

Tennis NSW

Director Elections Policy



Tennis NSW Director Elections Policy

1. Purpose

- 1.1 For the purpose of clause 11.2 of the Constitution of Tennis NSW (**Constitution**) this Director Elections Policy (**Policy**) has been developed by the Tennis NSW Board of Directors (**Board**) to govern the processes and procedures associated with the conduct of elections for Elected Directors.

2. Application

- 2.1 This Policy applies to the following individuals and organisations:
- (a) Tennis New South Wales Limited (**Tennis NSW**);
 - (b) All persons and entities, however described, who are registered as affiliated members of Tennis NSW (hereafter **Member or Members**) in accordance with the Constitution including but not limited to Associations, Clubs, Court Operators and persons elected as Honorary Life Members of Tennis NSW;
 - (c) Persons and administrators appointed or elected to the boards of directors, executive and/or committees (including sub-committees) of Members and Tennis NSW and Officers of Members including but not limited to Presidents, Vice-Presidents, Treasurers and Secretaries; and
 - (d) Persons or entities appointed as an attorney, representative or proxy on behalf of an individual or organisation listed in clauses 2.1(a) to 2.1(c) in accordance with the Constitution.
- 2.2 This Policy is subject to the *Corporations Act 2001* (Cth) (**Corporations Act**) and the Tennis Australia National Policies (**National Policies**). To the extent of an inconsistency between a provision of the Corporations Act or a National Policy and a provision of this Policy, the Corporations Act or National Policy prevails to the extent of the inconsistency.

3. Definitions

Unless otherwise stated, capitalised terms in this Policy have the same meaning given to those terms in the Constitution.

In this Policy the following terms have the following meaning:

Online Voting Platform means the online platform through which Director elections will be held and through which Members may cast their vote.

Online Voting Service Provider means the external provider who specialises in the conduct of online voting processes and who is engaged by Tennis NSW to conduct a relevant online election for Elected Directors.

4. Process for Elections for Elected Directors

4.1 Elections for Elected Directors will be held as required under the Constitution and will be held prior to the relevant Annual General Meeting (**AGM**), with results to be announced at the relevant AGM.

4.2 Elections for Elected Directors shall follow the following process:

Step 1 – Engagement of Online Voting Service Provider

4.3 Tennis NSW shall engage the Online Voting Service Provider to conduct the relevant election process.

Step 2 – Call for Nominations

4.4 In accordance with clause 13.5 of the Constitution, at least 60 days prior to the proposed date of the AGM, at which a resolution or resolutions will be proposed to fill a vacancy in an Elected Director position, the CEO will request from Members nominations (that comply with clause 13.5 of the Constitution and this Policy) for elections to positions falling vacant, that must be received no later than 45 days prior to the AGM.

4.5 Any Member, Director or Committee may nominate a person to fill a vacancy in an Elected Director position that is to be the subject of an election at the next AGM.

4.6 Consistent with clause 13.5(c) of the Constitution, The Board shall prescribe the form for nomination of Elected Directors, which may be amended or replaced by the Board from time to time. The prescribed form may require the following information (without limitation):

- (a) The name of the candidate;
- (b) A curriculum vitae of the candidate;
- (c) A written statement of no more than 500 words for each candidate in support of their nomination;
- (d) relevant background checks and proof of identity as required by Tennis NSW including but not limited to a NSW Working With Children Check, National Police Check and completed Member Protection Declaration; and
- (e) Any other information required by the Company Secretary for the purpose of determining whether a candidate meets the eligibility requirements in clause 13.3 and/or schedule 2 of the Constitution.

4.7 The nomination must be in the form prescribed by the Board per clause 4.6 of this Policy above and must be signed by the nominator(s) and nominee and accompanied by the nominated person's consent in writing to their appointment. Any nominations which do not comply with these requirements will not be valid.

4.8 Candidates are able to withdraw their nominations no later than two (2) days before the date fixed for the ballot to open via the Online Voting Platform.

Step 3 – Assessment of Eligibility by Company Secretary

- 4.9 When a nomination to stand for an Elected Director position is received, the Company Secretary will review the candidate's eligibility to stand as an Elected Director.
- 4.10 Nomination of any candidate who is ineligible to stand as an Elected Director in accordance with the Corporations Act and/or clauses 13.3, & 13.9 of the Constitution and/or Schedule 2 of the Constitution will not be considered a valid nomination.
- 4.11 Once the Company Secretary confirms that a candidate's nomination is valid, the nomination will be forwarded to the Nominations Committee for their consideration.
- 4.12 The CEO will request that eligible candidates provide a statement of no more than 500 words in support of their candidacy which will be provided to both the Nominations Committee and the Tennis NSW membership for their consideration.

