

Passed by both Houses



New South Wales

City of Sydney Amendment (Elections) Bill 2014

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Legislative Council
2014*

Clerk of the Parliaments



New South Wales

City of Sydney Amendment (Elections) Bill 2014

Act No , 2014

An Act to amend the *City of Sydney Act 1988* to make further provision in relation to elections for the Council of the City of Sydney; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *City of Sydney Amendment (Elections) Act 2014*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of City of Sydney Act 1988 No 48

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

general manager means the general manager of the City Council.

[2] Section 14 Definitions

Insert “, subject to subsections (1AA), (3) and (4)” after “means” in section 14 (1) (a).

[3] Section 14 (1) (b) and (c)

Omit “\$5,000” wherever occurring. Insert instead “\$4,000”.

[4] Section 14 (1) (e)

Omit the paragraph. Insert instead:

(e) *rateable land* includes all land in the City of Sydney on which any rate is leviable or levied under the Principal Act, but does not include a utility lot within the meaning of the *Strata Schemes Management Act 1996*,

Note. *Utility lot* is defined in the *Strata Schemes Management Act 1996* to be a lot designed to be used primarily for storage or accommodation of boats, motor vehicles or goods and not for human occupation as a residence, office, shop or the like.

[5] Section 14 (1) (f) (i)

Omit “the claim for enrolment”. Insert instead “that determination”.

[6] Section 14 (1AA)–(3A)

Omit section 14 (1A)–(3). Insert instead:

- (1AA) If the joint owners of any rateable land under subsection (1) (a) consist of 3 or more natural persons, only 2 of those natural persons may be owners of the rateable land for the purposes of this Division.
- (1A) If the joint ratepaying lessees of any rateable land under subsection (1) (b) consist of 3 or more natural persons, only 2 of those natural persons may be ratepaying lessees of the rateable land for the purposes of this Division.
- (2) If the joint occupiers of any rateable land under subsection (1) (c) consist of 3 or more natural persons, only 2 of those natural persons may be occupiers of the rateable land for the purposes of this Division.
- (3) If, because of the operation of subsection (1AA), (1A) or (2), only 2 natural persons from among a number of joint owners, joint ratepaying lessees or joint occupiers may be owners, ratepaying lessees or occupiers for the purposes of this Division, those 2 natural persons are to be determined as follows:
- (a) in accordance with a written nomination signed by the majority of those joint owners, joint ratepaying lessees or joint occupiers submitted to the general manager before the nomination cut-off date for an election, or
- Note.** See section 16B for further provisions regarding these nominations.
- (b) if no such nomination is made, 2 natural persons determined by the general manager having regard to the alphabetical order of the names of the joint owners, joint lessees or joint occupiers (considering surname first, then given names) or on such other basis as the general manager considers appropriate in the circumstances of the case.

- (3A) If the joint owners, ratepaying lessees or occupiers of rateable land (within the meaning of subsection (1)) consist of corporations or a combination of natural persons and corporations (of at least one natural person and one corporation), section 16AA (2) applies and has effect despite anything to the contrary in this section.

[7] Section 14 (4)

Omit section 14 (4). Insert instead:

- (4) Despite subsection (1), a person is not an owner, ratepaying lessee or occupier of rateable land for the purposes of this Division merely because the person owns, holds or occupies:
- (a) a parcel of land designed, constructed or used solely or principally for the parking of no more than 2 motor vehicles, or
 - (b) a self-storage unit used for the storage of boats, motor vehicles or goods.

[8] Section 14 (6) and (7)

Insert after section 14 (5):

- (6) Despite subsection (3) (b), if a person referred to in that paragraph is:
- (a) otherwise entitled to be enrolled under this Act, or
 - (b) not entitled to vote at an election of members of the Legislative Assembly or an election of members of the Commonwealth House of Representatives,
- that person is to be disregarded for the purposes of that paragraph.
- (7) In this section, *nomination cut-off date*, for an election, means the date that is 28 days before the closing date for the election.

[9] Section 15 Right to be enrolled as an elector

Omit “the person nominated” from section 15 (2).

