

REGISTERED ORGANISATIONS COMMISSION

Fair Work (Registered Organisations) Act 2009

ss 197 and 198 – Post Election Reports

NATIONAL UNION OF WORKERS

E2018/189 and E2018/196

DECLARATION

I, Timothy John Kennedy, General Secretary of the National Union of Workers (**the Union**) declare as follows:

1. I am authorised under the Rules of the Union to make this declaration.
2. This declaration is made in accordance with section 198(6)(i) of the *Fair Work (Registered Organisations) Act 2009*.
3. On or about 18 January 2019, the Union published the post-election reports (**the reports**) received by the Australian Electoral Commission (**AEC**) for elections E2018/189 and E2018/196 on the Union's website – www.nuw.org.au/your-union.
4. At the same time, the Union published its written response to the AEC on the Union's website - www.nuw.org.au/your-union.
5. The notice accompanying the posting of the reports and the written response states:

“The Australian Electoral Commission recently concluded elections for the vacant offices of the New South Wales Branch Committee of Management. Copies of the AEC post-election reports are available for downloading [here](#) and [here](#), and the Union's response [here](#). A copy may also be obtained by completing the request appearing on the AEC website at https://www.aec.gov.au/About_AEC/AEC_Services/Industrial_Elections/report.htm”

6. At the same time, the Union forwarded copy of its written response to the Registered Organisations Commission.
7. Copies of the election reports and the written response are attached to this declaration and marked "A" and "B" respectively.
8. The Union will publish the relevant extract in the next edition of the organisations journal.
9. The Union will give notice in the next edition of the organisation's journal that the relevant extract of the report and the written response are available to members free of charge.
10. The Union will make available the relevant extract of the report as well as the written response to any member who requests them.



TIMOTHY JOHN KENNEDY
GENERAL SECRETARY
NATIONAL UNION OF WORKERS

Declared at Docklands on the 25th day of February 2019



29 January 2019

Mr Timothy Kennedy
General Secretary
National Union of Workers
reporting@nuw.org.au

Cc: New South Wales Branch, martin.cartwright@nuw.com.au

Dear Mr Kennedy

I acknowledge the receipt of your letter dated 18/01/2019 in regard to the post-election report referred to in this letter, please note that the following information is intended only as a reminder of all of the actions to be taken in regard to that report.

Organisation must respond to the post-election reports of the Australian Electoral Commission: E2018/189 and E2018/196.

On 16/01/2019 the Registered Organisations Commission (the ROC) received post election reports from the Australian Electoral Commission (AEC) for elections E2018/189 and E2018/196 dated 16/01/2019. The AEC will have also provided the report to the organisation under section 197 of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).

The report identifies rules that were difficult to interpret or apply, in particular rules 37D(f)(B-E) and 13.E.28. This letter serves as a reminder of the obligations imposed on the organisation or branch as a consequence of the AEC's report. If a response has already been sent to the AEC and made available to all members please disregard this letter.

A notice must be published on the organisation's website

The organisation or branch must publish on its website a notice that a copy of the report is available from the organisation, branch or the AEC on request. The notice must be kept on the website for a period of at least 3 months (see regs 141(4) and (5)).

A written response must be provided to the AEC

A written response must be provided to the AEC within 30 days of receipt of the report. The organisation's response must include whether the organisation or branch intends to take action and if so what action the organisation or branch intends to take (s198(2)).

Extract of report must be made available to members

The organisation or branch must make the section of the report relating to the difficult rules available to its members (s198(3)). This extract from the report must be made available to the members before or at the same time as the organisation's response is made available to members.

Written response must be made available to members

A copy of the organisation's response to the AEC must be made available to members either:

- within 30 days after the response is given to the AEC, or
- published in the next edition of the organisation or branch journal (s198(5))

Subsection 198(6) and regulation 142 prescribe ways in which the relevant extract and the copy of the response can be made available to members. These do not limit the ways in which they can be made available to members. The organisation will comply if it does all of the following:-

- publish the report extract and the copy of the response in the next edition of the organisation or branch's journal; and
- within 30 days of giving the response to the AEC:
 - lodges with the ROC a copy of the relevant extract and response, together with a declaration that a copy will be provided to any member who so requests; and
 - give notice in the next edition of the organisation or branch's journal, or an appropriate newspaper, that a copy of the relevant extract and response are available on request to each member free of charge; and
- publish the relevant extract on the website within 14 days after receiving the report, and publish the response on the website within 14 days of giving the response to the AEC (reg 142(2)).

