on which this will occur;
- the full names of the candidates and the names under which they will appear on the ballot paper;
- the names of the political parties (if any) to be printed adjacent to the name of any candidate on the ballot papers;
- whether the word 'Independent' is to be printed adjacent to the name of any candidate on the ballot papers;
- the location of the polling places where the poll will be taken on election day; and

- the location of the pre-poll voting office, and the days and hours on which electors may cast a pre-poll vote.

If a constitutional referendum or council poll is to be held the Election Manager is to include the question to be asked and other relevant details in the advertisement notifying electors of the election – clause 4(b)(ii), Schedule 10 to the Regulation.

DECLARATION OF ELECTION

After the election has been declared, clause 356 requires the Election Manager to:

- display the written declaration in a prominent position at the council;
- insert a notice in a newspaper circulating in the relevant area;
- send a copy of the declaration to the Office, LGNSW and the NSWEC;
- send a copy to any person who applies to the council;
- publish the information in the declaration on the Election Manager's website for at least one month; and
- insert a notice in a newspaper circulating generally in the State or another newspaper circulating in the relevant area or both, stating the names of the candidates declared elected, the ward or area for which they have been elected, and that detailed results are available on the council's website and for inspection at the council's office.

NON-STATUTORY ADVERTISEMENTS

There are a number of other messages that councils should consider bringing to the attention of electors. Whether they are placed in advertisements that are already being run or as separate advertisements is a matter for the Election Manager. These are:

- Informing any person or group wishing to distribute how to vote material on election day that it must be registered with the electoral material registrar beforehand. (In the case of a council administered election this is the relevant Returning Officer – clause 356OA).
- Reminding electors that there is no absent voting at local government elections and providing them with information on the options available to vote before election day, if they are eligible.
- Reminding people of the date on which the election will be held and that voting is compulsory.
- Informing electors that Braille ballot papers can be produced if required.

It is recommended that a record of the appearance details and cost of all advertisements is kept so that the information can be included in the written report on the election to be prepared by the General Manager.

Brochures

A council should also consider whether it wishes to produce a household or individual brochure to bring details of the election more specifically to the attention of electors. On the one hand producing a brochure for a household keeps down the cost but on the other it is likely that more notice will be paid to an individual communication.

If a council wishes to send such a brochure using the electoral roll as an address base the General Manager will need to sign a NSWEC Safeguard Agreement prior to the provision of the data. The General Manager will need to contact the NSWEC so that arrangements can

be made to provide the elector details in the most appropriate format, which will be a postal address data file that will be provided direct to an agreed third party printing company. The printing company will also be required to sign a suitable NSWEC Safeguard Agreement.

It is important to ensure that if the brochure option is chosen, electors receive them in the appropriate timeframe. For example, if details on how to cast a postal vote are included the brochure needs to be received by the electors at the beginning of the period in which they can apply for a postal vote.

MEDIA

The elections are likely to attract interest from the local media and it may be useful to have a media protocol in place.

As the NSWEC will only be dealing with the media in relation to the elections it is conducting, it is recommended that General Managers administering their own elections designate an appropriate person as the media contact for their council to ensure that consistent information is provided.

It is advisable for that person to keep a record of information provided to journalists and whether any follow up action is required. Following the election this material should be given to the General Manager who may wish to include a section on the media in the report to be prepared for the Minister of Local Government.

Consideration should also be given to issuing media releases or holding media briefings to coincide with key stages in the election and to supplement paid advertising as this is another means of publicising the election.

8. ELECTORAL ROLLS

The roll used for council elections is made up of two parts: a residential roll (section 298) and a non-residential roll comprising owners / occupiers / rate paying lessees with properties or businesses in the local government area – section 299 and 300. These are amalgamated into a single, composite roll for the election – section 301.

Access to any relevant portions of the NSWEC NSW electoral roll will only be provided to councils following the signing by the General Manager and the Returning Officer, where relevant, of a NSWEC Safeguard Agreement. See below for more details.

RESIDENTIAL ROLL

It is compulsory for all Australian citizens, 18 years or older, to be enrolled for the address at which they reside, and to vote at local government elections. Anyone already enrolled on the Commonwealth or NSW electoral rolls will automatically be included on the residential roll for their council area/ward.

If the Returning Officer receives an enrolment form it needs to be immediately sent/delivered to the relevant Australian Electoral Commission office for processing.

NON-RESIDENTIAL ROLL

Anyone wishing to be on the non-residential roll or the roll of occupiers and ratepaying lessees for a local government area needs to apply to the General Manager. To be eligible a person has to be an owner / occupier / rate paying lessee with properties or businesses in the council area, and eligible to be on the Commonwealth or NSW electoral roll. The rolls of non-resident owners, occupiers and ratepaying lessees are to include the names of persons who have applied at any time for inclusion of their names on the rolls and are, in the opinion of the general manager, qualified for inclusion on the roll – sections 299(2A) and 300(2A).

The rolls are prepared by the General Manager. The General Manager must also confirm that on the date the non-residential rolls close, the electors appearing on them are not also on the residential roll for the same area - sections 299 and 300.

Although a person can only appear on the residential roll for one council area, they can appear on any number of other councils' rolls as a non-residential elector. This enables a person who lives in one area to have a say in the election for the council in that area but also to have a say in the election for those councils in which they may own a property or business.

However if a person is listed as a residential elector in a council area they cannot also appear on the non-residential rolls for that same area. This ensures that each elector only has a single vote within any one council area. Similarly in the case of a person or corporation that is a multiple owner, occupier or lessee there is a limit of one vote in any one council area.

It is not compulsory for people on the non-residential rolls to vote (other than the City of Sydney).

COMPOSITE ROLL

The composite roll will be prepared by the NSWEC and made available to councils conducting their own elections at a cost that reflects the recovery of all costs associated with managing the roll and the amount it actually costs the NSWEC to print each of the printed

Authorised Roll/mark-off rolls. If an area is divided into wards, each ward will have its own separate roll.

CERTIFIED LISTS/PRINTED AUTHORISED ROLLS

The NSWEC will provide the 'certified lists', which are the rolls that need to be marked to indicate a person has voted, at the same time as those being delivered to councils that have engaged the services of the NSWEC.

As each certified list is produced for a designated use, the Returning Officer will need to advise the NSWEC of the number of issuing tables at each polling place, and the number required for pre-poll, postal, Declared Institution voting and Excuses in their area.

These lists need to be marked in a particular way to enable the scanner to identify which electors have had their names marked off as having voted. Details on how the lists are to be marked will be provided by the NSWEC when the lists are delivered as well as the date by which the lists need to be returned.

For tasks that require the electoral roll to be checked prior to this the NSWEC will enable councils conducting their own elections to search on a secure roll facility that will be located on the NSWEC website. For example, a Returning Officer will need to check whether the electors supporting the nomination of a prospective candidate reside in the area that the person intends to contest. A fee for this service will be required.

In regard to silent electors, as their name appears on the roll but their residential address does not, confirmation of their enrolment status will need to be undertaken by the NSWEC as it requires logging onto a database maintained by the NSWEC/AEC. As mentioned above the service will be charged at an amount that reflects the recovery of all costs associated with managing the roll.

Similarly the list of people registered to automatically receive postal votes at an election is maintained by the NSWEC/AEC and will be provided to councils administering their own elections by the NSWEC.

In a council with wards, as each ward has a separate certified list the Returning Officer will need to ensure that the polling place designated to issue votes for all the wards in the area has the lists for all wards.

After the election the certified lists are to be returned to the NSWEC for scanning so that the list of non-voters can be compiled.

Councils must give an undertaking to the NSWEC that any enrolment information provided by the NSWEC will only be used for the purpose for which it was provided to ensure privacy protections are in place. It should also be noted that under clauses 284B and 284C it is an offence for a person to whom enrolment information has been provided to use it except for the purpose for which it was provided. This offence carries a maximum penalty of \$110,000.

Any candidate wishing to obtain a copy of the electoral roll to which they are entitled will only be able to do this through the NSWEC - clause 284A.

9. PROCESSING NOMINATIONS

Completed nomination forms, requests to form a group, Candidate Information Sheets and the deposit can be lodged from the closing date for the election but must be received by the Returning Officer by noon on the day nominations close (which is the Wednesday in the fifth week prior to election day). No items will be accepted nor defective forms amended after this time.

MANAGING THE NOMINATION PROCESS

The Returning Officer is responsible for managing the acceptance and rejection of nominations - section 306. It is recommended that information sessions for potential candidates are held prior to the election to outline what is required and how the process will be managed.

Potential candidates should be advised to:

- Lodge nominations and deposits as early as possible as this will allow any defects to be remedied before the close of nominations. Once nominations have closed, rejected nominations cannot be rectified.
- Use the correct nomination form as provided for in clause 289. If being nominated by electors, candidates need to use Form 2 of Schedule 11 to the Regulation, and for party endorsed candidates they must use Form 3.
- Ensure that, if being nominated by electors, they obtain endorsement from more than the minimum two electors in the event that some of those nominating do not meet the necessary eligibility requirements. It is important that a person proposing a candidate's nomination (a proposer) is enrolled in the same ward or area as that for which the candidate is being nominated at the closing date for the election – clause 289(1).

Forms 2 and 3 also include the Statistical Information Sheets that must be completed by the candidate. The Returning Officer should remove these sheets from the nomination forms and after the election has been declared send them to the General Manager of the relevant council as required by clause 391(6). This information is to be treated confidentially and made available only to the Chief Executive of the Office.

NOMINATION REQUIREMENTS

Who can stand as a candidate?

Any person enrolled on either the residential roll or the non-residential rolls is eligible to nominate as a candidate for Mayor or as a councillor - section 306. If a candidate nominates for a particular ward in a divided council area they do not have to be enrolled for that ward as long they are on a roll for a ward within the council area.

After eligibility has been ascertained it is then necessary to determine whether the person is qualified to hold civic office or whether any disqualification provisions apply. Section 274 provides that a person is qualified to hold civic office if the person is entitled to be enrolled as an elector, and none of the disqualification provisions under the Act apply.

Section 275(1) states that a person is disqualified in the following circumstances:

- If they are disqualified from being an elector;

- A member of the NSW Parliament - to enable a person to move from the State tier of government to the local government tier, and vice versa, transitional arrangements are provided for in subsections (5) and (7);
- If they are a judge of any court of the State or Commonwealth;
- If they are serving a sentence for an offence;
- If they have been convicted of an offence under the regulations;
- If they have been convicted of a property offence under Part 4 of the *Crimes Act 1900*;
- If a surcharge payable by the person under Part 5 of Chapter 13 of the Act remains unpaid;
- If they have been disqualified for an offence relating to corruptly receiving commissions and other corrupt practices, or
- If they are disqualified from managing a corporation under Part 2D.6 of the *Corporations Act 2001* (Cth).
- If they have been suspended for misconduct on three or more occasions by the Chief Executive of the Office or the NSW Civil and Administrative Tribunal.

Section 275(2) states that a person is also disqualified from holding civic office on a council if they are an employee of the council or hold an office or place of profit under the council.

It is not the role of the Returning Officer to determine whether or not a person is subject to any of these disqualifications. If a person is in any doubt about their eligibility to be elected they should be advised to seek their own legal advice.

The nomination forms (Forms 2 and 3) are to have the qualification and disqualification provisions printed on the back or attached as a separate page to ensure all prospective candidates are aware of the requirements – clause 289(4).

How is a candidate nominated?

Candidates can be nominated in one of two ways: either by electors enrolled in the same council area or ward they are contesting (Form 2 of Schedule 11 to the Regulation), or by a Registered Political Party (Form 3 of Schedule 11 to the Regulation).

In the case of candidates for councillor, if the council area is undivided, at least two electors enrolled in that council area are required to nominate the candidate, if the council is divided, at least two electors enrolled in that ward are required. For a mayoral candidate, at least two electors enrolled in the council area are required.

In the case of a mayoral or councillor candidate endorsed by a Registered Political Party the nominator is either the Registered Officer or Deputy Registered Officer (clause 275 makes it clear that a deputy registered officer of the party comes within the definition of 'registered officer').

The NSWEC is required to maintain the Local Government Register of Political Parties (section 319). The Register has been finalised for the 2017 elections and information on which parties are registered, who the Registered Officers are and other relevant details can be found on the NSWEC website under 'Candidates and Parties'.

Although candidates cannot nominate themselves, they can nominate other candidates. An elector can only nominate one person for the office of Mayor and only as many people for the position of councillor as there are positions to be filled (ie if there are four councillors to be elected, an elector can only nominate four candidates) – clause 292.

The Returning Officer must check that no elector has nominated more than the permitted numbers of candidates for either Mayor or councillor positions.

LODGING NOMINATIONS

The place of nomination is to be determined by the Returning Officer, but clause 287 states that it is to be the council's office, if practicable. Unless there is a shared Returning Officer it will be the office of the council for the area that the candidate is contesting.

In councils with wards, a person can initially nominate as a councillor for more than one ward in the same council area, but they must withdraw all but one nomination before the close of nominations; otherwise all their nominations will be invalid - clause 292.

A person may be a candidate for both the position of councillor and Mayor - section 282. However if elected as Mayor, the person cannot also be elected as a councillor and will be excluded from the councillor ballot paper count - section 283.

Prospective candidates (or their representatives) must lodge with the appropriate Returning Officer no later than noon on nomination day:

- the correctly completed nomination form including the Candidate Information Sheet and Statistical Information Sheet;
- the appropriate deposit that must be paid in cash or by bank cheque (which includes those issued from a building society, credit union or other financial institution). Personal cheques or EFTPOS are not accepted – clause 289(8);
- the claim to form a group, and the request for a Group Voting Square, if applicable.

If a candidate wishes their name to appear on the ballot paper differently to how it appears on the electoral roll they can indicate this on their nomination form – clause 289(4A). However the alternative form of the name is limited to:

- an initial standing for that name;
- a commonly accepted variation of the name; or
- a commonly used other name specific to the candidate by which they are usually identified.

Nomination forms may also be lodged by post, fax or email (clause 289(5A) lists the specific requirements that must be complied with if the nomination is sent by email). In these cases, the nomination deposit must accompany it (if sent by post) or be paid prior to the close of nominations or it will be rejected – section 306(5).

Candidates should be advised once a nomination has been successfully processed or if it has been identified as deficient and what the candidate needs to do to rectify it.

A copy of the list of all prospective candidates showing their full name, ballot paper name, and enrolled locality must be displayed on the council's website between the time when the first name is placed on the list and noon on nomination day – clause 294(2).

