

# Waste Contractors & Recyclers Association of NSW Executive Officers

## DECLARATION OF RESULTS FOR UNCONTESTED OFFICES

Results of the election for the following offices conducted in accordance with the provisions of the Fair Work (Registered Organisations) Act 2009 and the rules of the organisation.

**E2012/355**

### Executive Officers

#### President

Candidate

WILSON, Harry

#### Vice President

Candidate

PERRY, James

#### Treasurer

Candidate

KERNAHAN, John

#### Secretary

Candidate

LEACH, Gary

As the number of nominations accepted did not exceed the number of positions to be filled, I declare the above candidates elected.



Kathryn Montgomery  
Returning Officer  
11 December 2012





**Fair Work (Registered Organisations) Act 2009**

**POST ELECTION REPORT**

**Client:** Waste Contractors & Recyclers Association of NSW

**Contact details:** Tony Khoury  
Executive Director  
WCRA NSW  
PO Box 6643  
WETHERILL PARK NSW

**Email:** Tony@wcra.com.au  
**Tel:** 02 9604 7206

**AIR contact officer:** Carolyn Moloney

**Email:** Industrial.elections@fwa.gov.au

**ELECTIONS COVERED IN THIS REPORT**

***Election Decision No/s:*** E2012/355

**RULES**

***Rules used for elections Rule ID:*** [149N: Rules as at registration on 28/01/2011 in D2010/5009]

***Rules difficult to apply/interpret:*** Rule 24 & 26 Rules silent on position of candidates on ballot paper.  
Rules silent on action to be taken in the event of candidates receiving an equal number of votes.

**ROLL OF VOTERS**

As no ballot was required the roll of voters was not required.

**ALLEGATIONS OF IRREGULARITIES RECEIVED**

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

**ATTACHMENTS**

Declaration of Result – Uncontested Offices

Kathryn Montgomery  
Returning Officer  
20 December 2012





PO Box 496  
HAYMARKET NSW 1239



Level 10  
59 Goulburn Street  
HAYMARKET NSW 2000

**Reference:** NSW N12/352

**Contact:** Kathryn Montgomery  
Phone: 02 9375 6375  
Facsimile: 02 9375 6336  
E-mail: Kathryn.montgomery@aec.gov.au

Mr Tony Khoury  
Executive Director  
Waste Contractors & Recyclers  
Association of NSW  
PO Box 6643  
WETHERILL PARK NSW 2164

By Email : tony@wcra.com.au

Dear Mr Khoury

**Waste Contractors & Recyclers Association of NSW  
Executive Officers  
E2012/355**

I refer to the above election for your organisation.

Section 197(1) of the Fair Work (Registered Organisations) Act 2009 requires the AEC to provide a written report on the conduct of the election to FWA and to the organisation or branch for whom the election was conducted. A copy of the report in relation to this election is attached.

Section 198 of the Act requires that if an organisation or branch is given a post-election report under section 197 that identifies a rule that was difficult to interpret or apply, the organisation or branch must, within 30 days, give a written response to the AEC on that aspect of the report. The response must specify whether the organisation or branch intends to take any action in relation to the rule, and if so, what action it intends to take.

If the attached Report identifies a rule that was difficult to interpret or apply, you should forward your response to the AEC by email to 'industrial.elections@aec.gov.au' within thirty days of the date of the report.

Section 198 and the regulations also require an organisation to make the post-election report and the organisation's response to the report (if applicable) available to members.

Further, Regulation 141(4) of the Fair Work (Registered Organisations) Regulations 2009 requires an organisation or branch to publish a notice on its web site advising members that a copy of the post-election report is available upon request. If a website is not available, publishing a notice in a journal or newsletter would be considered appropriate.

Please contact me if you wish to clarify any aspect of this report.

Yours sincerely

Kathryn Montgomery  
Returning Officer  
20 December 2012



FAIR WORK  
AUSTRALIA

9 October 2012

Mr Harry Wilson  
President  
Waste Contractors & Recyclers Association of NSW  
PO BOX 6643  
WETHERILL PARK BC NSW 2164

Dear Mr Wilson

**Re: Arrangements for the conduct of an election (E2012/355)**

A copy of the decision in relation to the above matter is enclosed.

Fair Work Australia is making arrangements, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, with the Electoral Commissioner for the conduct of the subject elections by a member of staff of the Australian Electoral Commission, who will contact you in the near future about the elections.

