

1 October 2021

Post-election report

**Motor Trader's Association of New
South Wales
Scheduled election- Stage 1 and 2
E2020/215**

Contents

Election(s) Covered in this Report	3
Rules.....	3
Roll of Voters	Error! Bookmark not defined.
Irregularities.....	Error! Bookmark not defined.
Other Matters	3
Signed	4
Attachments	5
A. Declaration of results for Uncontested Offices– Stage 1	5
B. Declaration of Results for Contested Offices – Stage 1	5
C. Declaration of results for Contestede and Uncontested Offices – Stage 2	5

Election(s) Covered in this Report

Organisation: Motor Traders' Association of New South Wales

Election: Scheduled: Stage 1 & 2

Election Decision No/s: E2020/215

Rules

Rules used for the election: [066N: Incorporates alterations of 22 December 2014 in matter number D2014/64]

Rules difficult to apply/interpret:

1. Rule 38 (5) and 39 (6) state that the candidate has the right to withdraw his candidature at any time before the returning officer finalises the ballot paper where a ballot for the respective position is required or before the declaration of the election if a ballot is not required. This rule is difficult to apply because:
 - If there are no more nominations than positions and a ballot is not required, then it is unclear when or whether candidates can withdraw their nomination;
 - the date of finalisation of the ballot paper is not known when the notice of nominations is sent and therefore candidates do not have certainty about the timeline for withdrawal

This rule is difficult to apply as late notice of withdrawal may prevent the Returning Officer from opening the ballot on time. It is recommended that the Association specify a period for withdrawal, for example, 7 days after close of nominations.

Model Rule reference (if any): Rule no.23 Withdrawal of Nominations

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

Other Matters

Returning Officer actions required (Section 193): Yes

Details:

The matters in which I have exercised the authority given to me by s.193 of the Act are:

1. Rule 38 (5) and 39 (6) state that the candidate has the right to withdraw his candidature at any time before the returning officer finalises the ballot paper where a ballot for the respective position is required or before the declaration of the election if a ballot is not required. This rule is difficult to apply because:
 - If there are no more nominations than positions and a ballot is not required, then it is unclear when or whether candidates can withdraw their nomination;
 - the date of finalisation of the ballot paper is not known when the notice of nominations is sent and therefore candidates do not have certainty about the timeline for withdrawal

The Returning Officer applied subparagraph 193(1) (b)(ii) of the Fair Work (Registered Organisation) Act 2009 to fix a closing time for the withdrawal of the nomination. The withdrawal period was fixed within two weeks from the date of the close of the nomination period.

2.Rule 38 16 (d) states that “each candidate will be requested to, but is not required to, lodge within seven days, of the notice of ballot, a written statement signed by him not exceeding 200 words in length setting out such information in relation to his candidature as he may consider relevant.”

This rule is difficult to apply because it relies on a “notice of ballot” which is not provided for elsewhere in the rule. The Returning Officer applied subparagraph 193(1) (b)(ii) of the Fair Work (Registered Organisation) Act 2009 to fix a closing time for the submission of the candidate statement and the prospective candidates were advised to submit the statements within one week from the date of the close of the nomination period.

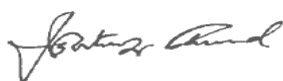
3.Rule 39.12 states that candidates be notified of defective nominations by telegram. This communication method is not in practice. The Returning Officer applied subparagraph 193(1) (b)(ii) of the Fair Work (Registered Organisation) Act 2009 to remedy this and notifications of the defective nominations were decided to be sent by email.

4.Rules regarding the timetable of the election were set aside as the AEC held concerns that the coronavirus pandemic may impact on the ability for stakeholders to fully participate in the election. A timetable for the conduct of the ballot which varied from the rules was set when the AEC was satisfied that stakeholders would be able to fully participate.

5.Rules specifying the method of lodgement of nominations were set aside as the AEC held concerns that the coronavirus pandemic would impact on the ability for potential candidates to nominate. Instead, nominations were received electronically, via email/the AEC’s portal.

