

## SCHEDULE 1: ELECTION RULES

### CONTENTS

<b>RULES FOR THE ELECTION OF MEMBERS OF THE FIRST PEOPLES' ASSEMBLY OF VICTORIA</b>	<b>3</b>
<b>PART A: PRELIMINARY</b>	<b>3</b>
1 <b>PURPOSE</b>	<b>3</b>
2 <b>COMMENCEMENT</b>	<b>3</b>
3 <b>AMENDMENT</b>	<b>3</b>
4 <b>INTERPRETATION</b>	<b>3</b>
<b>PART B: MEMBERS OF ASSEMBLY</b>	<b>4</b>
5 <b>MEMBERS OF ASSEMBLY</b>	<b>4</b>
6 <b>NUMBER OF GENERAL MEMBERS TO BE ELECTED</b>	<b>4</b>
7 <b>APPOINTMENT OF RESERVED MEMBERS</b>	<b>4</b>
<b>PART C: ENROLMENT</b>	<b>4</b>
8 <b>ELECTORAL ROLL</b>	<b>5</b>
9 <b>ENROLMENT REGISTRAR</b>	<b>5</b>
10 <b>ACCESS TO THE ELECTORAL ROLL</b>	<b>5</b>
11 <b>USE OF ELECTORAL ROLL</b>	<b>6</b>
12 <b>ELIGIBILITY TO BE REGISTERED</b>	<b>6</b>
13 <b>PROCESS FOR REGISTRATION ON ELECTORAL ROLL</b>	<b>7</b>
14 <b>EVIDENCE TO BE PROVIDED FOR REGISTRATION ON ELECTORAL ROLL</b>	<b>8</b>
15 <b>REGISTRATION AS SILENT ELECTOR</b>	<b>8</b>
16 <b>REGISTRATION ADDRESS</b>	<b>9</b>
17 <b>SPECIAL REGISTRATION PROCESSES</b>	<b>10</b>
18 <b>NOTIFICATIONS ABOUT APPLICATION FOR REGISTRATION</b>	<b>10</b>
19 <b>PROVISIONAL ELECTORS AND ELIGIBLE ELECTORS</b>	<b>10</b>
20 <b>CHANGES TO ELECTORAL ROLL</b>	<b>11</b>
21 <b>ENROLMENT COMPLAINTS</b>	<b>11</b>
<b>PART D: ELECTION</b>	<b>14</b>
22 <b>APPOINTMENT OF RETURNING OFFICER</b>	<b>14</b>
23 <b>ELECTION OFFICIALS</b>	<b>14</b>
24 <b>ELECTION DATES</b>	<b>14</b>
25 <b>NOTICE OF ELECTION</b>	<b>15</b>
26 <b>ELECTORAL LIST</b>	<b>15</b>
27 <b>PROVISIONAL ELECTORS</b>	<b>16</b>
<b>PART E: NOMINATION OF CANDIDATES FOR ELECTION</b>	<b>16</b>
28 <b>WHO IS ELIGIBLE TO STAND AS CANDIDATE?</b>	<b>17</b>
29 <b>REGIONS</b>	<b>18</b>
30 <b>HOW TO NOMINATE AS A CANDIDATE</b>	<b>19</b>
31 <b>NOMINATION FORM</b>	<b>19</b>
32 <b>ASSESSING NOMINATIONS</b>	<b>19</b>
33 <b>NOTIFICATIONS ABOUT NOMINATIONS</b>	<b>20</b>

34	EXTENSION OF NOMINATION CLOSING	20
35	ANNOUNCEMENT OF CANDIDATES	21
36	NUMBER OF CANDIDATES	21
37	GENDER QUOTA	22
38	WITHDRAWAL OF CANDIDATE	22
	<b>PART F: RIGHTS AND REQUIREMENTS OF CANDIDATES</b>	<b>23</b>
39	CODE OF CONDUCT	23
40	CAMPAIGNING	23
	<b>PART G: CONDUCT OF ELECTIONS</b>	<b>23</b>
41	CONDUCT OF ELECTIONS	24
42	ORDER OF CANDIDATES	24
43	METHODS OF VOTING	24
44	ABSENT VOTES	25
45	ACCESSIBILITY	25
46	CONDUCT AT ELECTIONS	26
47	PROVISIONAL VOTING	26
	<b>PART H: ELECTION OUTCOMES</b>	<b>27</b>
48	DETERMINING ELECTION OUTCOMES	27
49	APPLYING THE GENDER QUOTA	27
50	TIED VOTES	27
51	SCRUTINEERS	27
52	ANNOUNCEMENT OF ELECTION RESULTS	28
	<b>PART I: ELECTION COMPLAINTS</b>	<b>28</b>
53	ELECTION COMPLAINTS	28
54	PEACEMAKERS	31
	<b>PART J: DEFINITIONS AND INTERPRETATION</b>	<b>32</b>
55	DEFINITIONS	32
56	INTERPRETATION	34
	<b>SCHEDULE 1: REGIONS</b>	<b>35</b>
	<b>SCHEDULE 2: PERMITTED FORMS OF EVIDENCE</b>	<b>36</b>
	<b>PART 1: ACCEPTABLE EVIDENCE</b>	<b>36</b>
	<b>PART 2: ALTERNATIVES IF EVIDENCE SPECIFIED IN PART 1 CANNOT BE PROVIDED</b>	<b>37</b>
	<b>PART 3 BORDER AREA MAP</b>	<b>38</b>
	<b>SCHEDULE 3: CODE OF CONDUCT</b>	<b>39</b>
	<b>SCHEDULE 4: VOTE COUNTING METHOD</b>	<b>41</b>
	<b>SCHEDULE 5: GENDER QUOTA COUNTBACK PROCEDURE</b>	<b>45</b>
	<b>SCHEDULE 6: RULES RELATING TO SCRUTINEERS</b>	<b>48</b>

# RULES FOR THE ELECTION OF MEMBERS OF THE FIRST PEOPLES' ASSEMBLY OF VICTORIA

## PART A: PRELIMINARY

Part A sets out rules about:

- Purpose.
- Commencement.
- Amendment.
- Interpretation.

### 1 PURPOSE

- 1.1 The purpose of these Rules is to govern the electoral processes for the First Peoples' Assembly of Victoria, that is the Aboriginal Representative Body under the *Advancing the Treaty Process with Aboriginal Victorians Act 2018 (Vic)*.
- 1.2 These Rules do not form part of the Constitution of the Assembly.

### 2 COMMENCEMENT

- 2.1 These Rules come into force on the day that they are adopted by the Assembly Chamber by Ordinary Majority Resolution.
- 2.2 These Rules replace the Election Rules (Version 3.0) adopted by the Assembly Chamber by Ordinary Majority Resolution on 2 December 2020.
- 2.3 Anything of a continuing nature commenced under the previous Election Rules and continuing immediately before the commencement of these Rules has effect and may be continued and completed under these Rules.

### 3 AMENDMENT

- 3.1 These Rules may be amended or replaced by the Assembly Chamber by Ordinary Majority Resolution.
- 3.2 These Rules may only be amended in an Election Period if:
  - (a) there are unanticipated circumstances that require these Rules to be amended to maintain the integrity of the Election; and
  - (b) the Assembly Chamber adopts the amendment by Ordinary Majority Resolution.

### 4 INTERPRETATION

- 4.1 Part J sets out definitions and interpretation rules for these Rules.
- 4.2 If there is any inconsistency between a provision of these Rules and the Constitution, the Constitution prevails.

## PART B: MEMBERS OF ASSEMBLY

Part B sets out rules about the Members of the Assembly.

### 5 MEMBERS OF ASSEMBLY

5.1 The Assembly consists of General Members and Reserved Members.

### 6 NUMBER OF GENERAL MEMBERS TO BE ELECTED

6.1 In each Election, the number of General Members to be elected across the Regions is determined in accordance with the Region Rules.

6.2 22 General Members are to be elected from across the Regions as set out in the following table:

Region*	Number of General Members to be elected from that Region
Metropolitan	10
South West	3
North West	3
North East	3
South East	3
<b>TOTAL</b>	<b>22</b>

\*See Map in Schedule 1.

6.3 An Election of General Members must be held in accordance with the procedure set out in Parts D to H.

### 7 APPOINTMENT OF RESERVED MEMBERS

7.1 The Reserved Members of the Assembly will be appointed in accordance with the procedure set out in the Constitution and the Appointment Rules.

## PART C: ENROLMENT

Part C sets out rules about:

- The establishment of and access to the Electoral Roll.
- The appointment and role of the Enrolment Registrar.
- Access to the Electoral Roll.
- Use of the Electoral Roll.
- Eligibility and the process for registration on the Electoral Roll.

- Changes to the Electoral Roll.
- Enrolment Complaints relating to registration.

## **8 ELECTORAL ROLL**

- 8.1 The Electoral Roll is established to register people to enable them to vote in an Election.
- 8.2 The Electoral Roll is independent of any other existing electoral rolls, including those held by Australian Electoral Commission and the Victorian Electoral Commission.

## **9 ENROLMENT REGISTRAR**

- 9.1 The Council must appoint a person to be the Enrolment Registrar.
- 9.2 The Council may remove the person appointed as Enrolment Registrar from office.
- 9.3 The Enrolment Registrar is responsible for the maintenance and security of the Electoral Roll in accordance with these Rules.
- 9.4 The Enrolment Registrar has the powers and duties that are conferred on the Enrolment Registrar by these Rules.
- 9.5 The Council may appoint a person to be the Acting Enrolment Registrar in the event that the Enrolment Registrar is absent or unable to carry out the duties of Enrolment Registrar.
- 9.6 The Council may remove the person appointed as Acting Enrolment Registrar from office.
- 9.7 The Acting Enrolment Registrar has the powers and duties of the Enrolment Registrar while acting in that role.
- 9.8 The Enrolment Registrar may appoint or authorise persons to be Enrolment Officials to assist with the ongoing maintenance and security of the Electoral Roll.
- 9.9 The Enrolment Registrar may delegate any of the Enrolment Registrar's powers and functions (other than this power of delegation) to an Enrolment Official.

## **10 ACCESS TO THE ELECTORAL ROLL**

### **Format**

- 10.1 The Electoral Roll may be kept in both electronic and hard copy formats.

### **Who has access to the Electoral Roll?**

- 10.2 The Electoral Roll is not to be publicly available.
- 10.3 The Electoral Roll is to be available for the Assembly only for a purpose permitted by Rule 11.
- 10.4 A Member of the Assembly does not have access to the Electoral Roll.
- 10.5 A Candidate does not have access to the Electoral Roll.
- 10.6 The Electoral Roll must not be shared with, or accessed by, anyone unless these Rules expressly permit it, or if required by law.

## **11 USE OF ELECTORAL ROLL**

### **What can the Electoral Roll be used for?**

11.1 The Electoral Roll may only be used for the following purposes:

- (a) any purpose related to the administration of enrolment and the conduct of Elections;
- (b) contacting voters with information about the Assembly;
- (c) compiling statistics and data about voters in a de-identified manner; and
- (d) any purpose reasonably related to a purpose set out in this Rule.

## **12 ELIGIBILITY TO BE REGISTERED**

### **Who is eligible to be registered to vote?**

12.1 A person may be registered on the Electoral Roll as an Eligible Elector if the person is an Eligible Person.

### **Who is an Eligible Person?**

12.2 A person is an Eligible Person if they satisfy each of the following requirements:

- (a) First requirement: The person must be an individual who is aged 16 years or above.
- (b) Second requirement: The person must be either:
  - (i) a Victorian Traditional Owner; or
  - (ii) an Aboriginal or Torres Strait Islander person who lives in Victoria.

### **About the first requirement**

12.3 A person's age must be calculated as at the day that the person provides their enrolment form to the Enrolment Registrar.

12.4 Despite Rule 12.2(a), a person may be registered on the Electoral Roll if the person is an individual aged 15 years or above and meets the second requirement.

12.5 A person who is registered in accordance with Rule 12.4 is not eligible to vote in an Election unless the person is aged 16 years or above at Voting Closing.

### **About the second requirement**

12.6 A person is an Aboriginal or Torres Strait Islander person for the purposes of these Rules, if the person:

- (a) identifies as an Aboriginal or Torres Strait Islander person;
- (b) is of Aboriginal or Torres Strait Islander descent; and
- (c) is accepted as an Aboriginal or Torres Strait Islander person in the Aboriginal or Torres Strait Islander community.

12.7 A person lives in Victoria for the purposes of these Rules if:

- (a) the person's current residential address is in Victoria; and
- (b) the person has been living in Victoria for three years out of the five-year period ending on the date the person provides their enrolment form to the Enrolment Registrar.

## **13 PROCESS FOR REGISTRATION ON ELECTORAL ROLL**

### **How does an Eligible Person apply to be registered?**

- 13.1 An Eligible Person may apply to be registered on the Electoral Roll by:
- (a) completing the enrolment form; and
  - (b) providing the completed enrolment form to the Enrolment Registrar.
- 13.2 The Enrolment Registrar must publish, in a publicly accessible location, details of the process for applying to be registered on the Electoral Roll.

### **When can a person apply to be registered?**

- 13.3 An Eligible Person may apply to be registered on the Electoral Roll at any time.
- 13.4 Rule 27 applies if a person applies to be registered on the Electoral Roll after the Preliminary Close of the Roll.

### **What information must be provided?**

- 13.5 The enrolment form must include the following information about the Eligible Person:
- (a) their full name;
  - (b) their date of birth;
  - (c) their current residential address;
  - (d) their postal address (if different from the current residential address); and
  - (e) any other information required by the Enrolment Registrar.
- 13.6 The enrolment form may include the following optional information about the Eligible Person if they choose to provide it:
- (a) the name of their clan, nation or mob;
  - (b) their gender;
  - (c) their email address; or
  - (d) their phone number.