Yours sincerely

David Vale  
Fair Work Australia



## DECISION

*Fair Work (Registered Organisations) Act 2009*  
s.189 – Arrangement for conduct of an election

**Waste Contractors & Recyclers Association of NSW**  
(E2012/355)

AILSA CARRUTHERS

MELBOURNE, 9 OCTOBER 2012

*Arrangement for conduct of election.*

[1] On 24 August 2012 the Waste Contractors & Recyclers Association of NSW lodged with Fair Work Australia prescribed information in relation to an election.

[2] On 30 August 2012, Fair Work Australia wrote to the abovenamed organisation to request the prescribed information be signed by an office holder of the organisation in accordance with regulation 138(2) of the *Fair Work (Registered Organisations) Regulations 2009* (the Regulations), and to request an explanation for the failure to lodge the prescribed information before the prescribed day as required by section 189(2) of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).

[3] On 7 September 2012 the organisation lodged a statement explaining that the reason for the delay in lodging the prescribed information was due to an oversight and that the organisation had put steps in place to prevent future occurrences of non-compliance. On the same day the organisation also lodged amended prescribed information in relation to an election for the following offices:

President	(1)
Vice President	(1)
Secretary	(1)
Treasurer	(1)

[4] On 18 September Fair Work Australia wrote to the organisation setting out, for its consideration, several questions in relation to the standing of the members of the Executive for the purposes of constituting the college from which the abovenamed offices are elected. The current members of the Executive were elected prior to the organisation's registration under the RO Act on 28 January 2011. It was put to the organisation that, in the absence of an election held after the date of registration, it could not be said that the members acting as the Executive of the organisation - as opposed to the state-registered association - had been elected to their offices under the RO Act and that, consistent with the distinction between federal and state entities recognised by the Courts from the case of *Moore v. Doyle*<sup>1</sup> onwards, this placed a question over the eligibility of the current members of the Executive to constitute a college for the election of the abovenamed offices for the federal organisation. The organisation was asked to consider the matter and advise Fair Work

<sup>1</sup> *Moore v Doyle* (1969) 15 FLR 59

Australia whether it wished to request an election for the Executive of the organisation at this time or confine its request to an election of the abovenamed offices.

[5] On 4 October 2012, the organisation advised that, after considering the matter, it did not wish to request an election of the Executive at this time and wished to confine its request to the election of the abovenamed offices. The organisation took a position that, in effect, regarded the current members of the Executive, whether elected under the RO Act or not, as a competent college because they acted in the capacity of an Executive of the federal entity and had done so at all times subsequent to their election in 2010 prior to registration. The organisation had regarded the election in 2010 as an election for purposes related to the application for registration.

[6] I have considered the organisation's response. While there may be a legal distinction between a federally registered organisation and its state-registered counterpart, on a practical level from the perspective of the members of those organisations there is little distinction between the two and they may be thought to operate largely as a single entity. It appears correct, however, to characterise the election of the Executive that was held in 2010 as an election of the state-registered organisation, whether or not it was in anticipation of registration as a federal organisation, and to conclude that the members of the Executive have not been elected under, and for the purposes of, the RO Act.

[7] The matter that is before me, however, concerns whether an election for the offices specified at paragraph [3] above is required by subsection 189(3) of the RO Act. As required by paragraph 189(3)(b) of the RO Act and as re-iterated in the Full Bench decision in *Australian Salaried Medical Officers Federation* [PR525339], the General Manager must grant an election if satisfied that an election is required to be held under the rules of the organisation. Rules 26(a) and 26(c) require an election for the abovenamed offices each year by and from the Executive members at an Executive meeting.

[8] I am therefore satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation and, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.

DELEGATE OF THE GENERAL MANAGER  
FAIR WORK AUSTRALIA

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## TRANSACTION REPORT

09/OCT/2012/TUE 15:38

FAX (TX)

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	09/OCT	15:38	0299061780	0:00:36	3	MEMORY OK	SG3 1756



9 October 2012

Mr Harry Wilson  
President  
Waste Contractors & Recyclers Association of NSW  
PO BOX 6643  
WETHERILL PARK BC NSW 2164

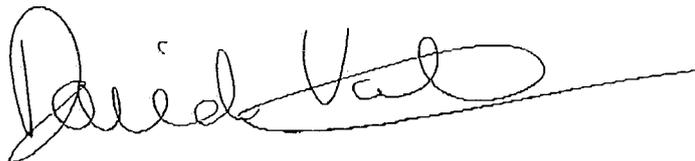
Dear Mr Wilson

**Re: Arrangements for the conduct of an election (E2012/355)**

A copy of the decision in relation to the above matter is enclosed.

