

**AEU Branch Council Paper
FOR DISCUSSION**

SUBJECT: *PROPOSED FUTURE RULE CHANGES*

PREPARED BY: *Lucie Cornelius, Deputy Branch President*

I have no conflict of interest in these matters.

Rules Changes

This paper contains a number of rules changes. Please see accompanying track changes of amendments to existing rules. This paper contains some new rules to be added as well as explanations of amended rules.

The paper is for discussion with a foreshadowed extraordinary meeting for a vote to enable new rules to be in place for the next election cycle.

Requested by AEC

1. Tasmanian Branch Rule 32(2)(a)(i).

AEC have made some requests of AEU rules nationally. This proposal is to smooth out timings according to that request.

This change will start the process earlier, resulting in results on time rather than later as elections have taken a long time to process lately.

The change is from Week 8 to Week 4

The change that is required is to Rule 32 (2) under the heading Timetable. Changes in yellow:

Timetable

- (i) Nominations for the Branch positions shall open on approximately week 4 of Term 3 in the relevant calendar year and close at 5.00pm 4 weeks later.*
- (ii) Nominations for the Federal positions shall open on approximately week 4 of Term 3 in the relevant calendar year and close at 5.00pm 4 weeks later.*

The postal ballot shall open not later than twenty-eight (28) days after the close of nominations.

If required, the Returning Officer must arrange for ballot materials to be posted to all members of the roll of voters on the day the ballot opens.

And the ballot will close at 5.00 pm 4 weeks after opening.

That proposed rule changes to 32 (2) regarding the timing of elections be adopted.

MOVED: Lucie Cornelius

SECONDED:

Donna Watson

CARRIED

2. Scrutiny and Scrutineers

The AEC is requesting that we add a rule allowing for Progressive Scrutiny.

Our rules do not allow for progressive scrutiny. They only mention scrutineers in Rule 32(8) and 38(12).

Progressive scrutiny enables the AEC to start processing returned ballots. We assume this speeds up their processes and could mean results are provided earlier.

The AEC model rules contain a compulsory set of rules around scrutineers. Addressing their role, actions and progressive scrutiny of votes. We recommend that we adopt the three rules in full.

These rules are to become rules 42 to 44 with the current rule 42 to become rule 45.

42 SCRUTINEERS

1. *Each candidate in an election may in writing appoint one person as scrutineer, and one or more substitute scrutineers, to represent their interests at any scrutiny.*

Such written appointment must:

BC14.1.1 specify the person's full name and address; and

BC14.1.2 be delivered to the Returning Officer not later than the date and time that the ballot closes.

BC14.1 A scrutineer must not be a candidate for any office in any election that is the subject of scrutiny at the location in which the scrutiny is occurring.

BC14.2 Upon request by a scrutineer the Returning Officer must inform them of the steps they intend taking in the conduct of the ballot.

BC14.3 A scrutineer may:

BC14.4.1 be present at any stage in the scrutiny after the date and time that the ballot closes;

BC14.4.2 countersign any seal, or place their own seal, on any receptacle being used for the ballot; and

BC14.4.3 bring to the attention of the Returning Officer any alleged irregularity in:

- (a) the issue of ballot papers;*
- (b) the admission of envelopes to scrutiny;*
- (c) the formality or informality of ballot papers; or*
- (d) the counting of votes.*

BC14.4 A scrutineer must not:

- BC14.5.1 interrupt the scrutiny or the count without lawful reason;*
- BC14.5.2 disclose any knowledge of the vote cast by any particular voter or voters acquired as a result of having been a scrutineer;*
- BC14.5.3 fail to comply with any lawful request made by the Returning Officer;*
- BC14.5.4 touch any ballot paper; or*
- BC14.5.5 act in a manner that would interfere with the proper conduct of the election.*
- BC14.5 If, during the scrutiny, a scrutineer informs the Returning Officer that they object to a ballot paper being admitted as formal or rejected as informal, the Returning Officer must decide on that objection and endorse the decision on the envelope or ballot paper.*
- BC14.6 The failure of a scrutineer to attend any event in the conduct of the election does not constitute a ground to delay any step in the election.*

