

Disclosure of enrolment, electoral and election information policy

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1. Abbreviations and definitions

Abbreviations

AEC	Australian Electoral Commission
CS Act	<i>City of Sydney Act 1988</i> (NSW)
CSO	Crown Solicitor's Office
EF Act	<i>Electoral Funding Act 2018</i> (NSW)
Electoral Act	<i>Electoral Act 2017</i> (NSW)
GIPA Act	<i>Government Information (Public Access) Act 2009</i> (NSW)
LG Act	<i>Local Government Act 1993</i> (NSW)
LG Regulation	Local Government (General) Regulation 2021 (NSW)
PMP	Privacy Management Plan
PIIP Act	<i>Privacy and Personal Information Protection Act 1998</i> (NSW)

Definitions

Authorised roll – is a roll of electors for a state district prepared by the Electoral Commissioner at a point in time (as soon as practicable after the issue of the writ for an election). It contains the surname, given name or names, date of birth and sex of each elector, and the residence of the elector (except in relation to an eligible overseas elector, itinerant elector or silent elector). A copy of an authorised roll that is made available for public inspection will not contain a person's date of birth.

Election information – the information required to be collected after state and local government elections. Election information includes the names and addresses of electors who voted (other than silent electors and itinerant electors) and the method of voting used and the place at which electors voted.

Electoral information – the information required to be collected for the purpose of determining whether the address for which the person is enrolled is the person's real residence. If the person is not enrolled, information collected to determine whether the person is entitled to be enrolled for any district. Electoral information may include a person's telephone number, email address, and other information or code used to identify that person.

Electoral Information Register – a register where the Electoral Commissioner keeps and maintains records of all persons enrolled under the Electoral Act. The Electoral Information Register includes the surname, given name or names, date of birth and sex of each enrolled person, the residence of the person (except in relation to an eligible overseas elector or an itinerant elector), the electoral district for which the person is enrolled, whether the person is a silent elector, whether the person is a special elector, whether the person is a registered early voter and such other particulars as the Electoral Commissioner considers necessary to carry out the Electoral Commissioner's functions under Electoral Act.

Enrolment information – is information that is contained in an authorised roll or a list of enrolled persons that the Electoral Commissioner is or may be required to provide to registered political parties, members of parliament, nominated candidates and other persons. It contains the surname, given name or names, date of birth and sex of each elector, and the residence of the elector (except silent electors).

Local Government non-residential roll – a roll that local councils are responsible for preparing.¹ The non-residential roll is to include the names of non-resident owners of rateable land who have applied, at any time,

¹ The *City of Sydney Act 1988* (NSW) places a number of additional obligations on the General Manager of City of Sydney with regard to the preparation and maintenance of the roll of non-resident owners of rateable land and the roll of occupiers and ratepaying lessees.

for the inclusion of their names in any such roll; and who, in the opinion of the general manager, are qualified for inclusion in the roll.

Local Government residential roll – a roll the Electoral Commissioner is required to keep for each local government area of persons entitled to be enrolled as electors because they are residents of the area. The Electoral Commissioner may use information kept on the Electoral Information Register or on any roll used for Commonwealth elections as sources of information for compiling the residential roll.

Local Government roll of electors – this is a composite roll for a local government area that consists of the residential roll, the non-residential roll and the roll of occupiers and ratepaying lessees. An authorised copy of the roll is compiled for each election.

Local Government roll of occupiers and ratepaying lessees – a roll that local councils are responsible for preparing. The roll of occupiers and ratepaying lessees is to include the names of occupiers and ratepaying lessees who: have applied, at any time, for the inclusion of their names in any such roll; and who, in the opinion of the general manager, are qualified for inclusion in the roll.

NSW Electoral Commission – the three-member Commission constituted by section 8 of the Electoral Act. To enable the New South Wales Electoral Commission and the Electoral Commissioner to exercise their functions, staff are employed by the New South Wales Electoral Commission Staff Agency under the *Government Sector Employment Act 2013* (NSW). Collectively, these are referred to as NSW Electoral Commission in this document.

Silent electors – a person who has applied successfully to have his or her residential address not shown on authorised rolls or any other list of electors on the grounds of personal safety. The Electoral Commissioner will ensure that the address of the person is not disclosed. However, if someone is granted silent enrolment for the address where they are already enrolled, that address will continue to appear on authorised rolls and other lists of electors that are already in the public domain but will not appear on any future authorised rolls or other lists of electors.

2. Introduction

- 2.1 The NSW Electoral Commissioner is responsible for collecting and maintaining enrolment, electoral and election information.
- 2.2 The *Electoral Act 2017* (Electoral Act), the *Local Government Act 1993* (LG Act) and other relevant legislative instruments regulate the disclosure of enrolment, electoral and election information. As enrolment, electoral and election information contains personal information, the *Privacy and Personal Information Protection Act 1998* (PPIP Act) also applies.

Information Protection Principles

- 2.3 The NSW Electoral Commission is committed to protecting the privacy of all personal information it collects, manages and stores in accordance with the information protection principles in the PPIP Act. The NSW Electoral Commission ensures that enrolment, electoral and election information is protected by taking such security safeguards as are reasonable in the circumstances against loss and unauthorised access, use, modification or disclosure. The NSW Electoral Commission will not disclose such information unless authorised or required under the PPIP Act, the Electoral Act and other relevant laws.
- 2.4 Detailed information with respect to the information protection principles under the PPIP Act can be found in the NSW Electoral Commission's *Privacy Management Plan* (PMP) which is available on the NSW Electoral Commission's website.

Government Information (Public Access) Act 2009

- 2.5 Access to enrolment, electoral and election information is not available under the *Government Information (Public Access) Act 2009* (GIPA Act).
- 2.6 An access application under the GIPA Act for enrolment information contained in an authorised roll or roll of electors will not be granted for a number of reasons, one being that there are already means under the Electoral Act and the LG Act by which individuals may apply to access that information.²
- 2.7 An access application under the GIPA Act for electoral information or election information will not be granted on the basis that there is a conclusive presumption of overriding public interest against disclosure of that information.³
- 2.8 Additional information can be found in the NSW Electoral Commission's *GIPA Policy and Procedures* which is available on the NSW Electoral Commission's website.

3. Purpose

- 3.1 This policy outlines the most common or likely circumstances in which the NSW Electoral Commission is required or authorised to disclose enrolment, electoral and election information.

4. Scope

- 4.1 This Policy is a guide as to how the NSW Electoral Commission manages its responsibilities with respect to the disclosure of enrolment, electoral and election information. This Policy is applicable to all staff of the NSW Electoral Commission, its contractors and any person or entity the NSW Electoral Commission may provide such information.
- 4.2 This Policy is intended to act as a guide and not to be relied upon as legal advice. Any questions concerning the disclosure of enrolment, electoral or election information may be directed to the NSW Electoral Commission.