NOMINATION DEPOSIT

The deposit is \$125 for an individual candidate nominating as a candidate for Mayor or councillor. This amount is set at half that required under the *Parliamentary Electorates and Elections Act 1912* for a candidate nominating for the Legislative Assembly, which is \$250 – section 306(5).

Section 306(5A) provides for a discount where there is a group made up of more than five candidates if all the nominations, deposit, and the request to be included in a group are lodged together – section 308A(2). In this case the amount of the deposit for each candidate included in the group is five times the deposit for one candidate divided by the number of candidates in that group. So if there are eight candidates in the group the amount per candidate would be \$78.12 ($\$125 \times 5 = \$625 \div 8$).

If the nomination forms, the request to be included in a group, and the appropriate deposit for all candidates are not lodged at the same time, the amount will be $\$125 \times$ the number of candidates. In the case of the eight candidates in the example above the cost would be \$1000 – section 306(5A).

If the group consists of five or less candidates the amount for the group will be the number of candidates \times \$125. So if there are four candidates the amount will be \$500.

REQUEST TO FORM A GROUP ON THE BALLOT PAPER

Section 308A deals with how candidates can request to form a group on the ballot paper. This can only occur in councillor elections where there are two or more candidates to be elected, and a claim to form a group signed by each of the candidates needs to be submitted by the close of nominations. This claim must be in writing in the form approved by the Election Manager to be effective - clause 301. Once accepted the names of the candidates in the group will appear on the ballot paper in the order they were presented in the claim.

A group does not have to be made up of candidates nominated by a particular registered political party, any two or more candidates can form a group (even if they are from different registered political parties or are a combination of those nominated by registered political parties and by electors).

A claim is not effective if the name of any candidate appears in any other group claim or if it is withdrawn by the candidates who made the claim. Clause 301 also requires the Returning Officer to write the date and time of receipt of a claim or a notice of withdrawal on it.

Request for a Group Voting Square on the ballot paper

In the claim to form a group candidates can indicate whether they wish to have a Group Voting Square on the ballot paper to enable electors to vote 'above the line'.

To be eligible for a Group Voting Square:

- In the case of an election in an undivided council, the group must consist of at least half the number of candidates to be elected.
- In the case of an election in an area with wards, there must be at least as many candidates in the group as there are candidates to be elected.

A further requirement is that more than one group has to request a Group Voting Square for any to appear on the ballot paper. If there are no Group Voting Squares, candidates can still be shown in groups 'below the line' and electors vote by marking the required number of preferences in the squares next to the candidates' names.

There is also provision for the name of a registered political party or composite name to be printed adjacent to the candidates' Group Voting Square – section 308A(5).

UNGROUPED CANDIDATES

Candidates who do not request to form a group are referred to as ungrouped candidates. They appear in the last column on the right-hand side of the ballot paper in the order determined at the ballot paper draw. Each candidate can apply to the Returning Officer to arrange for the word 'Independent' or their party affiliation to be printed adjacent to their name on the ballot paper.

CANDIDATE INFORMATION SHEETS

For the nomination to be valid section 308 requires that it be accompanied by a Candidate Information Sheet.

It must be in the form of a statutory declaration and as set out in clause 290 must include:

- the candidate's full name;
- the candidate's suburb, town or other locality as shown on the electoral roll;
- whether the candidate is a member of any registered political party and, if so, the name of the party; and
- whether the candidate is qualified to contest the election by virtue of being enrolled on: the residential roll, the non-residential roll or the roll of occupiers and rate paying lessees for the ward or area concerned.

Other matters can be included such as the proposed candidate's date of birth, occupation, trade and professional qualifications, membership of organisations, the registered party (if any) that has endorsed the proposed candidate, statements as to the proposed candidate's policies and beliefs, and other qualifications relevant to the proposed candidature.

Although the Candidate Information Sheet is not a prescribed form, it is to be prepared and supplied by the Returning Officer and to ensure parity between all candidates it is to be limited to one side of an A4 sheet of paper.

As soon as practicable after a candidate is nominated, the Election Manager must publish the Candidate Information Sheet on the council's internet website until at least election day – clause 290. The Election Manager may edit the format in which the information is presented and delete any material considered inappropriate but they should not retype or correct any spelling or grammar mistakes.

The Candidate Information Sheets for all confirmed candidates are to be available for public inspection at Returning Officers' offices, pre-poll voting offices and displayed at polling places on election day - section 308.

If a confirmed candidate withdraws their nomination then their Candidate Information Sheet needs to be removed from public display.

WITHDRAWAL OF A NOMINATION

If a candidate wishes to withdraw a nomination they must send written notification, signed personally, to the Returning Officer by noon on nomination day - clause 291. If sent by email then it will only be valid if the steps outlined above for email lodgement of a nomination are followed.

In a council with wards, prospective candidates are entitled to nominate as a councillor for more than one ward but can only stand as a candidate in one. Therefore, any second or

further nominations submitted must be withdrawn prior to the close of nominations, otherwise all nominations will be invalid - clause 292.

DEATH OF A CANDIDATE

Should a candidate die after nominations have closed and before election day, the election is deemed to have 'failed' in the ward or council area where they were a candidate – section 309. A new election will need to be held at a later date in accordance with section 318.

10. CLOSE OF NOMINATIONS

Returning Officers should advise candidates and the local media when they intend to announce the nominations and conduct the draw for positions on the ballot paper. This should take place as soon as possible after nominations close and all the nomination forms and grouping forms have been processed.

Nominations close at precisely noon on nomination day, and under no circumstances can a nomination form be received or a defective form remedied after this time.

At noon, in the presence of such scrutineers and such reasonable number of other persons as choose to be present, the Returning Officer is to process all valid nominations and announce any that have been withdrawn – clause 295(1). The name a candidate is nominated under is the one they have requested be shown on the ballot paper.

On or as soon as practicable after nomination day, the Returning Officer is to send to the Election Manager the list of nominated candidates, the names they have requested appear on the ballot papers and the wards or areas they are contesting – clause 295(3).

To ensure those nominated are registered as ‘deemed candidates’ for the purposes of the *Election Funding, Expenditures and Disclosures Act 1981*, this nomination information is to be forwarded to the NSWEC within 5 days after the close of nominations - clause 295(4).

The NSWEC will then provide each candidate with all the necessary forms and advice on its requirements.

UNCONTESTED ELECTIONS

Section 311 provides that an election for the Mayor is uncontested if, on nomination day, there has only been one nomination received, and an election for councillors is uncontested if, on nomination day, the number of nominations for councillor positions is equal to or less than the number of councillors to be elected.

In both instances, the candidates whose nominations have been accepted are taken to have been elected to those positions on and from the day the election would have been held.

If this occurs, the Returning Officer must, prior to the nomination announcement, declare in writing the names of the candidates so elected and the ward or area for which they have been elected. The Returning Officer must also display a copy in a prominent position at the local council offices, send a copy to the relevant General Manager, the NSWEC, the Office of Local Government and the LGNSW, insert a copy of the declaration in a newspaper circulating in the relevant area and cause the information in the declaration to be published on council’s website for at least one month – clause 296.

It may be the case in a particular council area that one election is uncontested (for example, in a single ward or for the Mayor) but other elections are still to be contested (the remaining wards or for the councillors).

BALLOT PAPER DRAWS

If there is to be a contested election it will be determined by ballot (clause 299), and the order the candidates’ names will appear on the ballot paper is determined by conducting a draw. It is customary to conduct the draw for the Mayor first, then the draw for councillors (one ward at a time, if applicable) where there are no groups (clauses 302 - 303), and finally the draw for councillors (one ward at a time, if applicable) where there are groups (this draw is in

two parts – first the draw for group positions, then the draw for ungrouped candidates) - clauses 302 - 304.

For each draw the Returning Officer must announce:

- any withdrawn nominations;
- the names of the candidates who have nominated for each position (Mayor, if applicable, and councillors) and in which ward (if applicable);
- details of any groups that have been formed.

The Returning Officer then officially nominates the candidates whose nominations have been accepted. If there is a referendum or poll, the questions should also be advised.

The draw for position on the ballot papers then occurs, and the Returning Officer must not conduct the draw without at least one person present to sign the draw sheet as a witness.

Under section 316 the Election Manager may determine how the draw will be done. It can be done manually as set out in clauses 303 and 304 or by another method of random selection including by electronic means.

If the procedure set down in clauses 303 and 304 is being followed the Returning Officer will write the name of each candidate or group on a separate slip of paper. The name and any party affiliation or the word 'Independent' is read out as each slip is folded and inserted into a container, which is sealed and then placed into a small ballot box. There must be as many containers as there are candidates or groups and all the containers must be identical.

After all the containers have been placed in the ballot box, it is shaken by the Returning Officer and anyone else who requests to do so, then held so the Returning Officer cannot see the contents and the containers are drawn out one by one. The slip of paper is extracted from each container and the name of the candidate or group and their party affiliation or 'Independent' status is read out.

There are some additional steps to be observed in relation to groups as there are two parts to the draw when there are grouped and ungrouped candidates. First the draw is done for the groups and the name of the first candidate in the group is read out to identify the group when the slip of paper is extracted from the container. It is then assigned a letter starting with 'A', the second group drawn will be assigned the letter 'B' and so on. These groupings will appear on the ballot paper from left to right.

When all the groups have been dealt with, it is then the turn of the ungrouped candidates. The slip of paper containing the name of each ungrouped candidate is inserted in a container and placed in the ballot box. One by one each ungrouped candidate is drawn out of the ballot box. The order in which the names of these candidates will appear is one under the other in a single column on the far right-hand side of the ballot paper.

A list needs to be made of the order in which the names are drawn out for each type of election as this will be the order in which the candidates or groups appear on the ballot papers. The list needs to be signed by the Returning Officer and at least one witness. Any person present who wishes to do so may also sign the list. The original is sent to the Election Manager, and any candidate or their representative may request a copy.

Once all the draws are complete the Returning Officer must also announce the details of any referendum or council poll to be conducted on election day.

11. BALLOT PAPERS

Returning Officers will be required to arrange for the printing, proofing and distribution of all ballot papers for their council area including those for referendums and polls. The provisions relating to the ballot papers for constitutional referendums and council polls are contained in Schedule 10 to the Regulation.

The size and format of the ballot papers will vary depending on the number of candidates contesting the election, the number of councillors to be elected, and whether candidates have formed groups and/or requested Group Voting Squares.

The Returning Officer is to arrange the printing of sufficient ballot papers for the election and the amount required needs to cover postal voting, Declared Institution, and pre-poll voting as well as voting at polling places on election day – clause 305.

Every ballot paper needs to contain a mark that identifies it as an authorised ballot paper. In the case of councils administering their own elections, this will be the name of the particular council – clause 305(2)(a). Whether this is applied as a watermark, a background or in some other fashion is a matter for the Returning Officer to determine with the printer of the ballot papers.

FORM OF BALLOT PAPER

The templates for the various ballot papers can be found in Schedule 11 to the Regulation. Form 4 is used where there are no groups, Form 5 where there are one or more groups but no Group Voting Squares, and Form 6 where there is more than one group and Group Voting Squares.

The registered officer for a political party may apply to the Returning Officer to arrange for the name of the party (or its abbreviation) as it appears in the Local Government Register of Political Parties to be printed adjacent to an endorsed candidate's name - section 321. This application needs to be signed and delivered to the Returning Officer before noon on nomination day. Similarly an independent candidate may apply to arrange for the word 'Independent' to be printed adjacent to their name - section 322. If the applications are accepted, the Returning Officer will arrange for these details to be printed on the ballot papers.

No groups

The names of the candidates are printed in one column (starting at the top) in the order determined in the draw.

Grouped candidates

The manner in which the name of grouped candidates appears varies depending on whether or not the group has a Group Voting Square and the composition of those in the group - clause 305.

Where a group has a Group Voting Square it is placed 'above the line' on the ballot paper and identified by a letter of the alphabet. The order that the groups appear, and the letter they are assigned, is determined at the time of the ballot paper draw. First drawn is Group A, second drawn is Group B and so on.

- If a group of candidates has all been nominated by the same registered political party it is entitled to have the full name (or abbreviated name) of that party printed adjacent to the Group Voting Square, and next to each candidate's name.

- If a group is made up of candidates nominated by two or more registered political parties it is entitled to have a composite party name (indicating each of the registered political parties) adjacent to the Group Voting Square, and the full name (or abbreviated name) of the relevant party printed adjacent to each candidate's name.
- A group of candidates not nominated by a registered political party, or a group that is made up of some candidates nominated by a registered political party and others who were not, are not entitled to have a name adjacent to the Group Voting Square. Such a group can only be identified by the letter of the alphabet that they were assigned at the draw. However, each candidate's name 'below the line' can have their party affiliation or the word 'Independent' adjacent to their name, if applicable.
- A group of candidates, who have all requested to have the word 'Independent' next to their name on the ballot paper, cannot have 'Independent' adjacent to the Group Voting Square but can only be identified by the letter of the alphabet that they were assigned at the draw. However, each candidate's name 'below the line' may have the word 'Independent' adjacent to their name.

The order of candidates' names within the group is that specified in the grouping form submitted at nomination.

The name of a political party to be printed on ballot papers is that entered for the party in the Local Government Register of Political Parties or the abbreviated name if the party has requested the abbreviated form be used, and when these names are printed onto the ballot papers they are to be in capital letters in type that is uniform in size and style – section 324.

Ungrouped candidates

Those candidates that do not form part of a group are referred to as 'ungrouped' candidates, and their names appear in a column on the far right-hand side of the ballot paper in the order determined at the draw. Each candidate can choose to have the word 'Independent' or their party affiliation printed adjacent to their name, if applicable.

FORM OF CANDIDATE'S NAME ON BALLOT PAPER

There are a number of other requirements affecting the way in which a candidate's name appears on the ballot paper. These are specified mainly in the nomination forms and provide that:

- A candidate's surname on the ballot paper must appear exactly as they are enrolled;
- A candidate is permitted only one given name on the ballot paper however this can be any one of their enrolled given names;
- A candidate does not have to use any of their enrolled given names but may request an alternative form of their name as long as it is:
 - an initial standing for the given name
 - a commonly accepted variation of the name, for example, Sue for Susan, John for Johan etc;
 - a commonly used other name specific to the candidate by which the candidate is usually identified.
- Candidates with hyphenated first names should appear as they are enrolled unless they request only one of the names is shown; and
- No titles (such as Dr for Doctor or JP for Justice of the Peace etc) are permitted.

BALLOT PAPER PROOFING

Once the draw for positions on the ballot papers has been completed and all the necessary details checked, the Returning Officer is to prepare a draft ballot paper observing the various rules above and provide this to the printer. When the printer sends back a proof copy, the Returning Officer must check each ballot paper and confirm that all details are correct.

