



Australian Government
Registered Organisations Commission

21 November 2022

Elizabeth McIntyre
Executive Director
Clay Brick & Paver Association of New South Wales
Sent via email: elizabeth@thinkbrick.com.au



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2021/185

Dear Elizabeth McIntyre,

An election has recently been completed by the Australian Electoral Commission (**AEC**) for the Clay Brick & Paver Association of New South Wales.

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

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. 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.

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.

18 November 2022

Post-election report

Clay Brick & Paver Association of New
South Wales
Scheduled election
E2021/185

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Election(s) Covered in this Report

Organisation: Clay Brick & Paver Association of New South Wales

Election: Scheduled

Election Decision No/s: E2021/185

Rules

Rules used for the election: 160N: Incorporates alterations of 16 January 2019 [R2018/274]
(replaces rulebook dated 04 April 2017 [D2016/76])

Rules difficult to apply/interpret: N/A

Model Rule reference (if any): N/A

For more details see the Model Rules on the AEC website: www.aec.gov.au/ieb/

Other Matters

Returning Officer actions required (Section 193):
Details:

- Rules specifying the method of lodgement of nominations are silent in the registered Rules of the Organisation. To address the issue, nominations will be received electronically, via email/the AEC's portal.
- Rules regarding opening time of nominations for Stage 1 could not be followed as the term of the Committee Members have already been expired. This which was confirmed by the Decision issued by the Registered Organisation Commission. Instead nominations for Stage 1 opened on 5 September 2022.

Signed

Lachlan Symonds
Returning Officer
Australian Electoral Commission
E: iebevents@aec.gov.au
P: 02 9375 6366
18 November 2022

Attachments

- A. Declaration of Results for Uncontested Offices – Stage 1
- B. Declaration of Results for Uncontested Offices – Stage 2

Clay Brick & Paver Association of New South Wales

DECLARATION OF RESULTS - E2021/185 - Stage 2

Uncontested Offices

Scheduled 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:

Committee of Management

President (1)

Candidates

SPACKMAN Avery

Vice-President (2)

Candidates

DOBSON Chris

Secretary (1)

Candidates

JAMBA Allen

As the number of nominations accepted did not exceed the number of positions to be filled, I declare the above candidates elected.

Lachlan Symonds
Returning Officer
Telephone: 02 9375 6366
Email: iebevents@aec.gov.au
15 November 2022





5 October 2022

Elizabeth McIntyre
Executive Director
Clay Brick & Paver Association of New South Wales
Sent via email: elizabeth@thinkbrick.com.au



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Registered Organisations Commission



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Clay Brick & Paver Association of New South Wales

DECLARATION OF RESULTS - E2021/185 - Stage 1

Uncontested Offices

Scheduled 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:

Committee Members (4)

Candidates

DOBSON Chris

JAMBA Allen

SPACKMAN Avery

As the number of nominations accepted did not exceed the number of positions to be filled, I declare the above candidates elected.

Catherine Budrodeen
Returning Officer
Telephone: 02 9375 6366
Email: IEBevents@aec.gov.au
30/09/2022





DECISION

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

Clay Brick & Paver Association of New South Wales (E2021/185)

MR STEENSON

SYDNEY, 23 AUGUST 2022

Arrangement for conduct of election.

[1] On 5 August 2022 the Clay Brick & Paver Association of New South Wales lodged with the Registered Organisations Commission prescribed information for an election to fill the following offices for a new term of office:

Committee Members	(4)
President	(1)
Vice President	(2)
Secretary	(1)

Late lodgement

[2] The organisation did not lodge the prescribed information before the prescribed day (i.e. two months before nominations are due to open under the rules) as required by regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009*. Prescribed information seeking a scheduled election should have been lodged by 15 January 2022. It was ultimately only lodged after a number of requests and reminders from staff of this Commission.

[3] Having regard to the normal and reasonable expectation that registered organisations take steps to ensure they comply with the time-frame requirements set out not only in the *Fair Work (Registered Organisations) Act 2009* (the Act) but also in instruments or references pertaining to their governance formulated by the organisations themselves, such as their own rules, I decline on this occasion to allow, under section 189(2) of the Act, a later day for lodgement. Section 189(2) is a civil penalty provision and the failure to lodge prescribed information within the required timeframe therefore leaves the organisation open to liability for a civil penalty.

[4] The refusal of an extension of time under section 189(2) of the Act does not, however, affect the need for the Commission to still determine whether an election is required to be held and to issue a decision for the purposes of section 189(3) of the Act.

Terms of office and whether an election is required

[5] As the prescribed information requests the conduct of a scheduled election for offices for a new term of office, one of the matters that must be assessed is whether such an election is due and whether it is due for all offices sought.

[6] The rules of the organisation provide that:

Officers hold Office subject to these rules, generally for four years from the date of the declaration of the result of the election, or until their successors are elected.¹

[7] Three offices of Committee Member, the office of President and the two offices of Vice-President were elected on 15 March 2018 and 25 June 2018 respectively (see [E2017/248](#)). Four years have therefore elapsed since those offices were last elected.