43 PRELIMINARY SCRUTINY

- BC15.1 During the ballot, the Returning Officer may collect returned envelopes from the post box and keep them in safe custody until the commencement of the scrutiny.*
- BC15.2 The Returning Officer must make a final clearance of returned envelopes so that all envelopes received by the Returning Officer at the closing time for the ballot are admitted to the scrutiny.*
- BC15.3 No envelopes returned after the closing time of the ballot may be admitted to the scrutiny.*
- BC15.4 Before counting the votes, the Returning Officer must, in respect of each reply paid envelope:*
 - BC15.4.1 remove the declaration envelope from the reply-paid envelope;*
 - BC15.4.2 examine the voter's declaration attached to the declaration envelope; and*
 - BC15.4.3 mark off the voter's name against a copy of the roll of voters.*
- BC15.5 The Returning Officer may begin to carry out the requirements of sub Rule BC15.4 before the closing time of the ballot.*
- BC15.6 A set of ballot material must be rejected and set aside if:*
 - BC15.6.1 the declaration envelope has not been returned;*
 - BC15.6.2 the declaration on the declaration envelope has not been completed to the satisfaction of the Returning Officer;*
 - BC15.6.3 the Returning Officer is unable to identify the voter on the roll of voters.*
- BC15.7 Where a voter returns more than one set of ballot material, the Returning Officer must:*
 - BC15.7.1 decide which set to admit to the count; and*
 - BC15.7.2 in respect of the other set:*
 - (e) reject it;*

- (f) *note on it that it has been rejected and the reason for the same; and*
- (g) *set it aside.*

44 SCRUTINY

- BC16.1 After the ballot closes, the Returning Officer must open the secure container in which admitted envelopes have been placed during preliminary scrutiny and withdraw each envelope.*
- BC16.2 The declaration section of each admitted envelope must be detached and removed so that the voter can no longer be identified with the admitted envelope.*
- BC16.3 Each envelope must then be opened and the ballot papers extracted to be counted.*
- BC16.4 After conducting the de-identification of envelopes and extraction of ballot papers, the further and fresh scrutiny of ballot papers is conducted, as follows:*
- BC16.4.1 the Returning Officer shall reject as informal a ballot paper that:*
- (h) does not bear the initials or other authenticating mark of the Returning Officer, unless the Returning Officer is satisfied the ballot paper in question is authentic;*
 - (i) bears any mark or writing by which the voter can be identified;*
 - (j) is marked in such a way that the intention of the voter is not clear;*
 - (k) is not returned inside the declaration envelope; or*
 - (l) is marked other than in accordance with sub Rule BE2.3 or BE3.2 (whichever applicable).*
- BC16.4.2 the formal votes shall be counted in accordance with the procedures set out in sub Rule BC16.5 and in Part BE of these rules;*
- BC16.4.3 ballot papers admitted as formal and those rejected as informal shall be placed into appropriate container/s. Each container shall be sealed and endorsed each with:*
- (a) the name of the office(s) in the election;*
 - (b) the words ‘Ballot papers admitted as formal’, and ‘Ballot papers rejected as informal’, as appropriate; and*
 - (c) their signature and the date of signing; and*
- BC16.4.4 each of the containers shall be kept in safe custody.*
- BC16.5 In any elections for incompatible offices:*
- BC16.5.1 If a candidate has nominated for more than one incompatible office and is declared elected to a higher ranked office, they shall be deemed not to be a candidate for any other later counted offices which are incompatible with the first mentioned office.*
- BC16.5.2 Provided also that where a member is a candidate for two or more incompatible offices, and in respect of any of those offices the number of candidates is equal to or fewer than the number of offices to be filled, then no declaration shall be made for that office until a*

SCHEDULE A

declaration has been made for any higher ranked office for which that member is a candidate.