Fair Work Australia is making arrangements, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, with the Electoral Commissioner for the conduct of the subject elections by a member of staff of the Australian Electoral Commission, who will contact you in the near future about the elections.

Yours sincerely



David Vale  
Fair Work Australia

## **MOLONEY, Carolyn**

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**From:** MOLONEY, Carolyn  
**Sent:** Tuesday, 9 October 2012 4:23 PM  
**To:** 'Industrial Elections'  
**Subject:** E2012/355  
**Attachments:** E2012\_355 Signed Decision\_09102012.pdf; E2012\_355 WCRANSW\_letter to AEC\_09102012.pdf

Dear AEC

Please find attached a copy of the Decision for the Waste Contractors & Recyclers Association of NSW (WCRANSW) for its upcoming scheduled election (E2012/335).

Kind regards,

**CAROLYN MOLONEY**  
Assistant Adviser  
Regulatory Compliance Branch

**Fair Work Australia**  
Tel: 02 8374 6510  
Fax: 02 9380 6990  
[carolyn.moloney@fwa.gov.au](mailto:carolyn.moloney@fwa.gov.au)

Level 8, Terrace Tower, 80 William Street  
East Sydney NSW 2011

[www.fwa.gov.au](http://www.fwa.gov.au)



9 October 2012

Electoral Commissioner Through  
Australian Electoral Officer ([industrial.elections@aec.gov.au](mailto:industrial.elections@aec.gov.au))

Under subsections 189 of the Fair Work (Registered Organisations) Act 2009, please arrange for the conduct of the following election by the Australian Electoral Commission:

**E No 2012/355**

**RE: WASTE CONTRACTORS & RECYCLERS ASSOCIATION OF NSW**

Positions:

See Decision

Relevant Information: Scheduled Collegiate Election, Expiry of Office.

Contact: Harry Wilson, President  
Waste Contractors & Recyclers Association of NSW.

Phone: (02) 9604 7206

A copy of the decision is enclosed.

I further request that you arrange for this office to be notified that arrangements for the conduct of this election have been made, by email transmission at [industrial.elections@fwa.gov.au](mailto:industrial.elections@fwa.gov.au)

Carolyn Moloney  
Fair Work Australia



WASTE CONTRACTORS &  
RECYCLERS ASSOCIATION  
OF N.S.W

ABN 72 805 135 472

Suite 2, First Floor  
12-16 Daniel Street  
Wetherill Park NSW 2164

PO Box 6643  
Wetherill Park BC NSW 2164

Phone (02) 9604 7206  
Fax (02) 9604 7256  
Email [tony@wcra.com.au](mailto:tony@wcra.com.au)

4 October 2012

Mr Stephen Kellett  
Organisations, Research & Advice Branch  
Fair Work Australia  
Terrace Towers, 80 William Street  
East Sydney NSW 2011

**Re: Scheduled Elections – Senior Executive Officers**

Dear Mr Kellett

We confirm receipt of your letter dated 18 September 2012. Thank you for your ongoing assistance, direction and advice.

We have carefully considered the advice contained in this letter and we have decided to proceed with our request for the Election of Executive Members to the offices of President, Vice-President, Treasurer and Secretary. At this stage, this is the only Election that the Association proposes to conduct.

We also confirm our discussion with the Industrial Relations Commission of NSW, who have indicated their agreement in principle to the appointment of the Australian Electoral Commission as returning officers for these Elections (attached is a copy of our letter to IRC of NSW).

As a consequence, we look forward to your advice confirming the appointment of the Australian Electoral Commission for the purposes of this Election. As per our letter dated 22 August 2012, we reconfirm that the meeting of the Executive where this Election will take place will be Suite 2, First Floor, 12-16 Daniel Street, Wetherill Park. The meeting will commence at 7:30am on Tuesday, 13 November 2012.

Please review this information and advise us if you require further details.

Yours faithfully

Tony Khoury  
Executive Director

Attach.



WASTE CONTRACTORS &  
RECYCLERS ASSOCIATION  
OF N.S.W

4 October 2012

Mr Greg Kirkby  
Industrial Organisations Section  
Industrial Relations Commission of NSW  
GPO Box 3670  
Sydney NSW 2001

**(By fax 02 9258 0058)**

Dear Sir

**Re: Scheduled Elections – Waste Contractors & Recyclers Association of NSW**

Further to our conversation from today, we confirm our advice to the Industrial Relations Commission of NSW in relation to the Election of Executive Members to the offices of President, Vice-President, Treasurer and Secretary.

