

# ATTACHMENT A

## ATTACHMENT A

**METHODOLOGY AND PLAN 2017 – 2020  
NON-RESIDENTIAL REGISTER**



# METHODOLOGY AND PLAN 2017 - 2020

## Non-residential Register

Version number	Date of issue	Author(s)	Brief description of change(s)
V1.0	10/02/2017	Sally Aves	Draft, adapting <i>Methodology &amp; Program Plan, Non-residential Register and Rolls</i> , K. McLeod, S. Aves, trim ref: 2016/001687
V1.1	8/03/2017	Sally Aves	To reflect Executive and Council briefings.
V2.0	5/05/2017	Sally Aves	Updated following ITMSG decision on Register system enhancements.
V2.1	16/05/2017	Sally Aves	Minor language changes.
V2.2	07/07/2017	Sally Aves	Changes following discussion with Office of Local Government and NSW Electoral Commission.

**Non-residential Register**

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# Non-residential Register

## Section 1: Introduction

### 1.1 Background

The *City of Sydney Act 1988* requires the CEO of the City of Sydney to:

- keep and maintain an accurate Register of all persons with possible entitlement to vote at City local government elections as non-residents
- use the Register to produce up-to-date electoral rolls of entitled non-residents for verification by the NSW Electoral Commissioner.

These obligations are continuous and the CEO must maintain and regularly revise the Register to ensure it is accurate. The obligations are not limited to the Register being accurate at a particular point in time.

The City delivered non-residential rolls for the local government election on 10 September 2016. Delivering non-residential rolls for this election was particularly challenging because of the entitlement complexity, inconsistencies in the legislation, tight timeframes and novelty.

**The continuing business requirement is that the City must be able to produce accurate non-residential rolls at any time, including in circumstances where a casual vacancy occurs between local government elections.**

### 1.2 Approach

The City has reviewed the establishment of the non-residential register and delivery of the non-residential rolls for the local government election on 10 September 2016. The purpose of the review was to identify good practice and potential improvements to determine a strategy to maintain an accurate Register as required by the legislation.

This review involved all Council Elections staff, steering committee members and other key internal and external stakeholders.

Key review findings were:

- Production of the non-residential rolls was successful as a first run.
- Feedback from the Office of Local Government and NSW Electoral Commission suggests:
  - the legislation is here to stay
  - it is unlikely to be introduced elsewhere
  - there may be opportunity to negotiate changes to the legislation which will reduce the risk of challenge to future elections.
- In future, the City should:
  - keep it legal, keep it simple
  - enable online registration and document upload
  - simplify how occupiers and rate paying lessees demonstrate their entitlement
  - leverage existing City and external networks where possible to reduce costs
  - focus on email as the main communication media.
- Feedback also suggested that future access to internal and external data will be improved. The NSW Electoral Commission may offer improved access to electoral information.

## Non-residential Register

To reflect these outcomes, the primary consideration in developing this Methodology and Plan is the legislated requirement for continuous accuracy. Secondary considerations are to ensure, within the required legal framework, that:

- applicant engagement, including registration, is as positive as possible
- costs are minimised.

The City's comprehensive understanding of the legislation as described in the Business Requirements presented to Council on 4 August 2015 remain current with the addition of the following:

1. Legislation has been introduced to enable the City to issue penalty notices to persons who do not respond to requests for information. Issues with this amendment have been discussed with the Office of Local Government, as outlined in section 4.1 below, item 11. The City will delay implementation of any penalty process.
2. The definition of a corporation has been widened to include any body corporate established under legislation for which company officer equivalents can be identified.
3. The impossibility of complying with the legislation if a by-election is called. (See Appendix 1 for details.)

Any legislative amendments will likely require changes to this Methodology and Plan. Section 4 of this document outlines possible impacts of potential legislative amendments. The impact will be dependent on the nature and timing of any changes.

### 1.3 Fundamental Impossibility

The maintenance of the Register is complex and challenging. The legislation is impractical or arguably impossible for the City to comply with in places.

In determining the original business requirements, where there were issues with the legislation, or the legislation is silent, assumptions were made so that a complete set of requirements could be developed. The following overarching principles were used in the determination of the requirements:

1. The intent of the legislation is to provide all natural persons and corporations owning or leasing, or actually occupying, rateable land in the City local government area with a right to vote at local government elections.
2. Corporations with multiple interests in rateable land are not over-represented on the electoral roll.
3. The non-residential enrolment process, and maintenance of the rolls, is fair and transparent.

While a complete set of Business Requirements was determined, and this Methodology and Plan has been devised to best deliver the requirements, it is fundamentally impossible for the City to fully comply with the legislation as it currently stands.

The legislation requires the City to achieve continual and absolute accuracy of the non-residential register. It is not subject to the City making reasonable endeavours. Given there will always be persons that do not provide the required information, and there are day-by-day changes to entitlements to rateable land, it is impossible for the register to be completely accurate at any point.

The proposed Methodology and Plan is considered to be the City's best attempt to practically meet the current legislative requirements. While it will not meet all the requirements (due to their inherent impossibility), it is considered the best approach the City can take if the issues identified with the legislation are not addressed.

The City has asked the Minister for Local Government and the Office of Local Government to address these issues on multiple occasions. Section 4.1 below describes the outstanding legislative issues.

## Non-residential Register

### Section 2: Methodology

#### 2.1 Summary of Requirements

As outlined in the original Business Requirements, the maintenance of the non-residential register is comprised of the following processes:

1. Identify rateable land.
2. Identify the persons that own, lease and occupy rateable land.
3. Determine each person's entitlement.
4. Receive nominations from those eligible and deem in cases where nominations are not received.
5. Manage changes to nominations.
6. Manage revocations of nominations.
7. Manage changes to information about a person.
8. Manage changes to rateable land.
9. Seek missing information for persons.
10. Assess objection to an entry or claim for inclusion on the non-residential rolls.
11. Verify and confirm the non-residential rolls for each election.

These processes reflect the business requirements for all aspects of the Register, based on the current legislation.