Penalties may apply

If the organisation or branch does not:

- respond to the AEC within 30 days,
- make the extract of the report relating to the rules available to members no later than the organisation's response is made available to members, or
- make the organisation's response available to members within 30 days or in the next edition of the journal,

the organisation may face penalties under the RO Act. Each requirement listed above is a civil penalty provision that may result in fines for the organisation

As noted above, if the response and report have already been made available to members and the AEC, please disregard this letter. If you have any questions in relation to these obligations please contact the ROC for assistance by email to regorgs@roc.gov.au.

If the organisation or branch decides to alter its rules in response to the AEC's report

If the organisation or branch decides to alter its rules in response to the AEC's report, the ROC is NOT able to provide advice and assistance regarding draft alterations or the processes required to make the alterations. Rule alterations remain a function of the Fair Work Commission.

Yours faithfully

Christine Hibberd

Registered Organisations Commission



29 January 2019

Mr Timothy Kennedy
General Secretary
National Union of Workers
reporting@nuw.org.au

Dear Mr Kennedy,

cc: New South Wales Branch, martin.cartwright@nuw.com.au

Reminder of actions required when persons elected to office

The Australian Electoral Commission has provided the Registered Organisations Commission (the ROC) a declaration of results for the election of uncontested offices for NSW Branch [E2018/189] and [E2018/196]. This letter is a reminder of certain obligations imposed on organisations and on persons elected to office.

A notice must be published on the organisation's website

The organisation or branch must, as soon as practicable after receiving the post-election report, publish on its website a notice that a copy of the report is available from the organisation, branch or the AEC on request. The notice must be kept on the website for a period of at least 3 months (see regulation 141 of the Fair Work (Registered Organisations) Regulations 2009).

Holders of office required to undertake approved training

Section 293K of the *Fair Work (Registered Organisations) Act 2009* (the RO Act) requires each officer with financial management duties to undertake approved training that covers those duties within 6 months after the person begins to hold office. Please ensure that relevant officers undertake approved training within the required timeframe. Please also ensure that all new holders of office are advised of their obligations to make disclosures regarding remuneration, non-cash benefits and material personal interests, the details of which are provided for in the RO Act.

Organisation must notify the Commission of changes

Also, section 233(2) of the RO Act requires that an organisation must notify the Commission **within 35 days of any changes** to the holders of office in the organisation. **If there are no changes a notification is not required.** If the election has resulted in **any changes** to the holders of office, the National Union of Workers must notify the Commission of these changes. In particular, please advise:

1. Person(s) who have ceased to hold office:
 - the name of the office vacated;
 - the date of the change of office holder; and
 - the name of the person vacating the office.

2. Person(s) who have commenced to hold office:
 - the name of the office now held;
 - the date of the change of office holder;
 - the name of the person now holding the office;
 - the postal address of the person (generally the postal address of the organisation); and

- the occupation of the person now holding the office.

The notification must include a declaration by the Secretary (or other prescribed officer) that the information is a correct statement of the changes made. A template notification of changes, which may assist you, is attached. If any change does not apply until a date in the future, you do not need to notify until then (e.g. AGM, 1 January, 2nd Monday in March). If you have already lodged this information, please disregard this reminder.

Regards

Christine Hibberd
Registered Organisations Commission

19A-004

18 January 2019

Mr. I Ahmed
Returning Officer
Australian Electoral Commission
Industrial and Commercial Elections

By email: Ishtiaq.ahmed@aec.gov.au

Dear Mr. Ahmed,

Re: E2018/189 and E2018/196 – Post Election Reports

I refer to the above reports.

The Union notes that both reports contains observations that are not materially dissimilar to those contained in the post-election report provided in E2018/25 and which was considered by the National Committee of Management at its meeting held on 13 November 2018.