Insert instead “a person nominated or taken to have been nominated”.

[10] Section 16 Provisions relating to right to be enrolled as an elector

Omit section 16 (1) and (5).

[11] Section 16 (3)

Omit “for the purposes of this section”. Insert instead “for the purposes of this Division”.

[12] Sections 16AA–16AC

Insert after section 16:

16AA Corporations

- (1) If a corporation is the sole owner, ratepaying lessee or occupier of any rateable land, the corporation may submit a nomination in writing to the general manager of the names of 2 natural persons to be enrolled as electors instead of the corporation.
- (2) If the joint owners, ratepaying lessees or occupiers of any rateable land consist of corporations or a combination of natural persons and corporations (of at least one natural person and one corporation), the majority of the joint owners, ratepaying lessees or occupiers may submit a nomination in writing to the

general manager of the names of 2 natural persons to be enrolled as electors instead of the joint owners, ratepaying lessees or occupiers.

- (3) A corporation may make a nomination or be part of a majority of joint owners, ratepaying lessees or occupiers making a nomination under this section only once, regardless of how many parcels of rateable land it owns, leases or occupies or jointly owns, leases or occupies.
- (4) A natural person nominated under this section is entitled to be enrolled as an elector on the relevant roll.

16AB Nominations of electors by corporations

- (1) A person may not be nominated under section 16AA unless the person, at the time of the nomination:
 - (a) in relation to a nomination under section 16AA (1)—is a director or company secretary (however styled) of the corporation, and
 - (b) in relation to a nomination under section 16AA (2)—is a director or company secretary (however styled) of the corporation (or any of the corporations concerned) or is a joint owner, ratepaying lessee or occupier of the rateable land (as relevant), and
 - (c) has reached 18 years of age or will attain the age of 18 years on or before the date of the next ordinary election of councillors, and
 - (d) has consented in writing to be nominated, and
 - (e) is entitled to vote at an election of members of the Legislative Assembly or an election of members of the Commonwealth House of Representatives, and
 - (f) is not, for any other reason, already entitled to be enrolled as an elector for the City of Sydney.
- (2) A nomination under section 16AA is revoked if:
 - (a) the person nominated:
 - (i) in relation to a nomination under section 16AA (1)—ceases to be a director or company secretary of the corporation, or
 - (ii) in relation to a nomination under section 16AA (2)—ceases to be a director or company secretary of the corporation (or any of the corporations concerned) or a joint owner, ratepaying lessee or occupier of the rateable land (as relevant), or
 - (iii) dies, or
 - (iv) submits a notice of resignation to the general manager containing the details required by the regulations (if any), or
 - (v) for any other reason becomes entitled to be enrolled as an elector for the City of Sydney, or
 - (b) a notice of revocation is submitted by the corporation (or the majority of the joint owners, ratepaying lessees or occupiers concerned) to the general manager containing the details required by the regulations (if any), or
 - (c) the entitlement to be enrolled under section 16AA ceases to exist.
- (3) If the general manager receives a nomination under section 16AA in respect of any rateable land in respect of which 2 persons have already been

nominated and the corporation (or the joint owners, ratepaying lessees or occupiers concerned):

- (a) nominates one natural person but does not revoke the nomination of either of the 2 people previously nominated—the general manager must refuse to accept the nomination, or
 - (b) nominates 2 natural persons—the nomination is taken to revoke all previous nominations.
- (4) If the general manager refuses to accept a nomination under subsection (3) (a), he or she must advise the corporation (or the joint owners, ratepaying lessees or occupiers concerned) that submitted the nomination of that refusal and give reasons for the refusal.