6.Rule 39(8) of the Organisation states that the notice of the election inviting the nomination is to be delivered by hand or post. The Covid-19 issue has affected the capacity of Australia post to deliver letters in time. It also has restricted the delivery of the notice by hand due to health concern. To fix this issue, the Returning Officer applied Section 193(1) (b) of the Fair Work (Registered Organisation) Act 2009 and sent the election notice by email to relevant electorate.

Signed



Ishtiaq Ahmed
Returning Officer
Australian Electoral Commission
E: IEBevents@aec.gov.au
P: 02 9375 6331
1 October 2021

Attachments

- A. Declaration of results for Uncontested Offices – Stage 1
- B. Declaration of Results for Contested Offices – Stage 1
- C. Declaration of results for Contested and Uncontested Offices – Stage 2

Motor Traders' Association of New South Wales

DECLARATION OF RESULTS - E2020/215 - Stage 2

Contested and 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:

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	32
Number of voters issued with voting material	32
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	32
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	29
Number of declaration envelopes rejected at preliminary scrutiny (minus)	0
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	29
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	0
Voting material packs not returned by voters by closing date of the ballot	0
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	90.62 %

President (1)

<u>Candidates</u>	<u>Final Votes</u>
YOUNG, John	18
GARLAND, Robert	11

Total ballot papers admitted for this office	29
Formal Ballot papers	29
Informal Ballot papers	0

I declare the following elected:

- YOUNG, John

Country Vice- President (4)

<u>Candidates</u>	<u>Final Votes</u>
LOWE, Geoffrey	28
GARLAND, Robert	12
VAN RYSWYK, Mark	29
VIDLER, Lindsay	29
BEARD, Mark Victor	18

Total ballot papers admitted for this office	29
Formal Ballot papers	29
Informal Ballot papers	0

I declare the following elected:	Order Elected
• VAN RYSWYK, Mark	1
• VIDLER, Lindsay	2
• LOWE, Geoffrey	3
• BEARD, Mark Victor	4

Honorary Treasurer (1)

<u>Candidates</u>	<u>Final Votes</u>
AXIAK, Donna	19
REID, Amanda	10

Total ballot papers admitted for this office	29
Formal Ballot papers	29
Informal Ballot papers	0

I declare the following elected:
• AXIAK, Donna

Metropolitan Vice- President (4)

Candidates
KEATS David
MARSTON David
SPINKS Darren John

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

Ishtiaq Ahmed
Returning Officer
Telephone: 02 9375 6331
Email: IEBevents@aec.gov.au
03/09/2021

Motor Traders' Association of New South Wales

DECLARATION OF RESULTS - E2020/215 - Stage 1

Contested 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:

Trade Division Automotive Electrical Specialists Division

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	81
Number of voters issued with voting material	81
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	81
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	11
Number of declaration envelopes rejected at preliminary scrutiny (minus)	2
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	9
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	0
Voting material packs not returned by voters by closing date of the ballot	70
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	14 %

Councillor (1)

Candidates

SPINKS, Darren
BROWN, Trevor

Final Votes

6
3

Total ballot papers admitted for this office

Formal Ballot papers
Informal Ballot papers

9
9
0

I declare the following elected:

- SPINKS, Darren

Trade Division Automotive Mechanical Repair Division

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	971
Number of voters issued with voting material	971
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	971
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	84
Number of declaration envelopes rejected at preliminary scrutiny (minus)	10
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	74
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	4
Voting material packs not returned by voters by closing date of the ballot	883
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	9 %

Councillor (6)

<u>Candidates</u>	<u>Final Votes</u>
VIDLER, Lindsay	22
LENEHAN, Patrick	41
BOADEN, Michael	34
FLANAGAN, Peter	39
KITCHENER, Matthew	26
LEE, Scott Timothy	21
YOUNG, John	56
NIKITARAS, Tony	15
MARSTON, David	44
AXIAK, Donna	55
BEEKMAN, Ray	25

Total ballot papers admitted for this office	74
Formal Ballot papers	63
Informal Ballot papers	11