It is recommended that this proofing exercise is done by two people – one reading from the original documents (nomination form; grouping form; draw for positions list) and the other checking these details against the proof.

If there is any mistake on the ballot paper it needs to be corrected before final approval is given and the order for printing placed.

The Returning Officer must check that:

For all mayoral and councillor elections:

- The correct date of the election, council name and ward (if applicable) are shown.
- The correct number of candidates to be elected is shown and the correct numbers are shown in the 'Directions for Voting' (ie half the number of candidates to be elected rounded up to whole number).
- All candidates appear on the ballot paper and have their names spelt correctly – surname in upper case; given name in lower case and in the form requested on their nomination form.
- Candidates are in the exact order as that shown on the list from the draw.
- The registered party name (or abbreviation) or the word 'Independent' appears next to the candidate's name as requested on the nomination form (party names in upper case and 'Independent' in lower case) and is spelt correctly and appears as it does in the Local Government Register of Political Parties.

For councillor elections where groups have been formed:

- All candidates who have applied to be included in a group appear in the exact order requested.
- The order of groups and ungrouped candidates is exactly as on the list from the draw.
- Each group that has requested a Group Voting Square has one 'above the line' on the ballot paper (and there is more than one Group Voting Square on the ballot paper).
- The correct numbers of candidates are shown in each group (ie a council with wards: at least equal to the number to be elected. A council without wards: at least half of the number to be elected).
- Each group is identified with a letter of the alphabet starting with A. For groups with Group Voting Squares the letter appears both 'above' and 'below the line', and for groups with no Group Voting Squares the letter appears 'below the line' only.
- The party name or composite party name appears adjacent to the Group Voting Square, as requested on the grouping form (the composite name should appear 'above the line' only and not next to each candidate's name).
- There is no Group Voting Square or identification shown 'above the line' for ungrouped candidates.

For referendum or poll ballot papers:

- the correct council name and date of election is shown;
- the correct 'Directions for Voting' appear;
- all questions appear exactly as requested; and
- a box appears next to each question for the voter's response.

SECURITY OF BALLOT PAPERS

The printer should provide documentation on the numbers and types of ballot papers printed and on receipt of the ballot papers, the Returning Officer should count the bundles to ensure all ballot papers ordered have been received.

The Returning Officer should make sure that all ballot papers being handled by election officials for postal, pre-poll and Declared Institution voting are away from public access and that at the end of the day all ballot papers are securely stored. It is important that both used and unused ballot papers held in the Returning Officer's office are stored in a safe, cupboard or room that can be locked and to which only the Returning Officer and their staff have access.

Polling Place Managers should be instructed to have secure storage measures in place once the ballot papers for use on election day are in their custody. For example, boxes of ballot papers are not to be left in a Polling Place Manager's car or in the polling place on election eve.

ACCOUNT OF BALLOT PAPERS

It is the Returning Officer's responsibility to ensure sufficient ballot papers are available at the required locations and within the appropriate timeframes (clause 309), and to keep track of the movement and use of all ballot papers. Errors in accounting for ballot papers may affect the integrity and result of the election.

The Returning Officer should keep a separate account for each type of ballot paper, ie Mayoral ballot papers, councillors, referendums and polls, and if the council has wards, these details should be kept by ward.

Every time ballot papers are allocated to election officials for the purpose of issuing votes, the ballot papers issued and received should be counted and recorded by both the Returning Officer and the election official, and all unused ballot papers must also be taken into account.

No later than the day before election day, clause 310 requires the Returning Officer to send to the Election Manager a return detailing the number of ballot papers:

- ordered and received from the printer;
- issued as postal ballot papers;
- issued to pre-poll voting offices, Declared Institutions and polling places; and
- not issued at all.

At polling places, the Polling Place Manager needs to record the number of ballot papers allocated to each issuing table and ensure that the issuing officers also record the number of ballot papers they issue. Ballot papers should not be passed from one issuing officer out of their allocation to another as reconciling the actual number at the end of election day will prove difficult.

If ballot papers run out at a pre-poll voting office, Declared Institution or polling place and it is not possible for the Returning Officer to arrange for additional ballot papers to be delivered, clause 312 permits ballot papers to be reproduced (photocopied or handwritten etc) but they must still be in the appropriate form and same general format as the printed ballot paper.

12. BRAILLE BALLOT PAPERS

Vision impaired electors can request Braille ballot papers so they can cast a postal vote, a pre-poll vote or an ordinary vote at a polling place on election day. Returning Officers will need to make necessary arrangements with Vision Australia or other suitably qualified organisations.

Although the ballot paper is in Braille the voter is required to mark it in the same way as a sighted voter and the squares next to each candidate's name or the question on the referendum or poll ballot paper is in Braille to ensure the voter places the mark accurately.

Clause 388A contains the details on the Braille ballot paper regime.

If a vision impaired elector wishes to obtain Braille ballot papers they need to apply to the Election Manager and provide details of the pre-poll voting office or polling place they will attend, or if they intend to vote by post, to enable the appropriate documents to be prepared.

This is necessary as each ballot paper will need to be customised for the particular elector and this requires significant lead time.

The application can be made orally or in writing but must include the following details:

- Full name, residential address and date of birth;
- A declaration that the elector cannot read an ordinary ballot paper but will be able to understand a ballot paper in Braille and to vote in accordance with the directions on it;
- Whether they intend to vote:
 - on election day – in which case they are to nominate the polling place where they intend to vote;
 - at a pre-poll voting office – in which case they are to nominate the pre-poll voting office where they intend to vote;
 - by postal vote.

An application can be made orally or in writing during the period 30 days before nomination day and 5pm on nomination day. If the application is in writing then it must be received by the Election Manager by 5pm on nomination day.

The Election Manager is not required to provide a Braille ballot paper if satisfied that it is not reasonable in the circumstances, or there is insufficient time to produce the ballot paper in that format or there are no facilities or insufficient facilities reasonably available. In such a case the Election Manager is to notify the elector as soon as possible that the ballot paper will not be provided in Braille.

After the election the votes on Braille ballot papers are transposed on to ordinary ballot papers and then counted in the same way as other (non Braille) ballot papers.

13. REGISTRATION OF ELECTORAL MATERIAL

There are certain legislative requirements in relation to electoral material and these vary depending on when the material is made available during the election period. Candidates need to be aware of these rules to ensure they do not break the law.

The majority apply during the 'regulated period', that is, from the closing date for the election until 6pm on election day. Electoral material to be distributed on election day must be registered beforehand with the electoral material registrar (in the case of council administered elections this will be the relevant Returning Officer – clause 356OA).

The application must be in the form approved by the Chief Executive and signed by the applicant – clause 356P(9) - see Appendix B.

Candidates should also check with their legal advisers to ensure material is not defamatory or in breach of any other legal obligations such as complying with individual council requirements.

DEFINITIONS

Relevant definitions are found in clause 356A. In summary:

“Electoral material” means a how to vote card, poster or advertisement or anything else containing electoral matter.

“Electoral matter” means any matter that is likely to affect the result of any election, or is likely to influence an elector in relation to the casting of their vote. It also includes the name of a candidate or their political party, a photograph, drawing image or representation of the candidate.

In relation to 'electoral matter' contained in material to be distributed on election day this definition is extended under clause 356L to include references to or comments on:

- an election;
- any council or previous council;
- any councillor or previous councillor;
- the Government, the Opposition, a previous Government or Opposition of any State, Territory or the Commonwealth;
- a member or former member of the Parliament of any State, Territory or the Commonwealth;
- a political party, a branch or division of a political party or a candidate in an election; or
- an issue before the electors in connection with an election.

“How to vote card” means any card, handbill, pamphlet or notice containing voting directions, whether or not it also contains any representation or partial representation of a ballot-paper or portion of a ballot-paper.

“Regulated period” for an election means the period from the closing date for the election (40 days before election day) until 6pm on election day.

“Street address” does not include a post office box number or a DX box number.

“Voting directions” means directions or suggestions (whether express or implied) in relation to the casting of votes.

REQUIREMENTS DURING THE REGULATED PERIOD

During the regulated period it is necessary that electoral material carry the details of the authoriser of the material and the printer. Exceptions are made for items such as T-shirts, lapel buttons and badges, balloons, business cards promoting a person’s candidacy in the election or letters bearing the name and address of the sender that do not contain a representation of a ballot paper – clause 356G(3).

It is an offence carrying a maximum penalty of \$1100 to print, publish or distribute ‘non-complying’ electoral material – clause 356D. ‘Distribute’ has been taken to apply even to situations where material has been left where it can be read or collected by any person.

A post office box is acceptable as the address for use by the person authorising the material but it is not acceptable as the printer’s address, which must be a street address.

Where a claim is made that material is being distributed that does not contain these details the candidate on whose behalf the material is being distributed should be advised of the complaint and asked to either withdraw the material, or amend it so the necessary details are included. It is acceptable for this material to be amended by writing, stamping, overtyping, or placing stickers on the original material if the candidate does not wish to reprint.

Clause 356GA requires any electoral matter appearing on an electronic billboard, digital road sign etc to contain authorisation details and clause 356GB requires any paid electoral advertising appearing on the internet to be authorised. This provision does not apply to general comments made on blogs or other social media sites.

NON-COMPLYING ELECTORAL MATERIAL

Candidates should be aware of the content of clause 356B to ensure that any electoral material they produce is not deemed ‘non-complying’.

In essence, electoral material will not comply with the legislative requirements if, during the regulated period, it:

- Contains voting directions that may mislead an elector when casting their vote;
- Contains untrue or incorrect statements that may mislead an elector when casting their vote;
- Contains incorrect or misleading information about a person’s candidature for a particular election;
- Uses the name of a registered political party in a way that is likely to be misleading;
- Uses the word ‘Independent’ and the name of a registered political party suggesting an affiliation with that party;
- Contains voting directions contrary to those on the ballot paper including to leave the ballot paper blank, to write on the ballot paper or to repeat or omit numbers when indicating preferences;
- Could result in an elector casting an informal vote;
- Contains a statement to the effect that voting is not compulsory; or
- Contains words or other matter that is obscene or offensive.

It is also an offence to encourage an elector to place a tick or a cross in a square on the ballot paper – clause 356H.

Clause 356C includes additional requirements for how to vote cards regarding the information electors are given as to how they should mark their preferences. How to vote cards will be non-complying if in the case of:

- A registered political party, it has not endorsed a candidate for the particular election or the voting directions do not preference its candidates first;
- A group of candidates, the voting directions do not preference its candidates first; and
- An ungrouped candidate, the voting directions do not give the first preference to that candidate.

If the how to vote card contains voting directions for how to preference 'above the line' but also contains directions on how to preference 'below the line', it will not comply if the 'below the line' information is only given for some individual members of the group or if the individual members of the group are numbered differently to the order in which they appear on the ballot paper.

If the how to vote card only deals with how to preference 'below the line' it will not comply if it does not indicate the number of preferences that must be given to constitute a formal vote.

A how to vote card will also be non-complying if it contains voting directions for two or more council areas.

POSTERS

Although posters are not required to be registered, any information on them needs to comply with clause 356B, and there are restrictions as to where posters may be displayed.

Clause 356E states that during the regulated period posters must not be exhibited on, or in, premises owned or occupied by the Crown or any council. However clause 356E(3) provides certain exceptions that are permissible on election day. If private property (including power poles) is used, permission must first be obtained from the owner.

Posters are not to be displayed inside, or on, any pre-poll voting office – clause 356J.

All posters must show the name and address of the person authorising the printing of the poster, and the name of the printer and the address at which it was printed – clause 356G. These requirements give authenticity to the document and allow the source or printer to be contacted, if necessary. This provision applies whether a poster is displayed on a building, a motor vehicle, attached to a wooden stake or is in banner form.

It is also an offence to write, draw or depict any electoral matter directly on any roadway, footpath, building, vehicle, vessel, hoarding or place – clause 356F.

There is no limit on the size of posters except on election day when they are limited to 8000 sq cm (80cm x 100cm). A breach of this provision is an offence that carries a maximum penalty of \$330 – clause 356N(2).

Clauses 356J and 356N provide that posters cannot be displayed inside, on or within 6 metres of the entrance to, the building being used as a pre-poll voting office or polling place.

Election day

On election day posters cannot be larger than the prescribed size of 8000 sq cm if they are within the grounds in which a building used as a polling place is situated, or on the outer wall, fence or other boundary of the grounds, on a vehicle on a road or fixed or attached to a table or stall on a footpath or other public place – clause 356E(3). There is no size restriction on posters displayed elsewhere on election day.

Joining a number of posters that are within the prescribed size to form one oversize poster is not acceptable.

Election officials may remove non-complying posters displayed at a polling place or in the grounds on election day but any posters in breach of the Act that are displayed outside this vicinity can only be removed by the police – clause 356T.

REGISTERING ELECTORAL MATERIAL

If registered political parties, groups and candidates contesting the election or individuals, organisations and community groups wish to distribute material on election day it must first be registered with the electoral material registrar – clause 356P. If the material has not been registered, it is an offence to distribute it and carries a maximum penalty of \$1,100 – clause 356M. In addition it can be confiscated by an election official at the polling place – clause 356T.

Processing applications

Applications for registration of electoral material can be submitted from the close of nominations until 5pm on the Friday in the week before election day (ie 8 days before election). The application form should be obtained from the Returning Officer and a copy of the material to be registered attached.

An application to register electoral material for a particular area may be made for any one or more of the following: an election of councillors, an election of Mayor, a referendum or council poll. There is no limit on the number of items an applicant can submit for registration and no requirement that they all be distributed. It is common for a number of versions of how to vote cards to be registered where the only difference is the order of preferences shown on them giving the candidate flexibility as to which version will be distributed on election day.

Applications can be received by email, fax, post and over-the-counter. Applications received by email must contain the actual signature of the applicant.

Checking electoral material

Has the application been completed correctly?

All details need to have been provided and the application signed by the correct person. The 'correct person' will differ depending on whose behalf the material has been submitted – clause 356P. In the case of:

- A group affiliated with a registered political party – the application can be signed by the Registered Officer, Deputy Registered Officer or the head candidate in the group.
- A group not affiliated with a registered political party – the application can be signed by the head candidate in the group or any candidate within the group on their behalf.
- An ungrouped candidate affiliated with a registered political party – the application can be signed by the Registered Officer, Deputy Registered Officer, or the candidate.

- An ungrouped candidate not affiliated with a registered political party – the application must be signed by the candidate.
- Any other individual, organisation or community group – an individual on their own behalf, and an officer of the organisation or community group such as the President or Secretary.