Step 4 – Review and Recommendations made by Nominations Committee and Board

- 4.13 Pursuant to clause 13.4 of the Constitution, a Nominations Committee shall be formed, the role of which shall include the task of recommending candidates to fill Director vacancies and assess all nominees for Director vacancies.
- 4.14 The Nominations Committee must utilise a skills matrix as part of its assessment of nominees for Director vacancies and must also have regard to clauses 13.3(d) and 13.3(e) of the Constitution.
- 4.15 As part of the assessment of nominees, the Nominations Committee may interview candidates at their discretion.
- 4.16 Based on this assessment the Nominations Committee will make recommendations to the Board around recommended candidate(s) to fill a Director Vacancy. The Board may then make a recommendation to the Tennis NSW Membership around preferred candidates, taking into account the Nominations Committee's recommendations.
- 4.17 Tennis NSW will also make available to Members the candidate statements outlined in clause 4.12 prior to or at the time of opening the Online Voting Platform.

Step 5 – Voting Open to Members via Online Voting Platform

- 4.18 A ballot for all Elected Director positions will be held regardless of whether the number of candidates is more or less than the number of vacancies.
- 4.19 The ballot will be conducted using the Online Voting Platform administered by the Online Voting Service Provider and, upon request, via postal voting. For the avoidance of any doubt, the voting process described in clauses 10.9 to 10.15 of the Constitution shall not apply to the election of Elected Directors.

4.20 Prior to the ballot being opened the Company Secretary shall ensure that the roll of eligible voters as at the close of business on the day prior to the ballot being opened (as verified as accurate by the Company Secretary or their delegate) is uploaded on to the online voting system. The roll of eligible voters shall reflect all members who are entitled to vote, and the number of votes allocated, in accordance with clause 11.1 of the Constitution subject to that Member having paid the requisite membership fees pursuant to Clause 8 of the Constitution.

4.21 The completed nomination forms (excluding personal details) and an appropriate quality headshot photograph of each candidate, online voting instructions and other voting information will be made available via the online voting system and via email (to the primary contact of each Member provided to Tennis NSW at affiliation) to each affiliated Member who is eligible to vote in the election of Elected Directors at least 14 days before the relevant AGM.

Step 6 – Voting Process

4.22 The Online Voting Platform shall remain open for a minimum of two (2) weeks and Members shall be entitled to cast their vote at anytime whilst the Online Voting Platform remains open.

4.23 Any Member wishing to cast a vote via postal vote must make a formal request in writing to the Company Secretary during the period that the Online Voting Platform remains open.

4.24 Pursuant to Clause 9.13 of the Constitution a Member may appoint a proxy to lodge a vote on their behalf via the Online Voting Platform. Proxy nomination shall occur in the form required by the Board as amended from time to time.

4.25 No votes, including requests for postal votes or votes by proxy, will be accepted after the designated date on which the Online Voting Platform is to close.

4.26 The following voting procedures will be utilised depending on the number of vacancies compared with the number of candidates:

Where the number of candidates is equal to or less than the number of vacancies

4.27 If the number of candidates is equal to or less than the number of vacancies, candidates will only be elected by a majority of votes cast by Members. If a candidate does not receive a majority of votes they will not be elected to the relevant position.

4.28 Each candidate will appear on the ballot with a "yes" and "no" option. Members will be required to select either "yes" or "no" for each candidate in order to cast a valid vote. Only those candidates who receive greater than 50% "yes" votes will be elected subject at all times to clause 13.3(e) of the Constitution.

4.29 For the avoidance of doubt, any vacancies that remain in the ranks of Elected Directors either because there are less candidates than vacancies, and/or because specific candidates do not receive greater than 50% "yes" votes, will be treated as a Casual Vacancy in accordance with the Constitution.

4.30 Any candidate who received 50% or less "yes" votes pursuant to clause 4.28 of this Policy may not be appointed by the Board to fill a Casual Vacancy until after the next Annual General Meeting, but may nominate again as a candidate to fill an Elected Director vacancy in subsequent elections.

Where the number of candidates is greater than the number of vacancies

- 4.31 The ballot will be by the “first past the post” system.
- 4.32 In order to cast a valid vote Members must cast the same number of votes as there are vacancies. For example, if there are three vacancies, Members must select their three preferred candidates to cast a valid vote.
- 4.33 Subject to clause 13.3(e) of the Constitution, where a ballot is held for the election of a candidate to fill a single vacancy, the candidate with a simple majority of votes, that is, the highest number of votes in the count, is elected.

- (a) For the avoidance of doubt where a Director of a particular designation (i.e. metropolitan Sydney or regional NSW) is required to satisfy the requirement of clause 13.3(e) of the Constitution, the candidate with the highest number of votes in the count who satisfies the requisite designation (i.e. metropolitan Sydney or regional NSW) is elected, even where that candidate does not receive the highest number of overall votes.