I declare the following elected:	Order Elected
• YOUNG, John	1
• AXIAK, Donna	2
• MARSTON, David	3
• LENEHAN, Patrick	4
• FLANAGAN, Peter	5
• BOADEN, Michael	6

Trade Division Body Repair Division

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	258
Number of voters issued with voting material	258
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	258
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	35
Number of declaration envelopes rejected at preliminary scrutiny (minus)	2
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	33
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	3
Voting material packs not returned by voters by closing date of the ballot	220
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	14 %

Councillor (2)

<u>Candidates</u>	<u>Final Votes</u>
COWAN, Brian	25
CORCORAN, Grant	19
CONSALVI, Mauro (Mick)	20

Total ballot papers admitted for this office	33
Formal Ballot papers	32
Informal Ballot papers	1

I declare the following elected:	Order Elected
• COWAN, Brian	1
• CONSALVI, Mauro (Mick)	2

Trade Division Brake Repair Specialist Division

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	22
Number of voters issued with voting material	22
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	22
VOTING MATERIAL RETURNED	

Total number of envelopes returned for scrutiny by closing date of ballot (b)	10
Number of declaration envelopes rejected at preliminary scrutiny (minus)	1
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	9
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	0
Voting material packs not returned by voters by closing date of the ballot	12
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	45 %

Councillor (1)

<u>Candidates</u>	<u>Final Votes</u>
KEATS, David	7
COOMBES, Cathy	2

Total ballot papers admitted for this office	9
Formal Ballot papers	9
Informal Ballot papers	0

I declare the following elected:

- KEATS, David

Trade Division Farm Machinery Dealers Association Division

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	91
Number of voters issued with voting material	91
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	91
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	21
Number of declaration envelopes rejected at preliminary scrutiny (minus)	1
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	20
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	0
Voting material packs not returned by voters by closing date of the ballot	70
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	23 %

Councillor (1)

<u>Candidates</u>	<u>Final Votes</u>
MASSINA, Alexander (Sandy)	10
ARTHUR, Ron	10

Total ballot papers admitted for this office	20
Formal Ballot papers	20
Informal Ballot papers	0

I declare the following elected:

- ARTHUR, Ron

[Note: As the candidates have received equal number of votes, according to the Rule 38(34) of the Organisation, the candidate elected was determined by lot.]

Trade Division General Trades Division

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	57
Number of voters issued with voting material	57
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	57
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	4
Number of declaration envelopes rejected at preliminary scrutiny (minus)	1
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	3
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	1
Voting material packs not returned by voters by closing date of the ballot	52
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	7 %

Councillor (1)

<u>Candidates</u>	<u>Final Votes</u>
CARLSON, Adrian Peter	1
TALBOTT, Robt W	2

Total ballot papers admitted for this office	3
Formal Ballot papers	3
Informal Ballot papers	0

I declare the following elected:

- TALBOTT, Robt W

Trade Division Motor Cycle Industry Association of NSW Division

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	67
Number of voters issued with voting material	67
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	67
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	12
Number of declaration envelopes rejected at preliminary scrutiny (minus)	0
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	12
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	0
Voting material packs not returned by voters by closing date of the ballot	55
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	18 %

Councillor (1)

<u>Candidates</u>	<u>Final Votes</u>
BEATON, Ashley	9
THOMAS, Colin	3

Total ballot papers admitted for this office	12
Formal Ballot papers	12
Informal Ballot papers	0

I declare the following elected:

- BEATON, Ashley

Trade Division Parts and Accessories Division

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	57
Number of voters issued with voting material	57
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	57
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	14
Number of declaration envelopes rejected at preliminary scrutiny (minus)	2

Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	12
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	1
Voting material packs not returned by voters by closing date of the ballot	42
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	25 %

Councillor (1)

<u>Candidates</u>	<u>Final Votes</u>
KEATS, Trent	3
REID, Amanda	9

Total ballot papers admitted for this office	12
Formal Ballot papers	12
Informal Ballot papers	0

I declare the following elected:

- REID, Amanda

District Division Clarence/Coffs Harbour District Division

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	69
Number of voters issued with voting material	69
Total number of voters issued with replacement voting material	1
Total number of voting material packs issued	70
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	18
Number of declaration envelopes rejected at preliminary scrutiny (minus)	1
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	17
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	0
Voting material packs not returned by voters by closing date of the ballot	52
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	26 %

Councillor (1)

<u>Candidates</u>	<u>Final Votes</u>
COOMBES, Cathy	10
BEARD, Mark	6

Total ballot papers admitted for this office **17**

Formal Ballot papers 16

Informal Ballot papers 1

I declare the following elected:

- COOMBES, Cathy

District Division Kempsey/Manning/Port Macquarie District Division

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	87
Number of voters issued with voting material	87
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	87
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	16
Number of declaration envelopes rejected at preliminary scrutiny (minus)	1
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	15
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	1
Voting material packs not returned by voters by closing date of the ballot	70
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	18 %

Councillor (1)

<u>Candidates</u>	<u>Final Votes</u>
BOADEN, Michael	4
GARLAND, Robert	1
REID, Amanda	4
BROWN, Trevor James	5

Total ballot papers admitted for this office **15**

Formal Ballot papers 14

Informal Ballot papers 1

I declare the following elected:

- BROWN, Trevor

District Division Metropolitan District Division

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	1,042
Number of voters issued with voting material	1,042
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	1,042
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	84
Number of declaration envelopes rejected at preliminary scrutiny (minus)	12
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	72
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	8
Voting material packs not returned by voters by closing date of the ballot	950
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	8 %

Councillor (7)

<u>Candidates</u>	<u>Final Votes</u>
BEEKMAN, Ray	40
KEATS, Trent	45
COWAN, Brian	62
MARSTON, David	63
KEATS, David	53
SPINKS, Darren	43
YOUNG, John	54
CARLSON, Adrian Peter	45
NIKITARAS, Tony	32
AXIAK, Donna	54

Total ballot papers admitted for this office **72**

Formal Ballot papers 70

Informal Ballot papers 2

I declare the following elected:	Order Elected
• MARSTON, David	1
• COWAN, Brian	2
• AXIAK, Donna	3
• YOUNG, John	4
• KEATS, David	5
• CARLSON, Adrian Peter	6
• KEATS, Trent	7

District Division Shoalhaven District Division

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	45
Number of voters issued with voting material	45
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	45
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	10
Number of declaration envelopes rejected at preliminary scrutiny (minus)	2
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	8
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	1
Voting material packs not returned by voters by closing date of the ballot	34
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	22 %

Councillor (1)

<u>Candidates</u>	<u>Final Votes</u>
ARTHUR, Ron	5
FLANAGAN, Peter	3

Total ballot papers admitted for this office	8
Formal Ballot papers	8
Informal Ballot papers	0

I declare the following elected:

- ARTHUR, Ron

Ishtiaq Ahmed
Returning Officer
Telephone: 02 9375 6331
Email: IEBevents@aec.gov.au
26/05/2021

Motor Traders' Association of New South Wales

DECLARATION OF RESULTS - E2020/215 - 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:

Trade Division - Australian Automobile Dealers Association Metropolitan Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Australian Automobile Dealers Association North and North West Division

Councillor (1)

Candidates

VAN RYSWYK Mark

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Australian Automobile Dealers Association South and South West Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Australian Heavy Vehicle Repairers Association

Councillor (1)

Candidates

NATHAN Richard

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Auto Dismantlers Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Automotive and Marine Trimmers Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Automotive Electrical Specialists Division

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Automotive Mechanical Repair Division

Alternate Councillor (6)

Candidates

No Nominations Received

Trade Division - Automotive Transmission and Rebuilders Division

Councillor (1)

Candidates

MANNING Wayne

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Body Repair Division

Alternate Councillor (2)

Candidates

No Nominations Received

Trade Division - Brake Repair Specialist Division

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Caravan Industry Division

Councillor (1)

Candidates

HOULIHAN Michael

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Commercial Vehicle Industry Association of NSW Division

Councillor (1)

Candidates

GARLAND Robert

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Engine Reconditioners Association of NSW Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Exhaust System Specialist Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Farm Machinery Dealers Association Division