As previously advised, it is a requirement of Fair Work Australia that the Australian Electoral Commission (AEC) act as the returning officers for this Election.

In accordance with Section 446, we understand that the Industrial Registrar may issue exemptions concerning a returning officer and we hereby confirm as follows:

1. In our opinion the AEC are capable of fulfilling the role of independent person;
2. As a smaller employer organisation, the Waste Contractors & Recyclers Association of NSW (WCRA) will benefit from having one Election rather than incurring the costs associated with multiple Elections; and
3. It is appropriate that all parties (NSW IRC, FWA & WCRA) cooperate on the appointment of one person or body to conduct such an Election.

We confirm that the meeting of the Executive where this Election will take place will be Suite 2, First Floor, 12-16 Daniel Street, Wetherill Park on Tuesday, 13 November 2012 (from 7:30am).

We would appreciate your prompt return advice in the form of a certificate acknowledging the NSW IRC approval of this process.

Yours faithfully

Tony Khoury  
Executive Director

Suite 2, First Floor  
12-16 Daniel Street  
Wetherill Park NSW 2164

PO Box 6643  
Wetherill Park BC NSW 2164

Phone (02) 9604 7206  
Fax (02) 9604 7256  
Email [tony@wcra.com.au](mailto:tony@wcra.com.au)



FAIR WORK  
AUSTRALIA

18 September 2012

Mr Harry Wilson  
President  
Waste Contractors & Recyclers Association of NSW  
PO Box 6643  
WETHERILL PARK BC NSW 2164

Dear Mr Wilson

**Re: Scheduled Elections - Waste Contractors & Recyclers Association of NSW -  
(E2012/355)**

I refer to the election requested in the notification that was lodged with Fair Work Australia by you on 7 September 2012. The notification contained prescribed information with respect to the officers, i.e. the President, Vice-President, Treasurer and Secretary, to be elected by and from the Executive of the Association in accordance with rule 21.1(b) of the Rules of the organisation.

Before determining the matter, the Delegate of the General Manager has asked me to write to you regarding an issue she considers arises from the fact that the last election of the Executive occurred prior to the grant of registration of the Association under the *Fair Work (Registered Organisations) Act 2009* ('the Commonwealth Act').

Put simply, because registration under the Commonwealth Act gives the Association a separate legal identity that is distinct from the legal identity it has by virtue of its establishment or registration under state law, it means that the officers of the federally registered organisation are not, from a strictly technical point of view, the officers of the state registered association, even though, for all practical purposes, the persons purporting to hold offices of both the federally registered organisation and the state registered association might be the same. This legal distinction is not removed simply because the name of both entities happens to be identical.

What this distinction means is that an election of persons to offices of the state registered association to comply with the state legislative requirements does not have the automatic legal effect of complying with the requirements of the Commonwealth Act. In other words, the election of the Executive conducted on 9 November 2010 was an election of offices in and for the state registered association but not for the federally registered organisation that came into being on 28 January 2011.

This means that technically speaking, none of the current Executive members purporting to hold office in the federally registered organisation have been elected. This means, in turn, that they do not constitute the college from which the four officers are elected in accordance with rule 21.1(b). It therefore means that, properly speaking, an election for the twelve members of the Executive of the federally registered organisation should also be held to comply with the rules.

The considered view of FWA that the election of the Executive in November 2010 should be characterised as solely an election of the Executive of the state-registered association reflects distinctions between state and federal entities which over recent decades the Courts have considered in different circumstances and in various ways and I cite below just a few examples.<sup>1</sup>

I should explain that the election of the four officers in accordance with rule 21.1(b) remains required and it would not normally be envisaged that the election the organisation has already requested would not be granted. However, until the Executive of the federally registered organisation is also elected in accordance with the Commonwealth Act, any election of the four officers, or acts done subsequent to becoming aware of this issue by them or the persons purporting to be members of the Executive of the federally-registered organisation, might theoretically be open to challenge by members on the ground of invalidity.

The organisation may hold the view that for the balance of the current term of the Executive elected in November 2010 (that is, until November 2014), the risk is not such as to make a separate election of the entire Executive necessary at this time. However, the organisation should turn its mind to the issue and make a considered and advised decision about it.

The requirement for separate elections for both the federally-registered organisation and the state-registered association has three possible consequences.

