

The Hon. Tara Moriarty, MLC
Chair
Portfolio Committee No. 1 – Premier and Finance
NSW Parliament
Macquarie Street
SYDNEY NSW 2000

BudgetEstimates@parliament.nsw.gov.au

16 September 2021

Dear Ms Moriarty,

ANSWERS TO QUESTIONS TAKEN ON NOTICE ON 18 AUGUST 2021

On 18 August 2021 I appeared as a witness at a hearing of the Portfolio Committee No. 1 and took the following questions on notice:

QUESTION:

The Hon. PENNY SHARPE: My final question is: Will you take on notice how much you think it will cost and what you have previously asked for in relation to dealing with the full postal ballot?

Mr SCHMIDT: To the best that I can, I will.

I now provide my answer below to this question:

ANSWER:

In early August 2021, the Electoral Commission estimated the costs of conducting the elections using postal-only voting to be \$145.3 million. This amount was calculated on the basis that postal voting, supplemented by the use of technology-assisted voting (iVote), would need to be conducted over two tranches, taking place in December 2021 and March 2022. This two tranche proposal was developed following the postponement of the September elections

in July 2021, as it was no longer feasible by that time for the Electoral Commission to conduct the elections entirely by postal voting in December.

Postal voting would ordinarily be less expensive than attendance voting but the estimated cost of running two tranches of postal voting was comparable to the Electoral Commission's forecasted costs (approximate savings of only \$0.7 million) for conducting a full attendance election in December 2021. This parity was because staff and contractors essential to the delivery of the elections would need to have been retained for a longer period in order to support the delivery of the elections in two tranches. This estimated cost of \$145.3 million also included a range of sunk costs, arising from the two postponements of these elections, which had been incurred regardless of which election delivery model was now adopted.

The Electoral Commission's current budget for the full attendance election on 4 December, under the additional circumstances of the present COVID-19 outbreak and the most recent deferral of election day by three months, is \$146 million. This budget includes the following amounts:

- \$29.1 million that the Electoral Commission attributes to the costs of the second postponement of the elections from 4 September (although this additional funding is yet to be formally approved by the NSW Government, the Treasurer has provided an assurance that the necessary resources to undertake the deferred elections will be made available)
- \$37.3 million that was provided to the Electoral Commission in 2020 to implement COVID-19 mitigation measures for the elections
- \$19.9 million that was provided to the Electoral Commission in 2020 for its core (indirect) costs of conducting the elections
- \$13.7 million that was provided to the Electoral Commission for its additional indirect costs incurred due to the initial 12 months postponement of the elections from 2020 to 2021
- \$46.0 million for the Electoral Commission's direct costs of conducting the elections, which is recoverable from client councils.

In July 2020, I had proposed to the Government that, in response to COVID-19 risks, the elections be conducted utilising a fully non-attendance model using postal voting (supplemented by iVote). At that time, the Electoral Commission estimated that switching to full postal voting would mean only \$29 million in direct costs would need to be recovered from councils, which was \$17 million less than the (then) estimated direct costs of running the postponed elections in September with attendance voting. I also advised that an additional \$37 million in direct costs would be required to conduct full attendance elections with COVID-19 mitigation measures. Combining these figures resulted in an estimated total cost-saving opportunity of up to \$54 million had the full postal voting option been adopted at that time.

QUESTION:

Mr DAVID SHOEBRIDGE: If the Parliament was to return in the first week or so of September and make an emergency provision for a postal vote to allow you to undertake a statewide postal vote for local councils and then provide a timing that would allow that to actually happen, can you give an indication about what sort of time frame you would need, or envelope you would need, to have that workable?

Mr SCHMIDT: I would have to come back with that information.

I now provide my answer below to this question:

ANSWER:

It is now too late for legislative amendments to be enacted which would enable the Electoral Commission to conduct these elections using postal voting in two tranches prior to March 2022. The Electoral Commission also no longer has the time, or capacity, necessary to conduct a single tranche of postal-only voting in December 2021.

There are overwhelming logistical challenges to scale up postal voting by a factor of ten, including in relation to commercial suppliers involved in the preparation and dispatch of millions of ballot papers within the next 10 weeks, which would prevent the successful delivery of a full postal voting election in December. In addition, the Electoral Commission's aging information technology systems are highly customised and cannot be re-purposed at short notice to accommodate the demands of postal-only voting without serious risk of catastrophic failure.

Due to these risks, the Electoral Commission must now focus all its available resources and efforts on the delivery of attendance voting on 4 December, supplemented only by postal and iVoting. This work is being undertaken concurrently with the Electoral Commission's preparations for the March 2023 State general election.

The Electoral Commission must also operate on the assumption that the NSW Government does not consider that conducting attendance elections, including the preparations essential to their delivery that are already underway in regional and Greater Sydney local government areas, will present an unacceptable COVID-19 risk to public health.

I still support legislative amendments, however, that would permit all postal voting for a limited number of elections (such as within a specific local government area/ward) in early 2022, to avoid the risk of failure due to unpredictable COVID-19 impacts. I also support legislative amendments that would authorise the Minister to recommend regulations, supported by the Electoral Commissioner, to respond to other COVID-19 impacts on the processes for running attendance elections, such as the maximum timing of adjournments, in order to avoid prolonging the uncertainty for NSW local councils and their communities.

QUESTION:

Mr DAVID SHOEBRIDGE: Commissioner, you first alerted the Government to these very real concerns in July of last year by correspondence. Could you provide the Committee with that correspondence?

Mr SCHMIDT: Yes.

I now provide my answer below to this question:

ANSWER:

The correspondence on this topic consists of a Letter to the Premier and Special Minister of State dated 7 July 2020, and a Letter and Advice to the Minister for Local Government, dated 7 July 2020, in which I proposed all postal voting (supplemented by iVote) for the postponed September 2021 elections. Copies of this correspondence are **provided** with this letter.

Yours sincerely,

John Schmidt
Electoral Commissioner

7 July 2020

The Hon Gladys Berejiklian, MP
Premier of New South Wales
GPO Box 5341
SYDNEY NSW 2001

The Hon Don Harwin, MLC
Special Minister of State
GPO Box 5341
SYDNEY NSW 2001

Dear Premier and Minister

NSW 2021 Local Government Elections

In a letter dated 5 June 2020, the Minister for Local Government, the Hon Shelley Hancock, MP, has advised that the Government is currently considering making amendments to the *Local Government Act 1993* to extend the option of universal postal voting to all councils at the next local government elections.

The Minister has sought my views on this proposal and advice regarding the NSW Electoral Commission's capacity to conduct the elections by universal postal voting.