### **What declarations must be made?**

- 13.7 An Eligible Person must make one of the following declarations on the enrolment form:
- (a) I am a Victorian Traditional Owner and I live in Victoria;
  - (b) I am a Victorian Traditional Owner and I live outside Victoria; or
  - (c) I am an Aboriginal or Torres Strait Islander person (but not a Victorian Traditional Owner) and I live in Victoria and I have lived in Victoria for three years out of the last five years.
- 13.8 The enrolment form must include a declaration that the information provided is correct.

### **Enrolment form may include request for consent**

- 13.9 The enrolment form may include a consent to the collection, use, storage and disclosure of the Eligible Person's personal and sensitive information as required under these Rules.

## **14 EVIDENCE TO BE PROVIDED FOR REGISTRATION ON ELECTORAL ROLL**

### **What evidence will need to be provided?**

- 14.1 Subject to Rule 14.3, a person who applies for registration on the Electoral Roll must provide evidence of the following:
- (a) their name; and
  - (b) their current residential address if the person lives in Victoria.
- 14.2 Part 1 of Schedule 2 sets out the documents that will be accepted as evidence for Rule 14.1.
- 14.3 Part 2 of Schedule 2 sets out rules that will apply if the person cannot provide the evidence set out in Part 1 of Schedule 2.

### **Victorian Traditional Owners who live outside of Victoria**

- 14.4 A Victorian Traditional Owner who lives outside Victoria who applies for registration on the Electoral Roll must provide evidence or authorise the provision of evidence that they are a Victorian Traditional Owner.
- 14.5 The evidence may be a verification in a form approved by the Enrolment Registrar from:
- (a) a Traditional Owner Group;
  - (b) an Aboriginal Community Controlled Organisation nominated by the Enrolment Registrar; or
  - (c) another organisation nominated by the Enrolment Registrar.
- 14.6 If a person is unable to provide the evidence referred to in Rule 14.5, the person may provide a statutory declaration declaring that they are a Victorian Traditional Owner.
- 14.7 Rule 14.4 does not apply to a person who lives in a Border Area.

## **15 REGISTRATION AS SILENT ELECTOR**

- 15.1 An Eligible Person may ask the Enrolment Registrar to be registered as a Silent Elector.
- 15.2 The request must include a declaration made by the Eligible Person that showing their residential address or postal address (or both) on the Electoral Roll would place the person's personal safety or the safety of their family at risk.
- 15.3 An Eligible Person does not need to provide details about why they consider their safety or the safety of their family is at risk.
- 15.4 If an Eligible Person is registered as a Silent Voter:
- (a) the Enrolment Registrar must ensure that the Eligible Person's residential address or postal address (or both) do not appear on the Electoral Roll or the Electoral List used for an Election; and
  - (b) access to the Eligible Person's residential address or postal address (or both) will otherwise be restricted as determined by the Enrolment Registrar.



## **16 REGISTRATION ADDRESS**

### **General**

- 16.1 An Eligible Person must be registered on the Electoral Roll in the Region in which their current residential address notified to the Enrolment Registrar is located.
- 16.2 If an Eligible Person's current residential address is not wholly within one Region, the Eligible Person must be registered on the Electoral Roll in the Region that covers the largest geographical area of the property at that address.

### **Victorian Traditional Owners who live in a Border Area**

- 16.3 If an Eligible Person is a Victorian Traditional Owner who lives in a Border Area, the person must be registered on the Electoral Roll in the Region closest to their current residential address.

### **Victorian Traditional Owners who live outside Victoria but not in a Border Area**

- 16.4 If an Eligible Person is a Victorian Traditional Owner who lives outside Victoria but not in a Border Area, the person must be registered on the Electoral Roll at the first of the following addresses that is known and applies in descending order of priority:
- (a) the residential address of the person when they last lived in Victoria;
  - (b) the current or most recent residential address in Victoria of either of the person's parents;
  - (c) the current or most recent residential address in Victoria of any of the person's grandparents; or
  - (d) the Victorian address of the most recently known apical ancestor of the person to live in Victoria.

### **Special circumstances**

- 16.5 Rule 16.6 applies to an Eligible Person who at the time of registration on the Electoral Roll is:
- (a) experiencing homelessness;
  - (b) living in out of home care;
  - (c) serving in the armed forces; or
  - (d) in custody in a Prison or a Youth Justice Centre.
- 16.6 The Eligible Person must be registered on the Electoral Roll at the first of the following addresses that is known and applies in descending order of priority:
- (a) the residential address of the person when they last lived in Victoria;
  - (b) the current or most recent residential address in Victoria of either of the person's parents;
  - (c) the current or most recent residential address in Victoria of any of the person's grandparents;
  - (d) if the person is experiencing homelessness, the address of the service provider who most recently provided them with overnight accommodation;
  - (e) if the person is living in out of home care, the address of the service provider where the person is currently living in out of home care;

- (f) if the person is serving in the armed forces, the Victorian address of the most recently known apical ancestor of the person to live in Victoria; or
- (g) if the person is in custody in a Prison or Youth Justice Centre, the address of the Prison or Youth Justice Centre.

16.7 For Rule 16.6, a person's residential address does not include:

- (a) in the case of a person experiencing homelessness, the address of the service provider who provides them with overnight accommodation;
- (b) in the case of a person living in out of home care, the address of the service provider where the person is living in out of home care; and
- (c) a Prison or Youth Justice Centre.

## **17 SPECIAL REGISTRATION PROCESSES**

17.1 The Enrolment Registrar may approve special registration processes for Eligible Persons who may have difficulty with the registration processes set out in Rules 13 to 15, including Eligible Persons:

- (a) with accessibility needs;
- (b) who are under 18 years of age;
- (c) who are experiencing homelessness;
- (d) who are living in out of home care;
- (e) who are serving in the armed forces; or
- (f) who are in custody in a Prison or Youth Justice Centre.

17.2 The Enrolment Registrar must document the approved special registration processes.

## **18 NOTIFICATIONS ABOUT APPLICATION FOR REGISTRATION**

18.1 The Enrolment Registrar must notify a person who applies for registration on the Electoral Roll in writing of:

- (a) the receipt of the application; and
- (b) the decision on the application.

## **19 PROVISIONAL ELECTORS AND ELIGIBLE ELECTORS**

19.1 A person who applies under Rule 13 to be registered on the Electoral Roll must be registered as a Provisional Elector until the person is confirmed as an Eligible Elector.

19.2 The Enrolment Registrar must confirm a person as an Eligible Elector if the Enrolment Registrar is satisfied that:

- (a) the person is an Eligible Person; and
- (b) the registration of the person complies with these Rules.

19.3 If the Enrolment Registrar is not satisfied that a person who applies for registration on the Electoral Roll is an Eligible Person or that the registration of the person complies with these Rules, the Enrolment Registrar must:

- (a) reject the application; and

(b) remove the person from the Electoral Roll.

19.4 The Enrolment Registrar must take reasonable steps to confirm a person as an Eligible Elector before rejecting the person's application for registration.

19.5 Rule 47 sets out special processes for voting by Provisional Electors.

## **20 CHANGES TO ELECTORAL ROLL**

### **Changes to Electors' details on Electoral Roll**

20.1 An Elector may apply to the Enrolment Registrar to change their enrolment details on the Electoral Roll.

20.2 An application must be made in a way approved by the Enrolment Registrar.

20.3 An application must include written confirmation by the Elector that the changed enrolment details are correct.

20.4 If an Elector applies to change their name on the Electoral Roll, the Elector must provide evidence of the new or changed name.

20.5 If an Elector applies to change their address on the Electoral Roll, the Enrolment Registrar must be reasonably satisfied that the new or changed address complies with these Rules before recording the change on the Electoral Roll.

20.6 The Enrolment Registrar may ask the Elector for more information about the proposed change before recording the change on the Electoral Roll.

### **Removal of Elector from Electoral Roll**

20.7 An Elector may apply in writing to the Enrolment Registrar to be removed from the Electoral Roll.

20.8 The Enrolment Registrar may ask the Elector for more information about the identity of the Elector before removing the Elector from the Electoral Roll.

20.9 The Enrolment Registrar must remove the Elector from the Electoral Roll if the Enrolment Registrar is satisfied that:

- (a) sufficient information has been provided to identify the Elector; and
- (b) the Elector has made the application for removal voluntarily.

20.10 The Enrolment Registrar must remove an Elector from the Electoral Roll if:

- (a) there is a determination under Rule 21.6, 21.8(b) or 21.22 that the Elector is not eligible to be registered; or
- (b) the Enrolment Registrar, after taking reasonable steps, is reasonably satisfied that the Elector is deceased.

20.11 Removal of an Elector from the Electoral Roll does not impact the validity of a vote already cast by the Elector in an Election.

## **21 ENROLMENT COMPLAINTS**

### **Who may make an Enrolment Complaint and what may an Enrolment Complaint be about?**

21.1 The following persons may make a complaint about a decision of the Enrolment Registrar:

- (a) an applicant for registration on the Electoral Roll, in relation to a decision to reject the application; or
- (b) an Elector, in relation to a decision to accept or reject an application for registration on the Electoral Roll that the Elector reasonably believes was invalidly accepted or rejected, including a decision about the Region for which a person is, or is to be, registered.

#### **How may an Enrolment Complaint be made?**

- 21.2 An Enrolment Complaint must be lodged in writing with the Enrolment Registrar.
- 21.3 An Enrolment Complaint must include the reasons for the complaint and the persons involved.

#### **Enrolment Registrar to publish information about Enrolment Complaint procedures**

- 21.4 The Enrolment Registrar must publish, in a publicly accessible location, information about how to make an Enrolment Complaint.

#### **Resolution of Enrolment Complaints**

- 21.5 The Enrolment Registrar must refer an Enrolment Complaint to the Enrolment Dispute Resolution Panel for determination if the complaint relates to whether a person is a Victorian Traditional Owner or an Aboriginal or Torres Strait Islander person.
- 21.6 The Enrolment Registrar must determine any other Enrolment Complaint lodged under this Rule.

#### **Enrolment Registrar may conduct own inquiries**

- 21.7 The Enrolment Registrar may also, without an application, inquire into whether a registration on the Electoral Roll is invalid.
- 21.8 If, on an inquiry under Rule 21.7, the Enrolment Registrar reasonably considers that a registration of a person on the Electoral Roll may be invalid, the Enrolment Registrar must:
  - (a) refer the matter to the Enrolment Dispute Resolution Panel for determination, if it relates to whether a person is a Victorian Traditional Owner or an Aboriginal or Torres Strait Islander person; or
  - (b) determine the matter, in any other case.

#### **Determination by the Enrolment Registrar**

- 21.9 Before making a determination under Rule 21.6 or 21.8(b), the Enrolment Registrar must:
  - (a) give the persons involved reasonable notice of the matter and the opportunity to be heard;
  - (b) comply with the rules of natural justice; and
  - (c) consider all information provided to, or obtained by, the Enrolment Registrar in relation to the matter.
- 21.10 The Enrolment Registrar must notify all persons involved following a determination under Rule 21.6 or 21.8(b).

- 21.11 Any person involved may apply to the Enrolment Registrar for a review by the Enrolment Dispute Resolution Panel of a determination under Rule 21.6 or 21.8(b).
- 21.12 An application for review by a person must be made within 30 days after the person is notified of the determination of the complaint.

### **Convening of Enrolment Dispute Resolution Panel**

- 21.13 The Council must convene an Enrolment Dispute Resolution Panel to deal with:
- (a) an Enrolment Complaint referred under Rule 21.5 or 21.8(b); or
  - (b) an application for review under Rule 21.11.
- 21.14 The Enrolment Dispute Resolution Panel must be constituted as follows:
- (a) the Panel must have at least 3 members;
  - (b) each member of the Panel must be an Aboriginal or Torres Strait Islander person;
  - (c) at least one member of the Panel must be a Victorian Traditional Owner;
  - (d) at least one member of the Panel must be a male identifying person; and
  - (e) at least one member of the Panel must be a non-male identifying person.
- 21.15 The members of the Enrolment Dispute Resolution Panel must be impartial and not have interests in or be related to any person who is a party to:
- (a) an Enrolment Complaint to be determined by the Panel; or
  - (b) an application for review to be determined by the Panel.
- 21.16 The Council must appoint a new member of the Panel in accordance with the requirements of Rule 21.14, if a member is not able to sit on the Panel because of a conflict of interest and there are fewer than 3 members as a result.
- 21.17 The Enrolment Registrar may publish guidelines about conflicts of interest.

### **Determination by Enrolment Dispute Resolution Panel**

- 21.18 The person who made the Enrolment Complaint or the application for review must provide the Enrolment Dispute Resolution Panel with any evidence and assistance that it reasonably requests.
- 21.19 The Enrolment Dispute Resolution Panel may dismiss the Enrolment Complaint or the application for review if the evidence and assistance requested under Rule 21.18 is not provided.
- 21.20 In determining an Enrolment Complaint or an application for review, the Enrolment Dispute Resolution Panel:
- (a) may seek advice from persons with suitable expertise;
  - (b) may conduct its own inquiries;
  - (c) must give persons involved reasonable notice of the matter and the opportunity to be heard;
  - (d) must comply with the rules of natural justice;
  - (e) must consider all information provided to, or obtained by, the Panel in relation to the matter; and

- (f) must act efficiently and finalise the Enrolment Complaint or application for review in a timely manner using culturally strong processes.
- 21.21 Subject to Rule 21.20, the Enrolment Dispute Resolution Panel may determine its own procedure.
- 21.22 A determination of the Enrolment Dispute Resolution Panel made under this Rule is final.
- 21.23 The Enrolment Dispute Resolution Panel must give its determination in writing to the Enrolment Registrar.
- 21.24 The Enrolment Registrar must give notice of the determination to:
- (a) the person whose registration is affected; and
  - (b) any other party to the Enrolment Complaint or application for review (as applicable).