The name, address (in this instance a post office box is acceptable) and suburb of the person authorising the material must be included. The name, street address (a post office box is not acceptable) and suburb of the printer of the material must also appear.

To make sure the public knows on whose behalf the material is to be distributed, which is not always discernible from the authoriser details, clause 356Q(c1) requires the details of the relevant person, political party, organisation or group to be clearly identified.

Does the material show the correct preferences?

Clause 356C outlines how the preference information relevant to each category of candidate needs to be shown. In all cases it is important to ensure that the correct details are provided and that no preferences have been repeated.

It is acceptable for the person submitting an application to suggest how to vote for a party, group or candidate contesting another election in the council area they are contesting. For example, a candidate for Mayor (if applicable) can suggest how to vote in the councillor election for the same council area.

Similarly if a council is also conducting a referendum or poll on election day, parties, groups and candidates may want to distribute material instructing electors how to vote on these matters. In this case the material should clearly identify that it is for the referendum or poll and comply with the general registration requirements.

Does the material contain any details that may mislead electors in the proper method of casting a formal vote?

Any instructions on electoral material telling electors how to vote should be in accordance with the actual directions contained on the relevant ballot papers. 'Misleading' in this context does not extend to the truth or otherwise of statements seeking to influence electors in deciding for which candidate or party they should vote. The 'casting of their vote' refers to the act of voting itself (ie marking a ballot paper) not the political judgements that motivate the decision as to which candidate or party to vote for.

The electoral material should not:

- instruct electors to repeat or omit preferences, mark the ballot paper with ticks or crosses (clause 356H), or vote for candidates that do not appear on the ballot paper;
- state or imply that voting is not compulsory;
- purport to link the candidate in any way with a registered political party if the candidate has not been nominated by that party; and
- show the registered name or abbreviation of a registered political party, if the candidate has not been endorsed by that party, unless they have the consent of the registered officer/deputy registered officer.

Electoral material may contain the name of an organisation or community group that the candidate is a member of or supports.

More detailed information on non-complying electoral material is contained in clause 356B.

Does the material contain statements that are obscene or offensive?

The decision as to whether material is obscene or offensive is a decision to be made by the election material registrar on a case by case basis – clause 356B(h).

Is the material in a language other than English?

When material is submitted in a language other than English it must be accompanied by an English translation and a declaration by the person on whose behalf it has been prepared that the translation is accurate or the material will not be registered – clause 356Q.

If there is a representation of the ballot paper on the electoral material, are the candidates shown in the correct order as they appear on the actual ballot paper?

If a party, group or candidate submits electoral material that includes a representation of a ballot paper showing preferences and they have included the names of the other candidates then it is important to ensure that all the candidates' names and/or groups appear in the order in which they were drawn and will appear on the ballot paper.

Are all candidates' names spelt correctly and party affiliation (or abbreviation) shown, if applicable?

These details should be checked against the nomination forms and the draw sheets used to determine the order of names appearing on the ballot paper.

The candidate is not required to have party affiliation or 'Independent' printed on the material but if this has been requested on the nomination form it is important to ensure that the correct details appear.

Advise applicant of status of electoral material

Having gone through the checking process the next step is to advise the applicant whether the electoral material submitted is acceptable, and if so, that they will be sent a 'certificate' letter confirming the registration of their material.

If errors have been identified these should be recorded on the original electoral material and/or application and brought to the attention of the applicant, who will then have an opportunity to rectify the problem. Any re-submitted material needs to be received by the same deadline, which is no later than 5pm on the Friday of the week before election day (ie 8 days before election day).

Any material received after this cut-off time is not to be registered and the person lodging the material advised. They should be informed that although they will not be able to distribute the material on election day they are not prevented from distributing it in the lead up period.

Prepare electoral material certificates

Clause 356R requires the Returning Officer to provide each candidate with a certificate of registration (which will be in the form approved by the Chief Executive) for the draft or sample of the material submitted to indicate that it is acceptable for distribution on election day. This certificate must specify the elections, referendums and polls and the area for which the material has been registered.

The Returning Officer needs to have a copy of the registered material and the certificate for each candidate for each area so it can be inspected on election day, if such a request is made.

Minor changes that do not substantially alter the registered material can be made (for example, changing the colour or type font used) without requiring it to be re-submitted – clause 356R(5). Any major changes such as the reallocation of preferences indicated on a ballot paper would require the material to be re-submitted so that it can be examined to ensure there has been compliance with the legislative requirements. In this case a new certificate of registration would need to be issued.

Inspection of registered electoral material

Registered electoral material is strictly confidential and is not to be shown to anyone other than those processing it prior to 8am on election day. After this time the material may be inspected at the Returning Officer's office by a person enrolled for that council area or by any scrutineer – clause 356R(7).

CANVASSING FOR VOTES

A person must not canvass for votes in a pre-poll voting office – clause 356K. This includes distributing electoral material or using amplified means (for example, a loudspeaker or similar broadcasting device) that are audible in the pre-poll voting office.

It is also an offence on election day to canvass for votes in a polling place. This includes the distribution of registered electoral material or using amplified means not only within the polling place but also within 6 metres of the entrance to the polling place – clause 356O.

14. SCRUTINEERS

For mayoral and councillor elections, scrutineers are appointed by candidates to represent their interests at pre-poll voting offices, polling places and the Returning Officer's office when any voting and counting occurs. Part of their role is to relay information to the candidates on the procedures and progress during the election.

In the case of referendums or polls, clause 3(c) of Schedule 10 to the Regulation provides that scrutineers are to be appointed by the Returning Officer at the request of:

- the General Manager or Mayor of the relevant council; or
- the Registered Officer of a registered political party; or
- the Electoral Commissioner.

A candidate cannot be a scrutineer in the same council area that they are contesting (clause 337(5)) but they are permitted to canvass for votes outside the polling place.

APPOINTMENT OF SCRUTINEERS

A person may only act as a scrutineer if they have been appointed, in writing, by the candidate or in the case of candidates belonging to a group such an appointment may be made by any or all of them – clauses 337(1) and (2).

The scrutineer needs to present this instrument of appointment to be entitled to undertake a scrutineer's duties – clause 337(3).

Scrutineers are permitted to wear or display a badge or emblem of a candidate or a party while in a polling place, this includes clothing – clause 369.

Assistants or party workers are not permitted in the polling place unless voting, assisting an elector to cast a vote or appointed as a scrutineer.

HOW MANY SCRUTINEERS ARE PERMITTED PER CANDIDATE?

Pre-poll: One scrutineer per candidate at any one time may be present at the Returning Officer's office or any other appointed pre-poll voting location while pre-poll votes are being cast.

Declared Institutions: One scrutineer per candidate may accompany the election officials at Declared Institutions.

Polling Places: A candidate or group may only be represented by one scrutineer at anyone place at which polling is carried out, ballot papers are scrutinised or votes are counted – clause 337(6). However each separate table or station within any building, room or other location at which these activities are taking place is considered a separate place– clause 337(7). This means that if there are six election officials counting votes at six separate tables at a polling place a candidate is entitled to have six scrutineers, one to observe each of the six election officials.

Returning Officer's Office: When the completed postal vote envelopes are received prior to the election, election officials conduct a preliminary scrutiny to mark these electors off the roll. One scrutineer per candidate may be present in the Returning Officer's office at this stage. After the close of polls, one scrutineer per candidate may be present during the scrutiny of provisional vote envelopes, and one scrutineer per candidate per counting point during the check count and distribution of preferences.

WHAT ARE SCRUTINEERS ALLOWED TO DO?

Scrutineers are allowed to:

- Witness the opening and closing of the polling place;
- Inspect the ballot boxes before the commencement of voting to ensure they are empty;
- Be present in the polling place to observe the voting process;
- Witness the marking of ballot papers by an election official at the request of an illiterate elector or an elector with a physical disability;
- Observe the count of each ballot paper as long as no unnecessary delays are caused;
- Object to the formality of a ballot paper;
- Countersign forms; and
- Enter and leave the polling place, pre-poll centre, Declared Institution and Returning Officer's office at any time and be replaced by another properly appointed scrutineer.

WHAT AREN'T SCRUTINEERS ALLOWED TO DO?

Clause 369 sets out a number of activities within a pre-poll voting office, Declared Institution or polling place which constitute misconduct and carry a penalty of \$1,100. These include:

- interfering with or attempting to influence any elector;
- communicating with any person except so far as it is necessary to discharge their duties; and
- ignoring the lawful directions of the Returning Officer or other election officials.

Scrutineers are not to handle or touch ballot papers or provisional vote envelopes.

Scrutineers are not permitted to distribute electoral material when accompanying election officials on visits to Declared Institutions.

Scrutineers must also ensure that they do not obstruct the access or approaches to the pre-poll voting office or polling place.

DEALING WITH SCRUTINEERS

Election officials need to ensure that they treat all scrutineers equally at all times, and that their decisions are reasonable and consistent.

Election officials must not undertake any tasks where scrutineers are entitled to be present unless all candidates have been given reasonable opportunity to arrange for scrutineers to attend.

PARTY WORKERS

Unlike scrutineers, party workers (or candidate workers) do not have a statutory role to play in the election. They act on behalf of candidates and/or political parties to distribute electoral material or staff information stalls at pre-poll voting locations prior to the election and at polling places on election day. Unless they are also nominated by the candidate to act as a scrutineer they are not required to complete any appointment form to engage in these tasks.

Pre-poll voting offices

As electoral material cannot be handed out or left for collection in a pre-poll voting office, party workers generally hand out material to electors as they approach the office. They are not permitted to do this (or display posters) within six metres of the entrance to the building, and they need also to ensure that any A-frame signs, sandwich boards etc do not cause a hazard for those needing to enter and exit.

Declared Institutions

Party workers are not permitted to attend a Declared Institution while election officials are conducting their visit. If they wish they may make prior arrangements with the management of the facility to leave or distribute electoral material prior to the visit by election officials.

Polling places

Party workers outside a polling place on election day must not distribute electoral material or display posters within 6 metres of the entrance to the building being used as a polling place. Again, it is important that the party workers do not block the entrance and that any A-frame signs, sandwich boards etc do not cause a hazard for those needing to enter and exit.

If they do not comply their electoral material or posters can be confiscated by an election official – clause 356T. It is recommended that such action only occur as a last resort.

Party workers may only enter the polling place to vote or to assist an elector who has requested their assistance to cast their vote.

In either case, the party worker must not display or distribute any electoral material in the polling place (this does not apply to clothing or badges they are wearing) or how to vote card (other than one being used by them to vote or to assist an elector to vote).

15. POSTAL VOTING

As there is no absent voting at local government elections if an elector is unable to attend a polling place on election day then they must vote early. One option is to cast a postal vote if certain eligibility criteria are met.

WHO CAN POSTAL VOTE?

Under clause 313 electors are entitled to apply for a postal vote if, on election day, they:

- will not be within the ward or council area for which the election is being held;
- will not be within eight kilometres of a polling place in their ward or area;
- will be travelling and unable to vote;
- are seriously ill or disabled;
- are approaching maternity;
- are unable to attend a polling place because of religious beliefs;
- are in prison;
- will be caring for someone who requires care for medical reasons;
- will be working;
- are enrolled as a silent elector;
- are a person with a disability; or
- believe that attending a polling place on election day will place their personal safety or that of their family members at risk.

HOW DO ELECTORS POSTAL VOTE?

First, the elector applies for a postal vote by completing the postal vote application, which for council administered elections is the form approved by the Chief Executive of the Office - clause 314(2) – see Appendix B. This application must be sent to the Returning Officer for the council area in which they are enrolled – clause 314(3).

Applications must be received by the Returning Officer by 5pm on the fifth day before the election (Monday) - clause 314(5). Electors submitting late applications should be contacted and advised that they will not be able to postal vote and should attempt to vote by other means.

If an elector in a council area that is conducting its own elections mistakenly sends a postal vote application to the NSWEC, the NSWEC will forward that application to the relevant Returning Officer who will treat the application as having been received at the time it was received by the NSWEC – clause 314(6).

The Returning Officer will check that the application has been completed correctly, and verify the elector's details on the roll and provided everything is in order, dispatch the appropriate ballot papers, instructions, postal vote declaration envelope (Form 8 of Schedule 11 to the Regulation), and a reply paid envelope to the elector's nominated address. The Returning Officer must keep a record of the postal ballot papers issued - clause 317.

The elector must mark the ballot papers, complete and sign the postal vote declaration envelope and have it witnessed - clause 318. Once again, the witness must be at least 18 years old and cannot be a candidate or the agent of a candidate in the area in which the election is being held.

The elector must then place the ballot papers in the postal vote declaration envelope, seal it and place the declaration envelope in the return envelope, which is sealed and must be received by the Returning Officer by 6pm on the Monday after election day. To be accepted into the count the declaration must state that the vote was completed by 6pm on election day - section 310A.

If the Returning Officer receives a postal vote declaration within the permitted timeframe, they must note the time and date of receipt on the envelope and place it unopened in the postal ballot box - clause 320.

REGISTERED GENERAL POSTAL VOTERS

Some electors apply to become a Registered General Postal Voter, which means that they will automatically be sent ballot papers for an election without having to apply on each occasion - clause 315. This option is often used by people who are enrolled at an address that is 20 kilometres or more from the nearest polling place.

Details of Registered General Postal Voters will be provided to the Returning Officers by the NSWEC in an electronic format, subject to the provision of a signed Safeguard Agreement as mentioned earlier.

Once the Returning Officer has this information they should send all the listed electors their postal voting material. The returned postal vote declarations are processed in the same way as all other postal vote declarations.

POSTAL VOTE APPLICATIONS

A Returning Officer can only issue postal votes for electors enrolled in their council area. If the Returning Officer receives an application from an elector enrolled in another council area that is conducting its own election, they should fax the application to the Returning Officer for that council area to ensure it is handled expeditiously. In all other cases the application should be faxed to the NSWEC postal voting centre as individual Returning Officers will not be processing postal vote applications for the elections conducted by the NSWEC.

It is important to check the status of the applicant before referring it to another Returning Officer as non-residential electors may apply for a postal vote for the election in an area in which they have business or property interests. It may be that although a person is not on the residential roll for the particular council area, they are on the non-residential roll or the roll of occupiers and rate paying lessees.

Silent electors

Applications may also be received from silent electors who are not required to provide their 'enrolled address'. To verify silent elector details the Returning Officer will need to contact the NSWEC. If sufficient details match, the postal vote application should be processed and all documents sent to the nominated address.