5. Disclosure of enrolment information

Provision of enrolment information for NSW Electoral Commission administrative purposes

- 5.1 The PPIP Act, Electoral Act and the LG Act do not prevent the NSW Electoral Commission providing access to enrolment information (and in limited circumstances silent elector information) to relevant staff, contractors and service providers to enable the NSW Electoral Commission to properly exercise its functions under the Electoral Act, the LG Act, the *Electoral Funding Act 2018* (EF Act) and other enabling legislation.
- 5.2 For example, the NSW Electoral Commission may provide enrolment information to a mailing house or printer or an Elections Manager or other election officials to conduct its business. The business of the NSW Electoral Commission includes the administration of state and local government elections and the exercise of its enforcement functions in respect of elections, campaign finances and third party lobbyists.
- 5.3 The NSW Electoral Commission requires all staff, contractors and service providers to sign a Code of Conduct Acknowledgment or Confidentiality Agreement. The NSW Electoral Commission's PMP sets out in detail what training is available to staff to ensure compliance with the PPIP Act and other relevant legislation. The PMP provides further information with respect to contracts with third parties for the provision of services.

² *Government Information (Public Access) Act 2009* (NSW), section 59.

³ *Government Information (Public Access) Act 2009* (NSW), schedule 1(1).

Provision of enrolment information to government agencies or bodies

Australian Electoral Commission

- 5.4 The Electoral Commissioner may provide enrolment information to the Australian Electoral Commission (AEC) in accordance with the joint roll arrangement as authorised by the Electoral Act.⁴ This arrangement with the AEC provides for an exchange of information agreement that details joint enrolment activities and processes and the sharing of enrolment products and services.
- 5.5 The information is shared for the purpose of preparing and maintaining rolls or electoral information registers under the Electoral Act and the Commonwealth Electoral Act. The AEC and the NSW Electoral Commission share this information to maintain the integrity, completeness and accuracy of their electoral rolls. The AEC keeps and maintains an electoral roll for each state and territory that is available for public inspection at any AEC office. Questions concerning access to the Commonwealth electoral roll should be directed to the AEC.

Sheriff's Office

- 5.6 The Electoral Commissioner must provide the Office of the Sheriff of New South Wales the latest available copies of the rolls of electors for such electoral districts as requested by the Sheriff's Office for the purpose of preparing jury rolls.⁵

Crown Solicitor's Office

- 5.7 The NSW Electoral Commission may seek advice from the NSW Crown Solicitor's Office (CSO) or another legal service provider when exercising its functions such as its enforcement functions in respect of compulsory voting and campaign finances. The NSW Electoral Commission will provide briefs of evidence or instructions to CSO that may include enrolment information.

Local Councils

- 5.8 Section 296 of the LG Act enables a local council to enter into an arrangement with the Electoral Commissioner for the Electoral Commissioner to administer its elections, referendums and polls. In instances where a council resolves to appoint an electoral services provider to administer its elections, that council will require access to relevant enrolment information held by the NSW Electoral Commission.
- 5.9 Section 298 of the LG Act requires the Electoral Commissioner to keep a residential roll for each local government area. As soon as practicable after the closing date for an election that is to be administered by an electoral services provider of the council concerned, the Electoral Commissioner is to provide the general manager with a printed and an electronic copy of the residential roll for the area and each ward where applicable.⁶ The NSW Electoral Commission requires the general manager to enter into a safeguard agreement before information is provided with respect to an election.
- 5.10 Further, in the case of an election administered by an electoral services provider, the Electoral Commissioner must forward to the election manager as soon as possible after the nomination day for an election a list of those registered early voters (postal)⁷ registered under the Electoral Act who are entitled to vote at an election in respect of a ward or area.⁸ The NSW Electoral Commission requires the election manager to enter into a safeguard agreement before information is provided with respect to an election.
- 5.11 The *City of Sydney Act 1988* (CS Act) places a number of obligations on the general manager of City of Sydney with regard to the preparation and maintenance of the roll of non-resident owners of rateable land and the roll of occupiers and ratepaying lessees. Section 18B of the CS Act requires the general manager to send a copy of both rolls to the Electoral Commissioner for review (review costs are met by Council). As part of this review, the Electoral Commissioner is required to notify the general manager if any person on either of those rolls:
- is not entitled to vote;

⁴ *Electoral Act 2017* (NSW), section 56.

⁵ *Jury Act 1977* (NSW), section 11.

⁶ *Local Government Act 1993* (NSW), section 298(3).

⁷ Otherwise known as general postal voters.

⁸ Local Government (General) Regulation 2021 cl 316(2).

- does not reside at the address shown for the person on the roll concerned, but resides at another address (including whether that person is a resident of the City of Sydney);
- is a silent elector; or
- will not be 18 years of age or over on Election Day.

5.12 The Electoral Commissioner and the City of Sydney have entered into a safeguard agreement which details the agreed security safeguards required for the protection of the personal information provided under the CS Act.

Other government agencies or bodies

5.13 In the absence of any legislative provisions expressly authorising or requiring the NSW Electoral Commission to disclose enrolment information to other government agencies or bodies, there are a number of ways under the PPIP Act and the Electoral Act the NSW Electoral Commission may be authorised to disclose that information to those agencies or bodies.

5.14 The NSW Electoral Commission will only release enrolment information pursuant to an exemption in the PPIP Act in very limited circumstances. Even if an exemption is applicable, there is no obligation on the NSW Electoral Commission to release the enrolment information requested in the absence of a court order or notice to produce. Note: It is the preference of the NSW Electoral Commission that all agencies that have the power to compel production of information utilise those powers available to them (see the “Subpoenas and notices to produce” section of this Policy for further information).

5.15 Section 18 of the PPIP Act contains exemptions to the general prohibition on disclosing personal information. In accordance with s 18, an agency may disclose personal information to other agencies or bodies in instances where:

- the disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure; or
- the individual concerned is reasonably likely to have been aware, or has been made aware when the information was collected, that information of that kind is usually disclosed to that other person or body; or
- the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.⁹

5.16 Further, s 23(5) of the PPIP Act provides that a public sector agency (whether or not a law enforcement agency) is not required to comply with s 18 of the PPIP Act if the disclosure of the information concerned:

- is made in connection with proceedings for an offence or for law enforcement purposes; or
- is to a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person; or
- is authorised or required by subpoena or by search warrant or other statutory instrument; or
- is reasonably necessary:
 - for the protection of the public revenue; or
 - in order to investigate an offence where there are reasonable grounds to believe that an offence may have been committed.

5.17 There are also a number of exemptions found under s. 24 of the PPIP Act that relate to investigative agencies.

5.18 Section 25 of the PPIP Act provides that an agency is not required to comply with particular information protection principles in the PPIP Act where non-compliance is lawfully authorised or required or where non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law. For example, under section 50 of the Electoral Act, the Electoral Commissioner

⁹ *Privacy and Personal Information Protection Act 1998* (NSW), section 18(1)(a)-(c).

may disclose enrolment information to other government agencies or bodies in instances where the Electoral Commissioner makes a finding that the public interest in providing the requested information outweighs the public interest in protecting the privacy of personal information in the particular circumstances. See the “Disclosure of enrolment information to other persons” section of this Policy for further information.