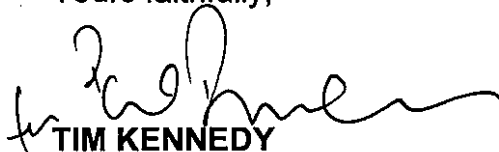
In considering that report the committee approved in principle various alterations to the organisations rules that would address the issues raised. The formal approval process for the rule alterations will occur at an appropriate time.

As such in relation to the aforementioned two reports, the Unions response is the same as previously advised in E2018/25.

As required the post-election reports along with this correspondence will be made available to members by posting on our website at www.nuw.org.au/your-union

Should you require any additional information please contact Assistant General Secretary Richardson.

Yours faithfully,


TIM KENNEDY
GENERAL SECRETARY

Cc Mr. M. Cartwright – Branch Secretary – New South Wales Branch

nuwassist

1300 275 689

nuw.org.au

FOR WORKPLACE SUPPORT

National PO Box 343, North Melbourne VIC 3051
VIC PO Box 343, North Melbourne VIC 3051
NSW 3-5 Bridge Street, Granville NSW 2142
QLD 1st Floor, 17 Cribb Street, Milton QLD 4064
SA 87-91 St Vincent Street, Port Adelaide SA 5015
WA 54 Cheriton Street, Perth WA 6000

16 January 2019

Post-election Report

National Union of Workers - NSW Branch- E2018/196



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Election(s) Covered in this Report

Election Decision No/s: E2018/196

Rules

Rules used for the election: 080V: Incorporates alterations of 3 July 2017 [R2017/98]
(replaces rulebook dated 24 May 2017 [R2017/40])

Rules difficult to apply/interpret: Rule 37D (f) (B-E) refers to the entitlement of each of the areas of eligibility as defined at 37D (f) (A) to members on the Branch Committee of Management based on membership population. It is recommended that the National Union of Workers consider amending this rule to reference 31 March in the year of the elections scheduled pursuant to rule 13 as the date by which this determination should be made.

Rule 13.E.28 is difficult to apply as once the declaration of result is completed, the AEC Returning officer puts all the ballot papers in secured boxes, seal the boxes and arrange to hold the boxes in an AEC authorised secured place.
It is recommended that this issue be resolved.

Model Rule reference: None

Roll of Voters

As there was no contested offices, no Roll of Voters was required.

Irregularities

Details of written allegations of irregularities, and action taken by AEC: NIL

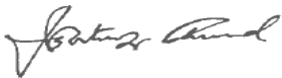
Other irregularities identified, and action taken: NIL

Other Matters

The rules of the Organisation did not mention the procedure of dealing with tied ballot result. It is recommended that this issue be resolved.

Attachments

Declaration of results for uncontested Offices.



Ishtiaq Ahmed
Returning Officer
16 January 2018

National Union of Workers
NUW New South Wales Branch
DECLARATION OF RESULTS - E2018/196
Uncontested Offices

Casual Vacancy Election

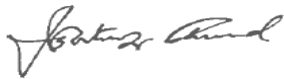
The results of the election for the following offices conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation are:

Committee of Management Member- Area 4

Candidates

OLDFIELD Anthony

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: nswelections@aec.gov.au
20/12/2018



16 January 2019

Post-election Report

National Union of Workers - NSW Branch- E2018/189

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Election(s) Covered in this Report

Election Decision No/s: E2018/189

Rules

Rules used for the election: 080V: Incorporates alterations of 3 July 2017 [R2017/98]
(replaces rulebook dated 24 May 2017 [R2017/40])

Rules difficult to apply/interpret: Rule 37D (f) (B-E) refers to the entitlement of each of the areas of eligibility as defined at 37D (f) (A) to members on the Branch Committee of Management based on membership population. It is recommended that the National Union of Workers consider amending this rule to reference 31 March in the year of the elections scheduled pursuant to rule 13 as the date by which this determination should be made.

Rule 13.E.28 is difficult to apply as once the declaration of result is completed, the AEC Returning officer puts all the ballot papers in secured boxes, seal the boxes and arrange to hold the boxes in an AEC authorised secured place.
It is recommended that this issue be resolved.