16AC Deeming of nomination of electors on behalf of corporations

- (1) This section applies if a corporation is the sole owner, ratepaying lessee or occupier of any rateable land in the City of Sydney and the general manager has not received by the nomination cut-off date for an election a nomination in writing under section 16AA made by the corporation of 2 natural persons who are to be taken to be entitled to be enrolled as an elector instead of the corporation.
- (2) If the corporation has validly nominated one natural person by that nomination cut-off date, the following person is taken to have been nominated by the corporation under section 16AA as the second natural person who is to be entitled to be enrolled as an elector instead of the corporation:
- (a) the company secretary (however styled) of the corporation or, if there is more than one company secretary, the company secretary whose name appears first in an alphabetical list of the names of the company secretaries (however styled) of the corporation,
 - (b) if the corporation's sole eligible company secretary is the validly nominated person or no company secretary is entitled to be enrolled as an elector—the director (however styled) of the corporation whose name appears first in an alphabetical list of the names of the directors (however styled) of the corporation.
- (3) If the corporation has not validly nominated any natural persons by that nomination cut-off date, the first 2 persons from a list comprised in the following manner are taken to have been nominated by the corporation under section 16AA:
- (a) first, the name of the company secretary or the names of the company secretaries (however styled) of the corporation listed in alphabetical order,
 - (b) then, the names of the directors (however styled) of the corporation listed in alphabetical order.
- (4) Despite subsections (2) and (3), if a person who is taken to have been nominated by the corporation under one of those subsections is:
- (a) otherwise entitled to be enrolled under this Act, or
 - (b) not entitled to vote at an election of members of the Legislative Assembly or an election of members of the Commonwealth House of Representatives,
- that person is to be disregarded for the purposes of the subsection.
- (5) Information that is available from the Australian Securities and Investments Commission concerning the name, address and age of the persons specified in

subsections (2) and (3) may be collected and used for the purposes of this section.

- (6) The general manager must advise the corporation in writing of any person who has been enrolled as a nominee of the corporation under this section.
- (7) In any alphabetical list of names for the purposes of this section, surnames are to be considered before given names.
- (8) In this section, ***nomination cut-off date***, for an election, means the date that is 28 days before the closing date for the election.

[13] Section 16B

Insert after section 16A:

16B Nominations where more than 2 owners, 2 ratepaying lessees or 2 occupiers—other than corporations

- (1) This section applies in relation to a nomination made under section 14 (3) (a) (a ***nomination***).
- (2) A person may not be nominated unless the person:
 - (a) has reached 18 years of age or will attain the age of 18 years on or before the date of the next ordinary election of councillors, and
 - (b) has consented in writing to be nominated, and
 - (c) is entitled to vote at an election of members of the Legislative Assembly or an election of members of the Commonwealth House of Representatives, and
 - (d) is not, for any other reason, already entitled to be enrolled as an elector for the City of Sydney.
- (3) A nomination is revoked if:
 - (a) a person nominated:
 - (i) dies, or
 - (ii) submits a notice of resignation to the general manager containing the details required by the regulations (if any), or
 - (iii) for any other reason becomes entitled to be enrolled as an elector for the City of Sydney, or
 - (b) a notice of revocation made by the majority of the joint owners, ratepaying lessees or occupiers is submitted to the general manager containing the details required by the regulations (if any), or
 - (c) the entitlement under section 15 ceases to exist.
- (4) If the general manager receives a nomination in respect of any rateable land in respect of which 2 persons have already been nominated and the nomination:
 - (a) nominates one person but does not revoke the nomination of either of the 2 people previously nominated—the general manager must refuse to accept the nomination, or
 - (b) nominates 2 persons—the nomination is taken to revoke all previous nominations.
- (5) If the general manager refuses to accept a nomination under subsection (4) (a), he or she must advise the owners, ratepaying lessees or occupiers concerned of that refusal and give reasons for the refusal.

[14] Sections 18A–18E

Omit sections 18A–18C. Insert instead:

18A General manager to prepare roll of non-resident owners and roll of occupiers and ratepaying lessees

- (1) As soon as is practicable after the roll of non-resident owners of rateable land and the roll of occupiers and ratepaying lessees for an election lapses, the general manager is to prepare for the next election the following rolls and keep the rolls updated:
 - (a) *the roll of non-resident owners of rateable land*, being a roll of persons who are entitled to be enrolled as electors as owners of rateable land in the City of Sydney,
 - (b) *the roll of occupiers and ratepaying lessees*, being a roll of persons who are entitled to be enrolled as electors as ratepaying lessees or occupiers of rateable land in the City of Sydney.
- (2) The general manager is to use the non-residential roll electoral information register kept under section 18D as the basis for the rolls prepared under this section.
- (3) Sections 299 and 300 of the Principal Act do not apply to any election for the City of Sydney.
- (4) The general manager must ensure that the address of a person who is a silent elector under a law of the State or of the Commonwealth is not entered on any roll prepared under this section.