- 5.19 It is also noted that there are additional exemptions with respect to the collection, use or disclosure of personal information in emergency situations as detailed in section 27D of the PPIP Act.
- 5.20 In light of the protections under both the Electoral Act and the PPIP Act (as well as existing policies and procedures) the NSW Electoral Commission will only release enrolment information pursuant to an exemption in the PPIP Act in compelling circumstances.

Subpoenas and notices to produce

- 5.21 The NSW Electoral Commission will on occasion receive subpoenas, summons or notices to produce from various courts or tribunals, for example, the NSW Civil and Administrative Tribunal, the Supreme Court of NSW, the Children’s Court of NSW or local courts for the production of enrolment information in relation to a particular person or persons.
- 5.22 The NSW Electoral Commission must comply with the subpoena or notice to produce by providing the enrolment information requested. Failure to comply with a subpoena without a lawful excuse is a contempt of court and may lead to a fine or arrest.
- 5.23 It is noted that some government agencies or bodies may in accordance with their governing legislation compel (without court order) the NSW Electoral Commission to produce enrolment information about a particular person or persons. Such agencies include: Centrelink;¹⁰ the Independent Commission Against Corruption;¹¹ Child Support;¹² and Housing NSW.¹³
- 5.24 Unless certain circumstances apply, the NSW Electoral Commission cannot be required to produce or *divulge electoral information* to any court, tribunal or authority or person having power to require the production of documents or the answering of questions, see part 6 of this Policy for further details.

Access to enrolment information via the on-line enrolment verification facility

- 5.25 The Electoral Act enables the Electoral Commissioner to provide access (including in person, online or by telephone) to enrolment information for the purpose of allowing an individual to check whether they are enrolled and that their enrolment details are correct.¹⁴ The enrolment verification facility can be accessed from the NSW Electoral Commission’s website.

Register of Political Parties for state and local government elections

- 5.26 The Register of Political Parties for both state and local government elections are partially published online and additional information and documents that form part of these registers are available for inspection at the office of the NSW Electoral Commission.¹⁵ These additional documents include the list of members (which includes names and enrolled addresses) the party has relied upon to meet the minimum registration requirements.¹⁶ Any person wishing to inspect these registers is required to make their request in writing, and provide photo ID upon request.

Public inspection of enrolled addresses in public registers required under the Electoral Funding Act

- 5.27 There are a number of registers under Part 7 of the EF Act required to be made available for public inspection at the office of the NSW Electoral Commission:¹⁷

¹⁰ *Social Security (Administration) Act 1999* (Cth), section 196.

¹¹ *Independent Commission Against Corruption Act 1988* (NSW), section 22.

¹² *Child Support (Registration and Collection) Act 1988* (Cth), section 120.

¹³ *Housing Act 2001* (NSW), section 69C(1).

¹⁴ *Electoral Act 2017* (NSW), section 53.

¹⁵ *Electoral Act 2017* (NSW), section 70; and as applied by *Local Government Act 1993* (NSW) section 320.

¹⁶ A person whose personal information is contained in the Register of Political Parties under section 58 of the Electoral Act, cannot seek suppression of details under the PPIP Act (see relevant exemption from Part 6 of the PPIP Act under cl. 7 of the PPIP Regulation).

¹⁷ *Electoral Funding Act 2018* (NSW), section 132.

- State Register of Candidates for each State general election;¹⁸
- Local Government Register of Candidates for each Local Government general election;¹⁹
- State Register of Third-party Campaigners for each State election;²⁰
- Local Government Register of Third-party Campaigners for each Local Government general election;²¹
- State Register of Party Agents;²²
- Local Government Register of Party Agents;²³
- Register of Associated Entities;²⁴
- Register of Official Agents for each State and Local government general election;²⁵
- Registers for each state and local government by-election:²⁶
 - Register of Candidates;
 - Registers of Third-party Campaigners;
 - Register of Official Agents.

5.28 The Register of Candidates for both state and local government elections must include amongst other particulars, the full name and enrolled address of the candidate (s. 103(4)(a) of the EF Act).

5.29 The State Register of Third-party Campaigners and Local Government Register of Third-party Campaigners is to include, amongst other particulars, the full name and address of the third-party campaigner.

5.30 The State Register of Party Agents and Local Government Register of Party Agents is to include amongst other particulars, the name and address of the party agent.

5.31 The Register of Associated Entities is to include amongst other particulars, the full name and address of the associated entity.

5.32 The Register of Official Agents is to include amongst other particulars the name, address and occupation of the official agent.

5.33 The Register of Candidates requires the disclosure of enrolled addresses. With respect to the other registers, it is possible that an “address” is also an “enrolled” address.

5.34 The NSW Electoral Commission is also required to prepare a copy of each register that excludes the addresses of all individuals and publish it on its website.²⁷

5.35 All applicants at time of registration can advise the NSW Electoral Commission whether they are silent electors – in which case the NSW Electoral Commission will not make available for public inspection a silent elector’s address. If a registered candidate, third-party campaigner, party agent or official agent becomes a silent elector after they become registered, they are required to notify the NSW Electoral Commission immediately so NSW Electoral Commission can update its records and remove their enrolled address from registers made available for public inspection (however their address will continue to appear in documents already in the public domain).

¹⁸ *Electoral Funding Act 2018* (NSW), section 103.

¹⁹ *Electoral Funding Act 2018* (NSW), section 103.

²⁰ *Electoral Funding Act 2018* (NSW), section 116.

²¹ *Electoral Funding Act 2018* (NSW), section 116.

²² *Electoral Funding Act 2018* (NSW), section 121.

²³ *Electoral Funding Act 2018* (NSW), section 121.

²⁴ *Electoral Funding Act 2018* (NSW), section 111.

²⁵ *Electoral Funding Act 2018* (NSW), section 125.

²⁶ *Electoral Funding Act 2018* (NSW), section 131.

²⁷ *Electoral Funding Act 2018* (NSW), section 132(2)(b); a person whose personal information is contained in a register kept under Part 7 of the EF Act, cannot seek suppression of details under the PPIP Act (see relevant exemption from Part 6 of the PPIP Act under cl. 7 of the PPIP Regulation).