As set out in the attached response to the Minister, my assessment is that a non-attendance election model (ie, universal postal voting complemented by the use of iVote, if available) would most effectively mitigate the cost and delivery challenges posed by the uncertainty arising from the COVID-19 pandemic. In arriving at this conclusion I have focused on the necessity of maintaining high levels of public safety and participation in the elections, while also ensuring integrity through robust testing of requisite election system changes well before the 2021 election period.

For reasons outlined in my response, I have also advised that the NSW Electoral Commission's provision of this non-attendance election model is dependent upon the Government making a decision by end-August 2020 as to the election method to be used.

I anticipate that similar health, cost and operational issues will arise should any State by-election be required to be held during the COVID-19 pandemic. Accordingly, the Government may wish to consider the introduction of special legislative arrangements that would permit the delivery of such by-elections by means of a non-attendance election model.

I would be pleased to discuss this matter further at your convenience. Alternatively, should you require additional information, please have your officers contact Mr Simon Kwok, Executive-Director – Elections at

Yours sincerely

John Schmidt
Electoral Commissioner
Encl.

7 July 2020

The Hon. Shelley Hancock MP
Minister for Local Government
GPO Box 5341
SYDNEY NSW 2001

Dear Minister

NSW 2021 Local Government Elections

I refer to your letter dated 5 June 2020 in which you advised that the NSW Government is considering amending the *Local Government Act 1993* to extend the option of universal postal voting to all councils at the 2021 local government elections.

Thank you for seeking my views on this proposal. I have considered the matter carefully and have also taken note of the recent experience of other Australian and New Zealand Electoral Commissioners managing the risks arising from the COVID-19 pandemic. I consider that that a non-attendance election model (ie, universal postal voting complemented by the use of iVote, if available) would most effectively mitigate the cost and delivery challenges posed by the uncertainty arising from the pandemic.

In arriving at this conclusion I have focused on the necessity of maintaining high levels of public safety and participation in the elections, while also ensuring integrity of requisite election system changes well before the 2021 election period. I have provided further details about this proposal in the attached paper, including an indication of the significant additional costs that would be incurred by councils if the NSW Electoral Commission was to provide an attendance election model in 2021.

I believe that either voting model would need to be supported by legislative changes. A number of changes that have already been identified as necessary to date are set out in the attached paper. For reasons outlined in the paper, the NSW Electoral Commission's provision of this non-attendance election model is dependent upon the Government making a decision by end-August 2020 as to the election method to be used.

A copy of this letter and paper have been provided to the Premier and Minister Harwin. I would be pleased to discuss this matter at your convenience. Alternatively, should you require additional information, please have your office contact Mr Simon Kwok, Executive-Director – Elections at

Yours sincerely

John Schmidt
Electoral Commissioner
Encl.



ADVICE TO MINISTER FOR LOCAL GOVERNMENT – POSTAL ONLY LOCAL GOVERNMENT ELECTIONS 2021

NSW Electoral Commissioner

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Purpose and overview

The Minister for Local Government has requested the Electoral Commissioner's views on extending the option of universal postal voting to all councils at the next local government elections, to be held in 2021.

This paper sets out the views of the Electoral Commissioner on the feasibility of delivering the 2021 local government elections by universal postal voting and the legislative changes that would be required to support that delivery method.

The Electoral Commissioner advises that the NSW Electoral Commission (NSWEC) could deliver a non-attendance election model utilising universal postal voting supplemented by iVote, for the 2021 ordinary elections (LGE21) on 4 September 2021.

It should be noted that there are two issues that might prevent iVote being available for LGE21. Firstly, iVote is currently only configured to conduct State elections. The supplier of iVote's software, ScytI, is developing changes to enable iVote to be used for LGE21. These changes are to be delivered later this year and will then be tested by the NSWEC to confirm their operation. This testing is scheduled to be completed in early 2021. Secondly, the NSWEC has been advised that, under the supervision of a Spanish court, a sale is being conducted of ScytI's business operations. It is understood that the outcome of this sale process will be announced in mid-July. Although to date this process has had no impact on the use of iVote, the NSWEC will continue to monitor the situation, particularly regarding the implications of any post-sale changes.

Even if iVote is not available, the NSWEC does not have the capacity to plan, develop and deliver both attendance (i.e., in-person, and postal voting) and non-attendance (i.e., universal postal voting) election models for LGE21.

Accordingly, the move to a non-attendance election model is only recommended if non-attendance voting is made mandatory for all councils which engage the services of the NSWEC. For a non-attendance election model to be available for September 2021, the NSWEC must undertake work on essential system changes and operational planning as soon as possible. Some planning has already commenced but a commitment to that model will need to be made by the Government no later than end-August 2020. In the absence of such a commitment, to ensure the successful delivery of LGE21, the NSWEC will need to revert to planning for an attendance election model.

This paper also outlines the projected operational impacts of the additional public health requirements on an attendance election model for LGE21 if such measures are required due to a continuation of the COVID-19 pandemic.

Leaving aside the inherent health risks for electors, candidates, party workers, election staff and the general public, implementing social distancing and public hygiene measures at an attendance election in 2021 will significantly increase costs for councils. The NSWEC has previously provided councils with estimates totalling \$46m for the direct costs of conducting elections in September 2020 using an attendance election model. With COVID-19 measures included, it is estimated that these direct costs would increase by approximately 80%, i.e. by \$37m to \$83m. This can be compared to implementing the recommended non-attendance election model which is estimated would see a reduction of approximately 37%, i.e. reducing the NSWEC estimates by \$17m from \$46m to \$29m.

Finally, the paper briefly notes legislative and operational changes that would be needed to respond to both the risks of COVID-19 (regardless of which election model is used) and the delivery of a non-attendance election model for LGE21.

Recommendations

The NSW Electoral Commissioner recommends and advises that:

1. The 2021 NSW local government ordinary elections conducted by the NSWEC be held under a non-attendance election model, utilising universal postal voting complemented by the use of iVote (if available).
2. A non-attendance election model at the 2021 elections will significantly reduce the risks arising from the public health impacts of the COVID-19 pandemic.
3. A non-attendance election model at the 2021 elections will significantly reduce the direct costs for councils.
4. A non-attendance election model should be mandated for all councils engaging the services of the NSWEC and the Government's decision to proceed on this basis should be announced no later than end-August 2020.
5. If the Government does not commit to a non-attendance election model by end-August 2020, the NSWEC will need to revert to planning for an attendance election model only.
6. Legislative amendments and system changes will need to be made in order for a non-attendance model to be implemented for LGE21.
7. Legislative amendments will also need to be made to provide options for mitigating the risks that may arise from COVID-19 if attendance elections are to be conducted for LGE21.

Status of preparations for the postponed elections

The NSW ordinary local government elections were previously scheduled to take place on 12 September 2020. Out of the 126 councils which are holding elections, 124 resolved to engage the NSWEC to conduct their elections. The NSWEC also provides some essential election services, such as authorised rolls, to those councils that are engaging a third party service provider to conduct their elections (Fairfield and Penrith).

