

19 September 2022

# Post-election report

Local Government NSW  
Casual Vacancy election  
E2021/229

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# Election(s) Covered in this Report

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Organisation: Local Government NSW

Election: Casual Vacancy

Election Decision No/s: E2021/229

## Rules

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Rules used for the election: (142N: Incorporates alterations of 30 March 2021 [R2020/230])

Replaces rulebook dated 12 March 2019 [D2018/8]

Rules difficult to apply/interpret: None

Model Rule reference (if any): N/A

For more details see the Model Rules on the AEC website: [www.aec.gov.au/ieb/](http://www.aec.gov.au/ieb/)

## Other Matters

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Returning Officer actions required (Section 193): Yes

Details:

- Schedule C (5)(a) in the Rules provides for the Election Notice and Nomination Form to be distributed to members via post. Due to Covid-19, the only acceptable method of receiving Nominations was via email. The Returning Officer thus applied subparagraph 193(1)(b)(i) of the Fair Work (Registered Organisation) Act 2009 to allow for the distribution of the Election Notice and Nomination Form by email and published on the AEC website.

## Signed

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Cameron Caccamo

Returning Officer

Australian Electoral Commission

E: IEEvents@aec.gov.au

P: (02) 9375 6366

19 September 2022

# Attachments

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A. Declaration of results for Uncontested Offices



**Australian Government**  
**Registered Organisations Commission**

6 September 2022

Scott Phillips  
Chief Executive  
Local Government NSW  
Sent via email: [scott.phillips@lgnsw.org.au](mailto:scott.phillips@lgnsw.org.au)



**IMMEDIATE ACTION REQUIRED:**

**You must take steps after your recent election E2021/229**

Dear Scott Phillips,

An election has recently been completed by the Australian Electoral Commission (**AEC**) for the Local Government NSW.

This letter explains the next steps you must take and what information you need to lodge with the Registered Organisations Commission (**ROC**).

**What you must do right now**

- Let your members know about the election report issued by the AEC
- Arrange financial training for officers newly elected to an office with financial management duties. (This includes all members of the committee of management).
- Complete the notification of change and email it to [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au)

This letter explains these steps and the tools available to help you.

**STEP 1: Notify members**

You must put a notice on your website once you receive your post-election report. It must tell your members they can request a copy of the post-election report from you or the AEC (r. 141). The notice must be on your website for at least 3 months.



**Can I put more information on our website?**

Yes! Being transparent is part of good governance. You can publish the whole report or the declaration of results, as well as your notice and leave them up longer than 3 months. You can always do more than the regulatory minimum.

The ROC will also publish your declaration of results on our [website](https://www.roc.gov.au).

**STEP 2: Financial training**

You may have to arrange financial training for people elected to new roles.

All officers with financial management duties must complete financial training (s 293K). For information on when officers must redo training and hints on when to book training for officers taking up multiple offices [please see our fact sheet](#).

There are face to face and online [financial training packages on the ROC website](#).

You must act on this now, as affected officers **MUST** complete approved financial training OR been granted an [exemption by the ROC](#) **within 6 months** of beginning to hold office.



#### Good governance tip:

Organisations should instruct officer holders about their other obligations. This is especially important for committee of management members.

Our podcast covers the [benefits of officer induction](#). Officers have responsibilities under the rules, the RO Act, and disclosure requirements around conflicts of interest, remuneration and material personal interests. Officers will benefit from our [officer induction kit](#) and our [podcast, such as episode 17 - conflicts of interest](#).

### STEP 3: Notifications of change

A notification of change must be lodged with the ROC within **35 days** of the change occurring.



We have a [template](#) to help you with this, which you can send to [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au). An officer must sign the completed notification template.

You must lodge a notification of change if:

- any of your officers have not been re-elected;
- officers have changed offices; or
- you have new officers.

Only notify us of changes that have **already occurred**. If people take up office in the future, you must wait until the change happens before lodging the notification within 35 days of the change.

**Note:** One election may result in many notifications of change.



#### Penalties apply

Failing to lodge your notifications of change on time can expose your organisation and its officers to significant penalties.

#### ROC v CEPU

The organisation failed to make a series of notifications of change on time.

The Full Court said 'The record-keeping obligations imposed under the Registered Organisations Act are treated by the legislature as important and serious, and contravention of those obligations are correspondingly serious.'

The organisation was ordered to pay a penalty. More information is available in our [case summary](#).

## Questions?



### **Why do I need to tell you the results of the election when you've already received them?**

The RO Act requires that **you** tell us this information about your officers – it is a legal obligation. The notification of change also contains information that is not in the declaration of results.

### **What if the officer has already done training?**

Check out our [fact sheet](#) for when officers need to redo training, when they can get an exemption and when further training isn't required.

If you have any queries we can be contacted on 1300 341 665 or by email at [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au).

Yours sincerely

## **Registered Organisations Commission**



The ROC has a [Compliance Policy](#) which explains how we respond to issues of non-compliance. The policy is available on our website if you would like further information on the steps the compliance team may take in response to non-lodgement of a financial report.