The legislated dates that apply to the next City local government election on 12 September 2020 are:

1. Enrolment letters sent: 5 May 2020 (130 days before election day)
2. Nomination cut-off date: 6 July 2020 (68 days before election day)
3. Close of rolls: 3 August 2020 (40 days before election day)

The City is required to deliver non-residential rolls for any election, including by-elections. The current requirement is that an election to fill a casual vacancy must happen within 89 to 121 days of the vacancy occurring. Under the current legislation, the City could not send enrolment letters within the time required if a by-election is called. (See Appendix 1 for details.)

#### 2.2 Methodology Rationale

The methodology proposed endeavours to meet compliance requirements (as far as is possible, see Section 1.3 above) whilst maximising the applicant engagement experience together with a common sense approach to funding. This methodology has been adopted to reflect the following:

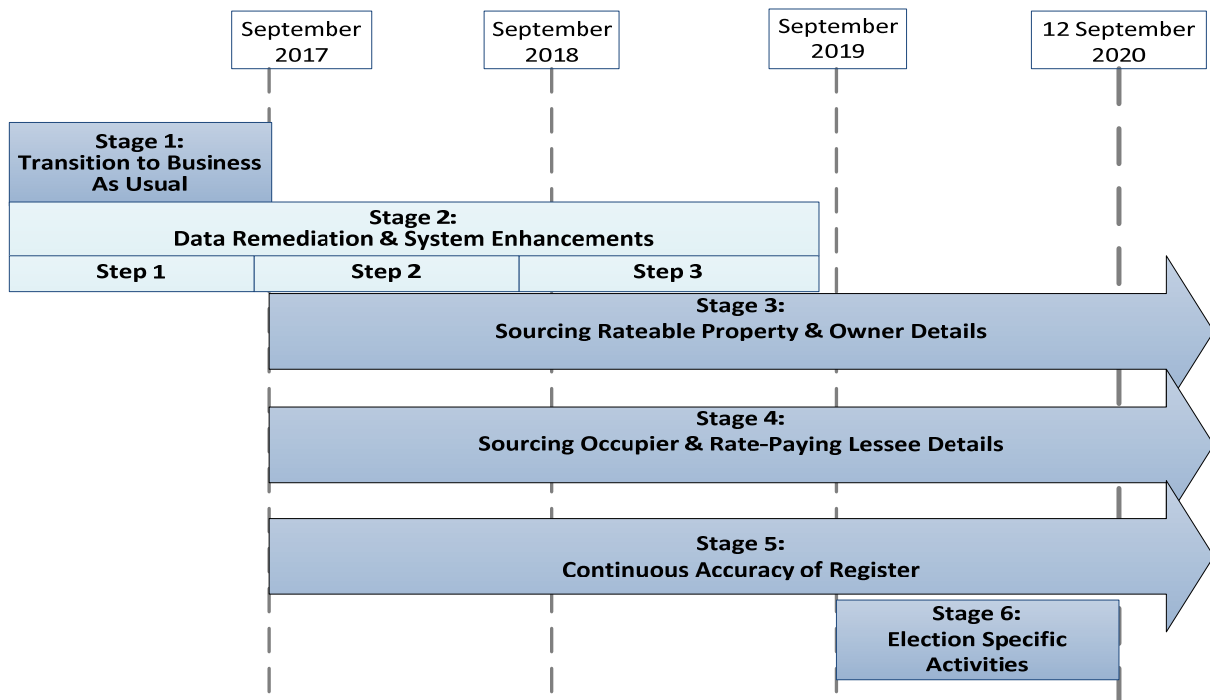
- The City does not hold the required information to comply with its obligation to register persons with a non-residential voting entitlement. The City must source this information directly from the persons involved and alternative external sources. No current dataset with all of the required information about persons that may have an entitlement exists.
- The requirement to maintain the Register as an accurate record of all persons with entitlement is continual. As such, a campaign or survey to ascertain information at a point in time cannot meet this requirement. Instead, the City must create a culture where persons actively provide and update their information.

# Non-residential Register

- The post-implementation review identified that:
  - direct contact via email is the most successful means to engage potential and existing applicants
  - applicants prefer minimal direct contact
  - the registration process was perceived as complex.

## 2.3 Methodology Overview

The proposed Methodology to maintain an accurate non-residential register consists of 6 stages. Some stages will run concurrently:



This Methodology is described in terms of delivering a 2020 local government election as the date of this election is known and can be planned for. If a by-election is called the City will enact those elements of stage 6 that are possible within the required timeframes. The continuous nature of Stages 3, 4 and 5 are designed to ensure the Register is as accurate as possible if a by-election occurs.

## 2.4 Key Methodology Components

More detailed descriptions of each stage are outlined in sections 2.5 to 2.10 below. However, the core elements of the proposed Methodology can be summarised as follows:

- Reviewing internal policies, standard operational procedures and delegations to ensure continuing compliance with the legislation and City policies and standards.
- Maintenance of web-based and physical information materials to help applicants identify their entitlement and related obligations.
- Continual updates to the Register from a range of data sources.
- Simplifying the application process by minimising the level of detail required.
- Enhancing the Register system to enable online registration, editing of personal details and to improve data accuracy.
- Leveraging internal messaging and external applicant networks to encourage registration by occupiers and rate paying lessees.



## Non-residential Register

- Using email as a contact medium where possible.
- Contacting all entitled persons on the Register on an annual basis to request confirmation or update of their details via the online portal.
- Reviewing the Register 12 months before an election and taking remedial action if required (for example sourcing an external database of occupiers and rate paying lessees).
- Distributing a *notice of election* flyer to every property within the City local government area 12 and 8 months before an election, encouraging non-residents to register, confirm or update their details.

The methodology assumes that:

- The City's corporate customer service receive and triage all inbound inquiries.

### 2.5 Stage 1: Transition to Business As Usual

Stage 1 is the activities required to establish the non-residential register as an ongoing operational requirement within the City.