Number of councils for which the NSWEC is election service provider	124
Number of councils for which the NSWEC is not the election service provider	2 (Fairfield, Penrith)
Number of councils under administration (no elections required)	2 (Balranald, Central Darling)
Projected total enrolment	5.4 million

Local government elections are a large scale, state-wide event and many aspects of these elections are more complex than a State General election. The following table details some of the key features of the election services the NSWEC had planned for the, now postponed, 2020 local government elections.

Measure	Number/Description	Comment
Projected number of electors to be serviced by the NSWEC	5.0 million	
Number of councillor elections	254	Compared to the 2019 NSW State General Election, 93 Legislative Assembly elections, and one Legislative Council election were held
Number of councillor positions to be elected	1,222	Compared to the 2019 NSW State General Election, 93 Legislative Assembly members, 21 Legislative Council members were elected
Number of mayoral elections	34	
Number of polls/referenda	10 referenda (estimate) 2 polls (estimate)	Estimate based on 2016/17 data
Council with largest number of electors	Central Coast	More than 252,000 electors
Council with smallest number of electors	Brewarrina	Less than 1,000 electors
Election event with largest number of electors	City of Sydney	Approximately 185,000 electors, including non-residential electors

Measure	Number/Description	Comment
Voting services <ul style="list-style-type: none"> • Pre-poll voting • Election day voting • Postal voting • Declared institution • Declaration voting • Sydney Town Hall 	237 pre-poll centres Over 2,900 polling places	
Projected number of candidate nominations to process	5,000	A total of 914 candidates nominated for the 2019 State General Election
Number of staff work at polling places for one day	About 17,000	
Number of temporary staff working at Returning Officer's Office and Pre-poll centres	About 2,200	
Number of contingent workforce working and centralised count centres and other operations	Over 800	

Funding of the local government elections

Funding of the local government elections consists of two components:

1. core costs and
2. direct costs.

On 18 September 2019, the Minister for Local Government announced the Government would provide \$19.9 million funding for the NSWEC's core costs for the local government elections.¹ This funding aimed to minimise the financial burden on councils and ensure that the elections were held efficiently and cost effectively.

In NSW councils are expected to meet the direct costs of election services including costs of polling venues, counting places, temporary election staff, ballot papers and contingent workforce. The pre-COVID19 estimated direct cost of the 2020 local government elections was \$46 million. Each client council received a cost estimate from the NSWEC before entering into agreements for conducting their elections.

Impact of COVID-19 pandemic on the 2020 elections

On 11 March 2020, the World Health Organisation (WHO) announced the novel coronavirus (COVID-19) virus outbreak a pandemic.² The COVID-19 pandemic poses significant public health risks to electors, candidates, party workers, election staff and the general public.

¹ Media Release, NSW Minister for Local Government "NSW Government reduces the cost of council elections", 18 September 2019 <<https://www.olg.nsw.gov.au/media-releases/nsw-government-reduces-the-cost-of-council-elections/>>.

² World Health Organisation, "WHO Director-General's opening remarks at the media briefing on COVID-19", 11 March 2020 <<https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>>.

At the time the COVID-19 pandemic emerged, the NSWEC identified a number of key risks to the preparation and delivery of the September 2020 local government elections, including:

1. Unavailability of key NSWEC staff due to COVID-19 infection, self-isolation, carer responsibilities.
2. Unavailability of sufficient temporary staff (Returning Officers, Election Officials and support for critical functions) due to COVID-19 infection (or fear of infection), self-isolation and carer responsibilities
3. Unavailability of election venues (Returning Officer's offices, polling places, pre-poll centres, and count centres) due to closure of premises, or inability to hire venues of sufficient size to meet social distancing requirements
4. Disruption to the supply chain of critical election materials and equipment due to degrading of postal service, lockdown in overseas manufacturing sites and disruption in global logistics
5. Inability of political participants to undertake campaigning activities due to COVID-19 restrictions and difficulty in finding volunteers to support their campaigns
6. Drop in voter turnout due to COVID-19 virus restrictions, such as lockdown, closure of schools and other venues, and public concerns in general.

Significant additional costs would also need to be incurred to implement measures to comply with government public health orders and advice, including social distancing, managing public mass gathering limits and implementing hygiene measures for staff and electors at polling places, including the supply of personal protective equipment (PPE).

Impact of postponement of the elections on the NSWEC's core costs

In response to the COVID-19 pandemic, following the passage of legislation on 24 March 2020 the Minister for Local Government announced the postponement of the September 2020 local government elections for 12 months.³ The Minister subsequently announced that these elections will be held on 4 September 2021.

In light of this postponement, the NSWEC has been working to re-plan the scope of work required to deliver the local government elections in September 2021. The NSWEC has previously estimated that it will incur additional core costs of \$11.7m as a result of the postponement.

A submission seeking approval for this additional core funding is being developed by the NSWEC for consideration by Government as part of the deferred 2020/2021 Budget. If approved by Government, councils will not be required to meet the additional core costs arising from the deferral. If no additional funding is received, the NSWEC cannot absorb these costs of the deferral. This funding submission will also address any additional funding required to develop and deliver a non-attendance election model.

³ Office of Local Government Circular to Councils, "20-10 Postponement of the September 2020 Local Government Elections", 20-10 / 25 March 2020 / A696536, <<https://www.olg.nsw.gov.au/council-circulars/20-10-postponement-of-the-september-2020-local-government-elections/>>.

Key reasons for recommending non-attendance voting at the 2021 local government elections

Additional planning for COVID-19 is avoided

Integral to the NSWEC's re-planning process to date has been the identification of relevant COVID-19 public health orders and restrictions⁴ that must be considered when conducting an attendance election in 2021.

At a minimum, this exercise has determined that steps would need to be taken at polling places and count centres to:

- implement social distancing (1.5 metres between persons and four square metres per person)
- manage public mass gathering restrictions
- support good hygiene for election staff, electors and party workers, including the supply of personal protective equipment (PPE).

In the absence of a COVID-19 vaccine, the risk that public health orders and advice will remain in place for the foreseeable future must be taken into account in planning for LGE2021. Many of the COVID-19 risks that would have affected the preparation and delivery of the September 2020 local government elections will also apply to the 2021 elections.

An exemption from NSW Health orders may also need to be sought for some aspects of electoral practices, as was recently granted to the Australian Electoral Commission in relation to the Eden-Monaro by-election (see **Appendix D – Exemption to No 3 gathering order - AEC - Eden-Monaro by-election**).

High costs of extra public hygiene and social distancing are avoided

So long as the risk of COVID-19 infections remains a threat, the NSWEC will need to plan (and incur expenses) for any attendance election event on the basis that full health protection measures may need to be implemented at short notice.