Applications from people not on the roll

If the applicant is not on the NSW electoral roll they cannot be issued with a postal vote. They should be advised of this and, if they claim they should be on the roll and wish to vote, they should be advised that they can cast a provisional vote at a pre-poll centre or at a polling place on election day in the council area where they claim they should be enrolled.

In all cases, if an application is rejected (or received after the cut-off) the elector who has submitted it should be advised.

Additional applications

On occasion, an elector will contact the Returning Officer to say that they have not received their postal ballot papers or that they have been lost. If this occurs the elector should complete a declaration (which will be a form approved by the Chief Executive – see Appendix B) to this effect and that they will not use the original ballot papers if they later receive or find them - clause 318(7). Once this declaration has been received by the Returning Officer the elector can be issued with the replacement materials and ballot papers.

An elector may also advise that they received their ballot papers but that they have since been spoilt or damaged - clause 387. If this occurs the Returning Officer should ask the elector to send a written request for new ballot papers to be provided stating why the replacement is required and enclose the spoilt or damaged ballot papers. On receipt, the Returning Officer should cancel and preserve the original ballot papers and issue the elector with fresh ballot papers.

It is important for the Returning Officer to keep track of all additional applications and the number and type of replacement ballot papers issued to ensure all ballot paper figures can be reconciled at the end of the process.

Applications produced by political parties and candidates

Some political parties and candidates produce their own version of the postal vote application form and these are acceptable providing they contain the same details required by the legislation as set out in the 'approved' postal vote application. It is usually the case with these applications that they are returned to the party or candidate and then passed on to the relevant Returning Officer for processing. To ensure these applications are handled in a timely manner it may be useful for the Returning Officer to contact the parties and candidates to agree on how to manage this process.

COMPLETED POSTAL VOTE DECLARATIONS

When the reply-paid envelope containing the declaration envelope is received it needs to be opened and the declaration envelope containing the ballot papers removed. This declaration envelope should be date-stamped, and the details on the envelope checked to determine whether it can be accepted. If so, it should be placed in the postal ballot box and stored securely until it can be processed following the close of polling on election day (6pm). Under no circumstance should these envelopes be opened before this time.

Returned postal vote declarations from Registered General Postal Voters are processed in the same way.

Any postal vote declaration envelopes that are given to a Polling Place Manager on election day will also be included in the count of postal ballot papers – clause 318(5).

A rejected postal vote declaration envelope should never be opened, although it will need to be counted for reconciliation purposes.

If an elector has requested a postal vote but wishes to vote in person instead the legislation permits this provided they hand in the postal vote declaration envelope, containing the ballot papers that they have received, when they attend a pre-poll voting office or polling place - clauses 318(6) and 325. Similarly, if they attend a pre-poll voting office or polling place and report that they have not received their postal ballot papers or that they have lost them, they can complete a declaration to this effect and then vote in person - clause 318(7).

16. PRE-POLL VOTING

WHO CAN PRE-POLL VOTE?

Clause 321 provides that electors are eligible to vote pre-poll if, on election day, they:

- will not be within their ward or council area;
- will not be within 8 kilometres of a polling place in their ward or area;
- will be travelling and unable to vote;
- have a disability and are unable to attend a polling place;
- are unable to attend a polling place because of approaching maternity;
- are unable to attend a polling place because of religious beliefs;
- are caring for someone who requires care for medical reasons;
- will be working;
- are enrolled as a silent elector;
- are a person with a disability; or
- believe that attending a polling place on election day will place their personal safety, or that of their family members at risk.

WHERE AND WHEN DOES PRE-POLL VOTING OCCUR?

Pre-poll voting is available at the Returning Officer's office during the ordinary business hours of the council in the two weeks before election day, between 9am and 6pm on the Friday before election day, and at any other times as determined by the Election Manager. If additional pre-poll voting offices are appointed in a council area the opening hours are as determined by the Election Manager - clause 326.

Only electors enrolled in the council area where the pre-poll voting office is located can vote there. If they are enrolled for another council area, they will need to be advised to go to that council area to cast their vote. All pre-poll voting offices located in council areas where there are wards are able to issue ballot papers for all wards.

The pre-poll voting officer is to ensure that a copy of each Candidate Information Sheet is displayed wherever pre-poll voting takes place - clause 326(3).

If an elector requires assistance to vote at pre-poll they can ask a friend or relative to help them or they can ask an election official. The person assisting the elector needs to mark the ballot paper, and complete and sign any declaration according to the instructions of the elector. If an election official provides assistance to an elector this needs to be done in the presence of a scrutineer, or if no scrutineers are present, in the presence of another election official or a person appointed by the elector - clause 388.

HOW DO ELECTORS PRE-POLL VOTE?

Unlike applications for postal voting that need to be in writing, an elector makes a verbal application in person for a pre-poll vote. The elector states their name and enrolled address, that they are entitled to vote at the election, that they have not already voted and the grounds on which they are applying for a pre-poll vote – clause 323.

The election official gives the elector all the relevant ballot papers and marks the elector's name off the roll. The elector completes the ballot papers and then places them in the pre-poll ballot box.

The pre-poll ballot boxes are sent unopened to the Returning Officer as soon as they are no longer required for further voting - clause 324.

Silent electors

If a silent elector wishes to cast a pre-poll vote, they complete a declaration vote in the same way as any other pre-poll elector but this envelope is then placed in another envelope that does not display the elector's details. Only the Returning Officer can scrutinise votes cast by silent electors, and in order to confirm their enrolment details the Returning Officer will need to consult the NSWEC.

Electors whose names cannot be found on the roll

If an elector's name cannot be found on the roll but they claim they should be on either the residential or non-residential roll for a particular area, they may still cast a pre-poll vote in the same way as any other elector once they complete the declaration on the envelope. The eligibility of these electors will be verified at the Returning Officer's office before the ballot papers are admitted to the count.

Spoilt and discarded ballot papers

If an elector spoils their ballot papers and returns them to the issuing officer, they may be given replacements. To ensure all ballot papers can be reconciled at the end of the election it is important that the issuing officer cancel and preserve any spoilt ballot papers (clause 387) and any discarded ballot papers found in a pre-poll voting office should also be marked as such and preserved.

SCRUTINY OF PRE-POLL DECLARATION ENVELOPES

Pre-poll declaration envelopes can be scrutinised at the end of each day or when time permits. However all declaration envelopes must be made available to any scrutineers who wish to inspect them from 8am on election day.

This means that the ballot box containing the completed declaration envelopes are opened, the envelopes removed and the details checked to ensure the declaration has been signed by the elector, the reason for voting pre-poll has been given and the signature of the election official is also present. If all these requirements are met, the envelopes should be set aside for processing once polling has ceased at 6pm on election day. Rejected envelopes should never be opened.

17. DECLARED INSTITUTION VOTING

WHAT IS A DECLARED INSTITUTION?

Declared Institutions are nursing homes, convalescent homes or similar institutions that have been appointed by the Election Manager, no later than on nomination day - clause 327.

A hospital that has been appointed as a polling place for use on election day is not a Declared Institution.

Their purpose is to enable permanent or temporary patients or residents of the facility, who are electors of the area to vote in person, if they wish, as election officials will visit on any of the 7 days before election day - clause 328. If a patient or resident is enrolled for another council area they will not be able to cast a vote, and staff or visitors to the facility are not entitled to vote at the Declared Institution.

The Returning Officer should discuss arrangements for any such visits with the managers of the Declared Institutions in their council area, and when dates and times have been fixed they should inform all candidates (or in the case of groups, the head of the group) or their representatives of these details as scrutineers are entitled to be present when voting takes place.

Returning Officers need to be mindful of the health and condition of those who will be casting their votes and allow sufficient time and resources for this activity. It is also important that the election officials are suitably trained to undertake the task with patience and understanding.

HOW DO ELECTORS VOTE AT DECLARED INSTITUTIONS?

Voting may occur at a fixed location within the facility (where electors come to cast their vote), as a mobile operation (where election officials visit electors in their rooms or beds) or a mixture of both.

The process is essentially the same as that outlined for pre-poll voting and those entitled to do so should be given the opportunity to cast their vote unless there are medical grounds to prevent this – clause 330(2).

The elector makes a verbal application to the election official by stating their name, that they are entitled to vote at the election and that they have not already voted – clause 330(3).

The election official gives the elector all the relevant ballot papers and marks the elector's name off the roll – clause 330(6). The elector completes the ballot papers and then places them in the Declared Institutions ballot box – clause 330(8).

The Declared Institution ballot boxes are sent unopened to the Returning Officer as soon as they are no longer required for further voting - clause 331.

Silent electors

If an elector at a Declared Institution is a silent elector they can vote by completing a declaration vote in the same way as any other Declared Institution elector but this envelope is then placed in a further envelope that does not contain the elector's details. Only the Returning Officer processes votes cast by silent electors.

Electors whose names cannot be found on the roll

If an elector's name cannot be found on the roll but they claim they should be on either the residential or non-residential roll for the ward or area they may still cast a Declared Institution vote in the same way as any other elector once they complete a provisional vote envelope – clause 320B. The eligibility of these electors will be verified at the Returning Officer's office before the ballot papers are admitted to the count.

Spoilt and discarded ballot papers

If an elector spoils their ballot papers and returns them to the issuing officer, they may be given replacements. To ensure all ballot papers can be reconciled at the end of the election it is important that the issuing officer cancel and preserve any spoilt ballot papers (clause 387) and any discarded ballot papers found where voting has been conducted at a Declared Institution should also be marked as such and preserved.

SCRUTINY OF DECLARATION ENVELOPES

The declaration envelopes can be scrutinised at the end of each day or when time permits. However all envelopes must be made available to any scrutineers who wish to inspect them from 8am on election day.

Each envelope should be checked to ensure that both the elector's and election official's signatures are present.

Accepted Declared Institution declaration envelopes containing the ballot papers are not to be opened until 6pm on election day, and rejected envelopes should never be opened.

18. VOTING ON ELECTION DAY

All polling places are to be open for attendance voting between 8am to 6pm on election day, and if an elector is in the polling place at 6pm they are entitled to vote – clause 336.

There must be at least two election officials appointed at each polling place, one as the Polling Place Manager and the other to assist in taking the poll – clause 335(1) and (2).

As there is no absent voting at local government elections, electors must vote within the council area (in undivided council areas) or ward (divided council areas) in which they are enrolled - clause 338.

In a divided council area there needs to be at least one polling place for each ward, and at least one polling place needs to hold the ballot papers for all wards so that an elector from any ward can vote at that polling place if they choose - clause 297.

The Returning Officer should ensure that a system is in place in the polling place for the Polling Place Manager to note the details of any advice they receive relating to electors unable to vote on election day. This information will need to be provided to the NSWEC when the rolls are returned for scanning to ensure people with a sufficient reason for not voting do not appear on the non-voters list.

HOW DO ELECTORS VOTE?

Once an elector has answered a series of questions and had their name located on the roll (clause 339) they are given the ballot paper, which has been initialled on the front by the election official - clause 341. The election official then 'makes a notation in the manner and form specified by the Electoral Commission' on the roll of electors to show that the elector has received a ballot paper - clause 341(2). The rolls to be provided by the NSWEC need to be marked in a specific manner, as they will later be scanned to determine who has voted and who appears not to have voted. The NSWEC will make this information available to councils conducting their own elections when the rolls are delivered.

If an elector requires assistance to vote they can ask a friend or relative to help them or they can ask an election official. The person assisting the elector needs to mark the ballot paper (and complete and sign any declaration) according to the instructions of the elector. If an election official provides assistance to an elector this needs to be done in the presence of a scrutineer, or if no scrutineers are present, in the presence of another election official or a person appointed by the elector - clause 388.

Silent electors

A silent elector votes by completing a declaration envelope, which is then placed in a further envelope that does not contain the elector's details - clauses 339(6) and 340. Only the Returning Officer processes votes cast by silent electors.

Electors whose names cannot be found on the roll

If an elector's name cannot be found on the roll but he or she claims it should be, they are entitled to vote if they complete the appropriate declaration – clause 320B.

Electors whose name has already been marked off the roll

Clause 320A provides that if an elector finds their name has already been marked off the roll as having voted but they claim that they have not already done so, they are entitled to vote provided they complete the appropriate declaration.

Spoilt and discarded ballot papers

If an elector spoils their ballot papers and returns them to the issuing officer, they may be given replacements. To ensure all ballot papers can be reconciled at the end of the election it is important that the issuing officer cancel and preserve any spoilt ballot papers (clause 387) and any discarded ballot papers found should also be marked as such and preserved.

TASKS TO BE UNDERTAKEN AT THE RETURNING OFFICER'S OFFICE

Scrutineers are entitled to inspect all postal, pre-poll and Declared Institution declaration vote envelopes after 8am on election day (clause 350), and registered electoral material can also be inspected from 8am to 6pm by electors on the roll for the particular council area or any appointed scrutineer.

It is recommended that Returning Officers remain in their office on election day so they are available to Polling Place Managers, scrutineers or candidates if required. The time should be used to prepare for election night and election Sunday.

Each Returning Officer must be able to balance the figures for the ballot papers from the total they received from the printers, the number issued for postal, pre-poll and Declared Institution voting, the number issued to all the Polling Place Managers in their council area, and any remaining unused in their office.

Once polls have closed at 6pm on election day, the Returning Officer opens all the accepted postal, pre-poll and Declared Institution declaration envelopes on hand and counts the ballot papers for Mayor, councillors, referendum and poll (as applicable) by ward (if applicable). These results will need to have added to them any declaration votes and provisional votes taken at polling places during the day.

Processes will need to have been put in place as to how the transmission of the count figures from the polling places is to occur. Although clause 348 requires each Polling Place Manager to send an Account of the Ballot Papers to the Returning Officer, it is likely that progressive figures will need to be phoned through as the counts are conducted.

19. FORMALITY

The most important factor in determining formality is whether the elector has marked the ballot paper in accordance with the voting directions on it. In cases where a ballot paper has not been completed according to the directions but the elector's voting intention is clear, certain 'saving' provisions may apply to prevent the ballot paper from being informal and therefore excluded from the count.

Depending on how the ballot paper has been marked, it may mean that although it is considered a formal vote, the distribution of preferences may be affected.

Returning Officers need to ensure that all staff involved in conducting the count are familiar with the formality rules and the savings provisions.

Clause 345(1) states that a ballot paper is informal if:

- the elector has failed to record a vote on it in the manner directed on it, or
- it has not been initialled on the front by an election official, or
- it contains a mark or writing that in the Returning Officer's opinion would enable the elector to be identified.

However if there is only one candidate to be elected the ballot paper will not be considered informal merely because a ✓ or x has been placed in one square and the other squares have been left blank. In this case the ✓ or x will be treated as a first preference - clause 345(2).