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - General Trades Division

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Hire Car and Chauffeur Driven Limousines Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Licensed Used Car Dealers Division

Councillor (1)

Candidates

FOLLETT James

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Motor Cycle Industry Association of NSW Division

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Motor Vehicle Assessor and Inspector Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Parts and Accessories Division

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Radiator Repair Specialist Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Rental Vehicle Division

Councillor (1)

Candidates

No Nominations Accepted

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Rustproofing Specialists Division

Councillor (1)

Candidates

SANDFORD Michael

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Service Station Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Steering and Suspension Specialists Division

Councillor (1)

Candidates

LOWE Geoffrey

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Tow-Truck Operators Division

Councillor (1)

Candidates

HESELTINE Rodney

Alternate Councillor (1)

Candidates

No Nominations Received

Trade Division - Tyre Dealers and Retreaders Association of NSW Division

Councillor (2)

Candidates

BEARD Mark

Alternate Councillor (2)

Candidates

No Nominations Received

District Division - Australian Capital Territory Division

Councillor (1)

Candidates

BUTT Gordon

Alternate Councillor (1)

Candidates

No Nominations Received

District Division - Central Coast District Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

District Division - Central West District Division

Councillor (2)

Candidates

No Nominations Received

Alternate Councillor (2)

Candidates

No Nominations Received

District Division - Clarence/Coffs Harbour District Division

Alternate Councillor (1)

Candidates

No Nominations Received

District Division - Gwydir/North West District Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

District Division - Illawarra District Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

District Division - Kempsey/Manning/Port Macquarie District Division

Alternate Councillor (1)

Candidates

No Nominations Received

District Division - Metropolitan District Division

Alternate Councillor (7)

Candidates

No Nominations Received

District Division - Newcastle and Hunter District Division

Councillor (2)

Candidates

MAMIC Gary

Alternate Councillor (2)

Candidates

No Nominations Received

District Division - North and New England District Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

District Division - Richmond and Tweed District Division

Councillor (2)

Candidates

No Nominations Received

Alternate Councillor (2)

Candidates

No Nominations Received

District Division - Shoalhaven District Division

Alternate Councillor (1)

Candidates

No Nominations Received

District Division - South Coast District Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

District Division - South District Division

Councillor (1)

Candidates

LEE Scott Timothy

Alternate Councillor (1)

Candidates

No Nominations Received

District Division - South West District Division

Councillor (2)

Candidates

LOWE Geoffrey

VIDLER Lindsay

Alternate Councillor (2)

Candidates

No Nominations Received

District Division - West District Division

Councillor (1)

Candidates

No Nominations Received

Alternate Councillor (1)

Candidates

No Nominations Received

Secretary (1)

Candidates

BARGWANNA John

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

Ishtiaq Ahmed
Returning Officer
Telephone: 02 9375 6331
Email: IEBevents@aec.gov.au
26/05/2021



DECISION

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

Motor Traders' Association of New South Wales (E2020/215)

MR STEENSON

SYDNEY, 22 DECEMBER 2020

Arrangement for conduct of election.

[1] On 3 December 2020 the Motor Traders' Association of New South Wales (the organisation) lodged with the Registered Organisations Commission (the Commission) prescribed information for an election to fill the offices set out in **Attachment A**.

[2] I note that the numbers to be elected to offices of the Governing Council (specifically, Councillors and Alternative Councillors) have not been included in the prescribed information. This is due to sub rule 29(2)(a) of the organisation's rules (the rules) which is replicated below:

Each Trade or District Division of the Association, the membership of which is one hundred or less ***at the nomination opening time of an election of Councillors*** shall elect one Councillor (and one alternate Councillor), each Trade or District Division which has membership exceeding one hundred but not exceeding five hundred ***at nomination opening time*** shall elect two Councillors (and one alternate Councillor for each Councillor), in each Trade or District Division which has membership exceeding five hundred but not exceeding eight hundred ***at nomination opening time*** shall elect three Councillors (and one alternate Councillor for each Councillor), in each Trade or District Division which has membership exceeding eight hundred but not exceeding one thousand ***at nomination opening time*** shall elect six Councillors (and one alternate Councillor for each Councillor), in each Trade or District Division which has membership exceeding one thousand but not exceeding one thousand five hundred ***at nomination opening time*** shall elect seven Councillors (and one alternate Councillor for each Councillor), in each Trade or District Division which has membership exceeding one thousand five hundred but not exceeding two thousand ***at nomination opening time*** shall elect eight Councillors (and one alternate Councillor for each Councillor), in each Trade or District Division which has membership exceeding two thousand ***at nomination opening time*** shall elect nine Councillors (and one alternate Councillor for each Councillor).