The largest cost impacts due to COVID-19 arise in the context of implementing public hygiene and social distancing measures to meet government public health advice in voting venues.

Voting practices at voting venues will need to change significantly as a result of these measures. Voters arriving at a polling place will be required to queue under social distancing rules. Additional dedicated election staff will need to be stationed inside/outside polling places to control voter queues to ensure social distancing is maintained.

The number of voters entering a polling place will be restricted to maintain social distancing. The general practice would be to maintain only one voter at each ballot paper issuing point with no more than one other voter queue (1.5 metre) behind at each issuing point, and one voter at each voting screen. Additional staff will be required to ensure voters cannot move in to these positions until a vacancy occurs.

⁴ NSW Health, Public Health Orders and restrictions - COVID-19 (Coronavirus)
<<https://www.health.nsw.gov.au/Infectious/covid-19/Pages/public-health-orders.aspx>>.

PPE will be issued to staff and electors to meet government health advice (refer to **Appendix A – Sample personal protective equipment (PPE) and other COVID-19 resources** for the current draft list of necessary PPE resources).

Voting screens and issuing tables will be separated by 1.5 metres. Additional staff will be required to regularly sanitise voting screens and issuing tables. PPE kits will include bags to safely store and dispose of biohazard materials such as used masks, cleaning cloths, and pens etc.

Implementing these COVID-19 measures will:

- reduce the number of voters each election official is able to process (roughly halved)
- reduce the capacity for each polling place or pre-poll centre (estimated to be no more than 1,000 voters a day)
- increase the number of staff working at polling places from approximately 16,900 staff to over 27,000
- increase the number of voting venues required to be rented (at least 500 additional venues). The NSWEC has not yet discussed with the Department of Education (largest provider of polling places) the availability of schools as polling places. In addition to advising (pre-COVID-19) of significant increases (ranging from 45% to 351%) in the cost of hiring school premises, the Education Secretary has recently advised that ‘an enhanced environmental clean at the end of the polling period’ will be required to address COVID-19 risks. No cost has yet been determined for this cleaning. Venues which cannot be provided by the Department of Education will need to be sourced commercially; and
- result in increased cleaning and biohazard waste disposal costs.

Attendance elections will increase direct costs for councils by \$37 million

It is currently estimated the costs of implementing these measures would add \$37 million direct costs to the costs of conducting elections. This brings the total estimated direct costs to councils of conducting these elections to \$83 million. If these costs are to be recovered from client councils, the additional COVID-19 related costs represent about an average 80% cost increase from the NSWEC’s original (pre-COVID-19) estimates.

Proposed model for delivering 2021 local government elections by universal postal voting

The NSWEC has reviewed the feasibility of delivering the NSW 2021 local government elections via a non-attendance model utilising universal postal vote, complemented by the use of iVote.

A postal model is lower cost for councils than an attendance model

Implementing COVID-19 measures in polling places and pre-poll centres is expected to be costly. As noted above, the total direct costs to councils is estimated to be \$83 million. It is estimated that the direct cost of implementing postal election, supplemented by iVote, would be about \$29 million.

Non-attendance election model - Universal postal voting with iVote - will require legislative amendments

Legislative amendments to the *Local Government Act 1993* (the Act) will be required to implement a non-attendance election model for delivering the 2021 elections, particularly in relation to the following areas:

- Election method, including providing for universal postal voting complemented by the use of iVote
- Election timeframes (e.g. to extend the scrutiny period for postal votes and extend the postal vote return date)
- Adjustment of certain processes to provide for public health considerations (e.g., scrutineering and consideration of the current witnessing requirement for postal voting)

More details concerning these amendments is set out at **Appendix C – Changed processes and required legislative amendments**.

Key aspects of the universal postal voting model

A. Postal voting processes will need to change

The *Local Government Act 1993* (the Act) currently provides for the possibility of postal only elections in certain circumstances (s 310B). Those provisions would need to be amended to facilitate postal elections for LGE21.

Part 11 Division 8A of the *Local Government (General) Regulation 2005* (NSW) (the Regulations) sets out processes for voting at universal postal elections, including the issue of postal ballot-papers to electors, the voting procedure to be followed and requests for redirection and replacement of postal voting materials. The NSWEC proposes that those provisions should apply to elections under this model, with some modifications as set out at **Appendix C – Changed processes and required legislative amendments for a non-attendance election model in September 2021**.

A postal vote pack will be sent to all electors unless they have registered as a 'registered early voter (technology assisted voting)' under the *Electoral Act 2017* prior to the close of roll.

Postal vote fulfilment (being the filling and dispatching of envelopes with the correct voting paperwork) will be managed by specialist outsourced suppliers. A centralised postal vote

centre will be established to manage the receipt of postal vote packs, scrutiny and extraction.

Current legislation provides that only postal votes received by 6pm on the Monday following election day can be admitted to the count. In light of the large volume of postal votes, and decline in Australia Post service standards, the NSWEC recommends that amendments be made (i) to allow for the extraction and scrutiny of postal votes from two to three weeks prior to the close of voting and (ii) to extend the closing date for postal vote returns to 13 days following election day, in line with current arrangements under the *Commonwealth Electoral Act 1918* (Cth).

B. Technology assisted voting (iVote) should be available for eligible electors

Currently, the Act does not provide for technology assisted voting (iVote) to be used at local government elections. The NSWEC proposes that Part 7, Division 11 of the *Electoral Act 2017* be adopted, with any necessary amendments, to enable the use of iVote by electors who meet the existing eligibility criteria under that Act.

The NSWEC also recommends that eligibility to use iVote be expanded to include electors who have not received postal ballot papers during a specified period before close of voting. Australia Post's performance standards continue to reduce, with delivery time for regular intrastate letters now up to five business days after the day of posting. The minimum delivery frequency schedule (for metropolitan areas only) has changed from every business day to every second business day.⁵ There is a significant risk that some electors will be disenfranchised because they fail to receive postal ballot papers in time or will not have sufficient time to return their postal ballot papers. This risk can be mitigated by allowing electors to access iVote in the event they do not receive postal ballot papers, or are unable to return ballot papers in time.

The NSWEC cannot offer iVote to councils that have engaged another electoral service provider. Providing iVote to these councils would bring a level of complexity and require yet-to-be-defined changes to the iVote system to allow integration with third party voting and counting systems. Even if this were possible, the cost of providing such a service would likely be prohibitive. Finally, significant probity issues would arise if both the NSWEC and a third party provider were to conduct different components of the same election event.

C. Changes to nomination processes will be needed

Under a non-attendance election model, returning officers will not need to be physically located in a local government area to undertake their functions. While this centralisation of election activities will generate efficiencies, regard will need to be given to facilitating the lodgement of nominations. It is envisaged that most nominations will be lodged on-line. Subject to any COVID-19 restrictions, candidates who wish to lodge in-person can make an appointment to do so with the NSWEC either at the NSWEC's office or at the relevant council's office. An amendment may need to be made to facilitate these arrangements. The Regulations currently provide that nominations can also be lodged by post, email or facsimile.

