

Resolution of Council

27 June 2022

Item 15.8

Improving the City of Sydney Electoral Voting System

Moved by Councillor Scott, seconded by Councillor Ellsmore –

It is resolved that:

- (A) Council note:
- (i) that Council endorsed the Non-Residential Register Methodology and Plan 2017-2020 at its meeting on 18 September 2017;
 - (ii) the City of Sydney Act 1988 requires the Chief Executive Officer 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 as well as use the register to produce up-to-date electoral rolls of entitled non-residents for verification by the NSW Electoral Commissioner;
 - (iii) these obligations are continuous, and the Chief Executive Officer must maintain and regularly revise the register to ensure it is accurate;
 - (iv) the City 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;
 - (v) as of November 2021, the NSW Electoral Commission requested a meeting with the City and the Office of Local Government post-election to review current issues with the legislation;

- (vi) key issues identified to premise this discussion were around observed practice where multi-corporation groups with limited eligible company officers have added new directors and company secretaries prior to the election, possibly to maximise their voting rights. The Australian Securities and Investments Commission (ASIC), the Office of Local Government and the NSW Electoral Commission have been all been notified of this practice;
- (vii) in 2020 it was deemed that the production of non-resident electoral rolls as at 4 September 2020 was a new requirement following changes to the Electoral Funding Act 2018;
- (viii) feedback from the Office of Local Government and the NSW Electoral Commission suggests the legislation will remain ongoing, it is unlikely to be introduced elsewhere and there may be an opportunity to negotiate changes to the legislation which will reduce the risk of challenge to future elections;
- (ix) under this legislation the City can issue penalty notices to persons who do not respond to requests for information. Currently, the position of entitled non-residents who live outside NSW remains unresolved;
- (x) based on data provided in November 2020, the NSW Electoral Commission verified non-residents who are enrolled outside NSW; have increased the non-resident rolls by 8.5 per cent. As of November 2020 non-residential electors now represent over 27 per cent of the total roll;
- (xi) in May 2021, the NSW Electoral Commission confirmed that some services they provided to residents would not be offered to the City's non-residents, despite both groups having the same compulsory voting requirements. Similarly, election reminder services would not include non-resident details. Feedback received during the 2016 election suggested that non-residents were surprised and frustrated by this different level of service;
- (xii) as of May 2021, the issue remained that the first time some non-residents who were enrolled outside NSW would learn of their obligation to vote when they received an Apparent Failure to Vote notice;
- (xiii) key issues and limitations of the current electoral voting system include:
 - (a) difficulty in keeping register accurate at all times as required by legislation;
 - (b) it is impossible for the City to meet legislated requirements for by-elections;
 - (c) corporation entitlement is unclear;
 - (d) 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;
 - (e) nominees (deemed or otherwise) may not know that they are required to vote;
 - (f) the NSW Electoral Commission will not give the City the age of entitled persons as it only knows their date of birth;

- (g) voting is not compulsory for all other NSW Councils' non-residents;
 - (h) the opportunity for vote stacking where corporations and natural persons jointly own/occupy/lease rateable properties;
 - (i) the City is not provided with explicit protection from breaches of privacy legislation;
 - (j) lack of a workable appeal process for inclusion or omission from the rolls;
 - (k) there is a lack of clarity regarding who should receive an enrolment letter;
 - (l) the maintenance of the register is complex and challenging. The legislation is impractical for the City to comply with in places; and
 - (m) the City must rely on Australian Securities and Investments Commission (ASIC) data for company officer mailing addresses, which is often incorrect; and
- (B) the Chief Executive Officer be requested to make a submission to the Inquiry into the Conduct of Elections in New South Wales on behalf of the City of Sydney reiterating the City's concerns about the City of Sydney Business and Non-Residential Roll.

Carried unanimously, as part of an in globo motion.

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