Model Rule reference: None

Roll of Voters

As there was no contested offices, no Roll of Voters was required.

Irregularities

Details of written allegations of irregularities, and action taken by AEC: NIL

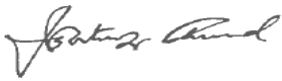
Other irregularities identified, and action taken: NIL

Other Matters

The rules of the Organisation did not mention the procedure of dealing with tied ballot result. It is recommended that this issue be resolved.

Attachments

Declaration of results for uncontested Offices.



Ishtiaq Ahmed
Returning Officer
16 January 2018

National Union of Workers
New South Wales Branch
DECLARATION OF RESULTS - E2018/189
Uncontested Offices

Insufficient Nominations 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:

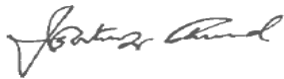
Committee of Management Members- Area 3

Candidates

HAGREBET Shuang Gulcan

SEYCHELL Rhonda

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: nswelections@aec.gov.au
20/12/2018





DECISION

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

National Union of Workers
(E2018/189 and E2018/196)

MR ENRIGHT

MELBOURNE, 20 SEPTEMBER 2018

Arrangement for conduct of election.

[1] On 6 August 2018 the National Union of Workers lodged with the Registered Organisations Commission prescribed information (E2018/189) for an election to fill the following offices of the New South Wales Branch, due to insufficient nominations received in a previous election (**E2018/25**):

Committee of Management Members from Area 3 (2)

[2] On 20 August 2018 the National Union of Workers lodged with the Registered Organisations Commission prescribed information (E2018/196) for an election to fill a casual vacancy in the following office of the New South Wales Branch for the remainder of the term:

Committee of Management Member from Area 4 (1)

[3] 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 *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

<PR351149>

FAIR WORK (REGISTERED ORGANISATIONS) ACT 2009

Section 189 – Conduct of elections

FAIR WORK (REGISTERED ORGANISATIONS) REGULATIONS 2009

Section 139 – Prescribed information for conduct of an election

National Union of Workers

PRESCRIBED INFORMATION FOR CONDUCT OF ELECTION

A. The following information is in relation to an election that is to be conducted by the Australian Electoral Commission (“AEC”).

1. The name of each office or position for which an election is required.
[Regulation 138 (1) (a)]

Electorate

Office

New South Wales Branch	Committee of Management Members from Area 3, as defined at Rules 37D(f)(A) and Rule 5(D)(1).
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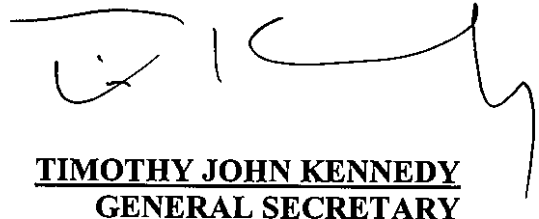
2. The reason for the election is as follows:
 - 2.1 The AEC conducted an election for all offices of the Union, including the above offices in E2018/25. Nominations for all offices opened on 1 May 2018 and closed at noon on 25 May 2018.
 - 2.2 At the close of nominations neither of the abovementioned offices had received any nominations and as such will be vacant upon the commencement of the terms of office commencing under Rule 13(30) - being 3 September 2018.[Regulation 138(1)((iv)]¹
 - 2.3 It is a requirement of the Act and the Union’s Rules that an election occur.²
3. The number of offices or positions for each position shall be determined by reference to Rule 37D (1)(f) at the close of nominations.
[Regulation 138 (1) (c)].

¹ A copy of the deceleration in E2018/25 is attached.

² Rule 43 prescribes the circumstances in which casual vacancies of branch offices are to be filled. In particular Rule 43(3) provides that where the unexpired part of the term of the office exceeds three quarters of the term (in this case 3 years) then an election must be held as far as practicable in accordance with Rule 13 being an ordinary election.