18B Electoral Commissioner to verify non-residential rolls of electors

- (1) As soon as practicable after the closing date for an election for the City of Sydney, the general manager must provide the Electoral Commissioner with the roll of non-resident owners of rateable land and the roll of occupiers and ratepaying lessees.
- (2) The Electoral Commissioner is to review those rolls and is to notify the general manager if any person on either of those rolls:
 - (a) will not be of or above the age of 18 years on the polling day of the election, or
 - (b) is not entitled to vote at an election of members of the Legislative Assembly or an election of members of the Commonwealth House of Representatives, or
 - (c) is a silent elector under a law of the State or of the Commonwealth, or
 - (d) does not reside at the address shown for the person on the roll concerned, but resides at another address, or
 - (e) without limiting paragraph (d), does not reside at the address shown for the person on the roll concerned, but resides at an address in the City of Sydney and, for that reason, is entitled to be enrolled as a resident of the City of Sydney.
- (3) If the general manager receives such a notification from the Electoral Commissioner, the general manager is to correct the roll:
 - (a) in the case of a person who will not be of or above the age of 18 years on the polling day of the election or who is not entitled to vote at an election of members of the Legislative Assembly or an election of

- members of the Commonwealth House of Representatives—by removing the name of the person, and
- (b) in the case of a person who is a resident of the City of Sydney—by removing the name of the person, and
 - (c) in the case of a person who is a silent elector—by removing the residential address of the silent elector, and
 - (d) in the case of a person who does not reside at the address shown for the person on the roll concerned, but resides at another address—by replacing the incorrect residential address with the correct residential address of the person.
- (4) For the avoidance of doubt, if the general manager removes the name of a person under subsection (3) (a) or (b) that was recorded on a roll by operation of section 14 (3) (b) or 16AC, the general manager is not to insert the name of any other person on that roll in that person's place.
 - (5) The costs of the Electoral Commissioner with respect to the carrying out of any function under this section are to be met by the City Council and are recoverable from the City Council as a debt. Any dispute as to the amount of those costs is to be determined by the Chief Executive of the Office of Local Government.

18C Confirmation of non-residential rolls of electors

- (1) As soon as practicable after correcting the roll of non-resident owners of rateable land and the roll of occupiers and ratepaying lessees under section 18B (3) (if required), the general manager is to confirm the rolls.
- (2) References in section 301 of the Principal Act to the non-residential roll prepared and confirmed under section 299 for the area and the roll of occupiers and ratepaying lessees prepared and confirmed under section 300 for the area are, in the operation of that section in respect of the City of Sydney, to be read as references to, respectively, the roll of non-resident owners of rateable land and the roll of occupiers and ratepaying lessees prepared and confirmed under this Act.
- (3) A roll prepared and confirmed under this Act lapses after the election for which it is prepared and confirmed.

18D Non-residential roll electoral information register

- (1) The general manager is to keep and maintain records of the following in a non-residential roll electoral information register (the *Register*):
 - (a) persons entitled to be enrolled under section 15 (1) (a) and (b),
 - (b) persons nominated to be enrolled under section 16AA,
 - (c) persons who may be taken to be entitled to be enrolled under section 16AC.
- (2) The Register is to include:
 - (a) the surname, given name or names, date of birth and sex of each such person, and
 - (b) the residential address of the person, and
 - (c) whether the person is a silent elector under a law of the State or of the Commonwealth, and
 - (d) any other particulars that the general manager considers necessary to carry out his or her functions under this Act, and