⁵ Australia Post, "Coronavirus: Domestic Updates", <https://auspost.com.au/about-us/news-media/important-updates/coronavirus/coronavirus-domestic-updates#regulatory> (accessed 6 July 2020).

D. Changes to ballot paper draws

Ballot paper draws will be undertaken centrally. Having in mind the number of draws to be conducted it is recommended that the NSWEC be empowered to use software to conduct randomised ballot draws. This method is already permitted under the *Electoral Act 2017* for State elections and has been also used in Victoria for a number of years for local government elections.

E. Changes to electoral material offences

It is recognised that both universal postal voting and attendance elections during a pandemic will require changes to the regulation of candidates' campaigning.

The Regulations set out a number of requirements for dealing with electoral material. The NSWEC notes that the current specific offences applying on pre-poll voting days (Part 11, Division 9A, Subdivision 4 of the Regulations) and election days (Subdivision 5) and the registration of electoral material (Subdivision 6) will not be applicable to a non-attendance election.

As candidates can distribute electoral material directly to electors at other times during the election process, the general provisions in relation to non-complying electoral material during the regulated period (Part 11, Division 9A, Subdivisions 2 and 3) will continue to apply.

The NSWEC does not have the capacity to assess and host electoral material on behalf of candidates (or other political participants, such as third-party campaigners) on its website. To support electoral integrity, the NSWEC could instead provide electors' with access to electoral material on political participants' nominated websites via links posted on the NSWEC's website. Visitors to the NSWEC website who 'click through' these links would be shown clear messages that the user is leaving the NSWEC website and that the NSWEC has no responsibility for, and does not endorse, the subsequent content.

F. Counting and results changes

Under a non-attendance election model, postal vote counting would be undertaken at a separate centralised count centre.

Having regard to the decline in postal services, additional time should be allowed for completed postal ballot papers to be received by the NSWEC for inclusion in the count. The current legislation should be amended to allow a 13 day period after the last day of voting for the return of ballot papers, as provided by the *Commonwealth Electoral Act 1918*.

G. Scrutineering changes

While every effort will be made to support scrutineers in undertaking their functions at the elections, those functions may need to be undertaken with regard to COVID-19 health measures, such as social distancing. In this context, the NSWEC recommends that consideration be given to empowering the Electoral Commissioner to issue directions, if necessary, in relation to the scrutiny process to minimise health and safety risks. Such a power was given to the Queensland Electoral Commissioner at the recent Queensland local government elections.

Mandatory non-attendance model for the 2021 elections

As noted earlier, the NSWEC does not have the capacity to plan, develop and deliver both attendance and non-attendance election models for LGE21. Relevant considerations in this regard are:

1. **The costs for councils and the State generated by a choice of voting models would be prohibitive** because the NSWEC would need to operate parallel election systems to cater for council choices – one of which would be new and the other potentially complicated by ongoing public health pandemic measures. As well as the additional costs of introducing a new postal voting model (and iVote), there is a risk that no economies of scale would be generated through either model if both had to be deliverable in September 2021. The NSWEC is not funded to absorb these costs, which would need to be passed on to client councils.
2. **There are insufficient resources and time for the NSWEC to develop, test and operate the necessary information technology systems and operational processes** required to cater for two election models. The majority of the NSWEC's election systems are very old and require significant manual modification between the two NSW major election events, i.e. ordinary local government elections and State general elections. The technical changes required to support both attendance and non-attendance election models have not been fully scoped and the successful concurrent operation of the two models cannot be guaranteed.

Similarly, the NSWEC's Election Division does not have sufficient staff to provide the required subject matter expertise to concurrently support the two models. Nor would it be practical to attempt to engage and skill up such expertise before September 2021.

Based on the current local government legislation, the NSWEC had not planned to conduct elections where councils could exercise a choice in election model until after the 2020 local government elections.

3. **Planning for the 2023 State General Election would have to be deferred while all available NSWEC resources are fully deployed delivering a more complex LGE2021.** There are a number of major systems changes that need to be implemented by the NSWEC in the lead up to SGE23. In light of the postponed local government elections, the NSWEC has had to reschedule that implementation, with some work being brought forward of, and some postponed until after, LGE21. If a choice of election models were to be offered for LGE21, the added complexity will create significant delivery and integrity risks for not only the LGE21 but also SGE23.

The Victorian Government recently announced that the October 2020 local government elections will be postal-only for all council elections, removing the option that did exist in that State for councils to choose attendance voting.⁶ Making non-attendance voting compulsory for the 2021 NSW local government elections would not preclude the option of attendance voting again at future elections, as is the case under the current legislative framework.

⁶ Media Release, Victorian Minister for Local Government, "October Local Council Elections In The Mail", 15 May 2020 <<https://www.premier.vic.gov.au/october-local-council-elections-in-the-mail/>>.

Attendance elections in 2021 will also need legislative change

If the NSW Government decides the 2021 elections are still to be run as attendance elections, in full or in part, a number of changes to existing processes will be needed to mitigate against risks arising from COVID-19.

The NSWEC recommends that attendance elections should be delivered with expanded postal voting eligibility, as well as adding technology assisted voting as a complementary stream using iVote (if available).

More detail on the changes that would be needed to facilitate this model are set out at **Appendix E – Changed processes and required legislative amendments for attendance elections during COVID-19 (September 2021)**.

Appendices

Appendix A – Sample personal protective equipment (PPE) and other COVID-19 resources

Product	Description/ Usage
Cloth Tape	To mark out areas in all polling locations to demonstrate approved social distancing requirements for queuing and waiting.
Tape Measures	To place tape on the floor accurately adhering to the 1.5m distance needed between people
Ziplock Plastic Bags	To ensure there is no cross-contamination of lanyards, bibs and other personal equipment used by polling staff
Hi-Viz Orange Vests	For the queue controllers to wear at polling venues
Surgical Masks	To be worn by staff at polling venues, returning officer (RO) offices and count centres
Hand Sanitiser	To be used in all polling venues, RO offices and count centres at entry and exit points as well as issuing tables, counting tables and break out areas
Perspex Sneeze Guards	To be used at polling locations for issuing points and at the count centres as a physical barrier
Gloves	Supply of disposable vinyl gloves used by staff at polling places, RO Offices, and count centres when requested by staff
Voting Screen Inserts	To be used in polling venues
Sanitiser Spray	To be used in polling places and count centres
Wipes	To be used in polling places and count centres
Disinfectants	Anti-bacterial wipes will be available to be used at polling venues, RO offices and count centres
Pens	Single use pens for each voter
Bio-Hazard Bags	Bio-waste hazard bags to be used at polling venues.
Floor Stickers	Social distancing stickers to be used at the RO Offices, polling places and count centres