4. The electorate is the New South Wales Branch. [**Regulation 138 (1) (d)**]
5. The date and time of the beginning of the nomination period is the first working day nominated by the Australian Electoral Commission.³ [**Regulation 138 (1) (e)**]
6. The date and time of the end of the nomination period is 12noon on the closest working day thirty one days after the commencement of the nomination period referred to at paragraph 5 above and in accordance with Rules 13 (e) (5) and 43 (3). [**Regulation 138 (1) (e)**]
7. The day upon which the roll of voters closes is seven days prior to the opening of nominations referred to in paragraph 5 above and in accordance with Rules 13(e)(21). [**Regulation 138 (1) (f)**].
8. The kind of voting is direct voting in accordance with Rule 13(e)(23) (i.e. first past the post"). [**Regulation 138 (1) (g)**]

B. A statement in accordance with Regulation 138 (2) is attached hereto.



TIMOTHY JOHN KENNEDY
GENERAL SECRETARY

DATED: 3 August 2018

This notice is filed by Timothy John Kennedy, General Secretary, National Union of Workers, 833 Bourke Street, Docklands, Victoria 3008.

The contact officer for this matter is Assistant General Secretary Paul Richardson.

Telephone: 03 9287 1850
Facsimile: 03 9287 1818
Mobile: 0417 330 825
Email: prichardson@nuw.org.au

³ The Rules are silent on specific dates for the timing of opening of nominations for filling casual vacancies, although Rule 43(3) refers to a casual vacancy election being as far as practical in accordance with Rule 13.

FAIR WORK (REGISTERED ORGANISATIONS) ACT 2009

Section 189 – Conduct of elections

FAIR WORK (REGISTERED ORGANISATIONS) REGULATIONS 2009

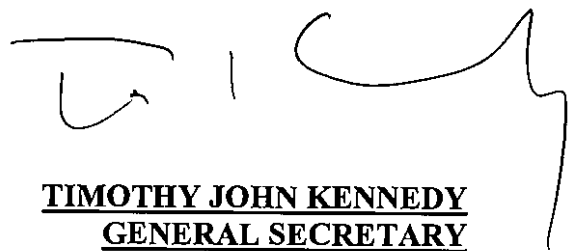
Section 139 – Prescribed information for conduct of an election

National Union of Workers

AUTHORISED STATEMENT

I, Timothy John Kennedy, General Secretary of the National Union of Workers state as follows:

1. The information attached is lodged in accordance with and under subsection 189 (1) of the Fair Work (Registered Organisations) Act 2009; and
2. I am an officer of the organisation authorised to sign this statement.



TIMOTHY JOHN KENNEDY
GENERAL SECRETARY

DATED: 3 August 2018

National Union of Workers
New South Wales Branch
DECLARATION OF RESULTS - E2018/25
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:

NUW- NSW Branch

Branch President (1)

Candidates

MORRIS, Sharon Lorna

Branch Vice President (1)

Candidates

PERRY, Jason

Branch Secretary (1)

Candidates

CARTWRIGHT, Martin

Branch Assistant Secretary (1)

Candidates

MENDONCA, Duarte Bruno

Trustee (3)

Candidates

HENRY, Kelly Ann

MCQUILLAN, Terry William

PEARSON, Geoffrey

Organiser (8)

Candidates

METE, Waru Noema Mastro

MORGAN, Charlie

NOSHIE, Ghazi Hashem
SHANNON, Craig Anthony
COCHRANE, Mark James
COTTERILL, Brett John
CRIPPS, Garry Mark
MARTYN, Corrin Maree

Area 1-Committee of Management Members (4)

Candidates

IBRAHIM, Rahge
DUNDON, Christopher Stephen
DIXON, Ian Michael
LORD, Adam Richard

Area 2-Committee of Management Members (2)

Candidates

LUXFORD, Patrick John
MINNS, Colin

Area 3-Committee of Management Members (2)

Candidates

No Nominations Received

Area 4-Committee of Management Members (2)

Candidates

YAGCI, Guven
GARCIA, Jose Manuel

Area 5-Committee of Management Members (2)

Candidates

ROWBOTHAM, John Dibbs
ROBERTS, Sherelle Estelle

National Council Delegate (9)

Candidates

MORRIS, Sharon Lorna
SHANNON, Craig Anthony
ISSANCHON, Marilyn
MENDONCA, Bruno Duarte

