

29 January 2018

# Post-Election Report

**Master Builders Association of New South  
Wales: E2017/123**

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## Election(s) Covered in this Report

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Election Decision No/s: E2017/123

### Rules

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Rules used for the election: [070N: Incorporates alternations of 13/01/2014 [R2013/96]

Rules difficult to apply/interpret:

Rules 14.11 and 18.2 provide that ballot material be posted within 10 days of nominations closing. This timeframe is impossible to meet as the eligibility of candidates and nominators cannot be checked till after nominations close and this has proven in past events to take a number of days. Rule 14.8 provides in accordance with the Fair Work (Registered Organisations) Act 2009 a period of 7 days to remedy any defective nomination after being so notified (occurs after the eligibility check). Extra days need to be provided for candidates to receive the notification by post if an email address is not available. Sufficient time also needs to be allowed to notify candidates and conduct a draw for position on the ballot paper as required by Rule 14.10 & 18.2. As Rule 14.10 provides candidates may submit a biography of 200 words to be sent with ballot material sufficient time must be allowed for the preparation and printing of such biographies together with printing the ballot material. A minimum 3 to 4 week period is recommended between the closing of nominations and the opening of the ballot to accommodate these processes. Ballot period - mail delivery particularly to rural and remote areas as represented by the MBA NSW membership is in some instances currently exceeding 7 to 10 days. To allow sufficient time for remote and rural members to receive ballot material, consider their vote and return the material a 4 week minimum period is strongly recommended. In view of these timeframe the 6 week period mentioned in Rule 14.4.1 and 18.2 will need to be reviewed, as will the timeframes in Rule 14.7; 14.12 and 18.2.

Rule 14.10 Provision of the biography – the rule should clarify the date by which biographies should be submitted, i.e. only biographies received before the close of nominations will be accepted for distribution.

Rule 14.24 provides a member who is elected to represent both a Region and a Sector shall elect at the AGM **or within 7 days thereafter** whether they will remain the representative for the Region or the Sector, that is, they cannot be both. The Returning Officer shall then declare the candidate with the second greatest number of votes elected to the resultant vacant office. The rule then goes on to say that if the candidate is the sole candidate for the office the vacancy shall be filled in accordance with Rule 14.25. If the candidate decides to take 7 days after the AGM to elect if they would like to represent a Region or Sector, the Returning Officer cannot know before or at the AGM which office will be vacant and call for nomination. The rules are therefore incompatible.

## Australian Electoral Commission

Rule 6.2 ....any person trading as a Master Builder or engaged in .....

Rule 6.3 and Rule 7 ....firm or company may appoint a person or persons as a representative or additional representative. Rule 8.4 in summary - a member may withdraw a representative or additional representative and appoint a new representative. Upon receipt of notice the Executive Director shall forthwith cancel the membership of the representative or additional representative.

Rule 14.2 states a candidate must have been a member of the Association for at least 12 months prior to the date of nomination. The rule needs to clarify if 'candidate' in this instance refers to the membership or to the actual person nominating for office. Can a representative or additional representative nominate for office if they have held the appointment less than 12 months.

Withdrawal of Nominations – the rules appear to be silent on the withdrawal of a candidate's nomination. The rules should be amended to confirm withdrawal of nomination by the candidate must be in writing and submitted to the Returning Officer by a specified time, e.g. the close of the nomination period for both the Executive Officers and the Council.

Rule 19.9 Election of Executive Officers – the rule does not determine how to resolve a tied vote. It is recommended the wording such as in Rule 14.18 'by draw' (election of Council) be included in this rule.

Model Rule reference (if any) N/A

## Roll of Voters

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### Stage 1 Executive

Total number of voters on the Roll:	27
Number of apparent workplace addresses:	27
Number of non-current addresses:	0
Other matters pertaining to the roll of voters:	Nil

**Stage 2 Council & Council recall** As there were no contested offices, no Roll of Voters was required.

## Irregularities

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

Other irregularities identified, and action taken: Nil

## Other Matters

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Rule 14.4.1 - It is suggested this rule be amended to also allow for distribution of the notice by electronic means in addition to with being forwarded with 'Newsbrief ' or by post. This will allow for more modern and efficient way of communication.

Rule 14.4.1.3 - The address to which nominations .....are forwarded. To avoid any confusion this rule could be amended to state nominations and consents must be forwarded to the address of the Returning Officer which may include delivery by post, hand, facsimile, email or other electronic means or as determined by the Returning Officer.

Rule 14.8 The Returning Officer shall notify the Nominator and the nominee of a defect. It is suggested this rule be amended to only notify the nominee. Notifying the nominator will have no impact on the resolution of a defective nomination and could breach privacy issues if the defect applies to the nominee details only.

Rule 14.25 Recall provisions. Nominations are called by the Returning Officer at the Annual Meeting from those present and such nominations to be proposed by a member eligible to be a candidate. Due to the physical location of many members across the state it may not be possible for members and their nominators to attend the meeting. It is strongly suggested consideration be given to amending this rule to provide alternate nomination procedures. Consideration should also be given to clarify how members should be notified of the vacant offices (e.g. notice from MBA by email in conjunction with details of the AGM and listing on MBA website, or by email from the AEC. Clarification should also be made if such notice is sent to all members or only those members from the Sector and Regional Groups to which the vacancies pertain. It should be noted that due to longer timeframes a notice sent via post as in Rule 19.1, may not be received in sufficient time by remote and country members to consider nomination.

Rule 15.1 Vacation of Office – Consideration should be given to also include reference in this rule to a vacancy occurring should a Councillor who was the nominated representative or additional representative of a member no longer hold that representation in accordance with Rule 8.4.

## Attachments

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- 1) Declaration of Results Stage 1 Executive
- 2) Declaration of Results Stage 2 Councillors
- 3) Declaration of Results Recall Councillors



K Montgomery  
Returning Officer  
29 January 2018