Publication and inspection of political donations disclosures

- 5.36 Particular persons such as party agents, elected members, candidates, official agents of associated entities and third-party campaigners, and major political donors are required to disclose to the NSW Electoral Commission reportable political donations under the EF Act (see s. 19). The EF Act provides that disclosures must be published on the NSW Electoral Commission's website and copies must also be available for public inspection.
- 5.37 Disclosures of reportable political donations include amongst other things, the name and residential address of a donor (in relation to an individual). This residential address may also be an individual's enrolled address. The NSW Electoral Commission is exempt from any requirement under section 22 of the EF Act to publish the residential address of a donor who is a silent elector that is contained in a disclosure of reportable political donations, if the NSW Electoral Commission is aware that the donor is a silent elector.²⁸
- 5.38 At the time disclosures are made, the NSW Electoral Commission will not publish the details of a silent elector. If an individual is granted silent elector status after a disclosure is made, they are required to notify the NSW Electoral Commission so their address can be redacted from disclosures published on our website or available for public inspection (however their address will continue to appear in documents already in the public domain).

Publication and inspection of claims for funding

- 5.39 A claim for public funding under Part 4 of the EF Act is not validly lodged with the NSW Electoral Commission unless all expenditure specified in the claim is vouched for. A claim for administrative and new party policy development funding under Part 5 of the EF Act is to be accompanied by a declaration and such information or evidence as the NSW Electoral Commission may require. This information may include enrolled addresses.
- 5.40 The NSW Electoral Commission must publish a copy of a claim for public funding on its website. The NSW Electoral Commission may make copies/extracts of material relating to its assessments available for public inspection at the office of the NSW Electoral Commission, upon application under Part 4 of the EF Act. An application cannot be made under the GIPA Act to inspect supporting documentation lodged with a funding claim because this information is excluded information under schedule 2 of the GIPA Act.

Public access to authorised roll and residential roll

Public inspection

- 5.41 As soon as practicable after the issue of the writ for a state election, the Electoral Commissioner is required, pursuant to the Electoral Act, to make available for public inspection a copy of the authorised roll for a district.²⁹ A copy of the authorised roll available for inspection will not contain any particulars relating to a person's date of birth. Inspection is free of charge and available during ordinary office hours at the office of the NSW Electoral Commission for a period of 40 days after the return of the writ for the election.
- 5.42 The Electoral Commissioner is also required, pursuant to the LG Act, to make available for public inspection the latest copy of the residential roll for public inspection at any reasonable time during office hours at the office of the NSW Electoral Commission.³⁰
- 5.43 The non-residential roll and the roll of occupiers and rate paying lessees for local government election purposes are made available for public inspection during office hours at the relevant council. Individuals will need to consult with the relevant councils to ascertain when those rolls will be available.³¹

Electoral purpose

- 5.44 An authorised roll and a residential roll are public registers within the meaning of the PPIP Act. Section 57 of the PPIP Act provides that:

²⁸ Electoral Funding Regulation 2018, cl 35.

²⁹ *Electoral Act 2017* (NSW), section 47.

³⁰ *Local Government Act 1993* (NSW), section 302(1).

³¹ *Local Government Act 1993* (NSW), section 302(2).

The public sector agency responsible for keeping a public register must not disclose any personal information kept in the register unless the agency is satisfied that it is to be used for a purpose relating to the purpose of the register or the Act under which the register is kept.

- 5.45 The Electoral Act enables the Electoral Commissioner to determine the manner and form of access to a list of electors and enrolment information; this includes the manner in which a copy of an authorised roll will be made available for public inspection.³²
- 5.46 In order to satisfy its obligations under the PPIP Act, the LG Act and the Electoral Act, the NSW Electoral Commission has implemented a procedure, recommended in guidelines issued by the Privacy Commissioner, that requires any person attending for inspection of an authorised roll or residential roll to complete an application form confirming that inspection is for a purpose relating to the purpose of the roll or the Act under which the roll is kept.
- 5.47 The NSW Electoral Commission will refuse access to a roll if an applicant fails to complete the relevant application form, provide photo ID or fails to indicate an appropriate reason for inspecting a roll.
- 5.48 The purpose of public inspection of a roll is to ensure a degree of public transparency and accountability in terms of accuracy of enrolment information and to guard against electoral fraud.
- 5.49 Purposes that are not considered valid for inspecting a roll may include:
- obtaining addresses to send persons unsolicited mail;
 - seeking the addresses of acquaintances and/or relatives in order to renew contact;
 - seeking details in order to undertake research into a person's antecedents;
 - solicitors seeking information for the completion of probate processes; or
 - local councils seeking to augment their mailing lists.
- 5.50 A person inspecting a roll may take hand written notes but is not permitted to copy or record the information in any other way.³³ An application form will be available at the office of the NSW Electoral Commission, however an applicant is required to telephone the office of the NSW Electoral Commission in advance to organise a time to inspect a roll.

Disclosure of enrolment information to parties, members and candidates

- 5.51 The Electoral Act requires the Electoral Commissioner, in limited circumstances, to provide enrolment information to registered parties, members of parliament and candidates for state elections.³⁴ In addition, the Local Government (General) Regulation 2005 (LG Regulation) requires the Electoral Commissioner, in limited circumstances, to provide enrolment information to candidates for local government elections.³⁵
- 5.52 The Electoral Act, the LG Regulation and the PPIP Act, provide for the protection of personal information by prescribing limitations and restrictions on the use and disclosure of enrolment information to registered parties, members and candidates. A registered party, member and candidate must not use or disclose enrolment information that is provided by the Electoral Commissioner except for a purpose in connection with an election and monitoring the accuracy of enrolment information kept and maintained by the Electoral Commissioner. Use of enrolment information for a commercial purpose is strictly prohibited.³⁶
- 5.53 State registered parties, members of parliament and candidates for state government elections in receipt of enrolment information will be required to first provide the Electoral Commissioner with an undertaking that, amongst other things, the recipient's systems and procedures are adequate to preserve the security of enrolment information. Under the PPIP Act, the NSW Electoral Commission must ensure that personal information is protected, by taking such security safeguards as are reasonable in the circumstances. All candidates for local government in receipt of enrolment information must first enter

³² *Electoral Act 2017* (NSW), section 48.

³³ *Electoral Act 2017* (NSW), section 47.

³⁴ *Electoral Act 2017* (NSW), section 49.

³⁵ *Local Government (General) Regulation 2005* cl 284A.

³⁶ *Electoral Act 2017*(NSW), sections 51 - 52; *Local Government (General) Regulation 2005* cl 284B – 284C.

into a written agreement with the Electoral Commissioner which details, amongst other things, the recipient's obligations with respect to accessing enrolment information.