Firstly, there is the consideration that an election for the Executive under the Commonwealth Act at this time would result in a different period, where the federally-registered organisation was concerned, for the four-year term provided for under the rules. If an election for the Executive of the federally-registered organisation were to be held now, its 4 year term would not expire until 2016. This would mean that an election of an Executive would have to be arranged every two years, either for the federally-registered organisation or for the state-registered association. One option may be to amend the rules of the federally-registered organisation before requesting an election of the Executive by inserting a transitional rule that would provide for a shortened term of office for its Executive in order to ensure the following election re-synchronises with the election of the Executive for the state-registered association that is due in 2014. Fair Work Australia is able to provide advice if the organisation wished to submit a draft rule to this effect.

A second consideration is that where separate elections are required to be held under two distinct legislative regimes, whether at the same time or not, there is always the possibility that the federally-registered organisation and the state-registered association may have some different officers if the members make different voting choices.

Both these consequences may be mitigated or avoided by recourse to options available under the New South Wales state legislation. I have been advised by the NSW (state) Industrial Registrar's office that there are exemption provisions in the *Industrial Relations Act 1996* (NSW) and its regulations that may be of assistance and I recommend that you seek their advice.

The third consideration that I must mention is that the omission to hold elections for the four officers may have been an omission for both the state-registered association as well as the federally registered organisation. As my letter has explained, an election held under s189(1) of the Commonwealth Act is not an election for the purposes of the state legislative requirements. So even if an election for the four officers is granted for the purposes of the federally-registered organisation, you may, depending on the rules of the state-registered association, also have to request the NSW Industrial Registrar to arrange an election for

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<sup>1</sup> *Moore v Doyle* (1969) 15 FLR 59; *Bailey v Krantz & ors* (1984) FCA 199; *Re McJannet; Ex Parte Minister for Employment Training & Industrial Relations (Qld)* [1995] HCA 31; (1995) 184 CLR 620

them for the purposes of the state-registered association. The only difference would be that there would appear to be no legal question over an election of the four officers where the state-registered association is concerned because the election of the Executive in November 2010 was an election of the Executive of the state-registered association, and thus they validly form a college for the election of any officers specified in the rules of the state-registered association.

A decision on the election request for the election of the four officers which you have lodged under s189(1) of the Commonwealth Act will be deferred until you advise Fair Work Australia whether :

- (1) you wish to proceed with the election request already lodged without requesting at the same time an election for the Executive of the federally-registered organisation; or
- (2) you wish to also request an election for the Executive of the federally-registered organisation at the same time.

If you wish to request an election for the Executive of the federally-registered organisation, you must lodge a separate Prescribed Information under section 189(1) of the Commonwealth Act.

If you consider it desirable that an election for the Executive of the federally-registered organisation be arranged but with an appropriate amendment to the rules of the federally-registered association to apply transitionally for the next term of office for the purposes of synchronising the next election with the election for the state-registered association in 2014, please advise this.

I should remind you that elections conducted by the Australian Electoral Commission for offices of federally-registered organisations are conducted at Commonwealth expense.

I await your response in writing. If you wish to discuss the above before formally replying, please contact me on (02) 6723 7237.

Yours sincerely

Stephen Kellett  
Senior Adviser, Regulatory Compliance Branch

**MOLONEY, Carolyn**

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**From:** MOLONEY, Carolyn  
**Sent:** Friday, 7 September 2012 11:15 AM  
**To:** 'Industrial Elections'  
**Subject:** E2012/355  
**Attachments:** WCRA E2012\_355\_Amended PI lodged 07092012.pdf; 149N WCRANSW D2010\_5009 28012011.pdf

Dear AEC

Please find attached amended prescribed information and a copy of the current rulebook of the Waste Contractors & Recyclers Association of N.S.W for its upcoming scheduled collegiate election (E2012/355).

Kind regards,

**CAROLYN MOLONEY**

Assistant Adviser

Organisations, Research and Advice

**Fair Work Australia**

Tel: 02 8374 6510

Fax: 02 9380 6990

[carolyn.moloney@fwa.gov.au](mailto:carolyn.moloney@fwa.gov.au)

Level 8, Terrace Tower, 80 William Street  
East Sydney NSW 2011

[www.fwa.gov.au](http://www.fwa.gov.au)

E2012/355



**Statement of Prescribed Information for an Election**  
**Waste Contractors & Recyclers Association of NSW**

I, Harry Wilson being the President of the Waste Contractors & Recyclers Association of NSW, make the following statement:

I am the President of the Waste Contractors & Recyclers Association of NSW.

I am authorised to lodge the following prescribed information concerning forthcoming elections of the Association, and

I confirm that the following information is being lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009.