Appendix B – Draft Election calendar – Scenario modelling Non-Attendance Election (Postal & iVote)



Election calendar – Scenario modelling

LG2021 – Saturday 4 September 2021 – Non-Attendance Election (Postal & iVote)

July					
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
19 Postal vote applications open	20	21	22	23	24
26 Nominations open 6pm – Close of rolls	27 Accept nominations	28 Accept nominations	29 Accept nominations	30 Accept nominations	31
August					
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
2 Accept nominations	3 Accept nominations	4 12 Noon – close of nominations and close of registration of candidates and groups	5	6	7
9 Postal vote packs commence distribution	10 Postal vote packs distributed	11 Postal vote packs distributed	12	13	14
16 Postal vote certificate return commences	17	18	19	20	21
23 Postal vote scrutiny & extraction commences iVote registration & voting commences	24 Postal vote scrutiny & extraction commences iVote registration & voting commences	25 Postal vote scrutiny & extraction commences iVote registration & voting commences	26 Postal vote scrutiny & extraction commences iVote registration & voting commences	27 Close of registration for third-party campaigners Postal vote scrutiny & extraction iVote registration & voting commences	28
September					
Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
30 August 5pm – Postal vote applications close Postal vote scrutiny & extraction iVote registration & voting	31 August Postal vote scrutiny & extraction iVote registration & voting	1 Postal vote scrutiny & extraction iVote registration & voting	2 Postal vote scrutiny & extraction iVote registration & voting	3 Postal vote scrutiny & extraction iVote registration & voting	4 Election day End of capped expenditure period iVote registration closes 1pm, voting closes 6pm Councillor & Mayor check counts commence
6 Councillor & Mayor check counts commence Postal vote scrutiny & extraction iVote initial count results published	7 Councillor & Mayor check counts Postal vote scrutiny & extraction	8 Councillor & Mayor check counts Postal vote scrutiny & extraction	9 Councillor & Mayor check counts Postal vote scrutiny & extraction	10 Councillor & Mayor check counts Postal vote scrutiny & extraction	11 Councillor & Mayor check counts Postal vote scrutiny & extraction
13 Councillor & Mayor check counts Postal vote scrutiny & extraction	14 Councillor & Mayor check counts Postal vote scrutiny & extraction	15 Councillor & Mayor check counts Postal vote scrutiny & extraction	16 Councillor & Mayor check counts Referendum & Poll counts commence Postal vote scrutiny & extraction	19 Councillor & Mayor check counts Referendum & Poll counts Postal vote scrutiny & extraction 6pm – Return of postal votes closes	18 Mayor distribution of preferences commence
20 Councillor distribution of preferences Mayor distribution of preferences continue Mayor results declared Referendum & Poll results declared	21 Councillor distribution of preferences Mayor results declared	22 Councillor distribution of preferences	23	24 All councillor results declared	25

Appendix C – Changed processes and required legislative amendments for a non-attendance election model in September 2021

The following table is an overview of process changes and legislative amendments that would be required to deliver the 2021 NSW local government elections through a non-attendance model.

Election process	Changed processes and potential amendments
<p>Election method – Postal only and complementary technology assisted voting for eligible electors</p>	<p>Postal voting</p> <p>To facilitate postal elections for LGE21 the NSWEC proposes that the elections will be non-attendance elections for all councils which have engaged it to conduct these elections. This would mean that the provisions of Part 11 Division 8A of the Regulations govern the elections.</p> <p>The current requirement for a Council to resolve its election provider and method at least 18 months before the next ordinary election, while not applicable to the 2021 election, should continue to apply to elections post-2021.</p> <p>The process for completing a postal vote may require amendment. Currently the procedure for postal voting set out in cl 344C of the Regulations requires that the vote be completed in the presence of a witness. In the context of the health risks posed by COVID-19 and partial community lockdowns, this may place an additional burden on electors who live on their own or in isolated locations, even where voting could be witnessed electronically. Consideration should be given to whether the requirement for a witness should apply for LGE21. If that requirement is amended, consequential amendments to the operation of cl 347 of the Regulations, which addresses the preliminary scrutiny of postal ballot papers, must also be considered.</p> <p>iVote</p> <p>The NSWEC also suggests that technology assisted voting be made available to eligible electors for postal only 2021 local government elections. The NSWEC proposes that Part 7, Division 11 of the <i>Electoral Act 2017</i> (NSW) be adopted for local government elections, with any necessary amendments. It is proposed that consideration be given to making provision in the Act for technology assisted voting to be made permanently available future local government elections, to benefit electors who in other circumstances would be unable to vote or would have difficulty voting at these elections.</p> <p>Technology assisted voting will be made available using the NSWEC’s iVote system.</p> <p>The NSWEC also recommends that eligibility to use iVote be expanded to include electors who have not received postal ballot</p>

Election process	Changed processes and potential amendments
	papers during a specified period before close of voting (for example, the final two weeks of voting).
Election timeframes	<p>Postal votes</p> <p>The NSWEC will need to allow sufficient time for all electors to receive and return postal ballots.</p> <p>In light of the large volume of postal votes, the NSWEC suggests that the preliminary scrutiny of postal votes under cl 347 of the Regulations be extended and start two to three weeks before election day to limit delays to the count.</p> <p>In light of declining postal service standards, sufficient time should also be allowed for completed ballot papers to be received before closing the return of ballots. The NSWEC suggests that the current provisions be amended to allow a 13 day period after the last day of voting for the return of ballot papers, as provided by the <i>Commonwealth Electoral Act 1918</i> (Cth). This would require an amendment to cl 344D of the Regulations and consequential amendments to cl 344C and 344E. It is suggested that consideration be given to making these changes permanent, to improve the efficacy of postal voting at all future local government elections.</p>
Method of nomination – receipt of nominations by the NSWEC	The NSWEC anticipates that most candidate nominations will be lodged electronically. Subject to any COVID-19 restrictions, candidates who wish to lodge in-person nominations will be able to make an appointment with the NSWEC and lodge their nomination at the NSWEC’s Sydney office. Consideration should also be given to allowing the lodgement of in-person nominations at council offices.
Public inspection of nominations	<p>Clause 294 of the Regulations provides that a person is allowed, at any reasonable time in office hours, to inspect, without charge, a list prepared by the returning officer of the full names of persons proposed for nomination, the names under which those persons have requested, in the consents to their nomination papers, that they be shown on the ballot-papers, and the suburb, town or other locality of the place of living as enrolled of those persons (as stated on the nomination papers).</p> <p>It may not be practicable for people to attend the NSWEC’s office to review this list prior to the election. To cater for any disruptions in the event of an unexpected office closure and allow for social distancing, consideration should be given to amending the Regulations to allow for this list to be provided on the website only.</p>
Nomination of candidates and ballot paper draws	The NSWEC proposes that for non-attendance elections, the nomination of candidates and the ballot paper draws will be centralised rather than conducted in each area. Current provisions in the Regulations (clauses 295, 302-304) already allow for this, and the Commission would make arrangements for digital streaming and recording of those events. Participants