- 5.54 Those in receipt of enrolment information who do not comply with the relevant provisions of the Electoral Act, the LG Act or the PPIP Act could face serious penalties or could be required to pay monetary compensation to affected persons. For example, section 52 of the Electoral Act (which is also applicable under the LG Regulation) limits the use and disclosure of enrolment information and prescribes a maximum penalty of 1,000 penalty units.
- 5.55 The Electoral Commissioner is required to provide enrolment information to parties, members and candidates free of charge.³⁷ The Electoral Act and the LG Regulations enable the Electoral Commissioner to determine the manner and form of access to enrolment information; this includes the manner in which a copy of a list of electors will be made available. For example, the Electoral Commissioner may determine that the information is to be provided in a written or an electronic form.³⁸
- 5.56 In relation to state elections, the Electoral Commissioner is taken to have provided a member or candidate who is a member of a registered party with the list of electors and particulars if the Electoral Commissioner has provided the required list to the member or candidate's registered party once every 4 years or as soon as practicable after the redistribution of the State into districts.³⁹

Registered state parties

- 5.57 The Electoral Commissioner is required, in accordance with the Electoral Act, to provide each State registered party a list specifying enrolled persons and their particulars:
- once every 4 years; and
 - as soon as practicable after the redistribution of the State into districts; and
 - on receiving a request from the registered officer of the party; and
 - at such other times as the Electoral Commissioner considers appropriate.⁴⁰
- 5.58 The NSW Electoral Commission requires registered state parties to provide an undertaking to the Electoral Commissioner that the party's systems and procedures are adequate to preserve the security of that information.

Members of Legislative Council

- 5.59 The Electoral Commissioner is required, in accordance with the Electoral Act, to provide each member of the Legislative Council a list specifying enrolled persons and their particulars:
- once every 4 years (unless a member of a registered party); and
 - as soon as practicable after the redistribution of the State into districts (unless a member of a registered party); and
 - on receiving a request from the member but not more than once a year; and
 - at such other times as the Electoral Commissioner considers appropriate.⁴¹
- 5.60 The NSW Electoral Commission requires Members of the Legislative Council to provide an undertaking to the Electoral Commissioner that the member's systems and procedures are adequate to preserve the security of that information.

Members of the Legislative Assembly

- 5.61 The Electoral Commissioner is required, in accordance with the Electoral Act, to provide each member of the Assembly a list specifying enrolled persons and their particulars for the district for which the member was elected:
- once every 4 years (unless a member of a registered party);

³⁷ *Electoral Act 2017* (NSW), section 49; Local Government (General) Regulation 2005 cl 284A.

³⁸ *Electoral Act 2017* (NSW), section 48; Local Government (General) Regulation 2005 cl 284A.

³⁹ *Electoral Act 2017* (NSW), section 49(8).

⁴⁰ *Electoral Act 2017* (NSW), section 49(1).

⁴¹ *Electoral Act 2017* (NSW), section 49(2) & 49(8).

- as soon as practicable after the redistribution of the State into districts (unless a member of a registered party); and
- on receiving a request from the member but not more than once each year; and
- at such other times as the Electoral Commissioner considers appropriate.⁴²

5.62 In relation to a redistribution of the State into districts, the Electoral Commissioner must provide to each member of the Assembly a list specifying enrolled persons (and their particulars) for the district for which the member was elected, and a list specifying enrolled persons (and their particulars) for the district whose name and area, in the opinion of the Electoral Commissioner, most resemble the district for which the member was elected.⁴³

5.63 The Electoral Commissioner must also provide at the request of a member of the Assembly, but not more than 6 times each year, a list specifying persons (and their particulars) who are no longer enrolled and who are newly enrolled in the district represented by the member.⁴⁴

5.64 The NSW Electoral Commission requires Members of the Legislative Assembly to provide an undertaking to the Electoral Commissioner that the member's systems and procedures are adequate to preserve the security of that information.

Candidates for Legislative Council

5.65 At the request of any candidate for a periodic Council election, the Electoral Commissioner must provide to the candidate a list of electors and their particulars in a form determined by the Electoral Commissioner.⁴⁵ If the candidate is a member of a registered party, the Electoral Commissioner is taken to have provided that candidate with the list if the Electoral Commissioner has provided the list to the candidate's registered party once every 4 years or as soon as practicable after the redistribution of the State into districts. This does not prevent a candidate who is a member of a registered party requesting that the list be provided directly to that candidate.

5.66 The NSW Electoral Commission requires candidates for the Legislative Council to complete an application form and provide an undertaking to the Electoral Commissioner that the candidate's systems and procedures are adequate to preserve the security of that information.

Candidates for Legislative Assembly

5.67 At the request of any candidate for an Assembly general election or by-election, the Electoral Commissioner must provide to the candidate a list of electors for the district for which the candidate is seeking election and their particulars in a form determined by the Electoral Commissioner.⁴⁶ If the candidate is a member of a registered party, the Electoral Commissioner is taken to have provided that candidate with the list if the Electoral Commissioner has provided the list to the candidate's registered party once every 4 years or as soon as practicable after the redistribution of the State into districts. This does not prevent a candidate who is a member of a registered party requesting that the list be provided directly to that candidate.

5.68 The NSW Electoral Commission requires candidates for the Legislative Assembly to complete an application form and provide an undertaking to the Electoral Commissioner that the candidate's systems and procedures are adequate to preserve the security of that information.

Candidates for local government elections

5.69 The Electoral Commissioner is required, in accordance with the Local Government (General) Regulation 2005, to provide a local government candidate enrolment information as appearing in the roll of electors consisting of a list of electors for the candidate's ward or, if the area is not divided into wards, a list of electors for the candidate's area and their particulars.⁴⁷

5.70 The NSW Electoral Commission requires candidates for local government elections to complete an application form and declaration that the candidate's systems and procedures are adequate to preserve

⁴² *Electoral Act 2017* (NSW), section 49(3) & 49(8).

⁴³ *Electoral Act 2017* (NSW), section 49(4).

⁴⁴ *Electoral Act 2017* (NSW), section 49(5).

⁴⁵ *Electoral Act 2017* (NSW), section 49(6) & 49(8).

⁴⁶ *Electoral Act 2017* (NSW), section 49(7) & 49(8).

⁴⁷ Local Government (General) Regulation 2005 cl 284A.

the security of that information. Candidates for local government elections that are not administered by the Electoral Commissioner are also required to make a declaration to the same effect.

Disclosure of enrolment information to other persons

- 5.71 From time to time the Electoral Commissioner receives requests from people, organisations or other government agencies for access to enrolment information, being a list of enrolled persons and their particulars. These requests are dealt with in accordance with section 50 of the Electoral Act and the PPIP Act.
- 5.72 Please be aware that the Electoral Commissioner is under no obligation to provide the enrolment information requested under section 50 of the Electoral Act.
- 5.73 It is also important to note that any approval of a request will be time limited and may be withdrawn by the Electoral Commissioner at any time.