I refer to the attached letter from Tony Khoury, our Executive Officer, to Fair Work Australia date 13 August 2012 which outlines the reason for to the failure to hold an election in 2011 and confirm that it was an oversight by the Association and steps have been implemented to prevent future occurrences of non-compliance.

Signed: *Harry Wilson*

Dated: 6/9/2012

**Offices**

A	President (Direct Voting System)
	Vice-President (DVS)
	Secretary (DVS)
	Treasurer (DVS)

**Reasons for election:**

- Scheduled election for the Offices marked A is required as the terms of office are due to expire in the normal course of events under the rules of the organisation.

**Elected by:**

- The electorate for the direct voting system is the whole of the Executive (totalling 12 persons).

**Nominations open:**

- For Offices to be elected by direct voting system – at the Executive Meeting dated 13 November 2012 – nominations will open on approval of this notice by Fair Work Australia.

**Nominations close:**

- For the Offices to be elected by direct voting system – at the Executive Meeting dated 13 November 2012.

**Cut-off date for roll:**

- In this case, Members of the Executive will vote either in person at the meeting dated 13 November 2012 or by proxy.



WASTE CONTRACTORS &  
RECYCLERS ASSOCIATION  
OF N.S.W

ABN 72 805 135 472

13 August 2012

Mr Stephen Kellett  
Organisations, Research & Advice Branch  
Fair Work Australia  
Terrace Towers, 80 William Street  
East Sydney NSW 2011

Dear Sir

**Re: Scheduled Elections - Executive & Officers**

We refer to your letter dated 2 August 2012 and our subsequent conversation from Thursday, 9 August 2012.

We confirm as follows:

- On 9 November 2010 the Association conducted an election for the appointment of 12 Executive Members. These elections were conducted in accordance with Rule 24 of the Registered Rules of the Association. Attached is a copy that details the results of that election;
- The current 4 year term for this Executive expires in November 2014;
- In its application to Fair Work Australia the Association detailed the composition of this Executive and on 28 January 2011 Fair Work Australia wrote to the Association confirming its registration under Section 26 of the Fair Work (registered organisations) Act 2009;
- On 14 December 2010 in accordance with Rule 26 (a), a secret ballot was held for the positions of President, Vice President, Treasurer and Secretary. Attached is a copy that details the results of that election. These senior Executive positions were also advised to FWA in our application for Federal Registration;
- However, these senior positions are for a period of 12 months and the Association has inadvertently over looked conducting these elections in November 2011; and
- As agreed in our conversation, as per Rule 26 (c) we will now hold an election for these senior positions at the AGM to be held on 13 November 2012.

We understand that you will supply us with contact details for the Australian Electoral Commission, so that we can organise for their office to preside over these up-coming elections. Please advise if you require any further details.

Yours faithfully  
Tony Khoury  
Executive Director

Attach.

Suite 2, First Floor  
12-16 Daniel Street  
Wetherill Park NSW 2164

PO Box 6643  
Wetherill Park BC NSW 2164

Phone (02) 9604 7206  
Fax (02) 9604 7256  
Email [tony@wcra.com.au](mailto:tony@wcra.com.au)

**MOLONEY, Carolyn**

---

**From:** VALE, David  
**Sent:** Tuesday, 4 September 2012 3:26 PM  
**To:** MOLONEY, Carolyn  
**Subject:** FW: Statement of Prescribed Information for an Election

FYI

I AM WAITING FOR PROPER AMENDED PI.

Thanks

David

-----Original Message-----

**From:** VALE, David  
**Sent:** Tuesday, 4 September 2012 3:19 PM  
**To:** 'Kate McCulloch'  
**Subject:** RE: Statement of Prescribed Information for an Election

Dear Harry

The statement attached below in respect of the delay in lodgment is satisfactory but must be included in your signed declaration.

Please resubmit with the additional statement.

Regards

David Vale

-----Original Message-----

**From:** Kate McCulloch [<mailto:kate@smswaste.com.au>]  
**Sent:** Tuesday, 4 September 2012 1:45 PM  
**To:** VALE, David  
**Subject:** Statement of Prescribed Information for an Election

Dear David

Attached is the executed "Statement of Prescribed Information for an Election" as previously discussed with our executive Director Mr Tony Khoury.

In relation to the non election in 2011 it was an oversight by the association and we have taken steps to minimise future occurrences of non-compliance.