## **PART D: ELECTION**

Part D sets out rules about:

- The appointment of a Returning Officer and Election Officials for an Election.
- Election dates.
- The Electoral List.
- Provisional Electors.

### **22 APPOINTMENT OF RETURNING OFFICER**

- 22.1 The Council must appoint a person as the Returning Officer for an Election.
- 22.2 The Council may only remove a person appointed as the Returning Officer from office:
- (a) as a result of the incapacity of the person; or
  - (b) if the removal is necessary to ensure the integrity of the Election process.
- 22.3 The role of the Returning Officer is to oversee the Election.
- 22.4 The Returning Officer has all the powers and duties in relation to an Election that are conferred on the Returning Officer by these Rules.

### **23 ELECTION OFFICIALS**

- 23.1 The Returning Officer for an Election may appoint or authorise persons as Election Officials to support the conduct of the Election.
- 23.2 The Returning Officer may delegate any of the Returning Officer's powers and functions (other than this power of delegation) to an Election Official.

### **24 ELECTION DATES**

- 24.1 The Council must set the Election dates and times for an Election in accordance with the following requirements:
- (a) a date and time must be set for the Nomination Opening;

- (b) a date and time must be set for the Nomination Closing that must be at least 10 days after the Nomination Opening;
  - (c) a date and time must be set for the Announcement of Candidates that must be after the Nomination Closing but before the Voting Opening;
  - (d) a date and time must be set for the Preliminary Close of the Roll that must be before the Voting Opening;
  - (e) a date and time must be set for the Voting Opening that must be at least 10 days after the Nomination Closing;
  - (f) a date and time must be set for the Voting Closing that must be at least 10 days after the Voting Opening;
  - (g) a date and time must be set for the Vote Counting and, if there are postal votes, the date for Vote Counting must be at least 10 days after the Voting Closing.
- 24.2 The Council may amend an Election date to a later date if the Council considers it is appropriate in the circumstances to do so.
- 24.3 If an Election date is amended the Council may:
- (a) amend any subsequent Election date to the amended Election date; and
  - (b) amend the Notice of Election and make any other consequential amendments required as a result of the amended Election date.

## **25 NOTICE OF ELECTION**

- 25.1 The Returning Officer must publish, in a publicly accessible location, a Notice of Election before the beginning of the Election Period for the Election.
- 25.2 If a Returning Officer is not yet appointed for the Election, the Notice of Election must be published by the Council.
- 25.3 The Notice of Election must set out the process for nominating as a Candidate.
- 25.4 Subject to Rule 25.5, the Notice of Election must set out the Election dates and times set by the Council under Rule 24.
- 25.5 The Returning Officer is not required to publish the date and time of the Preliminary Close of the Roll in the Notice of Election.

## **26 ELECTORAL LIST**

- 26.1 The Enrolment Registrar must prepare an Electoral List for an Election, as soon as practicable after the Preliminary Close of the Roll for that Election.
- 26.2 Subject to Rules 26.3 to 26.5, the Electoral List is to be the Electoral Roll as it exists at the date the Electoral List is prepared.
- 26.3 The name of a person who applied for registration on the Electoral Roll before the Preliminary Close of the Roll in an Election and whose application is accepted after the Preliminary Close of the Roll may be added to the Electoral List for the Election.
- 26.4 A person who applied to have their enrolment details changed on the Electoral Roll before the Preliminary Close of the Roll in an Election and whose application is accepted after the

Preliminary Close of the Roll may have their enrolment details changed on the Electoral List for the Election.

26.5 The following must not be included on the Electoral List for an Election:

- (a) the name of any Elector who will not be 16 years of age by Voting Closing;
- (b) the name of any Elector who is not an Eligible Elector;
- (c) subject to Rule 26.3, the name of any Elector added to the Electoral Roll after the Preliminary Close of the Roll;
- (d) subject to Rule 26.4, any changes to an Elector's details on the Electoral Roll that are made after the Preliminary Close of the Roll;
- (e) the name of any Elector whose enrolment application is received after the Preliminary Close of the Roll; and
- (f) any changes to an Elector's details that are received by the Enrolment Registrar after the Preliminary Close of the Roll.

26.6 Rules 10 and 11 apply to the Electoral List in the same way as they apply to the Electoral Roll.

## **27 PROVISIONAL ELECTORS**

27.1 A person may make an enrolment application under Rule 13 to the Enrolment Registrar after the Preliminary Close of the Roll.

27.2 A person may apply under Rule 20 for a change to the person's enrolment details on the Electoral Roll after the Preliminary Close of the Roll.

27.3 A person referred to in Rule 27.1 or 27.2 must be recorded on the Electoral Roll as a Provisional Elector until, as applicable:

- (a) the person is confirmed as an Eligible Elector; or
- (b) the changes to the person's enrolment details are recorded in the Electoral Roll.

27.4 The Enrolment Registrar must notify the following of the date of the Vote Counting:

- (a) a person who makes an enrolment application after the Preliminary Close of the Roll and before the Vote Counting; and
- (b) a person who applies to the Enrolment Registrar to change the Elector's enrolment details after the Preliminary Close of the Roll and before the Vote Counting.

27.5 Rule 47 sets out special processes for voting by Provisional Electors.

## **PART E: NOMINATION OF CANDIDATES FOR ELECTION**

Part E sets out rules about:

- Eligibility to stand as a Candidate.
- The processes for nomination as a Candidate.
- The number of Candidates elected.
- The Gender Quota.
- Withdrawal of Candidates.



## 28 WHO IS ELIGIBLE TO STAND AS CANDIDATE?

28.1 A person is eligible to stand as a Candidate for election if the person meets all of the requirements set out in the column 1 of the table in Rule 28.2.

28.2 The following table sets out the eligibility requirements for a person to stand as a Candidate for election, and how the Returning Officer will verify that the requirements are met:

Requirement	Verification
1. The person must be an Eligible Elector.	The Returning Officer must confirm this with the Enrolment Registrar.
2. The person must be an individual who is aged 18 years or above, calculated at the date the person submits the nomination form.	<p>The Returning Officer must:</p> <ul style="list-style-type: none"> <li>• confirm this with the Enrolment Registrar; or</li> <li>• request the person to provide evidence of the person’s date of birth.</li> </ul>
3. The person must be a Victorian Traditional Owner.	<p>The person must:</p> <ul style="list-style-type: none"> <li>• declare on the nomination form that they are a Victorian Traditional Owner; and</li> <li>• provide the Returning Officer with one of the following forms of evidence or authorise the evidence to be provided to the Returning Officer:</li> </ul> <p>The evidence may be:</p> <ul style="list-style-type: none"> <li>• a verification in a form approved by the Returning Officer from: <ul style="list-style-type: none"> <li>• a Traditional Owner Group;</li> <li>• an Aboriginal Community Controlled Organisation nominated by the Returning Officer; or</li> <li>• another organisation nominated by the Returning Officer; or</li> </ul> </li> <li>• if they are unable to provide a verification set out above: <ul style="list-style-type: none"> <li>• a statutory declaration provided at the time of nomination that the person is a Victorian Traditional Owner; and</li> <li>• a confirmation that the person is a Victorian Traditional Owner signed by 10 Eligible Electors.</li> </ul> </li> </ul>

<p>4. The person must not be disqualified from acting as a director of a company under the <i>Corporations Act 2001</i> (Cth).</p>	<p>The person must declare on the nomination form that they meet this requirement.</p> <p>The Returning Officer must search the registers maintained by the Australian Securities and Investments Commission and the Australian Financial Security Authority.</p> <p>The person must provide the Returning Officer with any information required to conduct this search.</p>
<p>5. The person must not:</p> <ul style="list-style-type: none"> <li>• be in prison;</li> <li>• be the subject of an order under the <i>Crimes (Mental Impairment and Unfitness to be Tried) Act 1997</i> (Vic); or</li> <li>• be restricted by bail, parole or other legal mechanisms from travelling within Victoria.</li> </ul>	<p>The person must declare on the nomination form that they meet this requirement and consent to the Returning Officer conducting a National Police Records Check.</p> <p>The Returning Officer must conduct a National Police Records Check.</p> <p>The person must provide the Returning Officer with all information required to undertake a National Police Records Check.</p>
<p>6. The person must be able to comply with the rights and responsibilities of a Member of the Assembly, as set out in the Constitution and the Members' Charter.</p>	<p>The person must declare on the nomination form that they meet this requirement.</p>

28.3 A person must provide the declarations and other information required by column 2 of the table in Rule 28.2 to the Returning Officer before the Nomination Closing.

28.4 The Returning Officer must verify the eligibility requirements in rows 1-4 and 6 of the table in Rule 28.2 are met before the Announcement of Candidates.

28.5 The Returning Officer may verify the eligibility requirement in row 5 of the table in Rule 28.2 is met after the Announcement of Candidates.

28.6 A person cannot be declared to be elected if the Returning Officer has not verified that all of the eligibility requirements in the table in Rule 28.2 are met.

## 29 REGIONS

### In which Region can a person nominate as a Candidate for election?

29.1 A person may nominate as a Candidate for election (at their choice) either for:

- (a) the Region containing the person's current residential address in Victoria; or
- (b) the Region the person identifies as including their traditional country as a Victorian Traditional Owner.

## **30 HOW TO NOMINATE AS A CANDIDATE**

- 30.1 A person may nominate as a Candidate for election by:
- (a) completing the nomination form approved by the Returning Officer; and
  - (b) giving the completed nomination form to the Returning Officer after the Nomination Opening and before the Nomination Closing.
- 30.2 The Returning Officer must not accept a nomination form after the Nomination Closing.
- 30.3 The Returning Officer may ask for more information from a Nominee before or after the Nomination Closing.
- 30.4 The Returning Officer must bear the costs associated with a nomination of a person as a Candidate for election up to a maximum amount determined by the Council.

## **31 NOMINATION FORM**

- 31.1 The nomination form must include the following:
- (a) the information and declarations required by column 2 of the table in Rule 28.2 to show whether the person meets the eligibility requirements in column 1 of that table to stand as a Candidate at the Election;
  - (b) the information required to meet the Region requirements under Rule 29;
  - (c) the name of the Nominee as they would like it to appear on the Ballot Paper, in the form of Preferred given name, FAMILY NAME; and
  - (d) the gender of the Nominee, in particular, whether the Nominee identifies as male, female or another gender. A statement of a person's gender on a nomination form is not to be challenged or disputed under these Rules.
- 31.2 The nomination form may include:
- (a) information in the form of a Candidate Statement that must not exceed 200 words; and
  - (b) a Passport-style photograph of the Nominee.
- 31.3 The nomination form must ask for the Nominee to give the following consents:
- (a) a consent to the collection, use, storage and disclosure of the Nominee's personal and sensitive information as required under these Rules;
  - (b) a consent to the publication of the Nominee's name and Region and, if provided, the Candidate Statement and the Nominee's photograph;
  - (c) a consent required by the table in Rule 28.2; and
  - (d) a consent to be elected as a General Member of the Assembly.
- 31.4 The nomination form may ask for any other information, evidence, declaration or consent that the Returning Officer considers necessary.

## **32 ASSESSING NOMINATIONS**

- 32.1 The Returning Officer must accept the nomination of a person as a Candidate before the Announcement of Candidates if the Returning Officer considers that:

- (a) the Nominee meets the eligibility requirements in column 1 of the table in Rule 28.2; and
  - (b) the nomination meets the other requirements of these Rules.
- 32.2 If the Returning Officer accepts the nomination of a person as a Candidate, the Returning Officer must publish, in a publicly accessible location, the Candidate's name and Region and if provided, the Candidate's photograph and Candidate Statement.
- 32.3 If the Returning Officer is not satisfied of the matters in Rule 32.1, the Returning Officer must reject the nomination.
- 32.4 Before rejecting the nomination, the Returning Officer must give the person the opportunity, within the reasonable period determined by the Returning Officer, to provide any information required to meet the eligibility requirements or other requirements of these Rules.
- 32.5 The period determined by the Returning Officer under Rule 32.4 may be after the Nomination Closing but must be before the Announcement of Candidates.
- 32.6 Only a person who is accepted as a Candidate may stand for election as a General Member of the Assembly.
- 32.7 An acceptance of a Candidate under this Rule is a provisional acceptance until the Returning Officer has verified the eligibility requirements in the table in Rule 28.2 are met.

### **33 NOTIFICATIONS ABOUT NOMINATIONS**

- 33.1 The Returning Officer must notify a Nominee of:
- (a) the receipt of the nomination; and
  - (b) the decision on the nomination.
- 33.2 A notice of a decision must be given to a person before the Announcement of Candidates.
- 33.3 A person who disagrees with a decision to reject the nomination of the person as a Candidate may make a complaint under Rule 53.

### **34 EXTENSION OF NOMINATION CLOSING**

- 34.1 The Returning Officer may extend the Nomination Closing by up to 5 days if:
- (a) the number of accepted Candidates in a Region is less than the number of vacancies in that Region; or
  - (b) the Gender Quota for that Region cannot be met.
- 34.2 The Returning Officer must publish, in a publicly accessible location, a notice of the extension of the Nomination Closing.
- 34.3 If the Nomination Closing is extended under this Rule, the Council may:
- (a) amend any subsequent Election date to the extended Nomination Closing date; and
  - (b) amend the Notice of Election and make any other consequential amendments required as a result of the extension of the Nomination Closing date or the amendment of any other Election date under this Rule.