How to make a request under section 50

- 5.74 Requests made under section 50 must be in writing and addressed to the Electoral Commissioner. If the request is being made by an organisation or agency, the request must be made by the *head* of that entity making the request.
- 5.75 A request must contain sufficient information to enable the Electoral Commissioner to undertake the prescribed public interest test specified in section 50.
- 5.76 A request by a person or organisation must provide a sufficient response to *each* of the following:
- i. the particular enrolment information sought;
 - ii. why this information is sought;
 - iii. how the information will be used;
 - iv. the statutory functions underpinning the purpose for which the information is sought;
 - v. whether the information will form part of a procedure that affects the rights or interests of individuals and how that procedure is conducted with proper authorisation and appropriate procedures that are lawful and compliant with privacy, anti-discrimination and administrative law requirements (as applicable);
 - vi. the intended timeframes with respect to the use of the information;
 - vii. who will have access to this information, by reference to specified role/s;
 - viii. whether a service provider will be engaged by the entity making the request, and the contractual and other safeguards in place with respect to privacy and confidentiality;
 - ix. whether the information will be integrated into a records management system or other system/s and the details of the specific system/s;
 - x. whether a privacy impact assessment has been undertaken, and the outcome of that assessment as it relates to the system/s and/or relevant project;
 - xi. what steps will be taken to protect the information, including details of access controls and other information security measures and standards that will be adopted. In answering this question, address the following:
 - management and operational controls (for example, policies/procedures/guidelines, staff training and accountability measures to anticipate, manage and avoid risks),
 - technical controls (for example, access control mechanisms, authentication mechanisms, encryption methods, design changes, audit and oversight mechanisms),
 - physical controls (for example, lockable filing cabinets and limiting access to certain floors or areas),
 - contractual controls (for example, deeds of confidentiality and privacy entered by staff),
 - legislative controls (for example relevant secrecy provisions controlling the disclosure of information held by the entity making the request).

Note: controls must demonstrate, amongst other things, how access to enrolment information will be limited to the specified person/s only and excluded from others.

- xii. sources of the information other than the NSW Electoral Commission;
- xiii. whether any other organisations/agencies have been approached for provision of the information;
- xiv. why the applicant considers that the NSW Electoral Commission is the most appropriate source of the information;
- xv. whether proposed research has been approved by a committee established for the purpose of giving ethical approval to research projects; and
- xvi. how, in the applicant's view, the public interest in providing the enrolment information to the applicant outweighs the public interest in protecting the privacy of the persons affected (notably, the Electoral Commissioner will generally not accede to requests for enrolment information unless disclosure is for public health and safety; or criminal law enforcement by authorised agencies).

5.77 A response to the above questions may result in further inquiries being made by the NSW Electoral Commission, if necessary, to assess a request. The Electoral Commissioner will consider the merits of each request.

The public interest test

5.78 The Electoral Commissioner is not permitted to provide a list of enrolled persons and their particulars to other persons or organisations under section 50 unless the public interest in disclosure outweighs the public interest in protecting the privacy of personal information.⁴⁸

5.79 In making this assessment, the Electoral Commissioner must ensure that the exercise of this function promotes the objectives of the Electoral Act and observes the privacy protection principles and directions under the PPIP Act.

5.80 The result is that disclosure of enrolment information under section 50 is very limited and strictly controlled. The Electoral Commissioner will generally not accede to requests for enrolment information under section 50 of the Electoral Act unless disclosure is for one of the following purposes:

- public health and safety; and
- criminal law enforcement by authorised agencies.

5.81 Although the Electoral Commissioner is not confined by section 50 to releasing information to support public health and safety and law enforcement, the Electoral Commissioner has generally only done so when requests have been made by organisations or agencies undertaking these functions.

5.82 The Electoral Commissioner will refuse a request where:

- alternative sources of the information are available;
- appropriate research and ethics committee approvals have not been obtained (in relation to medical research and health screening programs);
- appropriate information security safeguards and privacy by design measures cannot be demonstrated;
- the system/s or procedures reliant on the information appear to be discriminatory or adversely impact an individual's right to procedural fairness;
- the request appears to be (or has the potential to be perceived as) a politically motivated request that impacts the strict political neutrality adopted by the NSW Electoral Commission;
- the person or organisation making the request refuses to complete the undertaking to be provided to the Electoral Commissioner;

⁴⁸ *Electoral Act 2017* (NSW), section 50(1).

- the request is made for the purpose of circumventing existing provisions with respect to the disclosure of enrolment information in the Electoral Act and LG Act e.g. a prospective candidate for a state or local government election seeking earlier access to enrolment information.

5.83 There may be additional reasons why the Electoral Commissioner may refuse a request. As custodian of personal information of millions of electors, the NSW Electoral Commission takes its responsibilities to protect the privacy of personal information very seriously and NSW electors have a right to expect that the disclosure and use of their personal information is restricted.

5.84 A request for a list of enrolled persons under section 50 is unlikely to satisfy the public interest test if the request is made for the following reasons:

- to commence civil proceedings;
- to facilitate debt collection;
- to facilitate probate related matters;
- to discover ancestral, familial or other connections;
- to augment mailing lists; or
- to facilitate research projects undertaken by students including university enrolled students undertaking a post graduate course such as a PhD.

5.85 Even if there is a public interest in any of the above examples, it is very weak in comparison with the public interest that arises in connection with the work of organisations using enrolment information for public health and safety and law enforcement.

Public health and safety

5.86 When considering the public interest in disclosure of enrolment information for public health and safety purposes, the Electoral Commissioner may have regard to the PPIP Act. For example, the information protection principle concerning the disclosure of personal information will generally not apply if an agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.⁴⁹

5.87 Disclosure of enrolment information for medical research and health screening programs are expressly anticipated in section 50 of the Electoral Act.⁵⁰ However, just because an applicant is undertaking medical research or facilitating a health screening program, it does not automatically follow that the Electoral Commissioner will provide the information requested. The Electoral Commissioner must first apply the public interest test found in section 50. In addition, the Electoral Commissioner may also consider the request in light of the *Statutory Guidelines on Research* made pursuant to section 27B of the PPIP Act. For example, this guideline requires an agency, amongst other things, to be satisfied that the research has been approved by a committee established for the purpose of giving ethical approval to research projects after such a committee has considered the privacy implications of the collection and subsequent use of such information by the researcher in the absence of express consent. The committee is required to comply with the Guidelines issued by the National Health and Medical Research Council under s.95 of the *Privacy Act 1988* (Cth). If the screening proposals can produce ethics committee approval then the Electoral Commissioner may accept this in the same way it does for medical research.

Law enforcement

5.88 When considering the public interest in disclosure of enrolment information for criminal law enforcement purposes, the Electoral Commissioner may have regard to section 23 of the PPIP Act for guidance. Section 23 provides an exemption to the information protection principles concerning the disclosure of personal information if, inter alia, the disclosure of the information concerned:

⁴⁹ *Privacy and Personal Information Protection Act 1998* (NSW), section 18(1)(c).

⁵⁰ *Electoral Act 2017*(NSW), section 50(5); the Electoral Act permits additional information (age range and sex) to be released for medical research and the conduct of health screening programs.

- is made in connection with proceedings for an offence or for law enforcement purposes (including the exercising of functions under or in connection with the *Confiscation of Proceeds of Crimes Act 1989* or the *Criminal Assets Recovery Act 1992*); or
- is to a law enforcement agency for the purposes of ascertaining the whereabouts of an individual who has been reported to the police as a missing person; or
- is reasonably necessary in order to investigate an offence where there are reasonable grounds to believe that an offence may have been committed.