[emphasis added].

[3] Sub rule 29(2)(a) operates such that numbers of particular office holders to be elected (namely Councillors and Alternative Councillors) must be ascertained on the same date as the opening of nominations. It is my understanding that it is the usual practice of the organisation to provide those numbers directly to the Australian Electoral Commission (AEC).

[4] Sub rule 29(2)(a) is unusual in that in most elections for office in registered organisations, the number of offices to be elected would be clear at the time prescribed information is lodged. However, the operation of sub rule 29(2)(a) is such that it creates

difficulties for both the Commission and the AEC. For the Commission, it means that the Commissioner or his Delegate is unable to identify, at this stage or at any time prior to the opening of nominations, the specific number of Councillors and Alternate Councillors required to be elected from each Division. It also leaves the AEC in the position where, based on the rules of the organisation, the number of offices to be listed on the notice calling for nominations cannot be finalised before the day that it is required to go out.

[5] This omission is concerning and, in my view, exposes a deficiency of the rules. It is my strong recommendation, therefore, that the organisation seek to remedy its rules to enable the identification of numbers of all offices in a timely manner *before* the opening of nominations. This will in turn ensure any future election decisions (or later amendments thereto) accurately identify the number of all offices to be elected under the rules.

[6] As part of the lodgement of prescribed information, the organisation informed the Commission that it had already lodged proposed rule alterations with the Fair Work Commission (FWC) and that the rule changes apparently did not affect the forthcoming 2021 election. On 16 December 2020, at the request of the Commission, the organisation provided a copy of the rule alterations lodged with the FWC.

[7] It is apparent on the face of the proposed rule alterations that they deal with a range of amendments – some being minor ‘stylistic’ changes; others involving changes to election rules identified in the AEC post-election report for the previous election (E2018/235) as requiring attention. I note that while these amendments neither create nor abolish offices, nor change the timing of the opening of nominations, they do in fact have the potential to affect the conduct of the election.

[8] Section 189(3) requires that if the Commissioner (or his Delegate) is satisfied that an election is required to be held under the rules of the organisation or branch, he must arrange for the conduct of the election by the AEC.

[9] Notwithstanding that I am unable to determine the precise number of officers to be elected from each Division (for the reasons outlined above), I am nevertheless satisfied that an election for offices outlined in **Attachment A** 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.

[10] In the event that the proposed rule alterations are certified by the FWC before the opening of nominations and affect the conduct of this election in any way, it is open to the Commissioner or his Delegate to issue an amending decision.



DELEGATE OF THE COMMISSIONER

Printed by authority of the Commonwealth Government Printer

PR351801

ATTACHMENT A

Executive Board

President	(1)
Metropolitan Vice-Presidents	(4)
Country Vice-Presidents	(4)
Honorary Treasurer	(1)
Secretary	(1)

Governing Council

Councillors (to be elected from the following Divisions; numbers to be determined in accordance with the rules).