- BC16.5.3 A vote cast for a person who is deemed to be no longer a candidate pursuant to BC16.5.1 above, shall be counted such that any preference for that person shall be ignored and each lower preference shall be deemed to be raised by one - that is, a 2nd preference shall become a first preference, a 3rd preference shall become a 2nd preference, and so on.*
- BC16.5.4 In the event that a lower office becomes uncontested, the Returning Officer may not count the lower office and instead declare this office as uncontested due to one (or more) of the candidates being elected to higher office.*

Rule 38 (12) will have to be amended to allow for prelim scrutiny process.

That new rules to allow scrutiny to be adopted and become rules 42 to 44 and for rule 38 (12) to be amended to allow for a preliminary scrutiny process.

MOVED: Lucie Cornelius SECONDED: Joy Coates

CARRIED

Requested by First Nations Group

This change is sought to create a Branch First Nations Representative who will sit on Executive and be a member of Branch Council. They will be elected by and from the First Nations members.

Rule 5 Add new (1)(d) and amend numbering of rule to change (d) to (e) and (e) to (f).

New (1)(d) to state: the Branch First Nations Executive Representative.

Rule 5 (d) will become 5 (e). And it will be amended to state: The Branch First Nations Council Representative will be elected by and from the First Nations Members of the Branch, who are members who have informed the Branch in writing that they are an Aboriginal or Torres Straits Islander. They will hold office for 3 years.

Rule 7 Add new (2) (d) The Branch First Nations Executive Representative will be elected by and from the First Nations Members of the Branch, who are members who have informed the Branch in writing that they are an Aboriginal or Torres Straits Islander. They will hold office for 3 years.

Rule 32 Rule (2)(a) under heading Branch positions, the words "Representative of the Indigenous members on Branch Council", will be changed to "The Branch First Nations Council Representative". AND an additional position will be listed to add to the list the words "The Branch First Nations Executive Representative".

Rule 32 Sub rule (2)(iv) shall be amended to add to the list "The Branch First Nations Executive Representative" and "The Branch First Nations Council Representative"

SCHEDULE A

Schedule B (LIST OF OFFICES FOR ELECTION IN ACCORDANCE WITH RULE 38(15) shall be amended to change the following words in List 1 “A representative of Indigenous members” with “The Branch First Nations Council Representative”. AND to add to List 2 “The Branch First Nations Executive Representative”.

That the proposed rule changes to rules 5,7 and 32 to enable a First Nations representative on Executive be adopted

MOVED: Donna Watson **SECONDED:** Peter Hicks

CARRIED

Requested by SCCOM

SCCOM are seeking that their Vice President be on Branch Council, in the place of one of their Delegates.

The Secondary Colleges Sector Vice-President is elected by all members in the sector, Rule 15 (1) (b).

Changes required

Rule 5 (1)(e) shall be changed by adding to it the following: “except for the Secondary Colleges Sector.”

Rule 5(1) shall be added to, to include the following:

“(f) The Secondary Colleges Sector Vice-President.

(g) Delegates from the sector determined in accord with rule 5(2) (b).”

Rule 5(2)(a) shall be amended by after “each sector” the words “,except the Secondary Colleges Sector,”

Rule 5 (2)(b) shall be added it will state:

(2)(b) The number of Delegates elected by and from the Secondary Colleges Sector shall be determined in accordance with the following formula:-

- *Up to and including the first 100 members -2 delegates.*
- *For each 100 members or part thereof in addition to the first 100 members, up to 800 members, an additional delegate.*
- *For each 150 members, or part thereof in addition to the first 800 members, an additional 1 delegate.*

For the purposes of this sub-rule, in determining the number of members in the Secondary Colleges Sector, regard shall be had to the number of financial members attached to the Secondary Colleges Sector on 30 June prior to the opening of nominations.

That the proposed rule changes to rules 5,7, and 32 to allow SCCOM deputy president an automatic position on Branch Council be adopted

MOVED: James Broad **SECONDED:** Laura Russell

CARRIED

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That references in the rules to DoE are replaced with DECYP, that references to facsimiles are removed and Rule 1 amended to reflect that TAFE is no longer under DECYP.

MOVED: Lucie Cornelius **SECONDED:** Andrew Bayes

CARRIED