



DECISION

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

Australian Hotels Association
(E2026/30)

MR STEENSON

SYDNEY, 20 FEBRUARY 2026

Arrangement for conduct of election.

[1] On 13 February 2026 the Victorian Branch (the **Branch**) of the Australian Hotels Association (the **organisation**) lodged with the Fair Work Commission (the **Commission**) prescribed information for an election to fill the following offices, due to insufficient nominations received in a previous election (**E2025/35**):

Councillors from the following Divisions:

Eastern Victoria	(4)
Northern Victoria	(7)
Western Victoria	(3)
North-Eastern Metropolitan	(3)
South-Eastern Metropolitan	(5)
Southern Metropolitan	(1)
Western Metropolitan	(4)
Accommodation Division	(6)

[2] On the same day, the organisation lodged further prescribed information for an election to fill casual vacancies in the following offices for the remainder of the term:

Councillors from the following Divisions:

Western Victoria	(1)
Southern Metropolitan	(1)

[3] As all of the above offices were the subject of scheduled election E2025/35 (albeit that some of them were not filled), Commission staff reviewed the results of that election as part of their assessment of the current matter. Arising from this, on 19 February 2026, the Commission contacted the Branch in relation to the Declaration of Results issued by the Australian Electoral Commission (the AEC) for election E2025/35, which showed two entries for the name ‘Dylan Clark’ among the Divisional Councillors declared elected for the Eastern Victoria Division on 2 October 2025.

[4] On the same day, the Branch responded indicating that the duplication was not made in error, and that the particular individual was listed twice by virtue of being the representative of a business. The Branch also confirmed that it had previously discussed the matter directly with the AEC and stated that the AEC had confirmed that it nominating in two capacities was permissible.

[5] On 20 November 2025, in response to an enquiry from this Commission, the AEC indicated that it had received advice on the question of whether a person could nominate for more than one office – the advice apparently being that they could – but that the AEC had apparently not received advice on whether the person could be elected twice to the same office (whether or not in the same electorate).

[6] Ultimately, the issue resolved when the Branch advised this Commission that Mr Clark had ceased to be the representative of the member business that he represented upon election. The Branch lodged a notification of change in December 2025 advising that Mr Clark had ceased to hold one of his Division Councillor offices and providing the name of another person who was said to have replaced him in that office. It is presently unclear how his replacement was chosen.

Whether insufficient nominations and casual vacancy elections should be conducted together or separately

[7] I acknowledge the Branch’s request, accompanying the prescribed information, seeking that the insufficient nominations and casual vacancy elections be held separately. The request was made by the Branch on the stated grounds that conducting two separate elections would minimise confusion among members regarding nomination eligibility for the relevant positions, and to ensure clarity and compliance with the Branch rules.

[8] I have, however, determined that there is nothing in the Branch rules that would prevent the AEC from conducting a single election to fill all vacant positions.

[9] The eligibility to nominate as a Branch Councillor is set out in rule 15 of the Branch rules.¹ To the extent that other rules might be read as implying a different, and more stringent, set of requirements to nominate for office, the eligibility as defined in rule 15 should prevail.

[10] It would appear perverse and, in my view, contrary to the objects of the *Fair Work (Registered Organisations) Act 2009* (the **RO Act**) for the eligibility requirements to nominate for a casual vacancy or an insufficient nominations vacancy to be more limited than to nominate in a scheduled election for a new term of office. I note that rule 19 provides that the Branch may, in particular circumstances, fill a causal vacancy by appointment. However, in the case of the present vacancies, those circumstances have not yet been met (because it is too early in the term) and because the Branch has requested that they be filled by election.

¹ Rulebook R2025/186, certified 8 December 2025, <https://www.fwc.gov.au/documents/organisations/registered-orgs/rb-024nvc-r2025-186-effect-2025-12-08.pdf>.

[11] In relation to insufficient nominations vacancies the position is different, but an election is also required. It is a well-established principle that vacancies due to insufficient nominations can only be filled via an election.

[12] I note that the wording of rule 19A of the Branch rules might suggest a different process and different eligibility requirements. However, as indicated above, the provisions of the RO Act and rules 13 and 15 of the Branch rules should prevail. To the extent that rule 19A purports to allow the filling of an insufficient nominations vacancy other than via an election with the same criteria as in a scheduled election, I find that it is inoperative.