This Stage is scheduled for completion by the end of September 2017 and will include the following activities:

- Develop a detailed project plan.
- Establish and recruit permanent positions required to maintain the Register.
- On-going pursuit of legislative changes with the Office of Local Government.
- Review and update electoral information access protocols with the NSW Electoral Commission.
- Scope opportunities to collaborate with City external messaging and external applicant networks to embed registration requirements including rates notices, food inspections, floor space and employment survey, business liaison, service centres, industry associations and commercial property agents.
- Registration process review to reduce complexity.
- Develop standard operation manuals for all processes.
- Review and update information materials, including FAQs and website content.
- Develop City customer service capability to respond to all incoming enquiries.
- Establish governance and oversight processes.

### 2.6 Stage 2: Data Remediation and System Enhancements

Stage 2 is the activities required to improve the registration experience and accuracy of the data used to determine entitlement. System enhancements will be fully scoped and delivered in three steps.

This Stage will include the following:

- Full automation of the process for uploading changes to rateable property and ownership.
- Remediation of missing and incorrect data including A C Ns, nominees, occupier/rate paying lessee documentation.
- Integration of non-standard corporations into the system.
- System enhancements to improve data quality and service for applicants as identified from the program review including online registration and submission of updates.

## Non-residential Register

### 2.7 Stage 3: Sourcing Rateable Property and Owner Details

Stage 3 ensures currency of rateable property and ownership information. Any new rateable properties and rateable property owners will be added to the Register using internal data sources. Where available, supplementary data will be sourced from ASIC and the electoral roll. Where additional detail is required, new owners will be contacted directly.

This process is dependent on the completion of Stage 2 Step 1. It has no end date.

The two activities in this stage are:

- Weekly upload of new property and owner details from the City's rates database, ASIC and electoral roll to the Register.
- Contacting all new owners to request they submit any additional information required to determine entitlement.

### 2.8 Stage 4: Sourcing Occupier and Rate Paying Lessee Details

Stage 4 will inform and encourage occupiers and rate paying lessees to submit their details for inclusion on the Register.

This stage will begin in September 2017. There is no end date.

The two activities in this stage are:

- Active collaboration with the City's external messaging and external stakeholder groups who engage with City occupiers and rate paying lessees to encourage registration and updates.
- Follow up with business rated property owner supplied details where no registration has occurred requesting that new occupiers and rate paying lessees register.

### 2.9 Stage 5: Continuous Accuracy of Register

Stage 5 is the continuing work required to ensure the Register remains accurate.

This Stage will run from September 2017 with no end date. System related activities are dependent on completion of the system enhancements occurring in Stage 2.

During Stage 5 the following activities will be completed:

- Annual communication to all current eligible owners, occupiers and rate-paying lessees requesting they confirm or update their details.
- Reviewing applicant responses (on-line, email, hard copy) and updating Register where required.
- Following up with missing or incorrect applicant submissions.
- Performing automatic enrolment and nomination processes.
- Follow-up communication acknowledging successful or failed nominations and enrolments.
- Requesting new nominations where appropriate.
- Monthly ASIC check to ensure corporation and nominee details remain current with appropriate follow-up.
- Monthly NSW Electoral Commission checks to monitor entitlement with appropriate follow-up.
- Review and updates to the website, FAQs and information materials as required.
- Register system enhancements as required.

## Non-residential Register

### 2.10 Stage 6: Election Specific Activities

Stage 6 is the specific activities to be undertaken in the lead up to an election. This includes any by-election, where timings allow.

For local government election 2020 this Stage will run from September 2019 to September 2020.

During this stage the following activities will be completed:

- Flyers delivered to every property in the City notifying occupiers of the election date, encouraging them to register, confirm or update their details; this will happen twelve and six months before the election.
- Review of Register content to determine requirement for additional communication, with follow-up action as appropriate.
- Targeted external messaging through applicant networks to raise awareness of election.
- Liaison with NSW Electoral Commission to agree roll verification, pre-poll and failure to vote processes.
- Enrolment letters sent.
- Deeming and associated required communications.
- Additional customer service in place to respond to election related enquiries.
- Draft non-residential rolls produced for verification by NSW Electoral Commission.
- Verified non-residential rolls confirmed by CEO and made available to the public.
- Appeal process and associated delegations in place.
- Supporting NSW Electoral Commission Town Hall pre-poll with non-resident related inquiries.

### 2.11 Alternative Methodologies Considered

A number of possible methodologies were considered in the development of this plan. As discussed in section 1.2 above, the overriding approach is to maximise compliance, whilst minimising cost and maximising the applicant experience. Each possible methodology was reviewed against these three considerations.

Possible methodology	Reason rejected
Shut down, do nothing until 2019, and then re-populate the Register following a large scale communications campaign before local government election 2020.	High risk as: <ul style="list-style-type: none"> <li>• does not attempt to comply with the requirement for accuracy</li> <li>• the City could not deliver non-residential rolls were a by-election called</li> <li>• corporate knowledge to accurately populate the Register would have been lost</li> <li>• option costed as higher than ongoing maintenance</li> <li>• loss of relationship with Office of Local Government and NSW Electoral Commission and others who want to engage with the City about the Register during the shut-down period.</li> </ul>
Mass communication with all occupiers and rate paying lessees on a quarterly basis to ensure entitlement thresholds are still met.	<ul style="list-style-type: none"> <li>• High cost.</li> <li>• Perceived quarterly harassment of existing and potential applicants would deter applications.</li> </ul>
Retain paper based registration and updates.	Relatively high processing costs together with high annoyance factor as the forms are complex. Online submission allows applicants to be guided through the registration process in a user friendly way.

## Non-residential Register

### 2.12 Likely Future Scale of the Non-residential Register

It is likely that the non-residential register will be larger than that used to create the non-residential rolls for LGE 2016. This is because:

- there is time to follow-up missing and incorrect submissions from all applicants
- the number of rateable properties within the City will increase, with an associated rise in the number of non-residents.