## **35 ANNOUNCEMENT OF CANDIDATES**

- 35.1 On the Announcement of Candidates, the Returning Officer:
- (a) must publish, in a publicly accessible location, the accepted Candidates, including the Candidate's name and Region and, if provided, the Candidate's photograph and Candidate Statement; and
  - (b) may otherwise publicise the Candidates as the Returning Officer thinks fit.
- 35.2 The Returning Officer may edit a Candidate Statement referred to in Rule 32.2 or 35.1 before it is published or refuse to publish a Candidate Statement if the Returning Officer considers it necessary, for example, if the Returning Officer believes the Statement may be misleading, deceptive or defamatory.

## **36 NUMBER OF CANDIDATES**

- 36.1 If, after the Announcement of Candidates, the number of Candidates in a Region exceeds the number of vacancies and the Gender Quota can be met, the Returning Officer must conduct an Election in accordance with these Rules.
- 36.2 If, after the Announcement of Candidates, the number of Candidates in a Region exceeds the number of vacancies and the Gender Quota cannot be met, the Returning Officer must:
- (a) conduct an Election to determine which male identifying Candidates are to be elected; and
  - (b) conduct a Supplementary Election to fill any vacancy to be occupied by a non-male identifying Candidate.
- 36.3 If, after the Announcement of Candidates, the number of Candidates in a Region is equal to the number of vacancies and the Gender Quota can be met, the Returning Officer must declare each Candidate to be elected and no Election is required in that Region.
- 36.4 If, after the Announcement of Candidates, the number of Candidates in a Region is equal to the number of vacancies and the Gender Quota cannot be met, the Returning Officer must:
- (a) conduct an Election to determine which male identifying Candidates are to be elected; and
  - (b) conduct a Supplementary Election to fill any vacancy to be occupied by a non-male identifying Candidate.
- 36.5 If, after the Announcement of Candidates, the number of Candidates in a Region is less than the number of vacancies and the Gender Quota can be met, the Returning Officer must:
- (a) declare each Candidate to be elected; and
  - (b) conduct a Supplementary Election to fill the remaining vacancies.
- 36.6 If, after the Announcement of Candidates, the number of Candidates in a Region is less than the number of vacancies and the Gender Quota cannot be met, the Returning Officer must:
- (a) if the number of male identifying Candidates is equal to or less than the maximum number of male identifying Candidates permitted under the Gender Quota:
    - (i) declare all Candidates to be elected; and
    - (ii) conduct a Supplementary Election to fill the remaining vacancies; and

- (b) if the number of male identifying Candidates exceeds the maximum number of male identifying Candidates permitted under the Gender Quota:
  - (i) conduct an Election to determine which male identifying Candidates are elected; and
  - (ii) conduct a Supplementary Election to fill the remaining vacancies to be occupied by non-male identifying Candidates.

36.7 A Supplementary Election under this Rule must be held as soon as possible, and within 6 months, after the Announcement of Candidates.

36.8 To avoid doubt, where Rule 36.2, 36.4 or 36.6(b) applies, a Candidate who is non-male identifying must stand for election in the Region.

### **37 GENDER QUOTA**

37.1 40% of the vacancies for General Members in a Region (or the number that is closest to 40%, rounding down to the nearest whole number) must be filled by non-male identifying Candidates in that Region. This is called the Gender Quota.

37.2 The Gender Quota operates so that:

- (a) in a Region where there are 3 General Members to be elected, at least one seat must be filled by a non-male identifying Candidate; and
- (b) in a Region where there are 9 General Members to be elected, at least 3 seats must be filled by non-male identifying Candidates.

### **38 WITHDRAWAL OF CANDIDATE**

38.1 A Candidate may withdraw at any time before the Announcement of Candidates.

38.2 A Candidate may withdraw after the Announcement of Candidates if:

- (a) the withdrawal results in an uncontested election; or
- (b) the Returning Officer is satisfied that the Candidate has a good reason to no longer stand for election.

38.3 A withdrawal under Rule 38.1 or 38.2 must be made in writing by the Candidate and takes effect when it is accepted by the Returning Officer.

38.4 The Returning Officer must withdraw a Candidate if the Candidate:

- (a) is disqualified from being elected;
- (b) is determined to be ineligible;
- (c) is unable to assume the role of a General Member; or
- (d) has died.

38.5 If a Candidate withdraws or is withdrawn after the Announcement of Candidates:

- (a) Rule 36 applies; and
- (b) the Nomination Closing cannot be extended under Rule 34 because of that withdrawal.

38.6 If a Candidate withdraws or is withdrawn:

- (a) the Returning Officer must proceed as if the Candidate had never nominated;
- (b) any Ballot Paper showing a preference for a withdrawn Candidate must be allocated as if the Candidate had been eliminated; and
- (c) the Returning Officer may modify Ballot Papers as necessary or appropriate.

## **PART F: RIGHTS AND REQUIREMENTS OF CANDIDATES**

Part F sets out rules about:

- A Code of Conduct for Candidates and campaigners.
- Campaigning.

### **39 CODE OF CONDUCT**

39.1 A Candidate, or a campaigner for a Candidate, must comply with the Code of Conduct set out in Schedule 3 or any replacement code of conduct issued from time to time.

### **40 CAMPAIGNING**

#### **Funding and support to Candidates**

40.1 The Council may decide to offer funding and in-kind support to Candidates to support their campaigning during an Election Period.

40.2 If the Council decides to offer funding and in-kind support to Candidates:

- (a) the Council must publish, before the Nomination Opening, a policy setting out how the support will be calculated, allocated and used; and
- (b) the support provided must not unfairly favour any particular Candidate or Candidates.

#### **Campaigning to comply with Code of Conduct**

40.3 All campaigning, including campaign materials, must comply with the Code of Conduct.

## **PART G: CONDUCT OF ELECTIONS**

Part G sets out rules about:

- Conduct of Elections.
- Order of Candidates.
- Methods of voting.
- Absent Votes.
- Accessibility.
- Conduct at Elections.
- Provisional voting.

## **41 CONDUCT OF ELECTIONS**

### **Voting Period**

41.1 Voting will take place during the Voting Period, during the times set out in the Notice of Election.

### **Voting**

41.2 An Elector:

- (a) is not required to vote in an Election;
- (b) may only vote once in an Election;
- (c) may only vote for Candidates standing for election in the Region for which they are registered on the Electoral Roll; and
- (d) cannot appoint a proxy to vote for them in an Election.

41.3 All Elections must be conducted by secret ballot.

## **42 ORDER OF CANDIDATES**

42.1 The Returning Officer must determine the order of Candidates on the Ballot Paper by random draw.

42.2 The time of the draw must be after the Announcement of Candidates and before the Voting Opening.

42.3 The Returning Officer must nominate the place and time of the draw.

42.4 The Returning Officer must notify each Candidate for election in a Region of the place and time of the draw.

## **43 METHODS OF VOTING**

### **Determining voting methods**

43.1 The Council must determine the alternative methods of voting in an Election, for example in-person voting, online voting or postal voting.

43.2 The Council must consider the accessibility of voting when deciding the methods of voting for an Election.

43.3 All methods of voting must:

- (a) enable an Elector to be authenticated;
- (b) be secure; and
- (c) enable and support the secrecy of the ballot.

### **Alternative methods of voting**

43.4 The Returning Officer must assume that all Electors wish to vote in person if in-person voting is a method of voting for an Election.

43.5 An Elector may request, in a manner approved by the Returning Officer, an alternative method of voting.



- 43.6 The Returning Officer may set reasonable periods for requests for alternative voting methods to be received.
- 43.7 The Returning Officer may issue alternative methods of voting to an Elector without the request of the Elector.
- 43.8 An Elector may vote in person, if this is a method of voting at the Election, even if the Elector has requested or received an alternative method of voting.
- 43.9 The Returning Officer must determine the order of precedence to be given to alternative methods of voting if an Elector votes more than once.

#### **How to vote**

- 43.10 The Returning Officer must publish information, in a publicly accessible location, about how Electors can vote in an Election, which may include:
- (a) the methods of voting at the Election;
  - (b) how to access or request an alternative method of voting;
  - (c) how to cast a valid vote; and
  - (d) the dates, times and locations of in-person voting, if this is a method of voting at the Election.

#### **44 ABSENT VOTES**

- 44.1 If in-person voting is a method of voting for an Election, an Elector may vote at any in-person polling place, even if it is outside their Region.
- 44.2 A vote cast in person by an Elector outside their Region is an Absent Vote.
- 44.3 If an Elector casts an Absent Vote, the Returning Officer must:
- (a) arrange for the Elector's details to be recorded to confirm their eligibility to vote; and
  - (b) ensure the secrecy of the Absent Vote.

#### **45 ACCESSIBILITY**

- 45.1 The Returning Officer must ensure that voting in an Election is accessible to all Electors.
- 45.2 The Returning Officer must assist an Elector who has special needs, including persons who:
- (a) have accessibility needs;
  - (b) have low or no literacy; or
  - (c) wish to nominate a person to assist them to cast their vote, if they are unable to cast their vote without any assistance.
- 45.3 A person nominated under Rule 45.2.3 cannot act as proxy for the Elector.
- 45.4 If an Elector needs help from an Election Official to fill out a Ballot Paper, one of the following people may be present to observe:
- (a) a scrutineer;
  - (b) another Election Official; or
  - (c) another person nominated by the Elector.

- 45.5 An Elector may bring a written statement that sets out their voting intention and have another person complete the vote for them.
- 45.6 The Returning Officer must take steps to make voting accessible to all Electors, which may include:
- (a) providing large print files on request;
  - (b) providing a magnifier and maxi pencils at every voting place; or
  - (c) any other measures the Returning Officer determines, having regard to the alternative methods of voting used at the Election.

## **46 CONDUCT AT ELECTIONS**

### **Interference with rights and duties**

- 46.1 A person must not hinder or interfere with the free exercise or performance by any other person of any right or duty that is relevant to an Election.

### **Interference with Ballot Papers**

- 46.2 A person must not:
- (a) forge or fraudulently mark, deface or destroy a Ballot Paper;
  - (b) without authority supply a Ballot Paper to any person;
  - (c) fraudulently put any unauthorised Ballot Paper into a ballot box;
  - (d) be in possession of an unauthorised Ballot Paper;
  - (e) without authority destroy, take, open or otherwise interfere with any ballot box or parcel of Ballot Papers;
  - (f) vote or attempt to vote more than once in an Election, or impersonate any voter; or
  - (g) leave a voting place with a Ballot Paper.

## **47 PROVISIONAL VOTING**

### **What special Rules apply to Provisional Electors?**

- 47.1 A vote cast by a Provisional Elector is a provisional vote.
- 47.2 The Returning Officer may treat a vote by any other Elector as a provisional vote if special circumstances apply (for example if an Election Official has incorrectly and inadvertently marked that the Elector has already voted in the Election).
- 47.3 If an Elector casts a provisional vote, the Returning Officer must, in any way the Returning Officer considers appropriate:
- (a) arrange for the Elector's enrolment details to be recorded to confirm their eligibility to vote; and
  - (b) ensure the secrecy of the vote.
- 47.4 A provisional vote must be set aside until it ceases to be a provisional vote.
- 47.5 If a vote ceases to be a provisional vote, the provisional vote must be counted with the other votes in the Region.
- 47.6 A Provisional Elector's enrolment or eligibility to vote may be confirmed up to Vote Counting.

- 47.7 If a Provisional Elector's enrolment or eligibility to vote is not confirmed by Vote Counting, the provisional vote must not be counted.

## **PART H: ELECTION OUTCOMES**

Part H sets out rules about:

- Determining Election outcomes.
- Applying the Gender Quota.
- Tied votes.
- Scrutineers.
- Announcing Election results.

### **48 DETERMINING ELECTION OUTCOMES**

#### **How will votes be counted?**

- 48.1 The Returning Officer must count votes using the system set out in Schedule 4.
- 48.2 For a Ballot Paper to be counted the Elector's intention must be clearly discernible.
- 48.3 The Elector's intention may be discernible even if the Ballot Paper is completed in a way that varies from the instructions, for example by:
- (a) recording preferences alphabetically (a, b, c, d...) rather than numerically (1, 2, 3, 4);
  - (b) ticking a box (where only voting for one Candidate); or
  - (c) writing on or otherwise marking their Ballot Paper in addition to recording their preferences.
- 48.4 An Elector is not required to number every box on a Ballot Paper and may number just one box.
- 48.5 A Ballot Paper that is not counted in accordance with this Rule must be set aside as an informal vote.

### **49 APPLYING THE GENDER QUOTA**

- 49.1 If, after the counting of votes in a Region, the Gender Quota is not met, the process set out in Schedule 5 will apply.
- 49.2 If, after the counting of votes in a Region, the Gender Quota is met or exceeded in a Region, there will be no change to the outcome following the counting of votes in that Region.

### **50 TIED VOTES**

- 50.1 If, at the end of counting of votes in a Region, two or more Candidates have an equal number of votes, the process set out in Schedule 4 will apply.

### **51 SCRUTINEERS**

- 51.1 If in-person voting is used for an Election, a Candidate may only appoint one scrutineer at each in-person voting place within the Region for which they are a Candidate.