5.89 Enforcement agencies from the Commonwealth and other States or territories should approach the AEC.

Alternative sources

5.90 The NSW Electoral Commission recognises that some people and organisations are typically attracted to enrolment information not because of anything it reveals about electoral matters (being the purpose for which information was collected) but, rather, because it is a comprehensive and convenient database of name and address information which might be used to promote the objects of that person or organisation.

5.91 The electoral roll is only one of a number of databases from which such information can potentially be sought. Others include telephone directory databases and credit reference databases. Applicants must indicate why they need enrolment information specifically, and what other sources of information they have considered and/or approached.

5.92 Even if the applicant can make a case for needing enrolment information, it does not automatically follow that the Electoral Commissioner will provide the information requested. The Electoral Commissioner must first apply the public interest test.

5.93 If the requesting agency is a Commonwealth agency, or the request is for enrolment information for more than one jurisdiction, the obvious source agency would be the AEC, which has an extensive range of permitted disclosures and established procedures for handling access requests.

Assessments in favour of disclosure

Charges and form of access

5.94 If the Electoral Commissioner makes an assessment that the public interest in providing the requested information outweighs the public interest in protecting the privacy of personal information, the Electoral Commissioner may:

- provide the person or organisation a list specifying enrolled persons and particulars that, in the opinion of the Electoral Commissioner, are relevant to the person's request, and
- charge a fee to cover the cost of providing the list.⁵¹

5.95 If the Electoral Commissioner provides information to a person or organisation that conducts medical research or provides a health screening program, the Electoral Commissioner may include age range and sex of electors as part of the list.⁵²

5.96 It is noted that the Electoral Act enables the Electoral Commissioner to determine the manner and form of access to enrolment information; this includes the manner in which a list of electors will be made available.⁵³

Undertakings

5.97 Any person or organisation to be provided enrolment information must first provide an undertaking to the Electoral Commissioner concerning the protection and security of enrolment information.⁵⁴

5.98 A person or organisation making a request under section 50 is not required to complete the undertaking unless a request under section 50 of the Electoral Act is approved by the Electoral Commissioner.

⁵¹ *Electoral Act 2017* (NSW), section 50(2).

⁵² *Electoral Act 2017* (NSW), section 50(5).

⁵³ *Electoral Act 2017* (NSW), section 48(5)(b).

⁵⁴ *Electoral Act 2017* (NSW), sections 48(4) and 50(3).

- 5.99 The undertaking sets out the *minimum*-security safeguards the Electoral Commissioner expects recipients of enrolment information to adopt.
- 5.100 The person or organisation must, amongst other requirements:
- only use the information for the purpose for which the NSW Electoral Commission agreed to provide the information; and
 - not copy the information or give it to any other person; and
 - return the information to the NSW Electoral Commission or destroy it after use.⁵⁵
- 5.101 It is an offence under the Electoral Act for a person to refuse or fail to comply with such an undertaking.
- 5.102 The terms of the undertaking are not negotiable. The terms reflect legislative requirements, privacy protections, and reasonable public expectations with respect to the security of personal information of approximately 5.5 million electors in New South Wales.
- 5.103 If the terms of the undertaking are not acceptable to the person or organisation making the request, a decision will be made by the Electoral Commissioner to refuse the request for information under section 50.
- 5.104 As the NSW Electoral Commission cannot provide legal advice, it is a matter for the person or organisation making the request to ascertain what additional safeguards may be necessary to ensure its systems and procedures comply with relevant laws concerning the privacy and security of personal information.

Offences under the Electoral Act and PPIP Act

- 5.105 The Electoral Act and the PPIP Act provide for the protection of personal information and impose limitations and restrictions on the use and disclosure of enrolment information provided under section 50 of the Electoral Act. Those in receipt of enrolment information who do not comply with the relevant provisions of the Electoral Act or the PPIP Act may face serious penalties including fines up to \$110 000, imprisonment and/or the payment of monetary compensation to affected persons.⁵⁶

Record keeping, monitoring and reporting

- 5.106 The Electoral Commissioner must publish on its website, any finding made under section 50 of the Electoral Act (irrespective of the outcome). This information may include the details of the applicant. Information to be published on the NSW Electoral Commission's website includes:
- the date the finding was made;
 - the information sought;
 - why the information is sought;
 - the public interest identified;
 - the outcome of the finding; and
 - the reasons for the finding.
- 5.107 A summary of any assessment will also be made available in the NSW Electoral Commission's annual report.⁵⁷
- 5.108 The NSW Electoral Commission may monitor and audit a person's or organisation's use of security credentials and access to any NSW Electoral Commission systems and programs.
- 5.109 The NSW Electoral Commission is permitted to report an alleged breach of the Electoral Act, the PPIP Act and/or any other relevant laws by a recipient of enrolment information to relevant authorities such as the NSW Police Force, the Independent Commission Against Corruption and/or the NSW Information and Privacy Commission.

⁵⁵ *Electoral Act 2017* (NSW), section 50(3).

⁵⁶ See, for example: *Electoral Act 2017* (NSW), sections 50(4) and 52; *Privacy and Personal Information Protection Act 1998* (NSW) section 62.

⁵⁷ *Electoral Act 2017* (NSW), section 50(6)-(7).

5.110 The NSW Electoral Commission may make public reference to a particular undertaking and the person or organisation in receipt of enrolment information, including in news media statements and in response to concerns or questions raised by relevant stakeholders, such as electors who may make complaints to the NSW Electoral Commission about a person's or organisation's use of enrolment information.

6. Disclosure of electoral information

Disclosure of electoral information for administration purposes

- 6.1 The Electoral Commissioner is authorised to collect information, referred to as Electoral Information, for the purpose of maintaining and revising the Electoral Information Register.⁵⁸ Electoral information may include a person's telephone number, email address, and other information or code used to identify that person. The Electoral Commissioner may collect this information as part of its processes under the direct enrolment provisions of the Electoral Act.⁵⁹
- 6.2 The Electoral Commissioner (and officers acting under the directions of the Electoral Commissioner) are exempt from any requirements of the PPIP Act relating to the collection, use or disclosure of personal information to the extent that personal information is collected, used or disclosed for the purposes of or in connection with the collection and maintenance of electoral information by the Electoral Commissioner.⁶⁰
- 6.3 A NSW Electoral Commission officer must not directly or indirectly make a record of electoral information or divulge electoral information to another person unless exercising his or her functions under Part 5 of the Electoral Act (these functions extend to the maintenance of the Electoral Information Register and the exchange of information pursuant to the arrangement between the AEC and the NSW Electoral Commission under s 56 of the Electoral Act). Non-compliance with this requirement is an offence with a maximum penalty of 1000 penalty units and may also result in disciplinary action including dismissal.⁶¹

Disclosure of electoral information to other persons

- 6.4 Despite the general prohibition on disclosing electoral information to other persons, the NSW Electoral Commission is authorised to divulge electoral information to a person or persons:
- if the Electoral Commissioner certifies that it is necessary in the public interest that the information be divulged; or
 - a person to whom the information relates has expressly authorised it to be disclosed.⁶²
- 6.5 The disclosure of electoral information to third parties is very limited and strictly controlled and subject to enhanced privacy protections.
- 6.6 Examples of instances when disclosure of electoral information may be considered necessary in the public interest include:
- to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person;
 - to assist with emergency notification procedures undertaken by federal or state law enforcement agencies or fire and rescue services during an emergency; or
 - for law enforcement purposes undertaken by a federal or state law enforcement agencies.
- 6.7 Any certification of the Electoral Commissioner will be included in the NSW Electoral Commission's Annual Report.⁶³

⁵⁸ *Electoral Act 2017* (NSW), section 41; *Local Government Act 1993*, section 298.