Regards

Harry Wilson

-----Original Message-----

**From:** [scanner@smswaste.com.au](mailto:scanner@smswaste.com.au) [<mailto:scanner@smswaste.com.au>]  
**Sent:** Tuesday, 4 September 2012 2:46 PM  
**To:** [reception@smswaste.com.au](mailto:reception@smswaste.com.au)  
**Subject:**

-----  
FS-6025MFP  
[00:c0:ee:8e:8a:aa]  
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Fair Work  
Australia

30 August 2012  
Mr Tony Khoury  
Executive Director  
Waste Contractors & Recyclers Association of NSW  
PO BOX 6643  
WETHERILL PARK BC NSW 2164

Dear Mr Khoury

**Re: Arrangements for the conduct of an Election (E2012/355)**

I refer to the prescribed information dated 22 August 2012 which was lodged with Fair Work Australia (FWA) on 24 August 2012 for the conduct of a scheduled election for offices of the Waste Contractors & Recyclers Association of NSW.

In accordance with reg.138(2) of the *Fair Work (Registered Organisations) Regulations 2009*, the prescribed information "must contain a statement, signed by an officer of the organisation or branch who is authorised to sign the statement, that the information is lodged under subsection 189 (1) of the Act. Rule 33.2(c) of the Organisation's rulebook provides that the Executive Director is employed or engaged by the Executive, and as such is not an elected office holder of the Organisation. Could you please provide amended prescribed information which is signed by a current office holder.

I also refer to the table of offices for which the election is required, marked A in the prescribed information. The table lists "Vice-Presidents" as a plural; however, it appears that rule 26 of the Organisation's rulebook provides for only one Vice President. Could you amend the table so that it clearly refers to only one single Vice President.

I note your verbal advise to officers of FWA in relation to the Organisation's oversight of rule 26(a) of the Organisation's rulebook, which provides that the election of Executive Officers shall take place at the first Executive meeting convened after the election of the Executive Members. I also note that this is the first election since registration of the Organisation. However, section 189(2) of the *Fair Work (Registered Organisations) Act 2009* states that prescribed information must be lodged before the prescribed day, which under regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009*, is two months before the first day when a person may become a candidate. Since s.189(2) is a civil penalty provision and the prescribed information for this election was not lodged before the prescribed day, the Delegate of the General Manager has requested a written request for an extension of time and providing reasons why the prescribed information was not lodged before the prescribed day.

If you have any questions relating to this matter please do not hesitate to contact me on (02) 8374 6509.

Yours sincerely

David Vale  
Manager, Organisations, Research and Advice - NSW  
Fair Work Australia

Level 8, Terrace Tower  
80 William Street  
EAST SYDNEY NSW  
2011

Telephone: (02) 8374 6666  
Facsimile: (02) 9380 6990  
Email : david.vale@fwa.gov.au  
Internet : www.fwa.gov.au

**MOLONEY, Carolyn**

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**From:** MOLONEY, Carolyn  
**Sent:** Friday, 24 August 2012 3:29 PM  
**To:** 'Industrial Elections'  
**Subject:** E2012/355  
**Attachments:** WCRA E2012\_355\_PI lodged 24082012.pdf; 149N WCRANSW D2010\_5009 28012011.pdf

Dear AEC

Please find attached prescribed information and a copy of the current rulebook of the Waste Contractors & Recyclers Association of N.S.W for its upcoming scheduled collegiate election (E2012/355).

Kind regards,

**CAROLYN MOLONEY**  
Administrative Officer  
Organisations, Research and Advice

**Fair Work Australia**  
Tel: 02 8374 6510  
Fax: 02 9380 6990  
[carolyn.moloney@fwa.gov.au](mailto:carolyn.moloney@fwa.gov.au)

Level 8, Terrace Tower, 80 William Street  
East Sydney NSW 2011

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WASTE CONTRACTORS &  
RECYCLERS ASSOCIATION  
OF N.S.W

ABN 72 805 135 472

EZ012/355

Suite 2, First Floor  
12-16 Daniel Street  
Wetherill Park NSW 2164

PO Box 6643  
Wetherill Park BC NSW 2164

Phone (02) 9604 7206  
Fax (02) 9604 7256  
Email [tony@wcra.com.au](mailto:tony@wcra.com.au)

22 August 2012

Mr Stephen Kellett  
Organisations, Research & Advice Branch  
Fair Work Australia  
Terrace Towers, 80 William Street  
East Sydney NSW 2011



**Re: Scheduled Elections – Senior Executive Officers**

Dear Mr Kellett

We confirm receipt of your letter dated 15 August 2012. Thank you for your assistance, direction and advice.