However predicting the size of any future Register or associated non-residential rolls is impossible because of the diverse and unknown variables including:

- the number of entitled non-residents who are also entitled as residents
- the number of non-citizens who own, occupy or lease property in the City of Sydney
- the numbers of residential rated property owners who live outside the City
- the growth in residential and business rated properties
- the number of single natural person owners, occupiers or rate paying lessees because their entitlement will deliver a single vote whereas all other non-resident types are entitled to up to two votes
- the number of single properties with multiple occupiers and/or joint occupiers of the same space
- the number of corporation nominees who are also entitled as City residents
- changes to the numbers, scale and type of multiple property owners, occupiers and rate paying lessees, especially where these are corporations as corporations can only be involved in a single nomination
- the number of corporations with a single, entitled company officer.

## Section 3: Program Plan

### 3.1 Program Structure and Scope

The delivery of the program will continue to be managed within a dedicated unit to ensure the integrity of the Register. To reflect the compliance nature of the program it is proposed the unit reports directly to the City's General Counsel within Legal and Governance.

The Council Elections Unit (CEU) will continue to draw on a mix of internal resources and external service providers to deliver the six-stage process described in Section 2 above through the following four work strands:

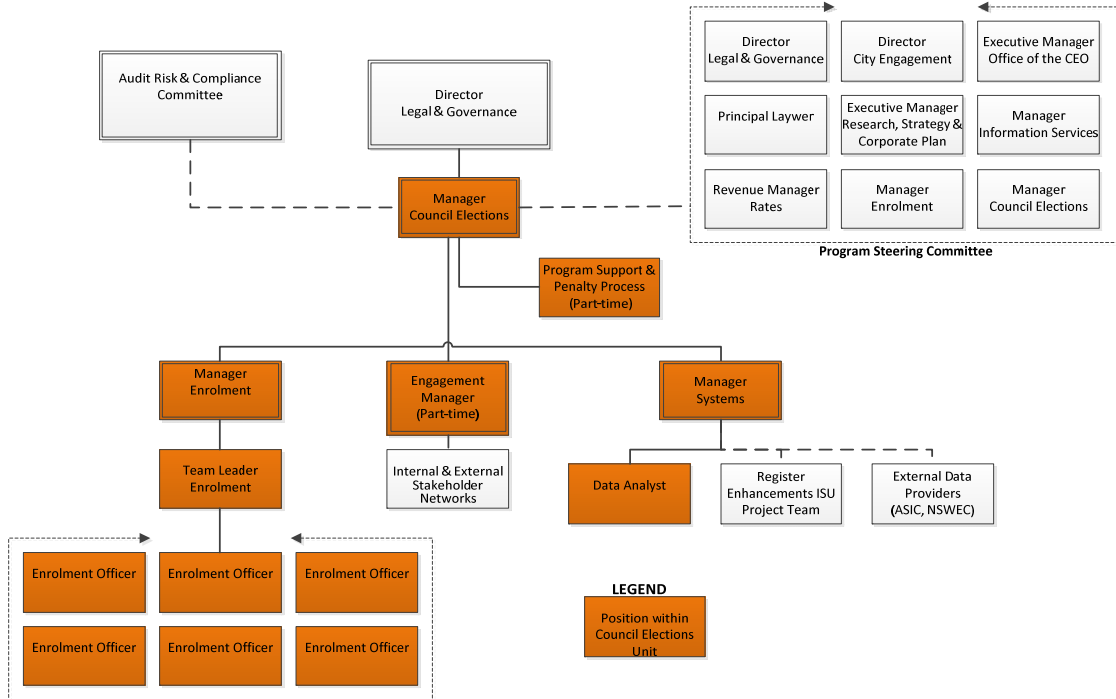
1. **Program Management:** Program management and governance.
2. **Enrolment:** Applicant submission review and follow-up.
3. **Systems:** Maintenance of the Register system that holds and manages applicant information and creates the non-residential rolls.
4. **Engagement:** Engaging potential and existing applicants to inform and encourage registrations.

# Non-residential Register

The current and proposed organisational structure to achieve these activities is:

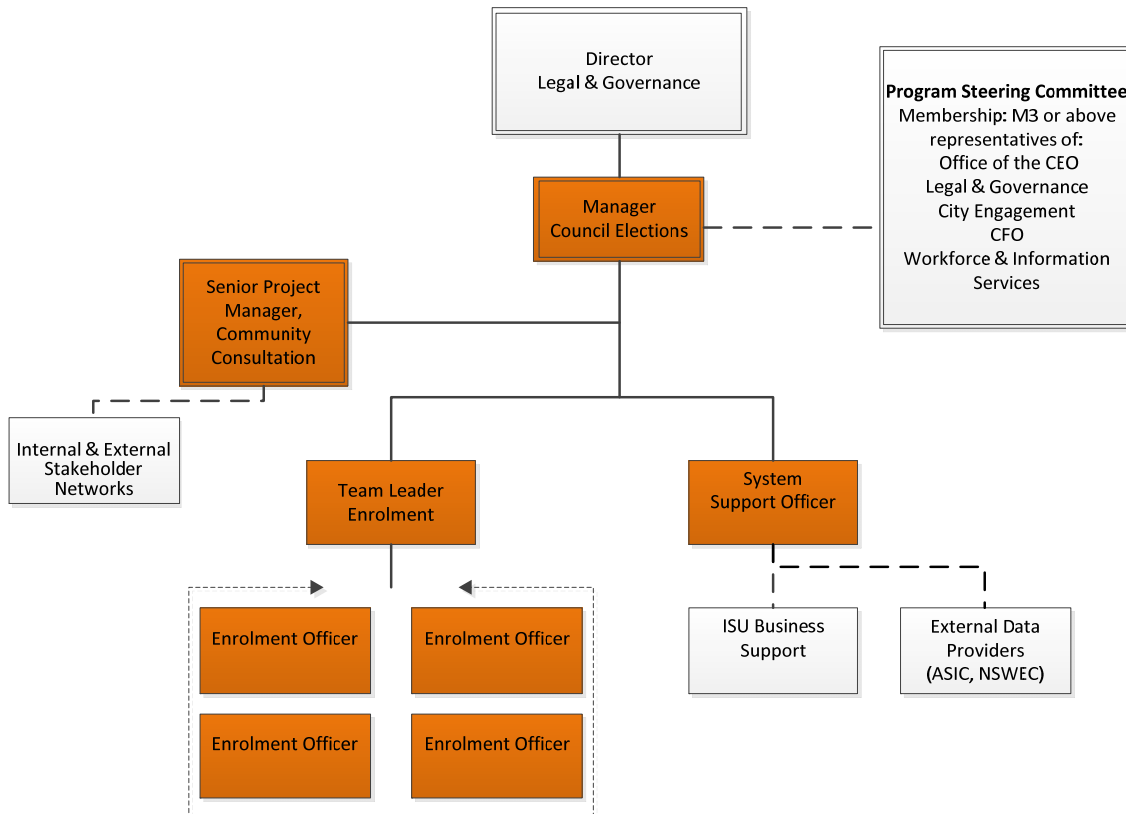
## Council Elections Unit

Structure to 30 June 2017



## Proposed Structure from 1 July 2017

Additional resources may be required during an election period.



## Non-residential Register

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The responsibility for each work strand lies with the following roles.

### 1. Program Management led by Manager, Council Elections

- Program governance:
  - Quarterly reporting to Program Steering Committee (PSC). PSC consists of representatives of Legal and Governance, OCEO, Finance (Rates), City Engagement and Workforce and Information Services (ISU).
  - Methodology and Plan 2017-2020 assurance and implementation audit.
  - Project Control Group and Information Technology and Management Steering Group for system enhancements.
  - Establishment of M3 working group 12 months before local government election or when a by-election is required.
  - Quarterly update of Risk Register in consultation with other stakeholders where appropriate.
  - Regular review of policies, standard operating procedures and delegations to ensure they meet current requirements.
  - Biannual report to Council.
- Program management:
  - WHS management.
  - Financial accountability.
  - Personnel management.
  - Contract management.
  - Records management.
  - Resource management.
  - Timeline/project management.
  - Relationship management with key stakeholders, including NSW Electoral Commission and Office of Local Government.
- Annual applicant communication management.

### 2. Enrolment led by Team Lead, Enrolment

- Develop team members to ensure a shared understanding of the legislation.
- Manage team members to ensure standard operating procedures are followed.
- Manage direct communication with persons with possible entitlement.
- Establish and follow due diligence protocols before adding or removing a person from the register.
- Enable City Customer Service to respond to incoming queries.

### 3. Systems led by Systems Support Officer

- Maintenance and enhancement of Register system to maximise data accuracy.
- Data analysis and report generation.
- Technical support and training for Enrolment team.
- Manage data extracts and inputs from external sources such as ASIC and NSW Electoral Commission.

## Non-residential Register

4. **Engagement led by Senior Project Manager, Community Consultation** (part-time secondment from City Engagement)
  - Map and engage stakeholder networks of persons with potential entitlement as occupiers and rate paying lessees:
    - map existing relevant City of Sydney networks
    - identify and fill gaps with external networks
    - engage persons with potential entitlement through these networks.
  - Develop and manage content and artwork for all external communications, including website, standard correspondence, forms and other applicant information materials.

### 3.2 Resources and Costings

#### Internal Resourcing

The plan assumes that responsibility and costs for the following activities are absorbed by the relevant Division:

Division	Activity
Legal and Governance	Continuing support and advice on governance, legal and risk issues
	Potential court appearances
City Engagement	Continuing support with stakeholder engagement
	Website support
	Artwork and template development
	Customer Service (for inbound calls)
	Printing and mail out management
Workforce and Information Services	Support for HR processes, including recruitment, ICT requirements
	Records management advice and support
City Life/COO	Sourcing external networks and supporting engagement
City Planning, Development and Transport	Supplying registered business details from Pathway (sub-set of occupiers)
City Projects and Property	Supplying City owned property lessee and occupier details Office accommodation for staff
CFO	Determination of rateable land
	Supply of rateable property and ownership data from Pathway
	Procurement and Contract advice

Representatives of these Divisional activities will be invited to participate where appropriate throughout the transition phase.

#### Cost Estimate

The forecast operational cost to establish the non-residential register over the period July 2015 to June 2017 is \$5.5m, compared with the Council endorsed forecast of \$10.4m. This underspend is explained by:

- A saving of \$2.2m by writing directly to occupiers rather than visiting each business rated property.
- Lower verification costs than originally estimated (\$980k under original forecast).
- Lower communication costs by using email and stakeholder networks (\$632k under original forecast).
- Minimal spend of the forecast contingencies (\$986k under original forecast).

## Non-residential Register

The total estimated operational cost for continuing maintenance of the non-residential register is \$1,063k per financial year where there is no election and \$2,967k where an election occurs.

A breakdown of these cost estimates is detailed below. A contingency has been included to reflect that the City has not previously undertaken maintenance activity of this nature.

Non-residential Register Forecast Spend to 2020 (\$000s)	Council Endorsed Forecast 2015/17	Current Forecast 2015/17	Forecast 2017/18	Forecast 2018/19	Forecast 2019/20
Management & system support			387	387	387
Applicant processing			432	432	594
Stakeholder engagement			84	84	100
Outward/inward mail processing			47	47	154
Printing & associated artwork			18	18	36
NSWEC verification			0	0	55
ASIC data			6	6	6
Legal & audit costs			5	5	5
Contingency			84	84	131
<b>Total NRR operational costs</b>	<b>10,393</b>	<b>5,518</b>	<b>1,063</b>	<b>1,063</b>	<b>1,467</b>
LGE management costs	601	1,442	0	0	1,500
<b>Total CEU operational costs</b>	<b>10,994</b>	<b>6,960</b>	<b>1,063</b>	<b>1,063</b>	<b>2,967</b>
Register enhancements (capex)	1,508	1,700	550	550	100