A ballot paper is not informal merely because a preference (other than a first preference) has been repeated or omitted so long as the ballot paper shows at least the minimum number of preferences required by the directions – clause 345(4).

A ballot paper is formal if it has not been initialled by an election official as long as the official mark is visible on the ballot paper – clause 345(5). In the case of councils conducting their own elections the official mark is the name of the particular council – clause 305(2).

Any unnecessary marks, drawings, comments, additional names or signatures written on the ballot paper should be ignored, even if the name is of a person on the electoral roll. If the ballot paper has otherwise been completed in accordance with the 'Directions for Voting' then it should be considered for formality – clause 345(6).

A ballot paper is not informal if an elector has placed one or more numbers, a ✓ or one or more x adjacent to but outside a square if, in the opinion of the Returning Officer, the elector's intention is clear. In such a case each such number, ✓ or x is taken to have been placed within the relevant square – clause 345(6A).

Despite the savings provisions, a person is not to encourage a voter to place a ✓ or a x in a square on a ballot paper – clause 345 (7).

GROUP VOTING SQUARES

In addition to the rules stated above, particular attention needs to be paid to how ballot papers are marked when it is possible to vote either 'above' or 'below the line'.

Section 308B provides that if a ballot paper has Group Voting Squares 'above the line' instead of marking the separate voting squares for the candidates 'below the line', an elector may vote by placing '1' in any one of the Group Voting Squares, and if they wish they can number additional squares to indicate their preference for the remaining groups of candidates.

Marking '1' in a Group Voting Square indicates that the elector's first preference is for the first candidate in the group, and that their subsequent preference votes are for the other candidates in that same group in the order in which their names appear on the ballot paper 'below the line'. If the elector marks '2', '3' and so on in the remaining Group Voting Squares this indicates that the elector's preferences are for the candidates in those groups in the order in which they are numbered and within each of those groups, in the order in which the names of the candidates in that group appear on the ballot paper 'below the line'.

Section 308C provides that where an elector marks a ballot paper both 'above' and 'below the line':

- If the indication of preferences 'below the line' would, if it stood alone, constitute a formal vote, then it takes precedence over any marks 'above the line' and they are disregarded;
- If the indication of preferences 'below the line' would not constitute a formal vote if it stood alone, then those markings are disregarded and the vote is taken to be that indicated by the markings 'above the line'.

Section 308C further provides that a ballot paper will not be informal if an elector has recorded a vote by placing:

- a ✓ or x in or adjacent to a single Group Voting Square;
- '1' or a ✓ in a Group Voting Square and x appear in (or a line through) all or some of the other Group Voting Squares;
- '1' in a Group Voting Square and repeating a preference (other than the first preference). In any such case the ballot paper is to be treated as if those and any subsequent preferences had not been recorded. The ballot paper will exhaust at the repeated preference;
- '1' in a Group Voting Square and there is a break in the order of preferences. In any such case the ballot paper is to be treated as if any preference after the break had not been recorded. The ballot paper will exhaust where the break occurs;
- '1' in a Group Voting Square but fewer preferences are recorded than there are candidates to be elected.

Section 308C(5) also provides that the ballot papers will not be informal if they contain the name of a candidate declared by a court to be incapable of being elected. In such a case preferences for that candidate (whether individually or as a member of a group) are to be disregarded, and (if necessary) subsequent preferences are to be renumbered accordingly.

CONSTITUTIONAL REFERENDUMS AND COUNCIL POLLS

A referendum or poll paper will not be informal if:

- it contains the word 'yes' or 'no' even though it is not written in or near the space provided;
- a single ✓ has been used as this will be read as a 'yes' vote;
- it has not been initialled by an election official as long as the official mark is visible;
- contains unnecessary marks, drawings, comments, additional names or signatures;

In addition, if the referendum or poll paper contains multiple questions it will not be informal if:

- a ✓ appears in one box and × appear in the other box/es, the ✓ is read as a 'yes' and the × are read as a 'no' response; and
- a ✓ appears in each box, as each would be read as a 'yes' vote.

A referendum or poll paper will be informal if:

- a single × has been used if there is only one question or a number of × where there are multiple questions;
- the word 'yes' or 'no' appears in a language other than English; and
- English words other than 'yes' or 'no' or letters of the alphabet have been used.

20. CONDUCTING THE COUNT ON ELECTION NIGHT

As there may be a number of elections (Mayor, councillors, referendum and/or council poll) held in any one council area, the Returning Officer should instruct all Polling Place Managers of the order in which the count of ballot papers is to be undertaken, and how the results are to be recorded and transmitted to the Returning Officer.

AT POLLING PLACES

Clause 348 provides that after voting has closed at 6pm election officials at each polling place must, in the presence of scrutineers, open the ballot boxes and scrutinise the ballot papers. This means removing and unfolding all of the ballot papers, placing the informal ballot papers and provisional vote envelopes to one side, sorting the formal ballot papers showing a first preference into separate bundles for each candidate or group and then counting the ballot papers for each.

As a record for each polling place the Polling Place Manager is to complete the form approved by the Chief Executive – see Appendix B – stating the:

- total number of ballot papers allocated to the polling place;
- the number of ballot papers issued;
- the number of first preference votes for each candidate or group;
- the number of informal ballot papers;
- the number of provisional votes by type;
- the number of ballot papers that were spoilt;
- the number of ballot papers that were discarded;
- the number of ballot papers issued to electors but not returned; and
- the total number of unused ballot papers remaining with election officials.

All the individual figures should add up to the number of ballot papers provided to the Polling Place Manager by the Returning Officer.

This form must be signed by the Polling Place Manager and another election official, and any scrutineer that wishes to sign it and then sent to the Returning Officer.

The Regulation also provides how the materials used at the polling place, including the ballot papers, must be packaged for dispatch to the Returning Officer's office following the close of polls – clause 349.

- One parcel is to contain the bundles of formal ballot papers and the bundles of informal ballot papers.
- The second parcel is to contain all the postal and provisional vote envelopes, the unused ballot papers, cancelled postal ballot papers and forms of declaration, the spoilt ballot papers and the list of provisional votes.
- The third parcel is to contain the certified printed copies of the rolls supplied to the Polling Place Manager, signed by the Polling Place Manager, and all books, rolls and papers used by the Polling Place Manager in connection with polling.
- A fourth parcel will be required for memory sticks or computer discs if an electronic copy of the roll has been used to mark off the names of those electors who have been issued with ballot papers.

Each parcel needs to be sealed and endorsed by the Polling Place Manager as to its contents, the name of the area (and ward, if applicable), the name of the polling place, and the date of polling and sent to the Returning Officer.

AT THE RETURNING OFFICER'S OFFICE

Returning Officers must ensure that they are well organised and have prepared for the receipt of all the materials to be returned from the polling places. Not only because the volume may be vast and it is important that all materials can be readily accounted for, but also because if scrutineers are present they can require that the parcels are opened and the ballot papers scrutinised and counted.

The Returning Officer must make all necessary arrangements to ensure ballot papers and other election materials are securely stored at all times but particularly for the receipt of completed ballot papers on election night to guarantee the integrity of the process.

From 8am on election day the Returning Officer must have available the postal vote applications, the list of general postal voters, and all the postal vote declaration envelopes containing the ballot papers. A record of the number of envelopes is to be made and the names on the envelopes found on the roll of electors and, if the declaration on the envelope has been correctly signed and witnessed, the roll is to be marked to indicate the elector has voted.

Once the polls have closed the postal ballot envelopes are to be taken out of the ballot box, turned face-down so that the declaration cannot be seen, opened (taking care not to damage any of the writing on it) and the ballot paper unfolded and scrutinised in the same way as those in the polling place. The counts for each election should be conducted in the same order.

Clause 350, which sets out the above process, applies equally to provisional votes and for silent elector votes which are to be dealt with by the Returning Officer only.

In any case where it appears to the Returning Officer that a provisional vote envelope has not been completed properly, or that an elector is not entitled to vote, the envelope is not to be opened.

The ballot papers removed from the pre-poll and Declared Institution ballot boxes are processed in the same manner.

In council areas that are divided into wards, Returning Officers need to record the results so that the count for each election (Mayor, councillor, referendum and poll, as applicable) indicates the numbers for each type of vote (postal, pre-poll, Declared Institution, provisional vote) for each ward.

Given that the finalisation of results and receipt of materials on election night can continue until quite late, it is recommended that the check counting and any amalgamation of ballot papers take place on the Sunday, as this is a large scale exercise requiring accuracy and attention to detail.

VOTING SYSTEMS

The voting system to be used differs depending on the number of candidates to be elected.

If only one candidate is to be elected the optional preferential system is used, and if there are two or more to be elected then it is the proportional system – section 285.

The optional preferential system is also used when the Mayor is elected by the electors of a council area – section 284.

Counting votes where the optional preferential system applies

The optional preferential system of counting votes is set out in Schedule 4 to the Regulation.

To cast a formal vote, the elector must place '1' in the square next to their first choice candidate. They have the 'option' of showing further preferences by placing '2' in the square next to their second choice candidate, '3' next to their third choice candidate and so on. As long as their first preference has been given an elector may number as many or as few squares as they wish.

To be elected under this system a candidate must get an absolute majority which means more than half of the formal votes in the count. For example, if there are 10,000 formal first preference votes then the absolute majority is half ($10,000 \div 2 = 5,000$) + 1 = 5,001.

If a candidate has an absolute majority on the first count then they will be elected and no further counting is necessary.

If no candidate is elected at this stage, then the candidate with the least number of votes is excluded. This means that their votes are distributed to the remaining candidates according to the second preference shown on each ballot paper.

If any of that candidate's ballot papers does not show a second preference, it is said to 'exhaust' and is removed from the count (although it is still used to balance the number of votes at the end of each exclusion to the number of first preference votes).

If no candidate is elected after the first exclusion, then the next candidate with the least number of votes is excluded and those ballot papers (which include the ballot papers received from the first excluded candidate) are re-sorted to the other candidates according to the next preference on each ballot paper.

The process of exclusions is repeated until such time as a candidate has an absolute majority of the votes remaining in the count and that candidate is elected. The absolute majority is recalculated after every candidate is excluded to allow for the exhausted ballot papers that have been removed from the count.

The distribution of preferences cannot be finalised before the Tuesday following election day as postal ballot papers can be received up until 6pm on the Monday.

The process of counting the ballot papers using the optional preferential system is illustrated as follows:

Candidates	First Preference Votes	Candidate C Excluded	Progressive Totals	Candidate B Excluded	Progressive Total
Candidate A	3,000	1,000	4,000	2,000	6,000 Elected
Candidate B	2,000	250	2,250	Excluded (candidate with the lowest first preference votes)	-----
Candidate C	1,500	Excluded (candidate with the lowest first preference votes)	-----	-----	-----
Candidate D	3,320	100	3,420	150	3,570
Total Formal Votes	9,820	1,350	9,670	2,150	9,570
Informals	180	-----	180	-----	180
Exhausted (Ballot papers that show no continuing preferences)	-----	150	150	100	250
Total Votes	10,000	1,500	10,000	2,250	10,000
Absolute Majority (Total Formal Votes ÷ 2) + 1	4,911	-----	4,835	-----	4,786

Counting votes where the proportional representation system applies

The proportional representation system of counting votes is set out in Schedule 5 to the Regulation and applies where two or more candidates are to be elected.

To be elected under this system a candidate needs a required number or 'quota' of the formal votes cast. The quota is calculated by dividing the total number of formal votes by one more than the number of vacancies (disregarding any fractions) and then adding one – clause 4, Schedule 5.

For example in an election of four councillors, where there are 20,000 formal first preference votes, the quota would be: $20,000 \div 5$ (number to be elected + 1) = 4,000 + 1 = 4,001. This quota remains the same throughout the count.

Any votes that a candidate gets over and above the quota are called 'surplus' votes and are then used to assist other candidates get elected. Votes of elected candidates are distributed to the other candidates according to the preferences indicated on their ballot papers.

For example, if Candidate A received 9,000 formal first preference votes of the 20,000 formal first preference votes cast and the quota is 4,001, the surplus is 4,999. Candidate A is elected and all 9,000 of Candidate A's votes are distributed to the other candidates according to the second preference indicated on each ballot paper. However only a proportion of the

votes are actually distributed to the other candidates because a 'transfer value' is calculated using a formula prescribed in Schedule 5 and applied to each ballot paper.

A transfer value is calculated by dividing the number of surplus votes by the total number of ballot papers that candidate has. In our example the transfer value is 0.5554, which equals $4,999$ (the surplus) \div 9000 (the formal first preference votes).

If 7,000 of the 9,000 ballot papers gave a second preference to Candidate B then when the transfer value is applied the actual number of ballot papers to be transferred is 3,888 ($7,000 \times .5554 = 3887.8$). If the remaining 2,000 ballot papers gave a second preference to Candidate C then when the transfer value is applied the actual number of ballot papers to be transferred is 1,111 ($2,000 \times .5554 = 1110.8$).

The 3,888 ballot papers to be distributed to Candidate B and the 1,111 ballot papers to be distributed to Candidate C are randomly selected from Candidate A's bundle of 9,000 ballot papers.

The transferred ballot papers ($3,888 + 1,111$) account for Candidate A's 4,999 surplus votes leaving Candidate A with 4,001 ballot papers, which was the quota required to be elected. These 4,001 ballot papers are removed and take no further part in the count.

The next step is to ascertain whether with the addition of these transferred ballot papers either of Candidate B or C has achieved the quota to be elected (4,001). If they both have reached this figure then both will be elected and counting will stop if there are only three vacancies to be filled.

If only one candidate reaches the 4,001 quota then the next step in the process is for the candidate with the least votes to be excluded from the count, one by one, until the third candidate is elected. The votes of that candidate are distributed according to the next preference at full value as a transfer value calculation is not required at this stage of the count.

The distribution of preferences cannot be finalised before the Tuesday following election day as postal ballot papers can be received up until 6pm on the Monday.

Detailed information of the counts done by the NSWEC in 2012 for each local government area can be found on the NSWEC website under:

Past Results → Local Government Elections → 2012 → Results by Local Government Area.

While it is not mandatory to use vote counting software to conduct the proportional representation count, each council conducting its own election (or the commercial election provider if one has been engaged) will need to determine an appropriate method for managing this process in accordance with Schedule 5.

As stated in the Guidelines, the Office strongly recommends that where vote counting software is to be used, certification should be provided by the developer of the software to ensure it can produce a result that meets the legislative requirements and that the system is robust.

The method chosen (manual count, data entry etc) will have an impact on how the ballot papers are to be sorted and batched on election night.