[13] The Branch also suggested that its rules did not contain a process for the remedying of defective nominations, in the event that the Returning Officer received any such nominations. However, it is apparent that Branch rule 15A outlines a process for these to be rectified and for the defect to be remedied where it is practicable to do so.

Conclusion

[14] I have concluded that the insufficient nominations and casual vacancy elections should be run concurrently, also having regard to the AEC's finite resources.

[15] I am satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation and, under subsection 189(3) of the RO Act, I am making arrangements for the conduct of the election by the AEC.

[16] The assessment of this matter has given rise to a number of questions regarding the Branch rules and how they are applied/sought to be applied in practice. The Commission will therefore be engaging further with the Branch regarding these matters with a view to rectifying them and to ensure clarity and consistency in the wording and application of the rules ahead of the next scheduled election.



DELEGATE OF THE GENERAL MANAGER

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AUSTRALIAN HOTELS ASSOCIATION (VICTORIA)

ABN 79 948 978 376

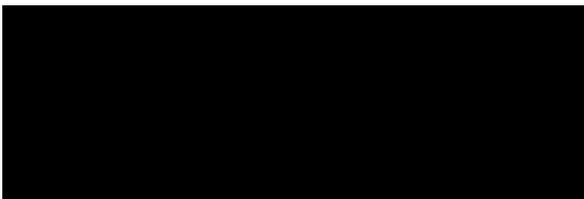
PRESCRIBED INFORMATION FOR ELECTIONS in accordance with Section 189 Fair Work (Registered Organisations) Act 2009 and Regulation 138 Fair Work (Registered Organisations) Regulations 2009

I, David Canny, being the President of the Victorian Branch of the Australian Hotels Association, make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Victorian Branch of the Australian Hotels Association
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. No rule alterations are pending that will impact the election.

It is requested that Fair Work Commission approve arrangements for the Australian Electoral Commission (AEC) to conduct elections for the name and numbers of each office or position as detailed in Annexure A.

Signed:



Dated:

13/02/2026

Annexure A

- Elections that are required:

Branch	Name of Office	Number required	Voting System	Reason for Election	Electorate
Victorian	Accommodation Division – Councillor	6	Direct Voting System	Insufficient nominations	AHA (Vic) Rule 19A
Victorian	Eastern Victoria – Councillor	4	Direct Voting System	Insufficient nominations	AHA (Vic) Rule 19A
Victorian	North-Eastern Metropolitan – Councillor	3	Direct Voting System	Insufficient nominations	AHA (Vic) Rule 19A
Victorian	Northern Victoria – Councillor	7	Direct Voting System	Insufficient nominations	AHA (Vic) Rule 19A
Victorian	South-Eastern Metropolitan – Councillor	5	Direct Voting System	Insufficient nominations	AHA (Vic) Rule 19A
Victorian	Southern Metropolitan – Councillor	1	Direct Voting System	Insufficient nominations	AHA (Vic) Rule 19A
Victorian	Western Metropolitan – Councillor	4	Direct Voting System	Insufficient nominations	AHA (Vic) Rule 19A
Victorian	Western Victoria – Councillor	3	Direct Voting System	Insufficient nominations	AHA (Vic) Rule 19A

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	To be determined by the returning officer.	To be determined by the returning officer.
Nominations CLOSE	To be determined by the returning officer.	To be determined by the returning officer.
Roll of Voters cut off date	To be determined by the returning officer.	To be determined by the returning officer.

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

I, David Canny, being the President of the Victorian Branch of the Australian Hotels Association make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Victorian Branch of the Australian Hotels Association.
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. No rule alterations are pending that will impact the election.

It is requested that Fair Work Commission approve arrangements for the Australian Electoral Commission (AEC) to conduct elections for the name and numbers of each office or position as detailed in Annexure A.

Signed:



Dated: 13/02/2026

Annexure A

- Elections that are required:

Branch	Name of Office	Number required	Voting System Direct voting system; Collegiate electoral system	Reason for Election Scheduled; Casual vacancy; New office created; Insufficient nominations	Electorate
Victoria	Western Victoria - Councillor	1	Direct Voting System	Casual vacancy	AHA (Vic) Rule 19
Victoria	Southern Metropolitan - Councillor	1	Direct Voting System	Casual vacancy	AHA (Vic) Rule 19

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN		To be determined by the returning officer.
Nominations CLOSE		To be determined by the returning officer.
Roll of Voters cut off date		To be determined by the returning officer.