Trade Divisions

Australian Automobile Dealers Association Metropolitan Division
Australian Automobile Dealers Association North and North West Division
Australian Automobile Dealers Association South and South West Division
Australian Heavy Vehicle Repairers Association
Auto Dismantlers Division
Automotive and Marine Trimmers Division
Automotive Electrical Specialists Division
Automotive Mechanical Repair Division
Automotive Transmission and Rebuilders Division
Body Repair Division
Brake Repair Specialist Division
Caravan Industry Division
Commercial Vehicle Industry Association of NSW Division
Engine Reconditioners Association of NSW Division
Exhaust System Specialist Division
Farm Machinery Dealers Association Division
General Trades Division
Hire Car and Chauffeur Driven Limousines Division
Licensed Used Car Dealers Division
Motor Bus Division
Motor Cycle Industry Association of NSW Division
Motor Vehicle Assessor and Inspector Division
Parts and Accessories Division
Radiator Repair Specialist Division
Rental Vehicle Division
Rustproofing Specialists Division
Service Station Division
Steering and Suspension Specialists Division
Tow-Truck Operators Division
Tyre Dealers and Retreaders Association of NSW Division

District Divisions

Australian Capital Territory Division
Central Coast District Division
Central West District Division
Clarence/Coffs Harbour District Division
Gwydir/North West District Division
Illawarra District Division
Kempsey/Manning/Port Macquarie District Division
Metropolitan District Division
Newcastle and Hunter District Division
North and New England District Division
Richmond and Tweed District Division
Shoalhaven District Division
South Coast District Division
South District Divisions
South West District Division
West District Division

Alternate Councillors (to be elected from the following Divisions; numbers to be determined in accordance with the rules).

Trade Divisions

Australian Automobile Dealers Association Metropolitan Division
Australian Automobile Dealers Association North and North West Division
Australian Automobile Dealers Association South and South West Division
Australian Heavy Vehicle Repairers Association
Auto Dismantlers Division
Automotive and Marine Trimmers Division
Automotive Electrical Specialists Division
Automotive Mechanical Repair Division
Automotive Transmission and Rebuilders Division
Body Repair Division
Brake Repair Specialist Division
Caravan Industry Division
Commercial Vehicle Industry Association of NSW Division
Engine Reconditioners Association of NSW Division
Exhaust System Specialist Division
Farm Machinery Dealers Association Division
General Trades Division
Hire Car and Chauffeur Driven Limousines Division
Licensed Used Car Dealers Division
Motor Bus Division
Motor Cycle Industry Association of NSW Division
Motor Vehicle Assessor and Inspector Division

Parts and Accessories Division
Radiator Repair Specialist Division
Rental Vehicle Division
Rustproofing Specialists Division
Service Station Division
Steering and Suspension Specialists Division
Tow-Truck Operators Division
Tyre Dealers and Retreaders Association of NSW Division

District Divisions

Australian Capital Territory Division
Central Coast District Division
Central West District Division
Clarence/Coffs Harbour District Division
Gwydir/North West District Division
Illawarra District Division
Kempsey/Manning/Port Macquarie District Division
Metropolitan District Division
Newcastle and Hunter District Division
North and New England District Division
Richmond and Tweed District Division
Shoalhaven District Division
South Coast District Division
South District Divisions
South West District Division
West District Division



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 Keats, being the President of the **Motor Traders' Association of New South Wales** make the following statement:

1. I am the President of the **Motor Traders' Association of New South Wales**. I am authorised to sign this statement containing prescribed information concerning the forthcoming elections of the Motor traders' Association of New South Wales.
2. I confirm that the following information is being lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009 (the RO Act).
3. The terms of the below mentioned offices of the organisation are scheduled to expire in the normal course of event under the Rules of the organisation.

The following information for the election is provided:

a) The offices are:

- (i) Division Councillors [numbers to be determined in accordance with the rules] - **Rule 29**;
- (ii) Division Alternate Councillors [numbers to be determined in accordance with the rules] - **Rule 29**;
- (iii) Office Bearers [ten (10) offices in total: One (1) President, Four (4) Metropolitan Vice Presidents, Four (4) Country Vice Presidents and One (1) Honorary Treasurer] - **Rule 30**;
- (iv) Secretary [one (1)] - **Rule 36**

b) The election is necessary as the existing term of office is due to expire at the next annual general meeting of the Association due to be held within 6 months of the end of the Association's financial year being 31 December, 2020. It is anticipated at this time that the Annual General Meeting of the Association will be held at the end of June, 2021 as it was the previous year.

c) The Association's Rules set out the election process for the positions as follows:

- Councillors, Alternate Councillors and Secretary are elected from members of each respective Division of the Association as set out in **Rule 38**.
- Executive Board members are elected from Councillors elect as set out in **Rule 39**.