Election process	Changed processes and potential amendments
	<p>would be permitted to be present in the places these events occur if circumstances allow.</p> <p>As noted below regarding attendance elections, depending on the status of the COVID-19 pandemic at the relevant date, while in compliance with the provisions of the Regulation noted above, it may not be practicable to follow all existing practices when conducting the nomination of candidates and the ballot paper draws. In this context it is recommended that the NSWEC be empowered to use software to conduct randomised ballot draws.</p>
Electoral material	<p>The NSWEC notes that the current offences on pre-poll voting days (Part 11, Division 9A, Subdivision 4 of the Regulations) and election days (Subdivision 5) and the registration of electoral material (Subdivision 6) will not apply under a non-attendance election model.</p> <p>The general provisions in relation to non-complying electoral material during the regulated period (Part 11, Division 9A, Subdivisions 2 and 3) will continue to apply to 2021 local government elections.</p> <p>To assist in making electoral material available to electors, the NSWEC suggests that provision be made in the Regulations for it to provide access to electoral material on political participants' nominated websites via links posted on the NSWEC's website.</p>
Count of ballot papers	<p>Process to be centralised</p> <p>The NSWEC proposes that the postal scrutiny and extraction should be centralised, as provided for under the existing legislation.</p> <p>Requirement for personal protective equipment</p> <p>Evidence remains unclear about the period for which the COVID-19 virus is detectable on paper. This poses risks to staff when handling completed ballot papers.</p> <p>Returned ballot papers are handled by multiple NSWEC staff members involved in the counting process, including physical extraction and unfolding of ballot papers from the envelopes, manual handling of the ballot papers to complete the distribution of preferences and further manual handling during the data entry of preferences recorded on the ballot papers.</p> <p>To address this risk, staff may require personal protective equipment (masks and gloves) to undertake the count to ensure that they do not contract the virus. Staff would also need to abide by current social distancing requirements when undertaking the count.</p> <p>These measures may result in slowing the count of ballots.</p>

Election process	Changed processes and potential amendments
Scrutineering	<p>Social distancing requirements raise questions about whether the current entitlements of scrutineers can be safely maintained. The NSWEC suggests that consideration be given to empowering the Electoral Commissioner to issue directions, if necessary, regarding the scrutiny process to minimise risks to the health and safety of persons caused by COVID-19.</p> <p>It may also be necessary to provide scrutineers with personal protective equipment (masks and gloves) or to provide options for scrutineering by video. For example, the regulations passed to facilitate the 2020 QLD local government elections provided that a returning officer may arrange for the counting of votes to be filmed by a member of the commission's staff (<i>Local Government Electoral (2020 Quadrennial Election) Regulation 2020 (Qld)</i>).</p> <p>These measures may result in slowing the count of ballots.</p>
Failure to vote	<p>It is an offence for an elector to fail to vote at an election (see s 314 of the Act). It will be necessary for the NSWEC to develop a policy to ensure that a consistent approach is taken to electors who say that they have voted but no postal ballot paper has been received by the NSWEC.</p>

Appendix D – Exemption to No 3 gathering order - AEC - Eden-Monaro by-election



Exemption under the Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 3) 2020

under the *Public Health Act 2010 (NSW)*

I, Brad Hazzard, the Minister for Health and Medical Research, under clause 14 of the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 3) 2020* grant the following exemption from that Order:

- 1) The restrictions in the Order do not apply to any premises being used by, or on behalf of, the Australian Electoral Commission for purpose associated with voting in the Eden-Monaro by-election, including any activities preliminary to voting or any activities normally carried out by the Australian Electoral Commission before, during or after the vote.

This exemption is subject to the following conditions:

- a) The Australian Electoral Commission must take reasonable steps to ensure that any persons on the premises who are not members of the same household shall, so far as is reasonably practicable, maintain a physical distance of 1.5 metres at all times.
- b) The Australian Electoral Commission must provide hand sanitizer for use by staff and voters.
- c) The Australian Electoral Commission must take reasonable steps to minimise the use of reusable writing implements.

Note: the purpose of this exemption is to ensure that the Order does not prevent premises being used for voting in connection with the Eden-Monaro by-election



Brad Hazzard MP
Minister for Health and Medical Research

Dated: 3 June 2020

Appendix E – Changed processes and required legislative amendments for attendance elections during COVID-19 (September 2021)

If required to deliver the 2021 local government elections by attendance voting, the NSWEC recommends that the elections be delivered using attendance and postal voting, as well as adding technology assisted voting as a complementary stream using iVote (if available).

In light of public concerns regarding COVID-19, the NSWEC proposes that the current qualification for postal and early voting should be removed for the 2021 local government elections. This will increase electors' options for voting and minimise the number of electors attending venues at the same time.

Currently, the Act does not provide for technology assisted voting. Part 7, Division 11 of the *Electoral Act 2017* (NSW) may be adopted for local government elections, with any necessary amendments, to enable the use of technology assisted voting at an attendance election by electors who meet the existing eligibility criteria under that Act.

Changed processes and required legislative amendments

The following table is an overview of process changes and legislative amendments that would be required to deliver the 2021 NSW local government elections through an attendance model.

Election process	Changed processes and potential amendments
Election method	<p>Postal voting</p> <p>Currently, electors meeting the qualifying criteria set out in cl 313 of the Regulations may apply to vote by postal vote. It may be that people who are concerned about the risks arising from COVID-19 would fall into the category set out at cl 313(l) (“believes that attending a polling place on election day will place the personal safety of the person or of members of the person’s family at risk”). However, to ensure that all electors who wish to are able to vote by postal ballot, the NSWEC suggests that the qualification requirements should be removed for the 2021 NSW local government elections.</p> <p>The current process for completing a postal vote may require amendment. Currently the procedure for postal voting set out in cl 318 of the Regulations requires that the vote be completed in the presence of a witness. In light of COVID-19 consideration may need to be given to whether the requirement for a witness should apply to postal votes cast for the 2021 local government elections. If that requirement is amended, consequential amendments to the operation of cl 347 of the Regulations, which addresses the preliminary scrutiny of postal ballot papers, must also be considered.</p> <p>Pre-poll voting offices</p> <p>Currently, only electors who meet the criteria set out in cl 321 of the Regulations are qualified to vote before election day at a pre-poll voting office. It may be that people who are concerned about the risks arising from COVID-19 would fall into the category set out at cl 321(l) (“believes that attending a polling place on election day will place the personal safety of the person or of members of the person’s family at risk”). However, to facilitate all electors</p>