**Local Government NSW**  
**DECLARATION OF RESULTS - E2021/229**  
**Contested Offices**

**Casual Vacancy Election**

The results of the election for the following offices conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation are:

**Metropolitan/Urban Council and ALC (Sydney/Newcastle ALC Region)**

<b>VOTING MATERIAL ISSUED</b>	
Total number of people on the roll of voters (a)	233
Number of voters issued with voting material	233
Total number of voters issued with replacement voting material	2
<b>Total number of voting material packs issued</b>	<b>235</b>
<b>VOTING MATERIAL RETURNED</b>	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	108
Number of declaration envelopes rejected at preliminary scrutiny (minus)	1
Number of ballot papers returned outside declaration envelopes (minus)	0
<b>COUNT</b>	
Total ballot papers admitted to the count	107
<b>LATE OR UNRETURNED VOTING MATERIAL</b>	
Voting material returned as unclaimed mail by closing date of ballot	7
Voting material packs not returned by voters by closing date of the ballot	127
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	45.96 %

**Director (1)**

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Final Votes</u>
BENNISON, Scott	22	32
REGAN, Michael	14	0
RAFFAN, Clare	50	72
KANAK, Dominic WY	18	0

<b>Total ballot papers admitted for this office</b>	<b>107</b>
Formal Ballot papers	104
Informal Ballot papers	3

I declare the following elected:

- RAFFAN, Clare

Cameron Caccamo  
Returning Officer  
Telephone: (02) 9375 6366  
Email: IEEvents@aec.gov.au  
29/08/2022







## DECISION

*Fair Work (Registered Organisations) Act 2009*  
s.189—Arrangement for conduct of an election

**Local Government NSW**  
(E2021/229)

MR STEENSON

SYDNEY, 1 FEBRUARY 2022

*Arrangement for conduct of election.*

[1] On 23 December 2021 the Local Government NSW lodged with the Registered Organisations Commission prescribed information for an election to fill a casual vacancy in the following office for the remainder of the term:

Director (Metropolitan/Urban) (1)

[2] I am satisfied that an election for the abovenamed office is required to be held under the rules of the organisation and, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE COMMISSIONER

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PR352155

**PRESCRIBED INFORMATION FOR ELECTIONS in accordance with Section 189 *Fair Work (Registered Organisations) Act 2009* and Regulation 138 *Fair Work (Registered Organisations) Regulations 2009***

I, Darriea Turley, being the President of the Local Government NSW (“**LGNSW**”) make the following statement:

1. I am authorised to sign this statement containing prescribed information for LGNSW.
2. The following information is lodged under subsection 189(1) of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).
3. The election that is required is set out in the table in Annexure **A**.
4. A casual vacancy on the Board of LGNSW has arisen for the position of ‘Director (Metropolitan/Urban council)’ due to Michael Forshaw ceasing to be eligible under the LGNSW rules to hold office as a Director. As a consequence, an election for the office of Director (Metropolitan/Urban council) is required pursuant to the LGNSW rules.
5. Mr Forshaw was declared elected to the Board of LGNSW as Director (Metropolitan/Urban council) on 3 December 2021.

Note: a separate ‘Notification of Changes to Records (Changes to Records in the Annual Returns)’ has been forwarded to the Registered Organisation Commission to inform the Commission of the changes to the LGNSW Board following the 2021 LGNSW Annual Conference (on 29 November 2021) and recent LGNSW Board election (the results of which were declared on 3 December 2021).

6. On 4 December 2021 a general Local Government election for NSW councils (“**LG election**”) was held. Mr Forshaw was a candidate in the LG election for Sutherland Shire Council – A Ward. The results of the LG election for Sutherland Shire Council – A Ward were declared by the NSW Electoral Commission on 22 December 2021 and Mr Forshaw was unsuccessful in being re-elected to the Council. As a consequence, Mr Forshaw has ceased to be a Councillor of a Council which is an Ordinary member of the Association and he is no longer eligible under the LGNSW rules to hold office as a Director. Annexure **B** is the results of the LG election for Sutherland Shire Council – A Ward.

7. Rule 50 of the LGNSW rules provides:

*“A person ceases to be a Director and vacates his or her position on the Board (by operation of this Rule and without any further action) upon him or her ceasing to be a Councillor of an Ordinary member, or otherwise ceases under the Rules to be eligible to be a Director.”*

8. Rule 43(d) of the LGNSW rules provides that a casual vacancy on the Board of the Association occurs when a Director “ceases to be eligible under the Rules to hold office as a Director.”