For example, in the situation where there is one director vacancy and clause 13.3(e) of the Constitution dictates that a metropolitan Sydney candidate must fill that vacancy, the metropolitan Sydney candidate with the highest number of votes in the count will be elected, irrespective of whether or not that candidate receives the greatest number of overall votes in the count.

- 4.34 Subject to clause 13.3(e) of the Constitution, where a ballot is held for the election of candidates to fill more than one vacancy, votes are counted in the same way as for the election of one candidate to fill a single vacancy, with successful candidates being those who receive the highest number of votes.

- (a) For the avoidance of doubt where Directors of a particular designation (i.e. metropolitan Sydney or regional NSW) are required to satisfy the requirement of clause 13.3(e) of the Constitution, the candidates with the highest number of votes in the count who satisfy the requisite designations (i.e. metropolitan Sydney or regional NSW) are elected, even where those candidates do not receive the highest number of overall votes.

For example, in the situation where there are three director vacancies and clause 13.3(e) of the Constitution dictates that one metropolitan Sydney candidate and two regional NSW candidates must fill these vacancies, the metropolitan Sydney candidate with the highest number of votes in the count amongst the metropolitan Sydney candidates and the two regional NSW candidates with the highest number of votes in the count amongst the regional NSW candidates will be elected, irrespective of whether or not those candidates receive the greatest number of overall votes in the count.

- 4.35 Any candidate who receives less than 5% of the total votes cast shall be deemed ineligible to be elected as an Elected Director irrespective of the operation of clause 13.3(e) of the Constitution.
- 4.36 For the avoidance of doubt, any vacancies that remain in the ranks of Elected Directors either because of the operation of clause 4.35 of this Policy, and/or because of the operation of clause 13.3(e) of the Constitution, such vacancies will be treated as a Casual Vacancy in accordance with the Constitution.

- 4.37 Any candidate who did not meet the minimum eligibility threshold pursuant to clause 4.35 of this Policy as applicable may not be appointed by the Board to fill a Casual Vacancy until after the next Annual General Meeting, but may nominate again as a candidate to fill an Elected Director vacancy in subsequent elections.

Where the number of electable candidates is less than the number of vacancies

- 4.38 It is possible that a situation may arise where the total number of candidates is equal to or less than the number of vacancies, but due to the operation of clause 13.3(e) of the Constitution, not all of those candidates can be elected.
- (a) For example, a situation could occur where there are three vacancies and clause 13.3(e) of the Constitution requires that a minimum of one metropolitan Sydney classified director be elected, but the three candidates for election are all regional NSW classified directors.
- 4.39 In this circumstance, the election will be treated as if the number of candidates exceeds the number of vacancies and the process outline in clauses 4.31 to 4.37 of this Policy shall apply.
- (a) Playing out the scenario in clause 4.38(a) of this Policy further as an example, this election would be approached in terms of there being three regional NSW classified candidates to fill the maximum two regional NSW vacancies in line with clause 13.3(e) of the Constitution (i.e. the number of candidates exceeding the number of vacancies). The Membership would be advised going into the election that, irrespective of the voting outcome, there would be a Casual Vacancy following the election which would need to be filled by a metropolitan Sydney classified director to satisfy the requirements of clause 13.3(e) of the Constitution.

Step 7 – Counting of Votes and Announcement of Results

- 4.40 As soon as practicable after the closing date and time of the ballot, the Company Secretary shall finalise the vote count via the online voting system, taking into account any postal votes received, and shall then record the names of all candidates declared to be elected.
- 4.41 If two or more candidates each receive the same number of votes for a vacancy the Company Secretary shall decide by drawing lots which candidate is to be elected as an Elected Director.
- 4.42 The result of the ballot for the election of Elected Directors shall be declared by the Company Secretary at the Annual General Meeting, with the following information being declared:
- (a) the number of eligible votes;
- (b) the number of votes received;
- (c) the number of proxies received;
- (d) the number of votes declared valid; and
- (e) results of the ballot.

5. Use of Postal Votes

- 5.1 Upon request, the Company Secretary will issue postal ballot papers, together with instructions on how the postal ballot paper should be completed and returned to the Company Secretary.
- 5.2 Postal ballot papers must be completed in accordance with the voting instructions provided by the Company Secretary and returned to the Company Secretary in the sealed envelope marked "Ballot Paper" that has been provided for that purpose. The sealed envelope must be enclosed in a separate envelope on which the Member prints and signs their name. The postal vote returned by the Member shall not be valid unless it complies with the requirements of this Policy, the Constitution, and is returned to the Company Secretary by no later than 5.00pm on the date fixed by the Company Secretary.

6. General

- 6.1 Management and staff of Tennis NSW are not permitted to express a company view or their personal opinion on director elections.
- 6.2 Any positions that remain vacant at the conclusion of the voting process detailed in this Policy will be treated as a Casual Vacancy in accordance with clause 13.10 of the Constitution.

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