- 51.2 A Candidate may also appoint one scrutineer to be present for the return processing, validation and counting of votes cast in any method of voting used at the Election.
- 51.3 A Candidate cannot appoint themselves as a scrutineer.
- 51.4 The Returning Officer may set further requirements for the appointment of scrutineers, for example by providing a form to be used to make the appointment.
- 51.5 A Candidate must ensure that their scrutineers comply with Rule 46 and with Schedule 6.

## **52 ANNOUNCEMENT OF ELECTION RESULTS**

- 52.1 The Council must publish the results of an Election in accordance with the Constitution.

### **PART I: ELECTION COMPLAINTS**

Part I sets out rules about:

- Election Complaints.
- Peacemakers.

## **53 ELECTION COMPLAINTS**

### **Who may make a complaint?**

- 53.1 Any of the following persons may make a complaint to the Returning Officer about a matter set out in Rule 53.2:
  - (a) a Nominee;
  - (b) a Candidate;
  - (c) a campaigner;
  - (d) a scrutineer;
  - (e) an Elector; and
  - (f) any other person reasonably connected with or impacted by an Election.

### **What may a complaint be about?**

- 53.2 A complaint may be about any of the following:
  - (a) the way the Returning Officer or the Assembly has applied these Rules;
  - (b) the conduct of any person connected to an Election;
  - (c) a challenge to the validity of an Election;
  - (d) a Candidate's status as a Victorian Traditional Owner; and
 any other matter reasonably connected to an Election.

### **How may an Election Complaint be made?**

- 53.3 An Election Complaint must be made in writing to the Returning Officer before the end of 7 days after the announcement of the results of Election.
- 53.4 An Election Complaint must include the reasons for the complaint and the persons involved.

### **Returning Officer to publish information about Election Complaint procedures**

53.5 The Returning Officer must, before the Election Period, publish information, in a publicly accessible location, about how to make an Election Complaint and any relevant timelines for an Election Complaint.

### **Resolution of Election Complaints**

53.6 The Returning Officer must notify the Council of any Election Complaint, and also refer an Election Complaint to the Election Dispute Resolution Panel for determination if the Election Complaint relates to whether a Candidate is validly elected or whether they are a Victorian Traditional Owner or a Victorian Traditional Owner of Country in a Region.

53.7 The Returning Officer must determine any other complaint lodged under this Rule.

### **Determination by the Returning Officer**

53.8 Before making a determination under Rule 53.7, the Returning Officer must:

- (a) give the persons involved reasonable notice of the matter and the opportunity to be heard;
- (b) comply with the rules of natural justice; and
- (c) consider all information provided to, or obtained by, the Returning Officer in relation to the matter.

53.9 The Returning Officer may engage Peacemakers to help resolve the Election Complaint if the Returning Officer considers it appropriate.

53.10 The Returning Officer must not make a determination to disqualify a Candidate unless the Returning Officer finds the Candidate is ineligible.

53.11 The Returning Officer must notify the following of a determination under Rule 53.7:

- (a) all people involved; and
- (b) the Assembly.

53.12 Any person involved in an Election Complaint may apply to the Returning Officer for a review by the Election Dispute Resolution Panel of a determination of the Returning Officer under this Rule.

53.13 An application for review by a person must be made within 5 days after the person is notified of the determination of the Election Complaint.

### **Convening of Election Dispute Resolution Panel**

53.14 The Council must convene an Election Dispute Resolution Panel for an Election to deal with:

- (a) an Election Complaint referred to it under Rule 53.6; or
- (b) an application for review under Rule 53.12.

53.15 An Election Dispute Resolution Panel must be constituted as follows:

- (a) the Panel must have at least 3 members;
- (b) each member of the Panel must be an Aboriginal or Torres Strait Islander person;
- (c) at least one member of the Panel must be a Victorian Traditional Owner;

- (d) at least one member of the Panel must be a male identifying person;
  - (e) at least one member of the Panel must be a non-male identifying person; and
  - (f) a member cannot be a Candidate at the Election.
- 53.16 The members of the Election Dispute Resolution Panel must be impartial and not have interests in or be related to any person who is a party to:
- (a) an Election Complaint to be determined by the Panel; or
  - (b) an application for review to be determined by the Panel.
- 53.17 The Council must appoint a new member of the Panel in accordance with the requirements of Rule 53.15, if a member is not able to sit on the Panel because of a conflict of interest or other reason and there are fewer than 3 members as a result.
- 53.18 The Returning Officer may publish guidelines about conflicts of interest.

### **Determination by Election Dispute Resolution Panel**

- 53.19 If a referral of an Election Complaint is made under Rule 53.6 or an application for review is made under Rule 53.12, the Returning Officer must provide all relevant information (including the Election Complaint or application for review), to the Election Dispute Resolution Panel within one business day of the Election Complaint being made or the application for review being lodged.
- 53.20 Any person involved in an Election Complaint or application for review must promptly provide the Election Dispute Resolution Panel with any evidence and assistance that it reasonably requests.
- 53.21 The Election Dispute Resolution Panel may dismiss the Election Complaint or application for review if the evidence and assistance requested under Rule 53.20 is not provided promptly.
- 53.22 In determining an Election Complaint or an application for review, the Election Dispute Resolution Panel:
- (a) may seek advice from persons with suitable expertise, including Peacemakers;
  - (b) may conduct its own inquiries;
  - (c) must give the persons involved reasonable notice of the matter and the opportunity to be heard;
  - (d) must comply with the rules of natural justice;
  - (e) must consider all information provided to, or obtained by, the Panel in relation to the matter; and
  - (f) must act efficiently and finalise the dispute or application for review in a timely manner using culturally strong processes.
- 53.23 Subject to Rule 53.22, the Election Dispute Resolution Panel may determine its own procedure.
- 53.24 The Election Dispute Resolution Panel must make a determination within 14 days of receiving the Election Complaint or application for review. A determination of the Election Dispute Resolution Panel made under this Rule is final.

53.25 The Election Dispute Resolution Panel must give its determination in writing to the Returning Officer.

The Returning Officer must give notice of the determination to:

- (a) all persons involved; and
- (b) the Assembly.

#### **54 PEACEMAKERS**

54.1 The Council may appoint suitably qualified respected Aboriginal or Torres Strait Islander community members as Peacemakers in the Election process.

54.2 The role of Peacemakers is to seek to resolve Election Complaints in a culturally-based way, including by seeking informal resolutions or de-escalating Election complaints wherever possible.

54.3 Peacemakers may:

- (a) provide the Returning Officer with advice to support the resolution and de-escalation of Election Complaints; and
- (b) provide the Election Dispute Resolution Panel with advice to support their resolution of Election Complaints; and
- (c) offer formal peacemaking to parties to an Election Complaint, with the consent of all parties.

54.4 Any decision maker under Rule 53 may refer parties, with their consent, to Peacemakers to seek to resolve their dispute through a formal peacemaking process.

54.5 Any agreement or outcome reached through a formal peacemaking process must be approved by a member of the Election Dispute Resolution Panel.

54.6 Peacemakers may:

- (a) sit on the Election Dispute Resolution Panel to hear Election Complaints and applications for review; and
- (b) hear Election Complaints under Rule 53.

54.7 A Peacemaker must not sit on the Election Dispute Resolution Panel to resolve a matter that they have considered as a Peacemaker.

## PART J: DEFINITIONS AND INTERPRETATION

Part J contains the capitalised defined terms that are used in these Rules. These Rules also use capitalised terms that are defined in the Constitution.

Part J also contains the rules of interpreting these Rules.

### 55 DEFINITIONS

55.1 In these Rules, the following definitions apply:

**Aboriginal or Torres Strait Islander person** has the meaning set out in Rule 12.6.

**Absent Vote** means a vote cast in person outside an Elector's Region, in accordance with Rule 44.

**Announcement of Candidates** means the date and time that Candidates are publicly announced.

**Assembly** means the First Peoples' Assembly of Victoria.

**Ballot Paper** means the paper or equivalent electronic platform used to register a vote.

**Council** means Directors acting as the board of the Assembly and includes a delegate of the Council.

**Border Area** means any area outside Victoria that is within 60 kilometres of the Victorian border (see Border Area Map in Part 3 of Schedule 2).

**Candidate** means a person whose nomination has been accepted and is standing for election.

**Candidate Statement** means the statement included on a nomination form, which could include information about the Nominee, including their nation/klan/mob connection, why they wish to be a member of the Assembly and their views and aspirations for Treaty.

**Code of Conduct** means Schedule 3 to these Rules or any replacement code of conduct issued from time to time.

**Constitution** means the Constitution of the Assembly.

**Election Complaint** means a complaint made under Rule 53.1.

**Election Dispute Resolution Panel** means a panel convened under Rule 53.14.

**Election Official** means a person appointed or authorised by the Returning Officer under Rule 23 to support the conduct of an Election.

**Election Period** means the period of time from Nomination Opening to Voting Closing.

**Elector** means Eligible Elector or Provisional Elector.

**Electoral List** means the Electoral List prepared for an Election under Rule 26.

**Electoral Roll** means the Electoral Roll established under Rule 8.



**Eligible Elector** means a person whose enrolment on the Electoral Roll has been confirmed in accordance with Rule 19 and so, under the Constitution, is a Voter who is entitled to vote in an Election under these Rules.

**Eligible Person** means a person who is an Eligible Person under Rule 12.

**Enrolment Complaint** means a complaint made under Rule 21.

**Enrolment Dispute Resolution Panel** means an Enrolment Dispute Resolution Panel convened under Rule 21.13.

**Enrolment Registrar** means the person responsible for the ongoing maintenance and security of the Electoral Roll in accordance with Rule 9.

**Enrolment Official** means a person appointed or authorised by the Enrolment Registrar to assist with the ongoing maintenance and security of the Electoral Roll in accordance with Rule 9.8.

**Gender Quota** has the meaning set out in Rule 37.

**Nominee** means a person who nominates to stand as a Candidate for election.

**Nomination Closing** means the date and time nominations close for an Election.

**Nomination Opening** means the date and time nominations open for an Election.

**Peacemaker** means a person appointed as a Peacemaker under Rule 54.

**Preliminary Close of the Roll** means date and time specified under Rule 24 as the Preliminary Close of the Roll.

**Prison** has the same meaning as in the *Corrections Act 1986* (Vic).

**Provisional Elector** means a person whose enrolment on the Electoral Roll has not yet been confirmed in accordance with Rule 19.

**Regions** means the Assembly voting regions set out in Schedule 1.

**Returning Officer** means the person appointed under Rule 22 to conduct an Election.

**Rules** means these Election Rules as amended by the Assembly from time to time.

**Silent Elector** means a person registered as a Silent Elector under Rule 15.

**Vote Counting** means the date and time votes are counted for an Election.

**Voting Closing** means the date and time voting closes for an Election.

**Voting Opening** means the date and time voting opens for an Election.

**Voting Period** means the period commencing on the Voting Opening and ending on the Voting Closing.

**Youth Justice Centre** has the same meaning as it has in the *Children, Youth and Families Act 2005* (Vic).

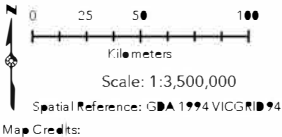
## **56 INTERPRETATION**

- 56.1 This Rule sets out interpretative rules that apply to these Rules, unless the context otherwise requires.
- 56.2 A capitalised term that is used but not defined in these Rules has the meaning given in the Constitution.
- 56.3 A reference to any law or legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision, in either case whether before, on or after the date of these Rules.
- 56.4 A reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced.
- 56.5 A reference to a rule, Part or Schedule is a reference to a rule, Part or Schedule of or to these Rules.
- 56.6 A reference to "non-male identifying" includes female identifying.
- 56.7 A reference to "in writing" includes by electronic communication.
- 56.8 If a word or phrase is given a defined meaning another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 56.9 A word that indicates the singular indicates the plural, a word that indicates the plural indicates the singular, and a reference to any gender indicates any other gender.
- 56.10 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or public authority.
- 56.11 References to the word 'include' or 'including', or to the word 'exclude' or 'excluding', are to be interpreted without limitation.
- 56.12 A reference to a time of day means that time of day in the place where the Office is located.
- 56.13 A reference to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Victoria.
- 56.14 If a period of time is specified and dates from a given day or the day of an act or event it must be calculated exclusive of that day.
- 56.15 A term of these Rules that has the effect of requiring anything to be done on or by a date that is not a business day must be interpreted as if it required it to be done on or by the next business day.
- 56.16 A reference to a change to a thing includes a reference to a complete replacement and also to its removal and not having any replacement of it.
- 56.17 A reference to a thing being done means the thing may be done any number of times.
- 56.18 Headings and boxed text are inserted for convenience only and do not affect the interpretation of these Rules.
- 56.19 A reference to these Rules, where amended, means these Rules as so amended.