Rule 29(2)(a) establishes the timing of the assessment of the number of Councillors and Alternate Councillors to be elected for each Division which is determined at the nomination opening time. Hence when nomination opening time is declared MTA will be able to provide details of the numbers of members in each Division which in turn will determine numbers of Councillor and Alternate Councillor vacancies.

Rule 11 sets out the Trade and District Divisions of the Association to which the election will apply.

Councillors [and Alternate Councillors] to be elected from the following Trade Divisions [numbers to be determined in accordance with the rules]:

Trade Divisions:

- (i) Australian Automobile Dealers Association Metropolitan Division;
- (ii) Australian Automobile Dealers Association North and North West Division;
- (iii) Australian Automobile Dealers Association South and South West Division;
- (iv) Australian Heavy Vehicle Repairers Association;
- (v) Auto Dismantlers Division;
- (vi) Automotive and Marine Trimmers Division;

- (vii) Automotive Electrical Specialists Division;
- (viii) Automotive Mechanical Repair Division;
- (ix) Automotive Transmission and Rebuilders Division;
- (x) Body Repair Division;
- (xi) Brake Repair Specialist Division;
- (xii) Caravan Industry Division;
- (xiii) Commercial Vehicle Industry Association of NSW Division;
- (xiv) Engine Reconditioners Association of NSW Division;
- (xv) Exhaust System Specialist Division;
- (xvi) Farm Machinery Dealers Association Division;
- (xvii) General Trades Division;
- (xviii) Hire Car and Chauffeur Driven Limousines Division;
- (xix) Licensed Used Car Dealers Division;
- (xx) Motor Bus Division;
- (xxi) Motor Cycle Industry Association of NSW Division;
- (xxii) Motor Vehicle Assessor and Inspector Division;
- (xxiii) Parts and Accessories Division;
- (xxiv) Radiator Repair Specialists Division;
- (xxv) Rental Vehicle Division;
- (xxvi) Rustproofing Specialists Division;
- (xxvii) Service Station Division;
- (xxviii) Steering and Suspension Specialists Division;
- (xxix) Tow-Truck Operators Division;
- (xxx) Tyre Dealers and Retreaders Association of NSW Division;

District Divisions:

- (i) Australian Capital Territory Division;
- (ii) Central Coast District Division;
- (iii) Central West District Division;
- (iv) Clarence/Coffs Harbour District Division;
- (v) Gwydir/North West District Division;
- (vi) Illawarra District Division;
- (vii) Kempsey/Manning/Port Macquarie District Division;
- (viii) Metropolitan District Division;
- (ix) Newcastle and Hunter District Division;
- (x) North and New England District Division;
- (xi) Richmond and Tweed District Division;
- (xii) Shoalhaven District Division;
- (xiii) South Coast District Division;
- (xiv) South District Division;
- (xv) South West District Division;
- (xvi) West District Division.

The Executive Board offices as set out in **Rule 33(1)** are as follows:

- One President,
- Four Metropolitan Vice Presidents,
- Four Country Vice Presidents,
- One Honorary Treasurer.

The Executive Board is elected from the Councillors elect as set out in **Rule 39**.

d) **Rule 38(7)** provides that the roll of voters is to close seven (7) days before the date of commencement of the period for lodging nominations. Although there is no particular date or time set in the Rules of the Association for the commencement or close of a period for the receipt of nominations, MTA historically has opened the electoral process by printing a nomination form for the positions of Councillors and Alternate Councillors in the MTA Journal [see **Rules 38(8) and 38(9)**].

e) The voting system:

- The Councillors, Alternate Councillors and Secretary is the first stage of a collegiate voting system;
- The Executive Board is the second stage of a collegiate voting system.

4. This statement **IS** lodged at least 2 months before nominations open for the election below.

Signed:

A handwritten signature in black ink, appearing to be 'L. S. A.', written over a light blue rectangular background.

PRESIDENT

Dated: 3 December 2020