In accordance with the registered Rules of the Waste Contractors & Recyclers Association of NSW we hereby confirm as follows:

- As per Rule 21.1(b) the Executive will elect from among their number a President, a Vice-President, a Treasurer and a Secretary;
- As per Rule 24(i) attached is a listing of Executive Members who will be voting at this Election, including the names of the current President, Vice-President, Treasurer and Secretary;
- As per Rule 26(a) these positions must be elected by and from the Executive at a meeting of the Executive. It is proposed that we hold this Election at a meeting of the Executive which will commence at 7:30am on Tuesday, 13 November 2012;
- This Executive Meeting will be held at our office, Suite 2, 12-16 Daniel Street, Wetherill Park, NSW;
- As per Rule 26(b) any Member of the Executive may nominate for the positions referred to above or may nominate any other Member of the Executive for any such position and a nomination need not be seconded;
- As per Rule 26(c) the Election of Officers under this Rule shall be for a period of one year or until the next Annual General Meeting; and

- As per Rule 48 we understand that once this Election is conducted that at least two of the President, Vice-President or Executive Director will be required to sign-off on the Election documents.

We also attach for your review a "Statement of Prescribed Information for an Election".

On the basis that this letter and the attachments contain the required prescribed information, we would be grateful if Fair Work Australia was to notify the Australian Electoral Commission in relation to the arrangements for the conduct of this Election.

Please review this information and advise us if you require further details.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Tony Khoury', written over a faint, illegible stamp or watermark.

Tony Khoury  
Executive Director

Attach.

**Statement of Prescribed Information for an Election**

**Waste Contractors & Recyclers Association of NSW**

I, Tony Khoury being the Executive Director of the Waste Contractors & Recyclers Association of NSW, make the following statement:

I am the Executive Director of the Waste Contractors & Recyclers Association of NSW.

I am authorised to lodge the following prescribed information concerning forthcoming elections of the Association, and

I confirm that the following information is being lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009. -

Signed:



Dated: 22 August 2012

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**Offices**

<b>A</b>	President (Direct Voting System)
	Vice-Presidents (DVS)
	Secretary (DVS)
	Treasurer (DVS)

**Reasons for election:**

- Scheduled election for the Offices marked A is required as the terms of office are due to expire in the normal course of events under the rules of the organisation.

**Elected by:**

- The electorate for the direct voting system is the whole of the Executive (totalling 12 persons).

**Nominations open:**

- For Offices to be elected by direct voting system – at the Executive Meeting dated 13 November 2012 – nominations will open on approval of this notice by Fair Work Australia.

**Nominations close:**

- For the Offices to be elected by direct voting system – at the Executive Meeting dated 13 November 2012.

**Cut-off date for roll:**

- In this case, Members of the Executive will vote either in person at the meeting dated 13 November 2012 or by proxy.

## Waste Contractors and Recyclers Association of NSW

Suite 2 First Floor, 12-16 Daniel Street WETHERILL PARK NSW 2164

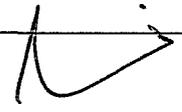
### All mail to be addressed to:

PO Box 6643 WETHERILL PARK BC NSW 2164

Ph: 02 9604 7206 Fax: 02 9604 7256

Email: [memberservices@wcra.com.au](mailto:memberservices@wcra.com.au)

Executive Member	Occupation	Organisation Represented	Postal Address
Harry Wilson <i>President</i>	Managing Director	SMS Municipal Services Pty Ltd	All mail to the Executive should be addressed to: PO Box 6643, WETHERILL PARK BC NSW 2164
James Perry <i>Vice President</i>	Manager Collection NSW/ACT Waste Management.	Thiess Services	
Gary Roy Leach <i>Secretary</i>	Sydney Collections Manager	SITA Australia Pty Ltd	
John Raymond Kernahan <i>Treasurer</i>	Director, Sales & Marketing	Sulo Recycling	
David James Harrison	National Sales Manager	Superior Pak	
Ritchie Scott Venn	General Manager	URM Group	
Jeffrey Roy Brandstater	Managing Director	Brandster Services Pty Ltd	
Gregory Ross Turner	Contracts Manager	JR Richards & Sons	
Glenn Gauslaa	Director	Viking Waste Services Pty Ltd	
Scott Bond	General Manager, Commercial Services NSW	Veolia Environmental Services	
Dean Naudi	Regional Manager Sydney	Transpacific/Cleanaway	
Adam Greenwood	Manager	Tox Free (NSW) Pty Ltd	



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Mr Tony Khoury  
Executive Director

As at August 2012