### 3.3 Major Milestones

Stage	Milestone	Achieved by:	Responsibility
2	Data remediation and Step 1 of system enhancements complete.	31 Aug 2017	Manager, Council Elections
1	Permanent positions and standard operating procedures in place.	30 Sep 2017	Manager, Council Elections
1	Stakeholder messaging strategy in place, including review and update of website/FAQs and other information materials.	30 Sep 2017	Senior Project Mgr, Community Consultation
4	Biannual report to Council	30 Nov 2017/18/19	Manager, Council Elections
5	Annual request to applicants to confirm/update details.	31 Dec 2017/18/19	Manager, Council Elections
5	Applicant responses reviewed and followed up.	31 Mar 2018/19/20	Manager, Council Elections
4	Biannual report to Council	31 May 2018/19/20	Manager, Council Elections
4	Annual stakeholder messaging plan delivered	30 Jun 2018/19/20	Senior Project Mgr, Community Consultation
2	Step 2 of system enhancements complete, standard operating procedures updated as required.	31 Aug 2018	Manager, Council Elections
2	Step 3 of system enhancements complete, standard operating procedures updated as required.	31 Aug 2019	Manager, Council Elections



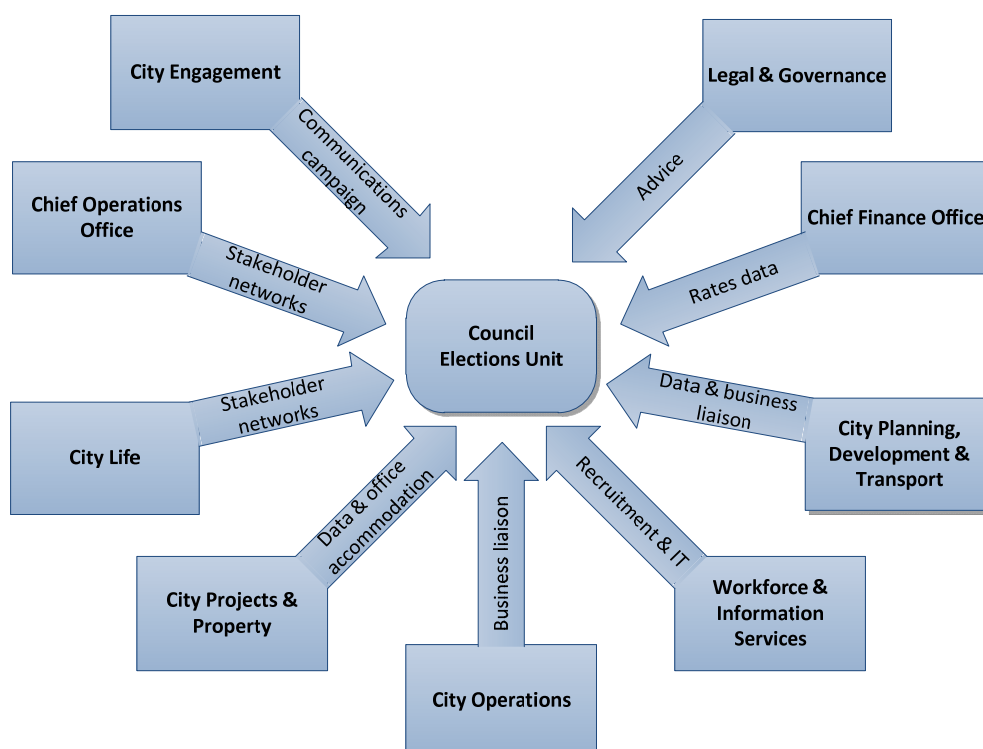
## Non-residential Register

Stage	Milestone	Achieved by:	Responsibility
6	Initial <i>Notice of Election</i> delivered to every property in the City	30 Sep 2019	Senior Project Mgr, Community Consultation
6	Review of Register content to determine requirement for additional communication.	31 Dec 2019	Manager, Council Elections
6	Additional communication to encourage registrations (if required)	29 Feb 2020	Senior Project Mgr, Community Consultation
6	Follow-up <i>Notice of Election</i> delivered to every property in the City	12 Mar 2020	Senior Project Mgr, Community Consultation
6	Additional elections engagement and customer service officers recruited	5 May 2020	Manager, Council Elections
6	Enrolment letters and requests for nomination sent	5 May 2020	Manager, Council Elections
6	Deeming completed	3 Aug 2020	Manager, Council Elections
6	Draft rolls produced	21 Aug 2020	Manager, Council Elections
6	Roll verified, confirmed by CEO and available for inspection	28 Aug 2020	Manager, Council Elections

If a by-election is called, milestones relating to Stage 6 will be re-scheduled to conform to the by-election date, where possible.

### 3.4 Key Stakeholders

Internal stakeholder relationships:



## Non-residential Register

External stakeholder relationships:

Stakeholder	Impact of program
City ratepayers	Expectation that the City will discharge its obligations in a professional way.
Office of Local Government	As those with primary oversight of Local Government and our link into State Government.
NSW Electoral Commission	<ul style="list-style-type: none"> <li>Requirement for continuing verification of those on the Register and final verification of the proposed Rolls.</li> <li>Processing failure to vote/excuses.</li> </ul>
ASIC	Information source.
Stakeholder networks	Offer access to those with potential entitlement.

### 3.5 High Level Risks

Below are the current high-level risks associated with the non-residential register and rolls.

Risk Description	Treatment Strategy
Overall process challenged or questioned due to inability of complying with the legislation.	<ul style="list-style-type: none"> <li>Issue raised with Office of Local Government and Minister.</li> </ul>
Inability to comply with the requirements when a by-election occurs.	<ul style="list-style-type: none"> <li>Issue raised with Office of Local Government and Minister.</li> </ul>
Register inaccurate and/or incomplete at any one time; continuous accuracy is a requirement of the legislation.	<ul style="list-style-type: none"> <li>Methodology adopts best endeavours rationale.</li> <li>Issue raised with Office of Local Government and Minister.</li> </ul>
Inability to identify all rate paying lessees and/or occupiers as there is no existing dataset making us reliant on provision by individuals.	<ul style="list-style-type: none"> <li>Methodology encourages declaration by persons with entitlement.</li> </ul>
No clear definition of a corporation within the legislation.	<ul style="list-style-type: none"> <li>Taking a broad approach on external legal advice.</li> <li>Issue raised with Office of Local Government and Minister.</li> </ul>

## Section 4: Potential Legislative Changes

### 4.1 Impact on Methodology and Plan

As described in section 1.2, above, there is a possibility the legislation may be amended.