[8] The office of Secretary as well as the additional (i.e. fourth) office of Committee Member was created on 16 January 2019.² The election for the office of Secretary, declared on 6 May 2019 (see [E2018/269](#)), discloses that there were no nominations for that office. No nomination was received either for the additional office of Committee Member.

[9] In order to synchronise the election of its officers, the organisation seeks an election for all of the abovenamed offices at the same time. In the current circumstances, where almost four years have elapsed since the creation of these two offices (Secretary and additional Committee Member) and where they are each presently vacant, I agree that holding the elections for all offices together would be an appropriate course of action. Had either of these two offices been occupied, the Commission would have required confirmation from the holders of those offices that they agreed to the term of office being truncated.

Other election-related rules and associated issues

[10] I also note that the organisation apparently has 3 members at present,³ each of whom has one member representative. Under the rules of the organisation, only a member representative may nominate for office. I therefore anticipate that at least one of the Committee Member offices will remain vacant – there being 4 offices of Committee Member.

[11] In addition, at least one of the senior office bearer positions (President, two Vice-Presidents, and Secretary) will remain vacant, as rule 13.7(a) of the organisation's rules provides that:

- (a) **No person may simultaneously hold more than one of the following Offices,** which also determines the hierarchical order:
 - (i) President; or
 - (ii) Vice President.
 - (iii) Secretary.
- (b) If a person nominates for more than one Office which cannot be simultaneously held, the Returning Officer must conduct the election for each Office in the order they

¹ Rule 5.2, rulebook [R2018/274](#) (effective 16 January 2019)

² With the certification of rule alterations by the Fair Work Commission

³ Based on information contained in the organisation's most recent Annual Returns [AR2022/97](#) and [AR2021/99](#). The same number was also recorded in the organisation's Annual Returns for the years 2018 to 2020 inclusive. For an organisation of employers to be registerable under the RO Act, its members must employ at least 50 employees. (There is no suggestion, on the information available to me, that this is not the case).

appear in rule 13.7 (a). If a person is elected to an Office, the person must be excluded from any subsequent Office which is unable to be held simultaneously.

- (c) If a person holding any Office is elected to another Office the person cannot hold simultaneously with the Office currently held, the person is deemed to have relinquished the Office already held. The ensuing vacancy will be filled by appointment or election in accordance with the rules concerning casual vacancies.

[Emphasis added]

[12] This Commission has separately engaged with the organisation in relation to its rules, offices, officeholders and compliance. While further rule alterations have been discussed these have not yet been forthcoming – the last rule alterations having been certified in January 2019. Separate to this decision, the Commission will continue to pursue compliance-related issues with the organisation.

Election required to be conducted

[13] I am satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation due to their terms of office expiring (or shortly due to expire) 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

Printed by authority of the Commonwealth Government Printer

PR352321

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, Avery Spackman, being the President of the Clay Brick & Paver Association of NSW make the following statement:

1. I am authorised to sign this statement containing prescribed information for Clay Brick & Paver Association of NSW.
2. The following information is lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009 (the RO Act).
3. The elections that are required are set out in the table in Annexure A.
4. This statement **IS** lodged at least 2 months before nominations open for the election(s) in Annexure A.

Signed: 

Dated: 05/08/22

NOTE: This statement should be lodged with the Registered Organisations Commission at least 2 months prior to nominations opening. It can be submitted to regorgs@roc.gov.au.

Annexure A

- Elections that are required [insert as many pages as 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
CBPANSW	Committee Members	4	Direct Voting System	Scheduled	<i>All members of the Association [Rule 13.1a]</i>
CBPANSW	President	1	Collegiate electoral system	Scheduled	<i>By and from the Committee members [Rule 13.2(a)]</i>
CBPANSW	Vice President	2	Collegiate electoral system	Scheduled	<i>By and from the Committee members [Rule 13.2(a)]</i>
CBPANSW	Secretary	1	Collegiate electoral system	Scheduled	<i>By and from the Committee members [Rule 13.2(a)]</i>

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	To be determined by Returning Officer	To be determined by Returning Officer
Nominations CLOSE	To be determined by Returning Officer	To be determined by Returning Officer
Roll of Voters cut off date	To be determined by Returning Officer	To be determined by Returning Officer

NOTES: For insufficient nominations and casual vacancies, the date nominations open and close, unless specified in the rules, should be listed as 'To be determined by the returning officer'. This also applies where rules are silent as to the nominated dates.

If the nomination dates are 'To be Determined by the Returning Officer', but your organisation has a *preference*, please state 'To be Determined by Returning Officer' and clearly indicate that your nominated date is a preference.

If the P.I. includes a position that is not an office, please refer to our template [Prescribed information for the election of officer and non-officer positions](#).