- (e) any other particulars of a kind as are prescribed by the regulations.
- (3) The Register is to be kept in an electronic form.
- (4) The general manager must maintain and regularly revise the Register to ensure that it is accurate.
- (5) The general manager must ensure that the Register is not available for public inspection.
- (6) The general manager, or a member of staff of the City Council who is authorised by the general manager, may require any of the following persons to answer questions regarding the enrolment of persons under this Act:
 - (a) an owner of rateable land in the City of Sydney,
 - (b) a ratepaying lessee or an occupier of rateable land in the City of Sydney,
 - (c) a person in charge of, or who is the agent for the owner of, rateable land in the City of Sydney,
 - (d) a resident of the City of Sydney.
- (7) A person must not:
 - (a) without reasonable excuse, refuse or fail to answer such a question, or
 - (b) give an answer to such a question that the person knows is false or misleading in a material particular.Maximum penalty: 20 penalty units.
- (8) The general manager may request the assistance of the Electoral Commissioner, and the Electoral Commissioner is to provide that assistance, in ascertaining the following information concerning a person who the general manager believes is entitled to be enrolled as an elector for the City of Sydney:
 - (a) the age of the person,
 - (b) the residential address of the person,
 - (c) whether the person is entitled to vote at an election of members of the Legislative Assembly or an election of members of the Commonwealth House of Representatives,
 - (d) whether the person is a silent elector under a law of the State or of the Commonwealth,
 - (e) other information that the regulations may prescribe.

18E Enrolment letters

- (1) The general manager must, at least 90 days before the closing date for an election for the City of Sydney, send enrolment letters in accordance with this section.
- (2) The general manager must send an enrolment letter addressed to each person who the general manager believes is entitled to be enrolled on a non-residential roll stating the following:
 - (a) that an election for the City of Sydney is to be held,
 - (b) the date the election is to be held,
 - (c) that, in the opinion of the general manager, the person the enrolment letter is addressed to is entitled to be enrolled as an elector on the roll of non-resident owners of rateable land or the roll of occupiers and ratepaying lessees for the election,

- (d) that the person will be enrolled on such a roll on the date prescribed for the closing of the roll of electors for the election,
 - (e) that, in relation to a natural person who the general manager believes is entitled to be enrolled as nominee of a corporation under section 16AC, the person will be enrolled on such a roll as the nominee of the corporation unless, at least 28 days before the date prescribed for the closing of the roll of electors for the election, another person is nominated by the corporation,
 - (f) the date prescribed for the closing of the roll of electors for the election.
- (3) The general manager is also to send a letter to each corporation that the general manager believes is the sole owner, ratepaying lessee or occupier of rateable land in the City of Sydney stating the following:
- (a) that an election for the City of Sydney is to be held,
 - (b) the date the election is to be held,
 - (c) that, in the opinion of the general manager, the corporation the enrolment letter is addressed to is entitled to nominate 2 natural persons to be enrolled instead of the corporation,
 - (d) if the corporation has not already made such a nomination—that 2 natural persons who the general manager believes are entitled to be enrolled as nominees of a corporation under section 16AC will be enrolled unless, at least 28 days before the date prescribed for the closing of the roll of electors for the election, 2 natural persons are nominated by the corporation,
 - (e) the date prescribed for the closing of the roll of electors for the election.
- (4) In this section, *non-residential roll* means the roll of non-resident owners of rateable land or the roll of occupiers and ratepaying lessees.

18F City Council may engage service providers to assist with electoral rolls and register

The City Council may engage a person or body to assist the general manager in the carrying out of the general manager's functions under this Division in relation to the following:

- (a) the preparation of rolls for elections,
- (b) the keeping and maintenance of the non-residential roll electoral information register.

[15] Sections 40 (4) and 51J (3) (b) and clause 4 (1) of Schedule 1

Omit "general manager of the City Council" wherever occurring.

Insert instead "general manager".

[16] Section 58 Regulations

Insert after section 58 (2) (g):

- (h) elections for the City of Sydney,

- (i) without limiting paragraph (h), postal voting by electors enrolled on the roll of non-resident owners of rateable land or the roll of occupiers and ratepaying lessees at elections for the City of Sydney.

[17] Schedule 1 The Planning Committee

Omit “general manager of the City of Sydney” in clause 18.

Insert instead “general manager”.