The likelihood and timeframe for any amendments is yet to be determined. Given the slow progress of legislative change, it is not possible to wait for issues with the legislation to be resolved. Instead, work must continue based on the legislation as is, with a view to changing the Methodology and/or Plan once any changes occur.

The exact impact of any changes cannot be known until the nature and timeframe of the changes has been determined. The following schedule lists the elements that the City has requested are addressed following meetings with representatives of the Office of Local Government and the NSW Electoral Commission.

In some cases, the change could affect entitlement and nomination processes. Depending on when it took effect, this may result in a need to change business processes, including updating the Register system, communicating changes to the process and revising and reprinting information materials.

## Non-residential Register

	Issue	Change required to resolve	Impact/outcome of change
1	<p>It is impossible to keep the Register accurate at all times as required in the legislation. There is no such obligation on the CEO of the City of Melbourne under the City of Melbourne Act 2001 (Vic) or on the NSW Electoral Commissioner under the Parliamentary Electorates and Elections Act 1941</p>	<p>Accuracy of register and rolls is <i>best endeavours</i> or <i>genuine efforts</i> and not absolute. [City of Sydney Act 1988 18D(4)]</p>	<p>This would enable the City to meet its obligations under the legislation. All past &amp; planned activities are considered the City's best endeavours to maintain the Register.</p>
2	<p>It is impossible for the City to meet legislated requirements for by-elections.</p>	<p>Timing requirements for a City of Sydney by-election are amended to ensure the City can meet its obligations under both the City of Sydney Act 1988 and the Local Government Act 1993. A minimum of six months would be required from a casual vacancy occurring to the by-election.</p>	<p>The City would be able to meet its obligations in terms of notifying applicants about the election date and of their requirement to vote at the upcoming election.</p>
3	<p>Corporation entitlement is unclear.</p>	<p>Include a definition of a corporation within the Act. [City of Sydney Act 1988 14]</p>	<p>The City can make a transparent determination of entitlement for entities such as incorporated associations, trade unions, statutory corporations etc.</p>
4	<p>In the case of occupiers and ratepaying lessees, the current wording of the requirement to answer questions can only be applied to persons who the City already knows are occupiers or ratepaying lessees. The City cannot penalise persons who it believes are occupiers or ratepaying lessees if they do not respond to requests for information because, under the existing legislation, the City cannot know whether persons meet the criteria to be ratepaying lessees or occupiers until they have responded.</p>	<p>That the City can require any person whom it believes <u>may be</u> a ratepaying lessee or an occupier of rateable land within the City of Sydney, to answer enrolment questions. [City of Sydney Act 1988 18D(6)(b)]</p>	<p>The City will be able to issue penalty notices to those potential occupiers and ratepaying lessees who do not respond to requests for information.</p>
5	<p>On-line registration is not possible for corporation nominees.</p>	<p>Remove the requirement for corporation nominees to consent in writing to their nomination. [City of Sydney Act 1988 16AB(1)(d)]</p>	<p>The registration process would be simplified and on-line registration would be possible. This change would also reflect the standards for deemed and automatically enrolled persons who are not required to agree in writing to their enrolment. Note that the City:</p> <ul style="list-style-type: none"> <li>• cross-checks all nominations with ASIC data to confirm that nominees are current company officers</li> <li>• writes to all nominees to inform them of their eligibility following a successful nomination.</li> </ul>

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6	Nominees (deemed or otherwise) may not know that they are required to vote.	Addition of the requirement to inform all nominees (deemed or otherwise) of the inclusion of their enrolment details on the Register. [City of Sydney Act 1988 16AB, 16AC]	All nominees know of their possible requirement to vote as non-residents at City local government elections. This requirement is currently restricted to deemed nominees. If the requirement for written consent by nominees is removed, this should be included to ensure equity.
7	References to <i>parcels</i> of land are meaningless and confusing.	Replace instances of <i>parcels</i> of land with <i>rateable</i> land. [City of Sydney Act 1988 section 14(4)(a)].	Certainty around entitlement.
8	The NSW Electoral Commission cannot give the City <i>residential</i> addresses of entitled persons as it only knows <i>enrolled</i> addresses.	Replace all references to <i>reside</i> or <i>residential address</i> within the Act with <i>enrolled</i> or <i>enrolled address</i> [City of Sydney Act 1988 18B (2) (d)(e) and (3) (c)(d), 18D (2)(b) and (8)(b)]	This change would enable the NSW Electoral Commission to comply with the legislation and supply enrolled addresses where required.
9	The opportunity for vote stacking where corporations and natural persons jointly own/occupy/lease rateable properties.	Insertion of an overriding clarifying provision that a maximum of two natural persons (whether individuals or corporation nominees) can ever be enrolled in relation to ownership, leasing or occupation of the same piece of rateable property.	This will give clarity and ensure there can be no vote stacking as the City will not be required to deem an unlimited number of natural persons where they own, lease or occupier jointly with one or more corporations and no nomination has been made.
10	The City is not provided with explicit protection from breaches of privacy legislation.	Exemption from the provisions of the Privacy and Personal Information Protection Act 1998 by insertion of equivalent of s 46(3) of the Parliamentary Electorates and Elections Act 1912.	This would bring City provisions into line with those applying to the NSW Electoral Commission.
11	Establishment of penalty notices may be subject to legal challenge. A <i>penalty notice</i> as defined in Local Government (General) Regulation 2005 3 is a notice served under section 679 of the Local Government Act. Sec 679 refers to penalties for offences committed under the Local Government Act (not City of Sydney Act).	Amend legislation to enable a penalty notice to be issued under the City of Sydney Act.	The City can issue penalty notices without fear of legal challenge.
12	Practical difficulties around the production of non-residential rolls outside an election period. City of Sydney Act 1988 section 18A (1) requires rolls to be prepared & updated following an election. Local Government Act 1993 302(2) requires the CEO to make the latest copy of the non-residential rolls available for public inspection. This would require continual verification by NSWEC.	Amend the legislation to enable practical implementation. For discussion with NSWEC.	Clarity around non-residential rolls availability for inspection.

