

2 November 2020

# Post-election report

**The Australian Institute of Marine and  
Power Engineers**  
Newcastle Branch  
Scheduled election  
E2019/197

# Contents

Election(s) Covered in this Report .....	3
Rules .....	3
Roll of Voters.....	3
Irregularities.....	3
Other Matters.....	3
Signed.....	4
Attachments.....	5
A. Declaration of Results for Contested Offices – Newcastle Branch	

# Election(s) Covered in this Report

---

Organisation: **The Australian Institute of Marine and Power Engineers**, Newcastle Branch

Election: Scheduled

Election Decision No/s: E2019/197

## Rules

---

Rules used for the election: ([009V: Incorporates alterations of 03/12/2014 in matter

R2013/22]

Rules difficult to apply/interpret: Rule 33B(v) ..... The Returning Officer shall, at least fourteen (14) days before the opening of the election cause to be sent by prepaid mail to each financial member of the branch a ballot paper together with two (2) envelopes, a “declaration envelope” with a removal flap or label and a prepaid envelope.

## Roll of Voters

---

Total number of voters on the Roll: 158

Number of apparent workplace addresses: Nil

Number of non-current addresses: Nil

Other matters pertaining to the roll of voters: Nil

## Irregularities

---

Details of written allegations of irregularities, and action taken by AEC: None

Potential irregularities identified, and action taken to avoid the irregularity: 10 ballot papers were returned before the ballot opened. The remedial action to admit them to the scrutiny is set out below.

## Other Matters

Returning Officer actions required (Section 193): Yes

Details:

### Difficulty with rule 33B(v)

1. The requirement in rule 33B(v) to despatch postal vote packs to voters well ahead of the ballot opening risks a number of irregularities by voters returning ballots before the ballot has opened.

Despite the AEC giving appropriate instructions to the voters as to the correct timeframe in which the postal votes are to be returned, the risk remains that voters unintentionally returning the postal vote early gives rise to an irregularity that would disenfranchise the voter because the vote must be rejected. This risk has crystallised in election E2020/197 where 10 ballot papers were returned to the AEC before the ballot opened.

The Returning Officer exercised the power provided by subparagraph 193(b)(ii) of the *Fair Work (Registered Organisations) Act 2009* (the 'FW(RO) Act') to remedy the procedural defect that appears to exist in the AIMPE Rules mentioned above by deciding to admit postal votes returned prior to the ballot opening to the scrutiny.

The AEC's concern centres on the undesirability of resorting to exercising the remedial power provided by subparagraph 193(b)(ii) of the FW(RO) Act because timeframe for opening of the ballot is unnecessarily restrictive. The AEC understands that the early despatch of postal votes is intended to ensure voters have the fullest opportunity to receive their ballot papers, cast their vote and return their postal vote before the ballot closing time. The AEC believes that amending the AIMPE Rules to extend the ballot period by 14 days is the appropriate way to give effect to the intention behind.

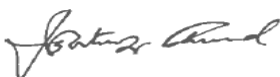
[Model Rule](#) reference (if any) : Part 2, 6

2. As there is no rule pertaining to the withdrawal of Nomination, the Returning Officer has applied subparagraph 193(1) (b)(ii) of the Fair Work (Registered Organisation) Act 2009 to fix a closing time for the withdrawal of nomination and the withdrawal period was aligned with the close of the nomination period.

[Model Rule](#) reference: Part 2, 10 and Part 3, 23

## Signed

---



Ishtiaq Ahmed  
Returning Officer  
Australian Electoral Commission  
E: nswelections@aec.gov.au  
P: 02 9375 6331  
2 November 2020

# Attachments

---

A. Declaration of Results for Contested Offices – Newcastle