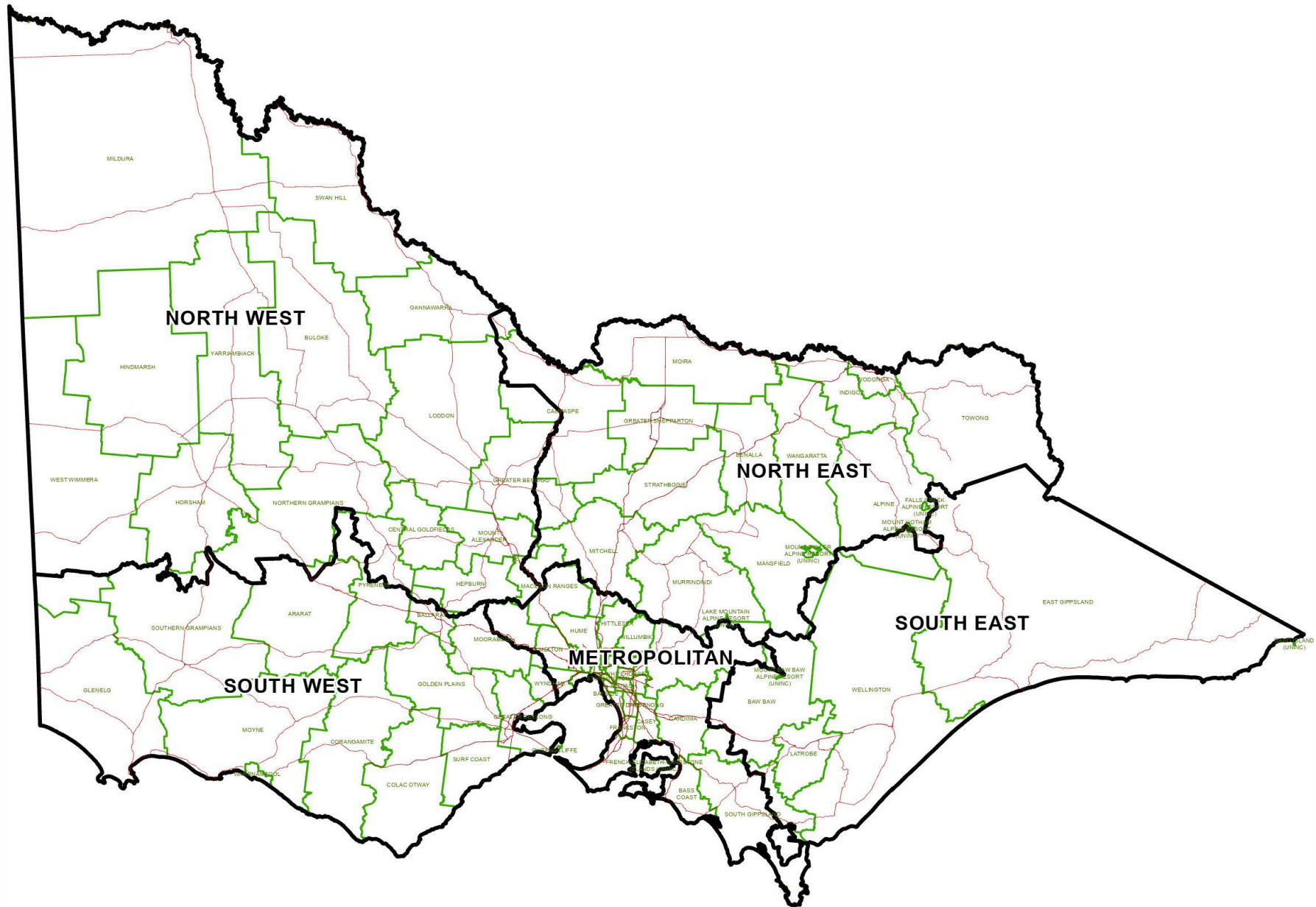
**SCHEDULE 1: REGIONS**

Refer overleaf.

# Statewide Overview

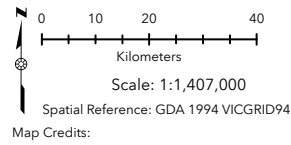


- Legend
- First Peoples Assembly regions
  - Local Government Area boundaries
  - Roads



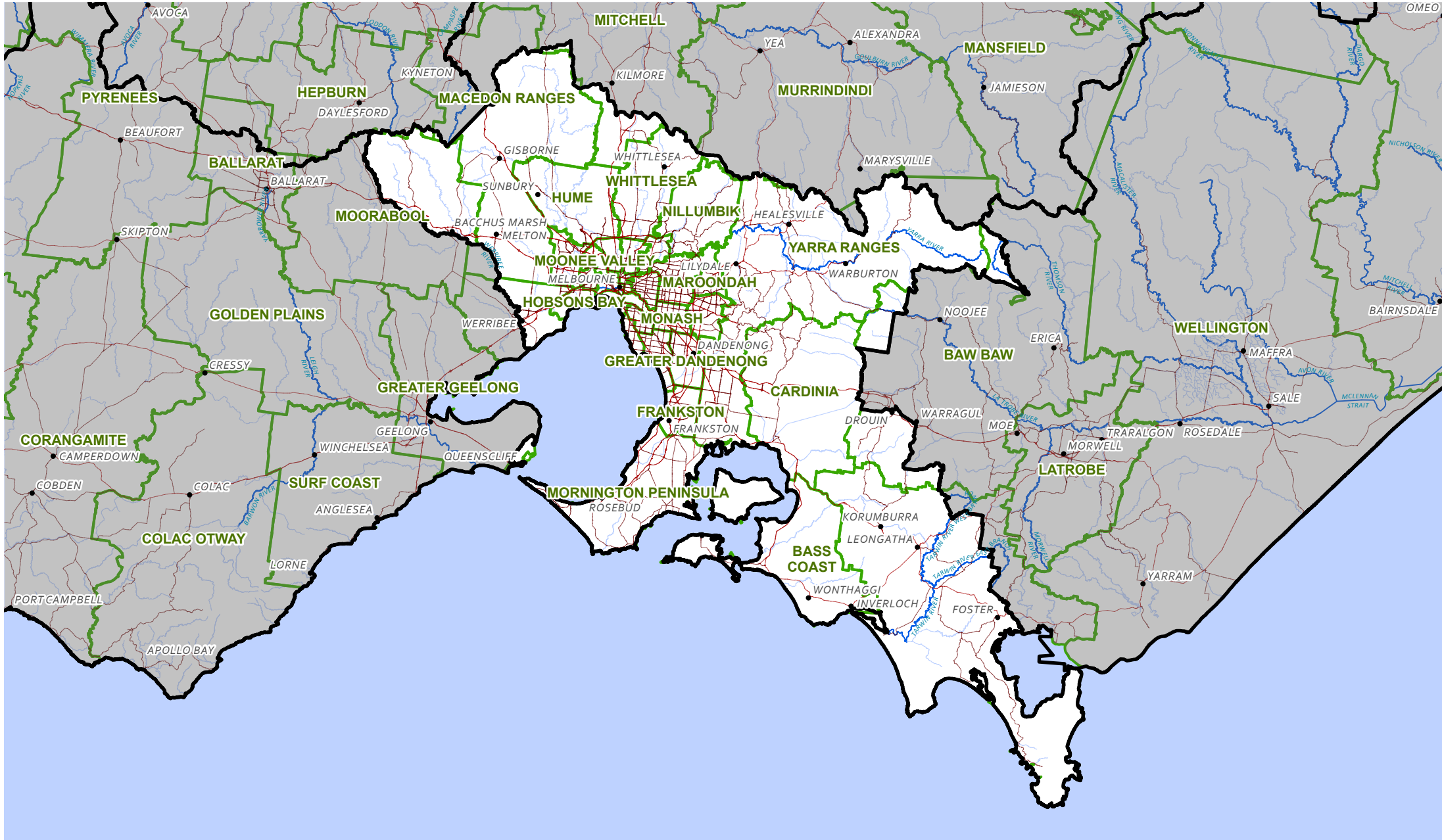
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# Metropolitan Region



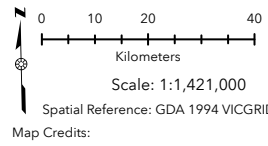
## Legend

- First Peoples Assembly regions
- Local Government Area boundaries
- Highways/Freeways
- Roads
- Towns
- Waterways
- Major waterway
- Minor waterway



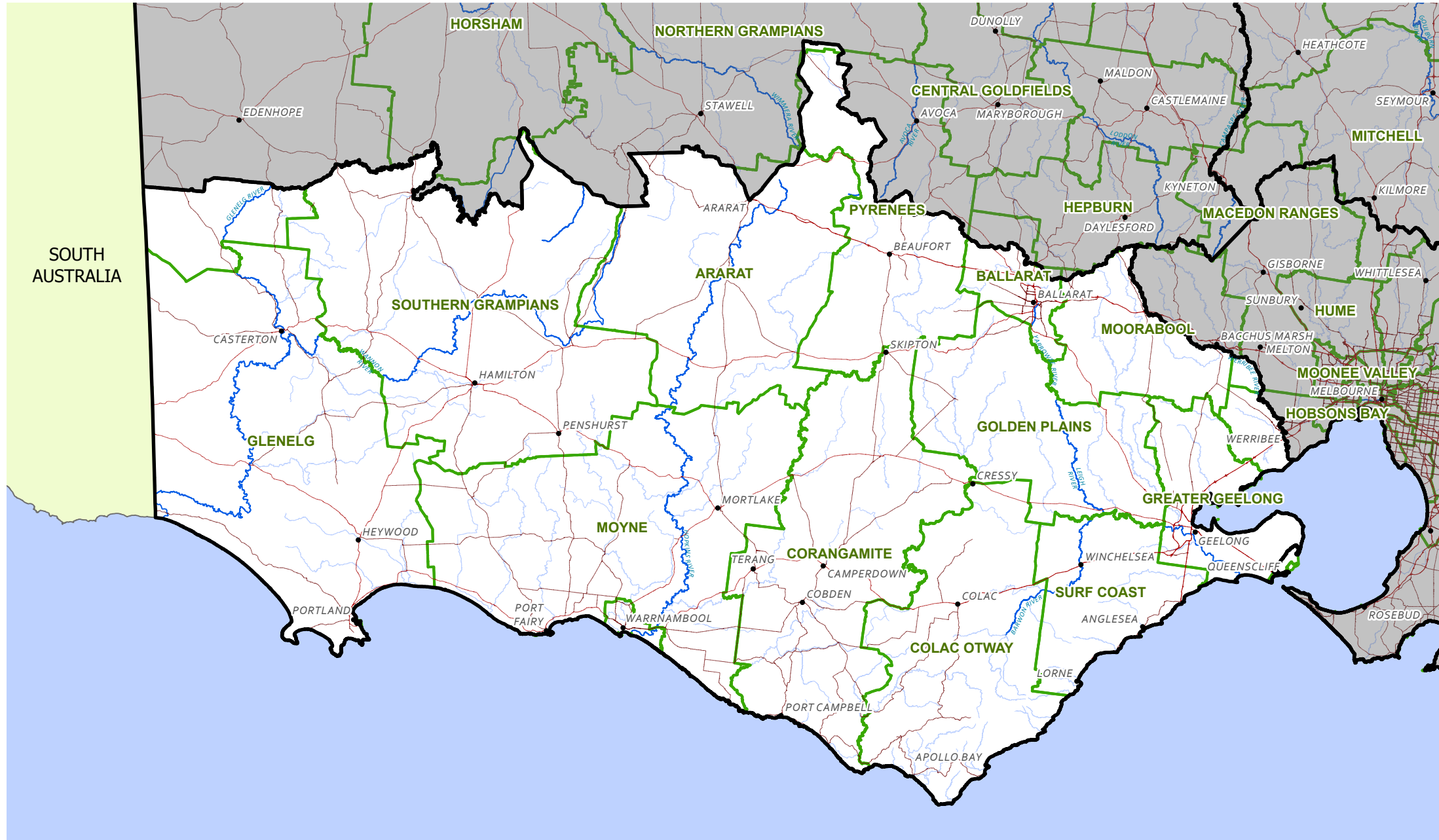
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# South West Region



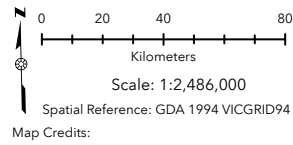
## Legend

- First Peoples Assembly regions
- Local Government Area boundaries
- Highways/Freeways
- Roads
- Towns
- Major waterway
- Minor waterway



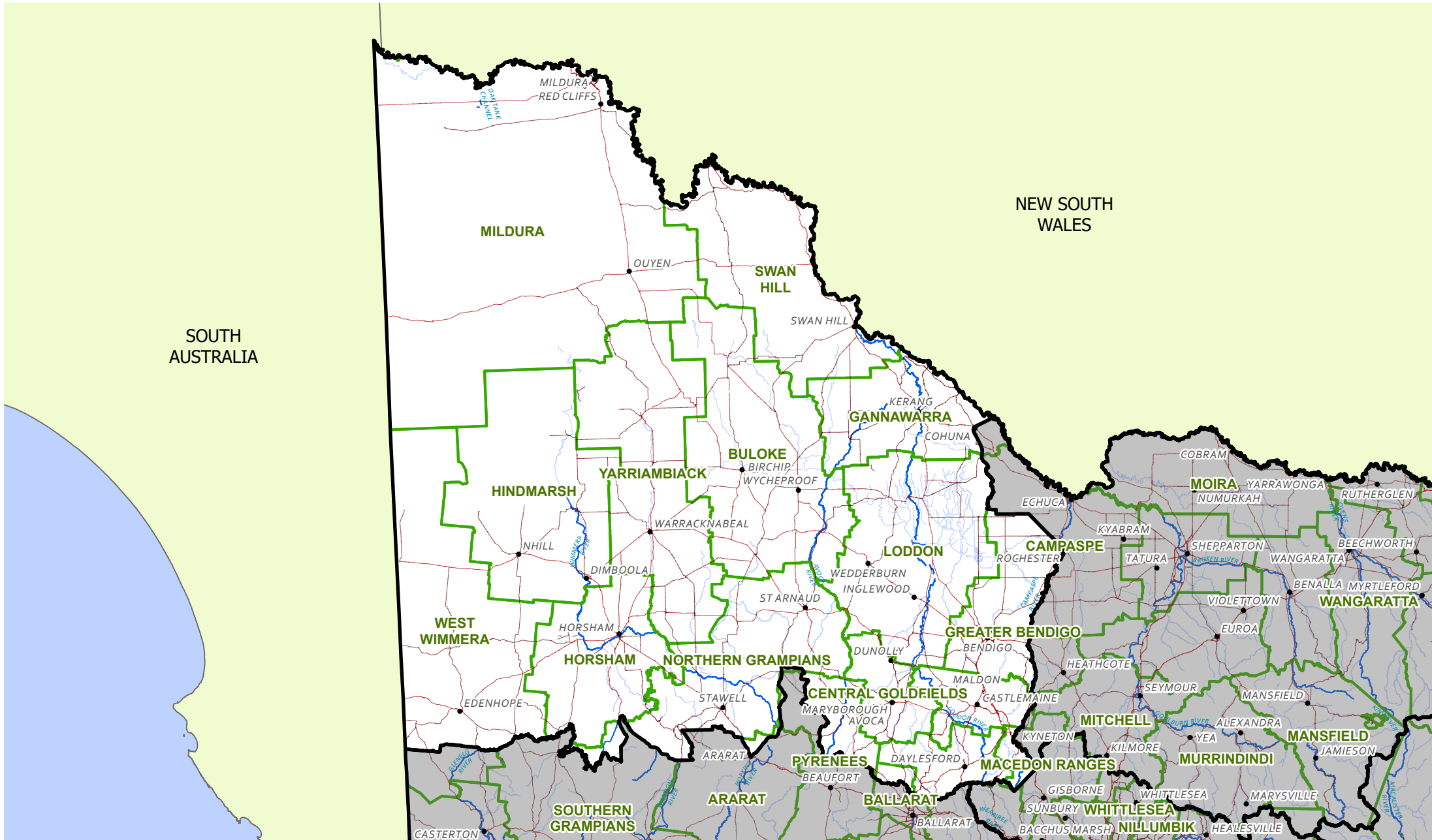
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# North West Region