Election process	Changed processes and potential amendments
	<p>having access to early voting and reduce the number of electors voting in person on election day, the NSWEC proposes that the qualification requirements should be removed for the 2021 NSW local government elections.</p> <p>The NSWEC does not consider that it is necessary to increase the current pre-poll voting period.</p> <p>iVote The NSWEC also suggests that technology assisted voting be made available to eligible electors for the 2021 local government elections. The NSWEC proposes that Part 7, Division 11 of the Electoral Act 2017 (NSW) be adopted for local government elections, with any necessary amendments.</p> <p>It is proposed that consideration be given to making provisions in the Act for this purpose permanent, to benefit electors who in other circumstances would be unable to vote or would have difficulty voting.</p> <p>Technology assisted voting will be made available using the NSWEC’s iVote system.</p> <p>Declared facilities and mobile polling places To address COVID-19 related health risks, the NSWEC proposes that there will be no attendance voting at hospitals, nursing homes, retirement villages and similar facilities for 2021 local government elections. Accordingly, the Electoral Commissioner would not declare any facilities to be a declared institution under cl 327 of the Regulations or arrange for any mobile booths at those facilities under cl 332. Electors at those locations can vote by post or, where eligible, by iVote.</p> <p>Social distancing and hygiene measures at polling places The NSWEC will need to ensure that social distancing is observed at polling places and that all public health orders are complied with.</p> <p>Measures that the NSWEC are considering for polling places include measures such as:</p> <ul style="list-style-type: none"> • increasing the number of staff controlling queues of electors inside and outside a polling place; • ground and floor markings to indicate appropriate social distancing in queues and inside polling places; and • reducing the number of electors inside polling places; and • ensuring a cleaning officer is at each polling place to regularly wipe down surfaces, including voting screens. <p>It may be appropriate for the NSW Government to make a specific public health order to provide for distancing and control the gathering of people at election venues.</p>

Election process	Changed processes and potential amendments
Election timeframes	<p>Postal votes In light of the anticipated increase to the volume of postal votes, the NSWEC suggests that the preliminary scrutiny of postal votes be extended to start two weeks before election day to limit delays to the count.</p> <p>The NSWEC will need to allow sufficient time for completed ballot papers to be received before closing the return of ballots. The NSWEC suggests that the current provisions be amended to allow a 13 day period after the last day of voting for the return of ballot papers, as provided by the <i>Commonwealth Electoral Act 1918</i> (Cth). This would require consequential amendments to clauses 318, 319 and 320 if the Regulations.</p> <p>It is proposed that consideration be given to making provisions in the Regulations for this purpose permanent, to improve the efficacy of postal voting at all future local government elections.</p> <p>Counting and scrutiny Other impacts of COVID-19, such as the requirement to implement social distancing and the potential need for staff to wear personal protective equipment, may slow the count and scrutineering of ballots.</p>
Inspection of nominations	<p>Clause 294 of the Regulations provides that a person is allowed, at any reasonable time in office hours, to inspect, without charge, a list prepared by the returning officer of the full names of persons proposed for nomination, the names under which those persons have requested, in the consents to their nomination papers, that they be shown on the ballot-papers, and the suburb, town or other locality of the place of living as enrolled of those persons (as stated on the nomination papers).</p> <p>It may not be practicable for people to attend the NSWEC's offices to review this list prior to the election. To cater for any disruptions in the event of an unexpected office closure, consideration should be given to amending the Regulations to allow for the list only to be provided on the NSWEC's website.</p>
Nomination of candidates and ballot paper draw	<p>It is anticipated that current practices during attendance elections for the nomination of candidates and ballot paper draws will be conducted in each area.</p> <p>However, depending on the status of the COVID-19 pandemic at the relevant date, it may not be practicable to follow all existing practices when conducting these events.</p> <p>The NSWEC notes that provisions already allow for centralised nomination announcements and ballot paper draws and, if necessary, arrangements would be made for the digital streaming and recording of those events. Participants would be</p>

Election process	Changed processes and potential amendments
	<p>permitted to be present in the places these events occur if circumstances allow.</p> <p>In this context it is recommended that the NSWEC be empowered to use software to conduct randomised ballot draws.</p>
Electoral material	<p>The Regulations set out a number of requirements for electoral material (Part 11, Division 9A).</p> <p>To comply with public health guidelines it may be appropriate for consideration to be given to whether there should be restrictions near polling places on electoral material being displayed on posters, temporary structures and tables, etc. being set up by party and candidates workers and the distribution of electoral material by hand. If these restrictions were considered appropriate, further consideration may be given to whether the requirement for electoral material to be registered for distribution on election day is necessary.</p> <p>For reference, the regulations introduced in Queensland for the local government elections in March 2020 provided a person must not display an election sign within</p> <ul style="list-style-type: none"> • 100m of the building in which the voting compartments for an ordinary polling booth (referred to as a polling places in NSW) are to be located; and • if the building is located in grounds <ul style="list-style-type: none"> • in the grounds; and • on a boundary fence or another structure or feature that marks the boundary of the grounds; and • within 100m of any entrance to the grounds. <p>[See: <i>Local Government Electoral (2020 Quadrennial Election) Regulation 2020 (Qld)</i>].</p>
Count of ballot papers	<p>Depending on the status of the COVID-19 pandemic at the relevant date, management of scrutiny and counting in polling places on election night while observing social distancing requirements may be problematic, particularly for large and complex counts.</p> <p>The NSWEC proposes that provision be made under cl 348 of the Regulations that the election manager may cause some or all of the ballot-papers in a polling place to be sent (i.e. while still sealed in ballot boxes) to a ballot counting place to be counted.</p> <p>The NSWEC proposes that consideration be given to making provision in the Regulations for this purpose permanent, to improve the flexibility and efficiency of ballot counting should circumstances require at future local government elections.</p>
Scrutineering	<p>Social distancing requirements raise questions about whether the current entitlements of scrutineers can be safely maintained. The NSWEC suggests that consideration be given to empowering the Electoral Commissioner to issue directions, if necessary,</p>

Election process	Changed processes and potential amendments
	<p>regarding the scrutiny process to minimise risks to the health and safety of persons caused by COVID-19.</p> <p>It may also be necessary to provide scrutineers with personal protective equipment (masks and gloves) or to provide options for scrutineering by video. For example, the regulations passed to facilitate the 2020 QLD local government elections provided that a returning officer may arrange for the counting of votes to be filmed by a member of the commission's staff (<i>Local Government Electoral (2020 Quadrennial Election) Regulation 2020</i> (Qld)).</p> <p>These measures may result in slowing the count of ballots.</p>