Referendums and polls

In a referendum or poll it is usual for voters to be asked to indicate 'yes' or 'no' to a particular question and as the system of vote counting is 'first past the post', whichever side of the debate receives the most valid votes, wins.

Under the Act there are certain questions that need to be dealt with by way of a referendum, while others can be dealt with by way of a poll.

Section 16 provides that a referendum is required where the council wishes to:

- Determine whether or not the mayor is to be popularly elected;
- Increase or reduce the number of councillors;
- Divide the council area into wards or abolish all wards; and
- Change the method of election of ward councillors.

Voting in a referendum is compulsory and the result is binding on the council and must be put in place at the following ordinary election – section 17.

A poll may be held on any issue and is a means of testing whether the electors in the local community support or oppose a proposed action on a particular issue such as the change of the council's name or the construction of a facility – section 14.

Voting on a poll issue is not compulsory and the result is not binding on the council – section 18.

As the issue to be canvassed in a poll may only be applicable to some electors (it can be conducted in a part or parts of an area only – clause 4(b) of Schedule 10) there will need to be a separate roll for this purpose. In such cases the council will need to clearly define the areas to be polled to enable the NSWEC to produce an accurate roll.

21. CONDUCTING THE CHECK COUNT

The most important task to be undertaken in the Returning Officer's office on election Sunday is the check count of all first preference and informal ballot papers returned from the polling places to ensure the accuracy of the figures provided on election night.

The postal, pre-poll, Declared Institution and provisional vote ballot papers held in the Returning Officer's office are also check counted. In the case of the provisional votes it is important that the eligibility of the elector to vote in the particular election is ascertained before the ballot papers are removed and admitted to the count.

Referendum or poll ballot papers may need to be check counted.

When the check counts are being conducted (there may be ballot papers for a mayoral election, for the election of councillors, and for a constitutional referendum or poll) these must be done by ward (if applicable) and by polling place.

The method chosen (manual count, data entry etc) to count the ballot papers will have an impact on how the ballot papers will be processed in the check count and distribution of preferences.

To illustrate the various steps undertaken in a check count the example of a mayoral election is given below as the ballot paper consists of a single column of candidates making the process quite straightforward to describe. The same principles apply to the check count for all the other election types.

CHECK COUNT PROCEDURES

It is recommended that before the check count begins the Returning Officer brief staff and any scrutineers on how the check count will be conducted including the process for determining the formality of ballot papers where a question has been raised. Scrutineers should be advised to direct any questions or concerns to the Returning Officer.

Although the various counts are usually undertaken one after the other (Mayor, councillors, referendum and poll) in some cases it may be necessary for the Returning Officer to manage simultaneous check counts to ensure that they are all completed in a timely manner.

It is important that the check count is conducted with care and accuracy and the Returning Officer should monitor those doing the count (check counters) to ensure the correct procedures are being followed. As scrutineers have the right to inspect each ballot paper as it is being counted, the check counters need to work at a speed that permits this.

The number of provisional vote envelopes in a count should equal the total number of votes of that type received (in the case of postal votes) or issued (in the case of pre-poll, Declared Institution, provisional and silent) less the total number of rejected envelopes. Conducting this check ensures that all envelopes are present for that count – if the figures do not add up it may indicate that there is a bundle of provisional vote envelopes somewhere that has been overlooked or placed in the wrong ballot box.

It is recommended that the Returning Officer goes through the formality rules with the check counters and any scrutineers present. It would also be useful if these are made available in hard copy form.

Check count for mayoral election

If there is an election for the Mayor by the electors of the area it should be check counted first.

The check counters are given the formal and informal ballot papers from one polling place at a time (it is recommended to start with the ballot papers from the smaller polling places). They should also be given a Result Sheet on which to record the results for each polling place once they have finished the process.

The check counters need to re-sort the ballot papers according to formal first preference votes for each candidate and informal votes. It is recommended that a useful approach is to write the names of each candidate on a card, post-it note etc and then lay these out on a table, left to right, in the same order as the names appear in the single column on the ballot paper. At the end of the row there should also be a card, post-it note etc marked 'informal' and one marked 'queries' for the remaining ballot papers.

Each ballot paper is examined to determine into which pile it should be placed: if it is formal and shows a first preference it will be placed in the pile for the candidate for whom the first preference vote has been given. If it is clearly informal it will be placed in the 'informal' pile, and if the formality is not clear or a scrutineer has raised an issue with the ballot paper it should be placed in the 'queries' pile for determination by the Returning Officer at a later stage.

When the Returning Officer examines the ballot papers they can reject a ballot paper that has been classified as formal and accept a ballot paper that has been classified as informal if they think the ballot paper has been wrongly classified at the polling place – clause 349(4).

Any ballot paper placed in the wrong bundle on election night should be removed and placed in the correct pile.

Once all the ballot papers have been sorted to the appropriate pile, each pile needs to be counted and the total recorded. It is recommended that a post-it, piece of paper etc is used as a 'result slip' for each bundle of ballot papers indicating: the name of the candidate, the total for 'check count 1' and the polling place. It is important that all the ballot papers at a polling place can be accounted for before the amalgamation of all the ballot papers for the ward or council area occurs.

After the Returning Officer has checked the ballot papers in the 'informal' or 'queries' pile for that polling place if any ballot paper needs to be moved to a different pile the figure on the result slip for that pile will need to be amended. For example, if Candidate A had 100 votes but following an examination of ballot papers in the 'informal' and 'queries' piles the Returning Officer determined that 20 ballot papers were formal first preference votes for Candidate A, then the ballot papers would be moved to Candidate A's pile and the results slip amended to indicate that there are now 120 ballot papers in Candidate A's pile.

Once all the ballot papers have been assigned to a candidate or the informal pile and the results slips adjusted, they are re-counted to ensure all the totals are accurate. If the numbers tally the figure should be re-recorded as 'check count 2'. If there is a discrepancy between the first and the second counts the ballot papers should be counted again until two successive counts yield the same result. This figure can then be entered onto the Results Sheet and the counted ballot papers put to one side.

The above process is repeated until the Mayoral ballot papers for all polling places have been check counted, and the figures recorded.

Then the ballot papers for the election of the councillors are processed, and once that count has been completed, the ballot papers for any referendum or poll will be check counted.

AMALGAMATION OF MAYORAL BALLOT PAPERS

The mayoral ballot papers need to be amalgamated to enable a distribution of preferences to take place.

Once the check count of each polling place's ballot papers has been completed and balanced, they can then be amalgamated with the ballot papers from the remaining polling places after those ballot papers have also been check counted. The aim is to combine the ballot papers from all the polling places in the ward or area so that there is a single pile of ballot papers for each candidate and one pile of informal ballot papers. The postal, pre-poll, Declared Institution and provisional vote ballot papers will be added to the piles once they have been scrutinised and counted.

It may be possible to do the majority of the amalgamation on election Sunday but as postal votes can be accepted up until 6pm on election Monday, the amalgamation can continue on the Monday and Tuesday as required.

Procedure

Amalgamation should be done one polling place or provisional vote category at a time.

Take the bundle of check counted ballot papers for each candidate and the informal ballot papers and place them in front of the appropriate card or post-it. Count the ballot papers to ensure the total matches that entered on the Result Sheet at the check count. If the figures are correct, record them on the Amalgamation Sheet against the polling place for that candidate or informals. The ballot papers for that candidate are now ready to be amalgamated with ballot papers from other polling places.

As each amalgamation occurs the result slip on top of the ballot papers should be updated to reflect the progressive total for each candidate and the informal ballot papers.

When all the ballot papers have been amalgamated it is important to check that the figures recorded on the Amalgamation Sheet balance with the combined totals for each candidate and the informal ballot papers from the individual polling place figures.

At the end of this process, all ballot papers from all polling places will have been combined into a pile of formal first preference ballot papers for each candidate and informal ballot papers for the council area (or ward if applicable).

The amalgamated ballot papers from the polling places must be securely stored as the next step in the process is the amalgamation of the postal, pre-poll, Declared Institution and provisional vote ballot papers. These are added using the same procedures outlined above, once the scrutiny and check count of each category of vote has been completed.

DISTRIBUTION OF MAYORAL PREFERENCES

If the result of the election is close after the first count has been conducted the outcome may depend on the distribution of preferences. In such cases it is likely that there will be lot of attention paid by the scrutineers observing the process and Returning Officers and counting staff should be prepared for this.

The distribution of preferences is the process of determining the successful candidate/s in an election by distributing the ballot papers of either an excluded candidate or the surplus of an

elected candidate to the remaining candidates according to the preferences on each ballot paper.

Each formal ballot paper is distributed until it 'exhausts' which occurs when:

- there are no further preferences indicated;
- a preference is duplicated; or
- there is a break in the sequence of preferences.

At this stage the ballot paper plays no further role in the count and is placed in the 'exhausted' pile.

Once all the ballot papers (including the provisional votes) for each candidate have been counted for first preferences, check counted and amalgamated, the distribution of preferences can take place. The distribution continues until the required number of candidates are elected.

Informal ballot papers play no part in this process and should be clearly labelled and put to one side.

In an area where the Mayor is popularly elected, this count must be done first. Clause 352 states that where a candidate is contesting a position as a councillor (for a ward or an area) and also as Mayor, the result of the count for Mayor needs to be obtained first as it impacts on how the count for the councillors proceeds.

This is because the person elected as Mayor does not continue as a candidate in the election for councillors and a preference on a ballot paper for them is disregarded, and any subsequent preferences treated as if the numbers representing them had been reduced by one.

For example, if Candidate A is elected as Mayor, when the ballot papers for the election of the councillors are examined if Candidate A has received '1', Candidate B has received '2' and Candidate C has received '3', the vote for Candidate A will be disregarded and the vote for Candidate B deemed to be '1', and the vote for Candidate C '2'.

22. ELECTION RESULTS MANAGEMENT

Clause 351 deals with how the Returning Officer is to finalise the count. It involves:

- counting all the ballot papers in their office, adding these figures to those taken at the polling places and including the figure for any ballot papers processed in their office after election day (for example, postal votes are accepted up to 6pm on the Monday);
- ascertaining that the result of the count is in accordance with Schedule 4 (optional preferential) or Schedule 5 (proportional), depending on which system of election applies;
- informing those present of the result of the count;
- immediately notifying the Election Manager of the result of the count;
- informing the candidates as soon as practicable after the result is ascertained:
 - of the result of the count, and
 - when the Returning Officer's official declaration under clause 356 will be available for inspection at the council, and
 - that the information contained in the declaration will be on the Election Manager's website for at least one month.

Although first preference results are usually available on election night and the other figures are progressively updated as the check count and amalgamation of ballot papers occurs, the actual declaration of the election under clause 356 cannot be issued until it is certain no recount will be required or, if a recount has been requested, that a final result has been obtained.

RECOUNTS

Before the election can be formally declared there is an opportunity for a candidate to request a recount or for the Election Manager to direct the Returning Officer to conduct a recount – clause 353(1). Returning Officers can also determine on their own volition to conduct a recount if they believe it is necessary – clause 353(3)(c).

While the recount process for those elections using the optional preferential voting system (mayoral ballot papers, election of one candidate) is straightforward, it is much more complicated to conduct a recount of an election using the proportional voting system (two or more candidates). Courts have previously determined that a recount in such an election is a recount of first preferences only. If that gives the same result as the initial count then there is no need to go any further as it has confirmed the initial result as correct. However if the first preference recount gives a different result to that obtained on the initial count then a further, complete distribution of preferences is required.

If a recount is to be conducted the Returning Officer must give all candidates reasonable notice so that they have the opportunity to arrange for scrutineers to be present.

Where a candidate makes the request it must be in writing and lodged with the Returning Officer within 24 hours of receiving written notification of the election result, setting out the reasons for the request and signed by the candidate – clause 353(2).

The Returning Officer is to then have the ballot papers scrutinised and counted and any other papers used at the election inspected as long as there has not already been a recount and the candidate has paid the required deposit to cover the cost of the recount – clause 353(3)(a).

The amount of the deposit needs to be determined by reference to a scale of charges fixed by the Election Manager before election day – clause 353(4).

If the recount requested by the candidate results in a change to the candidates elected, the deposit will be refunded in full to the candidate. If it does not, the expense of the recount is to be paid out of the deposit and any remainder is to be refunded to the candidate, and any shortfall paid by the council.

If the recount is conducted at the direction of the Election Manager or on the Returning Officer's own volition the cost is to be met by the council.

Immediately after the completion of a recount the Returning Officer must notify the Election Manager of the result – clause 355. The Election Manager then approves of the Returning Officer declaring the election in writing as soon as practicable – clause 356(1).

This declaration must be signed by the Returning Officer and state the number of votes recorded for each candidate, the names of the candidates declared elected and the ward or area for which they have been elected – clause 356(2).

The Election Manager is then to arrange for the declaration to be displayed in a prominent position at the council and to send a copy to the Chief Executive of the Office, the Secretary of LGNSW and the Electoral Commissioner – clause 356(3).

Pursuant to clause 356(5) and (7) the Election Manager is also to arrange for the information in the declaration to appear on the Election Manager's website for at least a month and for a notice to be placed in a newspaper circulating generally in the State or another newspaper circulating in the relevant area or both. The notice, which may relate to one or more areas, is to state:

- the names of the candidates declared elected, and
- the ward or area for which they have been elected, and
- that detailed results are available on the Election Manager's internet website and for inspection at the relevant council, and
- such other information relating to the election as the Election Manager thinks fit.

DISMISSAL FROM CIVIC OFFICE

Section 329 provides that any person can apply to the NSW Administrative Decisions Tribunal for an order that a elected candidate be dismissed if they believe there has been an irregularity in the manner in which the person was elected or appointed or if the person is disqualified from holding civic office.

23. FINALISING THE ELECTION

STORING ELECTION-RELATED MATERIALS

Clause 391 requires the Returning Officer to arrange for all the election-related material (marked and unmarked ballot papers, printed copies of the roll or, if an electronic copy of the roll has been used, a copy of that roll (for example, on a memory stick or disc), and any other papers) to be packed up and delivered to the Election Manager after the election has been declared.

The Returning Officer is to seal, endorse and sign each parcel and allow any scrutineers to do the same, if they wish. The endorsement is to specify the date of polling, the name of the ward (if any) and area and the contents of each parcel.

The Election Manager then needs to ensure this material is stored securely until the latest of the following:

- Six months after election day;
- if any court proceedings have been commenced in that time, until those proceedings have been finalised; or
- if the Election Manager has consented to the use of the papers and materials for research or analysis until that research or analysis has concluded.