9. Rule 47 of the LGNSW rules provides:

*“A casual vacancy shall be filled within ninety (90) days of the occurrence of such vacancy provided, however, that non-compliance with this Rule shall not invalidate or otherwise prejudicially affect the proceedings of business carried out or performed by the Board during the continuance of any such vacancy beyond the said period of ninety (90) days.”*

10. Rule 48 of the LGNSW rules provides:

*“Subject to rule 48A, where a casual vacancy or further casual vacancy is to be filled for so much of the part of the term as exceeds three quarters of the term of the office the vacancy shall be filled by way of secret postal ballot in accordance with the provisions appropriate to the election for the vacant office in Schedule C.”*

11. No rule alterations are pending that will impact the election.

12. This statement is lodged at least 2 months before nominations open for the election(s) in Annexure A.

Signed:   
Cr Darriea Turley AM  
LGNSW President

Dated: 22 December 2021

## Annexure A

- Election that is required

Branch	Name of Office	Number required	Voting System <i>Direct voting system; Collegiate electoral system</i>	Reason for Election <i>Scheduled; Casual vacancy; New office created; Insufficient nominations</i>	Electorate
N/A	Director (Metropolitan/Urban council)	1	Direct Voting System	Casual vacancy	Delegates entitled to vote at a Conference from Metropolitan/Urban councils that are Ordinary members and, if the NSW Aboriginal Land Council (ALC) is an Ordinary member, the member of the Board of the ALC for the Sydney/Newcastle ALC Region – rule 40(d)

- Important dates:

	Applicable rule	Date/time (subject to AEC confirmation)
<b>Nominations OPEN</b>	<b>Clause 5(a), Schedule C of the LGNSW rules:</b> The Returning Officer shall cause an election notice inviting nominations for the office(s) subject to an election to be published in the Association's official journal and sent to each Ordinary member by post at least seven (7) weeks prior to the opening of the ballot.	To be determined by the Returning Officer.
<b>Nominations CLOSE</b>	<b>Clause 10, Schedule C of the LGNSW rules:</b> Nominations for election must reach the Returning Officer at least four (4) weeks prior to the close of the ballot.	To be determined by the Returning Officer.
<b>Roll of Voters cut off date</b>	<b>Clause 3, Schedule C of the LGNSW rules:</b> The Roll of Voters for the election is to be determined by the Association in accordance with the requirements of Rule 37 and must be closed seven (7) days prior to the date upon which the Returning Officer calls for nominations for an election pursuant to these rules.	To be determined by LGNSW following consultation with the Returning Officer.

## Annexure B

# Sutherland Shire - A Ward

## Councillor Election

[Map of Polling Places 2021](#)

[List of Polling Places 2021](#)

**Total Number of Electors:** 34,085 residential and non-residential electors were enrolled in this ward on 25 October 2021. Electors may continue to enrol up to and including Election Day.

**Counting System:** Proportional Representation (PR) as defined in [Schedule 5 of the Local Government \(General\) Regulation 2005](#).

**Elected Positions:** There are 3 Councillors to be elected from 16 candidates.

The following candidates were declared elected on 22 December 2021:

**Carol PROVAN (LIB)**

**Leanne FARMER (IND)**

**Marcelle ELZERMAN (LIB)**

### Final Results

## Final Count Reports

The Final Count Reports from the computerised counting process are available below.

[General Statistics](#)

[Candidates in Sequence of Election](#)

[First Preference Votes by Group and Candidate and by Vote Type](#)

[First Preference Votes by Group and Candidate for each Venue and Vote Type](#)

[Candidate Results](#)

[Distribution of Preferences](#)

[Distribution of Preferences Detailed Spreadsheet](#) 

[Preference Data File](#) 

[First Preference Results Spreadsheet](#) 

## Sutherland Shire

### Councillor Election

#### Sutherland Shire A Ward - Candidate Results

Last Updated On: 21/12/2021 10:16

Candidates to be Elected: 3

Counts Required: 14

Quota: 7,003

The margin between the last elected candidate FARMER Leanne and the last un-elected/excluded candidate FORSHAW Michael is 464.

Group	Candidates in Ballot Order	Elected / Excluded	Elected / Excluded at Count
A			
	CHANTLER Craig	EXCLUDED	14
	GRIGG Kylie	EXCLUDED	10
	CROSS Jacqueline	EXCLUDED	9
B	BEALE Howard	EXCLUDED	3
	FARMER Leanne	ELECTED *	14
	KABLE Gavin	EXCLUDED	6
C	COOMES Kerry	EXCLUDED	7
	LIBERAL		
	PROVAN Carol	ELECTED	1
D	ELZERMAN Marcelle	ELECTED *	14
	RINDFLEISH Daniel	EXCLUDED	12
	LABOR		
E	FORSHAW Michael	**	
	LOZELL Diana	EXCLUDED	11
	CONSTANCE Paul	EXCLUDED	5
E	THE GREENS		
	MOORE Martin	EXCLUDED	13
	WOODS Benjamin	EXCLUDED	8
	RYAN Colin	EXCLUDED	4

Candidate(s) marked with an asterisk were elected without reaching quota.

\*\* The distribution of the total votes of candidates would not change the elected candidate(s), therefore their exclusion did not proceed.