⁵⁹ *Electoral Act 2017* (NSW), section 34.

⁶⁰ *Electoral Act 2017* (NSW), sections 44(3) and 45(6).

⁶¹ *Electoral Act 2017* (NSW), section 55; in addition, all staff members are required to comply with the NSW Electoral Commission Code of Conduct and related policies, guidelines and legislation. The NSW Electoral Commission will take action against breaches of the NSW Electoral Commission Code of Conduct that may result in the imposition of sanctions, up to and including, termination of employment.

⁶² *Electoral Act 2017* (NSW), section 55(2).

⁶³ *Electoral Act 2017* (NSW), section 55(6).

6.8 Further, it is an offence for any person or body to whom or which information is divulged (and a person or employee under the control of that person or body) to directly or indirectly make a record of electoral information or divulge electoral information to another person.⁶⁴

Subpoenas and notices to produce

6.9 A person cannot be required to produce or divulge electoral information to any court, tribunal or authority or person having power to require the production of documents or the answering of questions unless:

- the Electoral Commissioner certifies that it is necessary in the public interest to do so; or
- a person to whom the information relates has expressly authorised the information to be produced or divulged.⁶⁵

6.10 The Electoral Commissioner will only certify that it is necessary in the public interest to produce or divulge electoral information in response to a notice to produce or attend in very limited circumstances, for example, if the notice is at the behest of a state or federal law enforcement agency.

6.11 Any certification of the Electoral Commissioner will be included in the NSW Electoral Commission's Annual Report.⁶⁶

7. Disclosure of election information

Disclosure of election information to state registered parties and independent members

7.1 After a state election, each state registered party and independent Member of Parliament (in respect of the member's district) may seek access to election information held by the NSW Electoral Commission.⁶⁷

7.2 Recipients of election information will be required to complete a request form for the provision of election information.

7.3 Election information contains:

- the names and the addresses of electors who voted (other than silent electors and itinerant electors); and
- whether they voted personally, by post or another method authorised under the Electoral Act and, if they voted at a voting centre for the district for which the electors were enrolled, the location of that voting centre.⁶⁸

7.4 Election information provided under the Electoral Act must only be used in connection with an election. It is an offence for any person to use, or cause or permit the use of, election information provided by the Commission for any purpose other than in connection with an election.⁶⁹

Disclosure of election information to local government registered parties and independent councillors and mayors

7.5 After a local government election (administered by the Electoral Commissioner), each registered party and independent councillor and mayor (in respect of the councillor's and mayor's ward or area) may seek access to election information held by the NSW Electoral Commission.⁷⁰

7.6 Recipients of election information will be required to complete a request form for the provision of election information.

7.7 Election information contains:

⁶⁴ *Electoral Act 2017* (NSW), section 55(5).

⁶⁵ *Electoral Act 2017* (NSW), section 55(3)-(4).

⁶⁶ *Electoral Act 2017* (NSW), section 55(6).

⁶⁷ *Electoral Act 2017* (NSW), section 222(2).

⁶⁸ *Electoral Act 2017* (NSW), section 222(2)(a)-(b).

⁶⁹ *Electoral Act 2017* (NSW), section 222(3)-(4).

⁷⁰ Local Government (General) Regulation 2005 cl 393(1).

- the names and the addresses of electors who voted (other than silent electors); and
- whether they voted personally or by post and, if they voted at a polling place for the ward or area for which the electors were enrolled, the location of that polling place.

7.8 The offence provisions in the Electoral Act in respect of election information are adopted in connection with election information provided under the LG Regulation.⁷¹

8. Roles and responsibilities

8.1 The following table outlines the nature of the commitment expected from staff and the way that commitment should be implemented under this Policy:

Who	Commitment	How
Executive Director, Elections	Maintain the currency of this Policy. Ensure all NSW Electoral Commission staff are made aware of their obligations when responding to requests to access enrolment, electoral and election information.	<ul style="list-style-type: none"> • Monitor and revise this Policy as required. • Disseminate the Policy to all existing and new NSW Electoral Commission staff.
Director, Customer Service and Relationship Management	Understand and comply with the law and this Policy when responding to requests to access enrolment, electoral and election information.	<ul style="list-style-type: none"> • Be aware of this Policy and the legislative requirements. • Respond to requests for enrolment, electoral and election information in accordance with this Policy and relevant legislation.
NSW Electoral Commission staff	Understand and comply with the law and this Policy when responding to requests to access enrolment, electoral and election information.	<ul style="list-style-type: none"> • Be aware of this Policy and the legislative requirements.

9. Monitoring, evaluation and review

9.1 There will be a review in three years from the anniversary of approval of this Policy. The monitoring, reviewing and updating of this Policy will be the responsibility of the Director, Customer Service and Relationship Management.

10. Relevant legislation

10.1 The development of this Policy is informed by relevant legislation including:

- *City of Sydney Act 1988*.
- *Electoral Act 2017*.

⁷¹ Local Government (General) Regulation 2005 cl 393(2)-(4).

- *Electoral Funding Act 2018.*
- *Government Information (Public Access) Act 2009.*
- *Jury Act 1977.*
- *Local Government Act 1993.*
- *Privacy and Personal Information Protection Act 1998.*

11.Document control

Document management

Approved by Electoral Commissioner:	Date approved:
John Schmidt	2/03/2023
Executive Director Review:	
Andrea Summerell A/Executive Director Elections Division	
Director Review:	
Steve Robb Director Customer Service and Relationship Management BU	
Monica Richmond Director Legal BU	

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12.Revision record

Date	Version	Revision description
21/02/2014	V 1	Publication of Policy.
25/02/2014	V 1.1	Document Management added to Policy

31/05/2017	V 1.2	Policy design and layout updated
19/02/2019	V 2	Policy updated (new <i>Electoral Act</i>)
12/08/20	V 2.1	Minor amendment to para 5.46
2/03/2023	V 3.0	New policy template, updated procedures under s. 50 of the <i>Electoral Act</i> .