Once the relevant obligation has expired the Election Manager is to arrange for the destruction of the materials.

MATERIAL NOT TO BE INCLUDED

In council administered elections the provisional vote envelopes are not to be parcelled up with the other election-related materials for storage – clause 391(1)(c). This is because the information provided on these envelopes is required by the NSWEC for purposes related to the updating and maintaining of the electoral roll. To ensure a council retains appropriate records, the Returning Officer will be required to make a copy of the declaration on any such envelopes and send the original envelopes to the NSWEC once the election has been declared - clause 391A.

Clause 391(6) makes clear that the Statistical Information Sheets completed by candidates as part of the nomination process are not to be included in the stored material. All the Statistical Information Sheets are to be provided to the General Manager who will then forward them to the Chief Executive of the Office.

Any forms completed by electors as to why they or someone else was unable to vote also need to be collated by the Returning Officer and provided to the Election Manager, who will then forward them to the NSWEC so that the elector will not appear on the list of non-voters.

DISPATCHING ROLLS USED IN ALL POLLING VENUES/RETURNING OFFICER OFFICES

As the responsibility for managing the non-voter process remains with the NSWEC, in those elections being administered by councils, the General Manager is required to return all the printed Authorised Rolls, whether used or not used, to the NSWEC.

The NSWEC will provide further details on when the rolls need to be received by it to ensure the scanning of the rolls is done in a timely fashion.

REFUND OF NOMINATION DEPOSITS

Clause 293 requires the Returning Officer to arrange for the nomination deposit to be refunded to candidates if they:

- withdrew their nomination proposal or were not qualified to stand for civic office;
- died before election day (the refund will go to the candidate's personal representatives)
- were elected;
- received at least 4% of the total number of formal first preference votes cast at the election; or
- were in a group and any candidate in that group was elected or the group received at least 4% of the total number of formal first preference votes cast at the election.

Where a candidate does not qualify for a refund, the deposit is forfeited to the council – clause 293(3).

REPORT ON THE CONDUCT OF THE ELECTION

Clause 393A requires that within six months of the declaration of the election the General Manager is to provide a written report to the Minister for Local Government on the conduct of each election.

This report must include (but is not limited to) the following information:

- time spent on the election by the General Manager as a proportion of the General Manager's remuneration,
- time spent on the election by council staff as a proportion of council staff remuneration,
- the remuneration of council staff employed specifically for the purpose of the election,
- the remuneration, recruitment and training costs of election officials,
- the cost of running any candidate information seminars,
- the cost of hiring venues and equipment for the election, including council venues and equipment and any associated costs,
- the cost of any technological support, including the development of any counting software,
- the cost of preparing a written report under this clause,
- any electoral services provided to electors,
- any electoral services provided to candidates,
- operational details of the election,
- an overall evaluation of the conduct of the election, including feedback from stakeholders, and
- the number of electors entitled to vote at the election and the number of electors who voted, specifying the number of electors who voted personally or by post.

The report must also be made public on the council's website as part of the record on the election.

APPENDIX A – CHECKLISTS

Please note: These checklists represent a summary of key tasks only and must be read in conjunction with the Act and Regulation.

GENERAL MANAGER

Have you:

- Appointed a Returning Officer and a substitute Returning Officer?
- Determined the fees payable to the Returning Officer, substitute Returning Officer and electoral officials?
- Appointed the pre-poll voting office/s and polling places?
- Arranged for any nursing homes and the like to be appointed 'Declared Institutions'?
- Placed the required election-related advertisements?
- Prepared and confirmed the roll of non-resident owners of rateable land and the roll of occupiers and rate paying lessees?
- Established contact with the NSWEC regarding items/services it will be providing?
- Sent the list of 'excused' electors to the NSWEC?
- Returned the rolls to the NSWEC for scanning?
- Arranged for the secure storage of the election-related materials for the required period?

RETURNING OFFICER

Stage 1

This stage deals with preparation and planning tasks.

Key tasks:

Have you:

- Located a suitable office?
- Recruited the necessary number and types of election staff?
- Developed procedures to be used by the election staff in relation to issuing pre-poll, Declared Institution, postal and election day votes?
- Developed instructional/training material for all election officials?
- Determined the manner in which the votes are going to be counted and made the necessary arrangements?
- Conducted information sessions for potential candidates?
- Put in place arrangements for dealing with enquiries from candidates and from the general community?
- Confirmed all pre-poll voting offices, Declared Institutions and polling places?
- Prepared all necessary printed election materials?
- Ordered all necessary election materials for use at pre-poll and in polling places?

Stage 2

This stage marks the commencement of the election period. On Monday 31 July 2017 the following activities occur:

- Enrolment on the non-residential roll closes at 6pm
- Candidate nominations open.
- Applications for postal votes open.

Key tasks:

Have you:

- Obtained the list of Registered General Postal Voters?
- Put in place a system to process postal vote applications?

Stage 3

This stage deals with the nomination of candidates. On Wednesday 9 August 2017 the following activities occur:

- Close of candidate nominations at noon.
- Draw of names for position on ballot paper.
- Registration of electoral material opens.

Key tasks:

Have you:

- Familiarised yourself with procedures for close of nominations and conducting the draw of candidates' names for position on the ballot papers?
- Familiarised yourself with procedures for proofing ballot papers?
- Familiarised yourself with procedures for Registration of Electoral Material?
- Advised candidates and/or their representatives of the date and time for the conduct of the draw?
- Proofed all the ballot papers prior to placing an order with the printer?
- Ordered the necessary number and types of ballot papers?
- Made arrangements for any Braille ballot papers, if requested?
- Arranged for the delivery and storage of the ballot papers?
- Arranged for all printed material to be packed and delivered to polling places?
- Taken delivery of the certified lists to be used for marking off electors' names?
- Arranged for the delivery and collection of cardboard material and/or furniture to and from the polling places?
- Processed postal vote applications and dispatched postal ballot papers?

Stage 4

This stage marks the commencement of early voting. On Monday 28 August 2017 pre-poll voting starts and on Saturday 2 September 2017 visits to Declared Institutions begin. Registration of electoral material closes on Friday 1 September 2017 at 5pm.

Key tasks:

Have you:

- Trained election officials who will be taking votes at Declared Institutions?
- Held training sessions with the Polling Place Managers?

Stage 5

This stage covers the closure of early voting options (applications for postal votes closes on Monday 4 September 2017 at 5pm, pre-poll voting closes on Friday 8 September 2017 at 6pm and this is also the last day for Declared Institution voting to take place), election day (polling places are open from 8am to 6pm on Saturday 9 September 2017) and the check count on Sunday.

Key tasks:

Have you:

- Sent the allocation of ballot papers return to the General Manager?
- Put in place a system for receiving results from the polling places after 6pm?
- Determined the means by which the results will be made publicly available?
- Set up the office for counting pre-poll, postal and Declared Institution votes from 6pm?
- Set up the office for the return of materials from polling places?
- Familiarised yourself with the formality rules and the check count procedures to be used on Sunday?
- Set up the office to conduct the check count on Sunday?

Stage 6

This stage deals with the activities to be taken care of after the election weekend. The count cannot be finalised until after 6pm on Monday 11 September 2017 as this is the cut-off for receipt of postal vote declaration envelopes.

Key tasks:

Have you:

- Processed any postal votes received?
- Adjusted count figures to reflect postal votes?
- Familiarised yourself with the procedure for conducting a recount?
- Conducted any recounts, if required?
- Advised candidates of results?
- Made arrangements to declare the election?
- Dispatched the certified lists for scanning?
- Sent the list of any 'excused' electors to the General Manager?
- Dispatched the certified lists for scanning?
- Dispatched election-related material for storage by the General Manager?

APPENDIX B - FORMS

There are various documents referred to in the Act and Regulation that will need to be available for use in the election. A number of these are of an administrative nature (eg claims, lists and records) and provided they capture the required information the format is a matter for the Election Manager, Returning Officer or commercial election provider, if one has been engaged.

There are others that impact on the information contained on the electoral roll and for this reason templates will be provided by the NSWEC. These are declarations made by electors when casting a provisional vote and apply in the following circumstances:

- where a person's name has already been marked off the roll – clause 320A.
- where a person's name has been omitted from the roll – clause 320B.
- where a person enrolls for the first time, re-enrolls or transfers enrolment – clause 320C.
- where a person has enrolled after the closing date – clause 320D.

PRESCRIBED FORMS

Certain forms are prescribed by the Regulation and can be found in Schedule 11. These are:

- Request for omission or removal of place of living from roll (non-resident electors) – Form 1.
- Nomination paper: proposal by electors – Form 2.
- Nomination paper: proposal by registered officer for party – Form 3.
- Ballot paper (no groups) – Form 4.
- Ballot paper (one or more groups without group voting squares) – Form 5.
- Ballot paper (one or more groups with group voting squares) – Form 6.
- Postal vote declaration – Form 8.
- Constitutional referendum or council poll paper – Form 16.

APPROVED FORMS

Other forms are designated as 'approved' for council-administered elections. This approval is by the Chief Executive of the Office for council-administered elections. These are:

- Application to register electoral material.
- Electoral material registration certificate.
- Application for postal vote.
- Postal ballot paper lost or received.
- Declaration by an elector whose place of living is not on the roll (silent elector).
- Account of ballot papers.

The minimum content for each of these forms has been approved by the Chief Executive and is outlined below. Any additional information and the style and format is a matter for each Election Manager, Returning Officer or commercial election provider, as applicable.

Application to register electoral material for distribution on election day – clause 356P

Lodgement of application

Applications for registration (accompanied by one copy or draft of each item to be registered) must be received by the Returning Officer at [street address and/or postal address] or emailed to [email address] or faxed to [fax number] from noon, Wednesday, 9 August 2017 and no later than 5pm, Friday 1 September 2017.

Applications

Application is made to register the attached electoral material by or on behalf of the following candidate/group/registered political party or parties/organisation or person (delete whichever is not applicable):

Insert name of candidate, group, registered political party(ies), organisation or person.

Items to be registered

The number of items attached to this application for registration:

The items are marked (eg A to E):

Only 1 copy of each item to be registered needs to be attached.

Details of applicant

Name:

Category:*

* candidate/group/registered political party/organisation or person.

Address:

Daytime phone:

Mobile:

Fax:

Email:

Signature:

Date:

Electoral material submitted for registration in a language other than English

I declare that the accompanying document is an accurate English translation of the electoral material submitted for registration.

Name:

Category:*

* candidate/group/registered political party/organisation or person.

Signature:

Date:

Electoral material registration certificate – clause 356R

This can take the form of a letter addressed to the applicant but must include a copy of each of the registered items.

Name
Address details

Date

Dear XXX

Registration of Electoral Material

I refer to your application to register the attached electoral material for distribution in the [name of council] council area at the Local Government election/referendum/poll to be held on Saturday 9 September 2017.

The attached material marked [number of items], is certified as being registered under the provisions of clause 356R of the Local Government (General) Regulation 2005.

Please note that clause 356G requires that the name and address of both the authoriser and the printer of the material be shown on the material.

Yours sincerely

[name of Returning Officer]
Returning Officer

Application for postal vote – clause 314

[Insert name of area]

I declare that:

- 1 My full name is [name in BLOCK letters]
- 2 I am entitled to vote at the forthcoming election to be held in the [name of ward] ward of the abovementioned local government area and the address of the land to which my entitlement relates (as resident, non-resident owner, occupier or ratepaying lessee) is [address].
- 3 I have not already voted in connection with this election
- 4 I am making this application for the following reason or reasons [tick the squares that apply]:
 - I will not, throughout the hours of polling on election day, be within the ward or area for which this election is being held,
 - I will not, throughout the hours of polling on election day, be within 8 kilometres by the nearest practicable route of any polling place at which I am entitled to vote,
 - I will, throughout the hours of polling on election day, be travelling under conditions that will prevent me from attending at any such polling place to vote,
 - I am seriously ill or disabled and will be prevented by that illness or disability from attending at any such polling place to vote,
 - I will be prevented by approaching maternity from attending any such polling place to vote,
 - I am, by reason of my membership of a religious order or my religious beliefs, prevented from attending at any such polling place on election day or prevented from voting throughout the hours of polling on election day or throughout the greater part of those hours,
 - I am, by reason of my being kept in a correctional centre, prevented from attending at any such polling place to vote,
 - I will be, at a place other than a hospital, caring for a person who requires my care for medical reasons and because of that I will be prevented from attending any such polling place to vote,
 - I will, by reason of my being engaged for fee, gain or reward in any work throughout the hours of polling on election day, be prevented from attending any such polling place to vote,
 - I am a silent elector,
 - I have a disability and will be prevented from attending at any such polling place to vote,
 - I am, by my belief that attending a polling place on election day will place my personal safety or that of members of my family at risk, prevented from attending at any such polling place to vote.

I hereby apply for a postal ballot paper and postal voting envelope so that I may vote at the abovementioned election. Please send them to the address below.

[signature of elector]

[date]

[address to which ballot paper and envelope are to be sent: for a resident voter this can be any address, but for a non-resident voter it must be the voter's residential address]

Postal ballot paper lost or received – clause 318(7)

[insert name of ward if applicable] [insert name of area]

I, [full name as it appears on the roll],

of [full address as it appears on the roll],

declare that I have lost or have not received a postal ballot paper or a declaration envelope or both in connection with the election being held in the abovementioned ward or area, and that I will not use them if I later receive or find them.

I claim to vote under clause 318 of the Local Government (General) Regulation 2005.

[signature of elector]

Declared before me, this [date] at the [name of polling place] polling place.

[election official]

Declaration by an elector whose place of living is not on the roll (silent elector) – clause 339(6)

[insert name of ward if applicable] [insert name of area]

Surname of elector [in BLOCK letters]

Given names [in BLOCK letters]

Address for which I claim to be enrolled [address]

[If you have changed your name since you enrolled for the above address please print your previous name here]

[previous name]

I am entitled to vote. I have not already voted at this election.

I declare that the information shown is true.

Signature of elector

Polling place

Ward

Area

Date

Account of ballot papers – clause 348(2)

[insert name of area and polling place]

Number of first preference votes for each candidate or group

Number of informal ballot papers

Number of name already marked off roll envelopes

Number of name omitted from roll envelopes

Number of enrolling for the first time, re-enrolling or transferring enrolment envelopes

Number of enrolled after roll was printed envelopes

Number of postal ballot papers delivered up and cancelled

Number of silent elector envelopes

Total

[name of Polling Place Manager]

[signature of Polling Place Manager]

[name of another election official]

[signature of another election official]

[name of scrutineer]

[signature of any scrutineer that wishes to sign form]