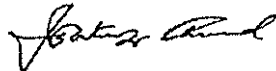
COCHRANE, Mark James
CRIPPS, Garry Mark
MORGAN, Charlie
MCQUILLAN, Terry William
Martyn, Corrin Maree

Reserve National Council Delegate (1)

Candidates

METE, Waru Noema Mastro

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
Australian Electoral Commission
26/06/2018



FAIR WORK (REGISTERED ORGANISATIONS) ACT 2009

Section 189 – Conduct of elections

FAIR WORK (REGISTERED ORGANISATIONS) REGULATIONS 2009

Section 139 – Prescribed information for conduct of an election

National Union of Workers

PRESCRIBED INFORMATION FOR CONDUCT OF ELECTION

A. The following information is in relation to an election that is to be conducted by the Australian Electoral Commission (AEC).

1. The name of each office or position for which an election is required.
[Regulation 138 (1) (a)]

Electorate

Office

New South Wales Branch	Committee of Management Member from Area 4, as defined at Rules 37D(f)(A) and Rule 5(D)(1).
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2. The reason for the election is as follows:
 - 2.1 The AEC conducted an election for all offices of the Union, including the above office in E2018/25. Nominations for all offices opened on 1 May 2018 and closed at noon on 25 May 2018.
 - 2.2 At the close of nominations Jose Garcia (**Garcia**) was elected to the office unopposed.¹
 - 2.3 On 16 August 2018, the New South Wales branch advised that Garcia had been terminated from his employment and as such was no longer eligible to be a member of the Union. Accordingly, Garcia will be unable to assume the office.
 - 2.4 Thus the above office will be vacant upon the commencement of the term of office under Rule 13(30) - being 3 September 2018.[Regulation 138(1)(iv)]
 - 2.5 It is a requirement of the Act and the Union's Rules that an election occur.

¹ A copy of the deceleration in E2018/25 is attached.

3. The number of offices or positions for the position is one (1). **[Regulation 138 (1) (c)].**
4. The electorate is the New South Wales Branch. **[Regulation 138 (1) (d)]**
5. The date and time of the beginning of the nomination period is the first working day nominated by the Australian Electoral Commission.² **[Regulation 138 (1) (e)]**
6. The date and time of the end of the nomination period is 12noon on the closest working day thirty one days after the commencement of the nomination period referred to at paragraph 5 above and in accordance with Rules 13 (e) (5) and 43 (3). **[Regulation 138 (1) (e)]**
7. The day upon which the roll of voters closes is seven days prior to the opening of nominations referred to in paragraph 5 above and in accordance with Rule 13(e)(21). **[Regulation 138 (1) (f)].**
8. The kind of voting is direct voting in accordance with Rule 13(e)(23) (i.e. first past the post²). **[Regulation 138 (1) (g)]**

B. A statement in accordance with Regulation 138 (2) is attached hereto.



TIMOTHY JOHN KENNEDY
GENERAL SECRETARY

DATED: 20 August 2018

This notice is filed by Timothy John Kennedy, General Secretary, National Union of Workers, 833 Bourke Street, Docklands, Victoria 3008.

The contact officer for this matter is Assistant General Secretary Paul Richardson.

² The Rules are silent on specific dates for the timing of opening of nominations for filling casual vacancies, although Rule 43(3) refers to a casual vacancy election being as far as practical in accordance with Rule 13.

Telephone: 03 9287 1850
Facsimile: 03 9287 1818
Mobile: 0417 330 825
Email: prichardson@nuw.org.au

FAIR WORK (REGISTERED ORGANISATIONS) ACT 2009

Section 189 – Conduct of elections

FAIR WORK (REGISTERED ORGANISATIONS) REGULATIONS 2009

Section 139 – Prescribed information for conduct of an election

National Union of Workers

AUTHORISED STATEMENT

I, Timothy John Kennedy, General Secretary of the National Union of Workers state as follows:

1. The information attached is lodged in accordance with and under subsection 189 (1) of the Fair Work (Registered Organisations) Act 2009; and
2. I am an officer of the organisation authorised to sign this statement.

A handwritten signature in black ink, appearing to read 'T-J-K', with a stylized flourish at the end.

TIMOTHY JOHN KENNEDY
GENERAL SECRETARY

DATED: 20 August 2018