



New South Wales

Local Government (General) Amendment (Candidate Information) Regulation 2016

under the

Local Government Act 1993

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Local Government Act 1993*.

PAUL TOOLE, MP
Minister for Local Government

Explanatory note

The objects of this Regulation are as follows:

- (a) to provide that a candidate for civic office at a local government election must declare in their nomination papers (including the consent to the nomination, the statistical information sheet and candidate information sheet accompanying the nomination paper) whether the candidate is a property developer or a close associate of a corporation that is a property developer,
- (b) to make it clear that a nomination paper is not valid unless the person proposed for nomination has completed the candidate information sheet that is required to accompany the nomination,
- (c) to provide that a returning officer at an election administered by a general manager of a council, after the election has been declared, is to make copies of nomination papers received by the officer and send those copies to the Electoral Commissioner.

This Regulation is made under the *Local Government Act 1993*, including sections 306 (4), 308 (2) and 748 (the general regulation-making power) of, and item 14 (Elections) of Schedule 6 to, that Act.

Local Government (General) Amendment (Candidate Information) Regulation 2016

under the

Local Government Act 1993

1 Name of Regulation

This Regulation is the *Local Government (General) Amendment (Candidate Information) Regulation 2016*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Local Government (General) Regulation 2005

[1] Clause 289 Nomination proposals

Omit clause 289 (3). Insert instead:

- (3) A nomination paper is not valid unless the person proposed for nomination in the paper has:
- (a) completed and signed the Form of Consent included in the paper, and
 - (b) completed the candidate information sheet that is required by section 308 of the Act to accompany the nomination.

[2] Clause 290 Candidate information sheets

Insert at the end of clause 290 (1) (d) (iii):

, and

- (e) whether the proposed candidate is a property developer or a close associate of a corporation that is a property developer.

[3] Clause 290 (3)

Insert “Explanatory material may be printed on the other side of the A4 sheet of paper.” after “A4 sheet of paper.”.

[4] Clause 290 (5)

Insert after clause 290 (4):

- (5) In this clause:

close associate of a corporation means each of the following:

- (a) a director or officer of the corporation or a related body corporate of the corporation or the spouse of such a director or officer,
- (b) a person whose voting power in the corporation or a related body corporate of the corporation is greater than 20% or the spouse of such a person,
- (c) if the corporation is a trustee, manager or responsible entity in relation to a trust—a person who holds more than 20% of the units in the trust (in the case of a unit trust) or is a beneficiary of the trust (in the case of a discretionary trust),
- (d) if the corporation or a related body corporate of the corporation is a stapled entity in relation to a stapled security—a person who holds more than 20% of the units in the trust that is the other stapled entity.

officer, related body corporate and **voting power** have the same meaning as they have in the *Corporations Act 2001* of the Commonwealth.

property developer means a person engaged in a business that regularly involves the making of relevant planning applications by or on behalf of the person in connection with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit.

relevant planning application has the same meaning as in section 147 (Disclosure of political donations and gifts) of the *Environmental Planning and Assessment Act 1979*.

spouse of a person includes a de facto partner of that person.

[5] Clause 391B

Insert after clause 391A:

391B Copies of nomination papers to be sent to Electoral Commissioner

- (1) This clause applies to any nomination papers received by a returning officer at an election administered by a general manager of a council.
- (2) The returning officer, after the election has been declared, is to:
 - (a) make a copy of the nomination papers (whether by photographing, photocopying or scanning), and
 - (b) send the copies to the Electoral Commissioner.
- (3) The Electoral Commissioner may use the information contained in any copy of a nomination paper sent to the Electoral Commissioner under this clause, and any nomination paper in the possession of a returning officer for an election administered by the Electoral Commissioner, for the purpose of ensuring compliance with the Act and this Regulation.
- (4) In this clause, *nomination paper* includes the candidate information sheet that accompanies the nomination paper.

[6] Schedule 11 Forms

Insert after item 4 in the Form of Consent in Form 2 (Nomination paper: proposal by electors):

- 5 declare that, to the best of my knowledge and belief, *I am/*I am not a property developer, being a person engaged in a business that regularly involves the making of relevant planning applications by or on behalf of the person in connection with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit [**cross out whichever does not apply*],
- 6 declare that, to the best of my knowledge and belief, *I am/I am not close associate of a corporation that is a property developer [**cross out whichever does not apply*].

[7] Schedule 11, Form 2, note after Form of Consent

Insert after item 3 of the note:

- 4 In item 5, a “relevant planning application” has the same meaning as in section 147 (Disclosure of political donations and gifts) of the *Environmental Planning and Assessment Act 1979*.
- 5 In item 6, a “close associate” of a corporation means each of the following:
 - (a) a director or officer of the corporation or a related body corporate of the corporation or the spouse of such a director or officer,
 - (b) a person whose voting power in the corporation or a related body corporate of the corporation is greater than 20% or the spouse of such a person,
 - (c) if the corporation is a trustee, manager or responsible entity in relation to a trust—a person who holds more than 20% of the units in the trust (in the case of a unit trust) or is a beneficiary of the trust (in the case of a discretionary trust),

- (d) if the corporation or a related body corporate of the corporation is a stapled entity in relation to a stapled security—a person who holds more than 20% of the units in the trust that is the other stapled entity.

[8] Schedule 11, Form 2, Statistical Information Sheet

Insert after paragraph (k):

- (l) I am a property developer or a close associate of a corporation that is a property developer (within the meaning of clause 290 of the *Local Government (General) Regulation 2005*)

Yes

No

[9] Schedule 11, Form 3

Insert after item 3 in the Form of Consent in Form 3 (Nomination paper: proposal by registered officer for party):

- 4 declare that, to the best of my knowledge and belief, *I am/*I am not a property developer, being a person engaged in a business that regularly involves the making of relevant planning applications by or on behalf of the person in connection with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit [**cross out whichever does not apply*],
- 5 declare that, to the best of my knowledge and belief, *I am/I am not close associate of a corporation that is a property developer [**cross out whichever does not apply*].

[10] Schedule 11, Form 3, note after Form of Consent

Insert after item 2 of the note:

- 3 In item 4, a “relevant planning application” has the same meaning as in section 147 (Disclosure of political donations and gifts) of the *Environmental Planning and Assessment Act 1979*.
- 4 In item 5, a “close associate” of a corporation means each of the following:
- (a) a director or officer of the corporation or a related body corporate of the corporation or the spouse of such a director or officer,
- (b) a person whose voting power in the corporation or a related body corporate of the corporation is greater than 20% or the spouse of such a person,
- (c) if the corporation is a trustee, manager or responsible entity in relation to a trust—a person who holds more than 20% of the units in the trust (in the case of a unit trust) or is a beneficiary of the trust (in the case of a discretionary trust),
- (d) if the corporation or a related body corporate of the corporation is a stapled entity in relation to a stapled security—a person who holds more than 20% of the units in the trust that is the other stapled entity.

[11] Schedule 11, Form 3, Statistical Information Sheet

Insert after paragraph (k):

- (l) I am a property developer or a close associate of a corporation that is a property developer (within the meaning of clause 290 of the *Local Government (General) Regulation 2005*)

Yes

No