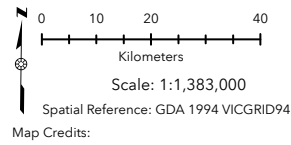
## Legend

- First Peoples Assembly regions
- Local Government Area boundaries
- Highways/Freeways
- Roads
- Towns
- Major waterway
- Minor waterway



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# North East Region



## Legend

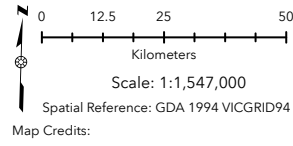
- First Peoples Assembly regions
- Local Government Area boundaries
- Highways/Freeways
- Roads
- Towns
- Major waterway
- Minor waterway



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# South East Region



## Legend

- First Peoples Assembly regions
- Local Government Area boundaries
- Highways/Freeways
- Roads
- Towns
- Major waterway
- Minor waterway



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## SCHEDULE 2: PERMITTED FORMS OF EVIDENCE

### PART 1: ACCEPTABLE EVIDENCE

#### 1 DOCUMENTS THAT MAY BE ACCEPTED AS EVIDENCE

1.1 The following table provides the documents that the Enrolment Registrar will accept as evidence of an Elector's name or current residential address. This is not an exhaustive list.

Form of Identification	Name	Residential address
Driver's licence, learner's permit, firearm, or marine licence	ü	ü
Valid Passport	ü	û
Proof of Age Card	ü	ü
Keypass	ü	ü
Birth certificate	ü	û
Commonwealth Government Concession Card (including Health Care Card)	ü	If residential address is listed on the card
Department of Veterans Affairs Health Card	ü	û
Marriage Certificate	ü	û
Australian Taxation Office Assessment	ü	ü
Student or Tertiary Institution Identification card	ü	û
Lease Agreement	ü	ü
Utility statement* (Gas, water, electricity, mobile or home phone)	ü	If residential address is listed on the statement
Bank statement*	ü	If residential address is listed on the statement
Superannuation statement*	ü	If residential address is listed on the statement

<b>COVID-19 vaccination certificate</b>	ü	û
<b>Other Government issued identification</b>	If person's name is listed on the identification	If person's residential address is listed on the identification
<b>Statutory Declaration declaring the person's name or residential address or both</b>	If person's name is declared	If person's residential address is declared

\*A bank, utility or superannuation statement must contain an official company letterhead or stamp.

## **PART 2: ALTERNATIVES IF EVIDENCE SPECIFIED IN PART 1 CANNOT BE PROVIDED**

### **2 ADDITIONAL MEANS TO VERIFY IDENTITY**

2.1 If an Elector cannot provide the evidence specified in Part 1, their name and current residential address may be verified by one of the following organisations:

- (a) a secondary school;
- (b) a university;
- (c) a TAFE institute;
- (d) a medical clinic;
- (e) a Prison or Youth Justice Centre;
- (f) an aged care facility;
- (g) a homelessness support venue; or
- (h) another organisation approved by the Enrolment Registrar.

### **3 ACCEPTANCE OF OTHER FORMS OF EVIDENCE**

3.1 If an Elector cannot provide the evidence specified in Part 1, the Enrolment Registrar may accept other forms or combinations of evidence to verify a person's name and current residential address.

### **4 EXEMPTION FROM REQUIREMENTS**

4.1 If an Elector cannot provide the evidence required in Rule 14.1, the Enrolment Registrar may exempt the Elector from the requirement.

4.2 An exemption must be:

- (a) decided on a case by case basis; and
- (b) granted in writing by the Enrolment Registrar.

4.3 In granting an exemption, the Enrolment Registrar must:

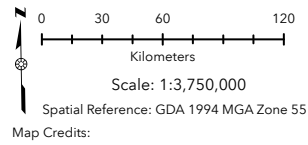
- (a) take into account the circumstances of the Elector; and
- (b) be reasonably satisfied of the Elector's identity and Region.

4.4 The Enrolment Registrar may establish a policy to govern exemptions.

**PART 3 BORDER AREA MAP**

# Border Area Map

Regions and areas within 60km of the Victorian border.



## Legend

- |                 |            |
|-----------------|------------|
| Assembly Region | North West |
| Metropolitan    | South East |
| North East      | South West |



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## **SCHEDULE 3: CODE OF CONDUCT**

### **1 RESPECT**

- 1.1 Candidates and campaigners for Candidates must show respect for each other, respect for Country, and respect for past, present and future generations.
- 1.2 The Election must be conducted in a spirit of cooperation, solidarity and mutual assistance.
- 1.3 The conduct of Candidates and campaigners will respect the meaningful and voluntary participation in the Election by any person or group of persons eligible to vote. This includes not preventing a person from participating in the Election based on any of the following:
  - (a) gender identity;
  - (b) age;
  - (c) language group, nation or clan identity, including persons who are disconnected from or reconnecting with their identity;
  - (d) sexual orientation;
  - (e) disability;
  - (f) religion;
  - (g) language; or
  - (h) marital status.
- 1.4 The wisdom and strength of Elders must be respected by all Candidates and campaigners, including Elders who choose to stand as Candidates.

### **2 DUTIES OF CANDIDATES AND CAMPAIGNERS**

- 2.1 Candidates and campaigners must participate in the Election in accordance with the Election Rules and this Code of Conduct.
- 2.2 Candidates and campaigners must respect those working in the Election and not interfere with the performance of their duties.
- 2.3 Candidates and campaigners must comply with and respect any dispute resolution process.
- 2.4 Candidates and campaigners must confine criticism of other Candidates and campaigners to their policies.

### **3 CONDUCT OF CANDIDATES AND CAMPAIGNERS IN ELECTORAL PROCESS**

- 3.1 Candidates and campaigners must not engage in any violent, abusive or threatening conduct.
- 3.2 Candidates and campaigners must not interfere with the Ballot Papers, ballot boxes, voters' rolls or other Election material.
- 3.3 Candidates and campaigners must not interfere with the secrecy of the ballot and must not attempt to find out or share how a person voted.
- 3.4 Campaigners must not campaign for a Candidate without the approval of that Candidate.

- 3.5 Candidates and campaigners must not use branding, including the letterhead or logo of the Assembly or the Treaty for Victoria brand, or other associated branding to promote a Candidate without authorisation from the Returning Officer.
- 3.6 A Candidate or campaigner must not by intimidation or duress compel a person to vote or refrain from voting or voting for a Candidate.
- 3.7 A Candidate or campaigner must not through dishonesty or misinformation induce a person to vote or refrain from voting or voting for a Candidate.

#### **4 CONTENT OF COMMUNICATIONS**

- 4.1 Candidates and campaigners must ensure that the content of any communications, including via social media and promotional material is:
- (a) fair and honest;
  - (b) respectful of other Candidates and campaigners and Electors; and
  - (c) free of unverified allegations, distortion or smear.

#### **5 SUPPORT BY COUNCIL**

- 5.1 If the Council decides to fund the production of campaign material (for example by sponsoring a social media advertisement or printing a brochure):
- (a) the Council must not unfairly favour any particular Candidate;
  - (b) the Returning Officer must vet all campaign material (including for defamation or any misleading or deceptive statements);
  - (c) the campaign material must include an authorisation tag, with the Candidate's name, stating they are a Candidate for the First Peoples' Assembly of Victoria and the Region they are running in, in a form approved by the Returning Officer; and
  - (d) the Council may withdraw support for campaign materials at any time, if the Council considers it necessary or appropriate.

## SCHEDULE 4: VOTE COUNTING METHOD

### 1 INTERPRETATION

#### Definitions for this Schedule

1.1 In this Schedule, the following definitions apply:

**Quota** means the number of votes sufficient to elect a Candidate. The Quota is determined by dividing the number of first preference votes by 1 more than the number of Candidates required to be elected and by increasing the quotient so obtained (disregarding any remainder) by 1, expressed in the following formula:

$$\text{Quota} = (\text{Total Votes} / \text{Total Vacancies} + 1) + 1$$

**Surplus** means the number of votes that a Candidate has obtained, at any stage of the counting of votes, in excess of the Quota.

**Transfer value** means that portion of a vote that is transferred to the Candidate next in the order of the voter's preference because it is unused by:

- (a) an elected Candidate who has obtained a Surplus; or
- (b) a Candidate excluded on account of having the least number of votes.

#### Calculation of Transfer value

1.2 In this Schedule, despite calculations, a vote cannot be transferred at a value greater than 1. A calculation that returns a value greater than 1 must be transferred at a value of 1.

### 2 FIRST PREFERENCE VOTES TO BE COUNTED

2.1 The number of first preferences recorded for each Candidate, on all the Ballot Papers that are not informal votes, is to be counted.

### 3 CANDIDATE WITH QUOTA TO BE ELECTED

3.1 A Candidate who has, after the first preferences have been counted, a number of votes equal to or greater than the Quota is to be declared elected.

### 4 CANDIDATE WITH EXACT QUOTA

4.1 If the number of first preferences obtained by a Candidate is equal to the Quota, all the Ballot Papers on which a first preference is recorded for that Candidate are to be set aside as finally dealt with, unless required for a process under Schedule 5.

### 5 SURPLUS FIRST PREFERENCE VOTES TO BE DISTRIBUTED

5.1 If the number of first preferences obtained by a Candidate exceeds the Quota, the Surplus is to be transferred to the other Candidates not yet declared elected, next in the order of the voters' respective preferences, in the following manner:

- (a) all Ballot Papers on which a first preference is recorded for the elected Candidate are to be re-examined, and the number of second preferences, or, if required below, third or next consecutive preferences, recorded for each unelected Candidate are to be counted;



- (b) the Surplus of the elected Candidate is to be divided by the total number of votes obtained by the elected Candidate on the counting of the first preferences, and the resulting fraction is to be the Transfer value;
- (c) the number of second or other preferences, ascertained in clause 5.1.1 to be recorded for each unelected Candidate, is to be multiplied by the Transfer value; and
- (d) the resulting number, disregarding any fractional remainder, is to be transferred to each unelected Candidate, and added to the number of votes obtained by unelected Candidate on the counting of the first preferences.

## **6 ORDER OF DISTRIBUTING SURPLUSES**

- 6.1 If after any count or transfer, a Candidate obtains a Surplus, the Surplus votes are not to be transferred before the transfer of any Surplus votes obtained by any other Candidate on an earlier count or transfer.
- 6.2 If, on the counting of the first preferences or on a transfer, more than one Candidate has a Surplus, the largest Surplus must be dealt with first then other Surpluses transferred in order of largest Surplus to smallest.
- 6.3 If two or more Surpluses are equal, the Surplus of the Candidate who was recorded as having the highest number of votes at the last count or transfer at which the Candidates had an unequal number of votes is to be dealt with first.
- 6.4 If the Candidates referred to in clause 6.3 have had an equal number of votes at all preceding counts or transfers, the Candidate whose Surplus is to be dealt with first must be determined by a fair method determined by the Returning Officer.

## **7 METHOD OF DEALING WITH SURPLUS VOTES OBTAINED AT TRANSFER OF SURPLUS**

- 7.1 If the number of votes obtained by a Candidate is increased to a number that is equal to, or exceeds, the Quota by a transfer under clause 5 or any subsequent transfer, the Candidate must be declared elected.
- 7.2 Despite the fact that the Candidate has reached the Quota, the transfer must be completed, and all the votes to which the Candidate is entitled from the transfer must be transferred to the Candidate, but no votes of any other Candidate are to be transferred to the Candidate at subsequent transfers.
- 7.3 If the number of votes obtained by a Candidate is increased by a transfer under clause 5 or any subsequent transfer to a number that is equal to the Quota, all the Ballot Papers on which the votes are recorded are to be set aside as finally dealt with, unless required for a process under Schedule 5.
- 7.4 If the number of votes obtained by a Candidate is increased by a transfer under clause 5 or any subsequent transfer to a number that exceeds the Quota, the Surplus is to be transferred to the Candidates next in the order of the voters' respective preferences, in the following manner:
  - (a) the Ballot Papers on which are recorded the votes obtained by the elected Candidate in the last transfer are to be re-examined, and the number of third, or, in the case provided for in clause 12, next consecutive preferences recorded for each unelected Candidate are to be counted;

- (b) the Surplus of the elected Candidate is to be divided by the total number of votes mentioned in clause 7.4(a), and the resulting fraction is to be the Transfer value;
- (c) the number of third or other preferences, ascertained in accordance with clause 7.4(a) as having been recorded for each unelected Candidate, must be multiplied by the Transfer value referred to in clause 7.4(b); and
- (d) the resulting number, disregarding any fractional remainder, must be credited to each unelected Candidate and added to the number of votes previously obtained by the unelected Candidate.