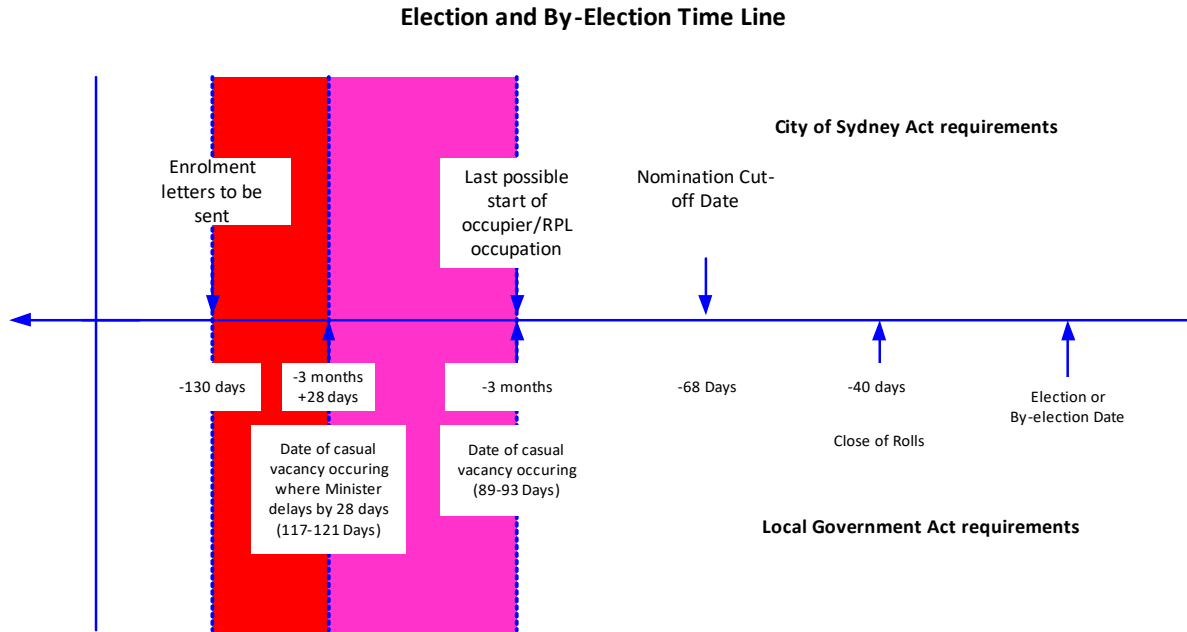
**Non-residential Register**

	Issue	Change required to resolve	Impact/outcome of change
13	Lack of a workable appeal process for inclusion or omission from the rolls.	Amend Local Government Act 1993 303(1) and Local Government (General) Regulations 2005 281 to enable an appeal process with a practical outcome.	A useful appeal process.
14	There is a lack of clarity regarding who should receive an enrolment letter.	Replace: <ul style="list-style-type: none"> <li>• <i>believes is entitled</i> with <i>believe will be entitled</i> in City of Sydney Act 1988 18E(2)(e) and</li> <li>• <i>believes are entitled</i> with <i>believe will be entitled</i> in City of Sydney Act 1988 18E(3)(d)</li> </ul>	Clarity regarding who should receive an enrolment letter.

# Non-residential Register

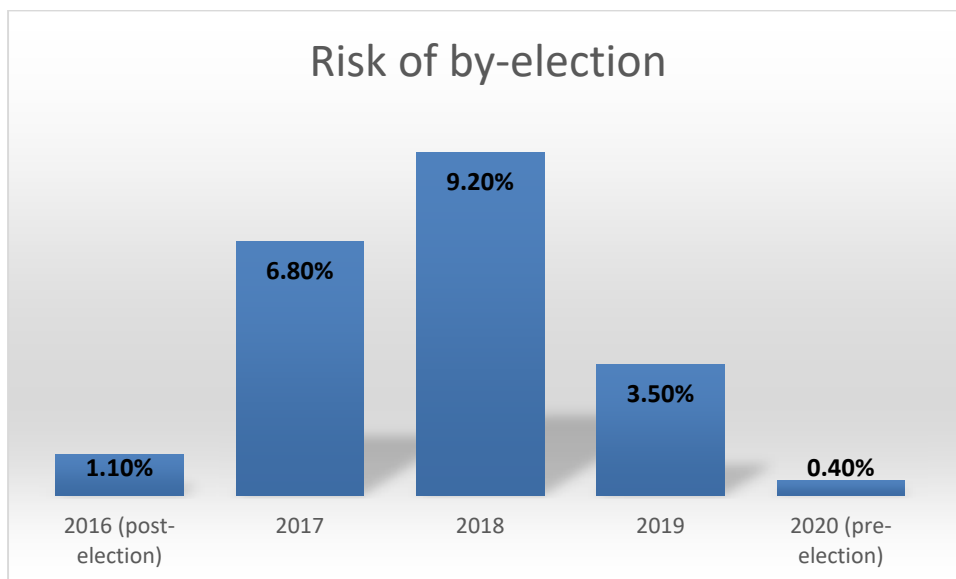
## Appendix 1: The By-election Issue

The requirements of the City of Sydney and Local Government Acts cannot both be met where a by-election is required:



The requirement to send enrolment letters 130 days before an election as required under the City of Sydney Act cannot be met within the timeframes required for a by-election under the Local Government Act (light shaded area above), even where the by-election is delayed by the Minister by 28 days (dark shaded area above).

Based on 3 election cycles across NSW local government areas, the risk of a City by-election before local government election 2020 is:



The level of risk in the 2017/2018 period is significant. Currently the City could not comply with the legislation if a by-election is required.