## **8 METHOD OF TRANSFERRING VOTES OF EXCLUDED CANDIDATES**

- 8.1 If, after the first preferences have been counted and all Surpluses, if any, have been transferred as provided by this Schedule, no Candidate, or less than the number of Candidates required to be elected, has or have obtained the Quota:
- (a) the Candidate who, at that count or transfer, has the least number of votes must be excluded; and
  - (b) all the votes obtained by the excluded Candidate must be transferred to the continuing Candidates in order of the voters' preferences on each Ballot Paper following the process described in clauses 8.2 and 8.3.
- 8.2 The votes received by the excluded Candidate must be sorted into groups according to their transfer values when received by that Candidate.
- 8.3 The groups must be transferred, at the transfer value at which they were received, in the following order:
- (a) first, the group with the highest transfer value;
  - (b) secondly, the remaining groups in descending order of transfer value.
- 8.4 Each of the transfers that takes place under clause 8.3 is to be taken for all purposes to be a separate transfer.

## **9 METHOD OF DEALING WITH SURPLUS VOTES OBTAINED AT TRANSFER FROM EXCLUDED CANDIDATE**

- 9.1 If the number of votes obtained by a Candidate is increased by a transfer from an excluded Candidate to a number that is equal to, or exceeds, the Quota, the Candidate must be declared elected.
- 9.2 Despite the fact that the Candidate has reached the Quota, the transfer from the excluded Candidate must be completed, and all the votes to which the Candidate is entitled to receive from the transfer are to be transferred to the Candidate. No other votes are to be transferred to the Candidate at subsequent transfers.
- 9.3 If the number of votes obtained by a Candidate is increased by a transfer from an excluded Candidate to a number that is equal to the Quota, all the Ballot Papers on which those votes are recorded must be set aside as finally dealt with, unless required for a process under Schedule 5.
- 9.4 If the number of votes obtained by a Candidate is increased by a transfer from an excluded Candidate to a number that exceeds the Quota, the Surplus must be transferred to continuing

Candidates next in the order of the voters' respective preferences in the same manner as provided by clause 7.4.

9.5 However, in the case of a transfer of votes of an excluded Candidate under clause 8.1 or clause 11, the Surplus must not be dealt with until all the votes of that excluded Candidate have been transferred.

9.6 If a Surplus exists, it must be dealt with before any other Candidate is excluded.

## **10 PROCESS TO CONTINUE**

10.1 The process of electing and excluding Candidates as set out in this Schedule is to be repeated until the number of persons required to be elected are declared elected.

## **11 CANDIDATES WITH EQUAL NUMBER OF VOTES**

11.1 If on any count 2 or more Candidates have an equal number of votes and one of them is to be excluded, then whichever of those Candidates was recorded as having the least number of votes at the last count or transfer at which they had an unequal number of votes must be excluded.

11.2 If the Candidates referred to in clause 11.1 have had an equal number of votes at all preceding counts or transfers, the Candidate to be excluded must be determined by a fair method determined by the Returning Officer.

## **12 NEXT AVAILABLE PREFERENCES**

12.1 In determining which Candidate is next in the order of a voter's preference, any Candidates who have been declared elected or who have been excluded are not to be considered, and the order of the voter's preference must be determined as if the names of those Candidates had not been on the Ballot Paper.

## **13 SETTING ASIDE CERTAIN BALLOT PAPERS**

13.1 On a transfer if on a Ballot Paper there is no Candidate opposite whose name a number is placed, other than a Candidate who has been declared elected or excluded, the Ballot Paper must be set aside and not further counted, unless required for a process under Schedule 5.

## **SCHEDULE 5: GENDER QUOTA COUNTBACK PROCEDURE**

### **1 OVERVIEW**

- 1.1 This Schedule applies when not enough non-male identifying Candidates are elected to meet the Gender Quota in a Region.
- 1.2 The last elected male Candidate in the Region is excluded, and the Ballot Papers they held at the point they were elected are distributed to the unelected non-male identifying Candidates according to the next available preference.
- 1.3 This process determines which of the unelected non-male identifying Candidates the voters who elected the last male identifying Candidate would prefer.
- 1.4 If more than one non-male vacancy needs to be filled to achieve the Gender Quota, the process set out in this Schedule is repeated with a single vacancy being filled each time.

### **2 PARTICIPATING CANDIDATES**

- 2.1 Only unelected non-male identifying Candidates from an Election participate in the countback process (**participating Candidates**).
- 2.2 If there is no unelected non-male identifying Candidate, the last elected male Candidate is excluded and the remaining non-male vacancy must be filled by a Supplementary Election.
- 2.3 If there is only one unelected non-male identifying Candidate, the last elected male identifying Candidate is excluded and the Returning Officer must declare the non-male identifying Candidate elected.

### **3 CONDUCT OF COUNTBACK**

- 3.1 The Returning Officer may conduct the countback manually or by electronic means.
- 3.2 To conduct the countback electronically, the Returning officer must be satisfied that:
  - (a) the electronic Ballot Paper data is an accurate copy of all the completed Ballot Papers from the Election; and
  - (b) the countback can be conducted using electronic means.
- 3.3 If the countback is conducted using electronic means, the Returning Officer may modify the process applying under clauses 4 to 9 as necessary to allow for the electronic nature of the countback.

### **4 DETERMINE COUNTBACK BALLOT PAPERS**

- 4.1 In this clause, **Ballot Papers** means Ballot Papers from the Election that were completed.
- 4.2 The Ballot Papers belonging to the last elected male identifying Candidate (**retired Candidate**) at the point they were elected, are the only Ballot Papers that are examined and distributed to the unelected non-male identifying Candidates during the countback process
- 4.3 The following Ballot Papers must be brought together for the countback:
  - (a) if the retired Candidate was elected on first preferences, all the formal Ballot Papers marked with a first preference for that Candidate; or
  - (b) if the retired Candidate was elected on a subsequent transfer:

- (i) all the formal Ballot Papers counted to the retired Candidate at the time they were elected; and
- (ii) if the retired Candidate was elected when the number of remaining Candidates was equal to the number of remaining vacancies, any Ballot Papers that showed a next available preference for the retired Candidate but were not distributed because it was not necessary.

## **5 TRANSFER VALUE OF COUNTBACK BALLOT PAPERS**

5.1 The transfer value of each Ballot Paper included in the countback is to be determined as follows:

- (a) A Ballot Paper received by the retired Candidate at the Election as a first preference has a transfer value of 1.
- (b) A Ballot Paper received by the retired Candidate at the Election after first preferences were counted but before the transfer at which they were elected has the same transfer value as when it was received at the Election.
- (c) The transfer value of a Ballot Paper received by the retired Candidate at the transfer they were elected must be adjusted if they exceeded the Quota when they were elected. The countback transfer value is determined by dividing the number of votes by which the retired Candidate, immediately before that transfer was short of the Quota, by the number of Ballot Papers transferred to them at that transfer.
- (d) If the retired Candidate was elected because the remaining vacancies were equal to the remaining Candidates, the countback transfer value is that which would have applied if a further transfer was necessary.

## **6 TRANSFER OF COUNTBACK VOTES TO PARTICIPATING CANDIDATES**

- 6.1 Each participating non-male identifying Candidate begins the countback with zero votes. Any votes received by the participating Candidate in the Election are not counted for the purposes of the countback.
- 6.2 Starting with the countback Ballot Papers of highest transfer value, each Ballot Paper is transferred to the participating non-male identifying Candidates according to the next available preference shown on the Ballot Paper
- 6.3 If there is no preference recorded on a Ballot Paper next to any of the participating Candidate names, the Ballot Paper is to be set aside and not further counted
- 6.4 The total Ballot Papers transferred to each participating Candidate is multiplied by the transfer value as determined under clause 5 and credited to each participating Candidate, disregarding any remainder.
- 6.5 This process is repeated for each batch of countback Ballot Papers of the same transfer value, in order of highest transfer value to lowest.

## **7 DECLARATION OF SUCCESSFUL CANDIDATE AND END OF COUNTBACK**

- 7.1 After the transfers have been completed, if a participating Candidate has an absolute majority, the Returning Officer must declare that Candidate to be elected.

7.2 For the purposes of this clause, a participating Candidate has an absolute majority if the number of votes credited to that Candidate is more than 50% of the total number of votes credited to all the participating Candidates after the transfers described in clause 6.

## **8 NEXT STAGE (IF NECESSARY)**

8.1 If no participating Candidate has an absolute majority of votes, the participating Candidate with the fewest votes must be excluded.

8.2 The excluded Candidate's completed Ballot Papers must be transferred to the continuing unelected non-male identifying Candidates according to the next available preference shown on each Ballot Paper, at its respective transfer value. Ballot-papers of highest transfer value are transferred first, followed by Ballot Papers of the same transfer value, in order of highest to lowest.

8.3 The total number of Ballot Papers transferred to each continuing Candidate is multiplied by the transfer value and credited to each Candidate, disregarding any remainder.

8.4 The transfer value for the purposes of this clause is the same as the transfer value set out in clause 5.

8.5 If a continuing Candidate has an absolute majority the Returning Officer must declare that Candidate to be elected. If not, the process of excluding the Candidate with the lowest total votes continues until an absolute majority is achieved.

8.6 For the purposes of this clause, a Candidate has an absolute majority if the number of votes credited to that Candidate is more than 50 per cent of the total number of votes credited to all participating Candidates after the transfers and additions required by clauses 8.2 and 8.3.

## **9 PROCESS IF VOTE EQUAL**

9.1 This clause applies if:

- (a) a participating Candidate must be excluded; and
- (b) 2 or more continuing Candidates with the fewest votes have an equal number of votes.

9.2 The Candidate who had the fewest votes at the last count or transfer at which they had an unequal number of votes must be excluded.

9.3 If there is no stage at which the 2 or more continuing Candidates had an unequal number of votes, the Candidate to be excluded must be determined by a fair method determined by the Returning Officer.

## **SCHEDULE 6: RULES RELATING TO SCRUTINEERS**

### **1 ROLE OF SCRUTINEERS**

- 1.1 A scrutineer is appointed by a Candidate to represent the Candidate's interests by ensuring the integrity of the Election process.
- 1.2 A scrutineer may only observe activities for the specific Election for which the scrutineer is appointed.

### **2 INFRINGEMENT OF SECRECY**

- 2.1 Except as authorised by the Returning Officer, a scrutineer must not communicate to any person any information likely to defeat the secrecy of voting.

### **3 RIGHTS OF SCRUTINEERS**

- 3.1 A scrutineer has the right to observe certain Election activities before the Voting Closing and to observe all Ballot Papers during the counting of votes.
- 3.2 The Election activities a scrutineer may observe include the following:
  - (a) the opening and emptying of a postal ballot box;
  - (b) the receipt and processing of Ballot Paper envelopes;
  - (c) the extraction, counting and recounting of Ballot Papers;
  - (d) in-person voting places throughout the Voting Period and during the counting of votes (when polling officials are present);
  - (e) any area designated for the counting of votes during the scrutiny of postal votes, provisional votes, absentee votes, and the counting of votes; and
  - (f) the final tabulation and production of online votes.
- 3.3 A scrutineer may challenge the admission or rejection of Ballot Paper envelopes and the formality of Ballot Papers by advising the Returning Officer of their challenges at the time that counting of votes takes place.
- 3.4 The Returning Officer must determine the outcome of a challenge by a scrutineer.
- 3.5 The Returning Officer's decision is final.

### **4 BRIEFING OF SCRUTINEERS**

- 4.1 The Returning Officer must ensure that scrutineers are briefed on their rights and responsibilities and provided with a detailed explanation of processes before each activity commences.
- 4.2 The Returning Officer must ensure that scrutineers are advised of the following:
  - (a) they can only be present when Ballot Papers for their Candidate's election are being processed;
  - (b) the total envelopes or Ballot Papers involved in each activity prior to its commencement;
  - (c) their right to observe all aspects of the processing of Ballot Papers, but that they must not unnecessarily communicate with anyone at the Election activity and must allow space for staff to carry out their duties;

- (d) they must not under any circumstances handle election materials including Ballot Papers, and computer systems used to manage online voting;
- (e) they must not travel with the Returning Officer or an Election Official or their agents; and
- (f) any challenge or query should be drawn to the attention of the person authorised by the Returning Officer who is in charge of the Election activity.

## **5 REMOVAL OF SCRUTINEERS**

5.1 The Returning Officer or an Election Official may have a scrutineer removed from a voting place in the following circumstances:

- (a) if more than one scrutineer for a Candidate is present;
- (b) if the scrutineer handles any election materials;
- (c) if the scrutineer obstructs or hinders the Returning Officer's activities;
- (d) if the scrutineer fails to obey a lawful direction from the Returning Officer; or
- (e) if the scrutineer interferes with or attempts to influence any voter within a voting place.