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**MM5/15 EAST WARD BY-ELECTION FEBRUARY 2015 - PENALTY  
FOR FAILURE TO VOTE - The Mayor, Councillor Bill  
Pickering**

**File Number: CSG/14/3/14/6 - BP15/1088**

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A Ryde Council by-election for East Ward was held on Saturday, 21 February 2015 which resulted in the election of Councillor Jane Stott.

Council has received correspondence from numerous residents of East Ward who have received penalty notices issued by the Electoral Commissioner (not Council) for failing to vote in the by-election.

I provide the following information in relation to the obligations and penalty for failure to vote at the above by-election for the information of Councillors.

*Pursuant to s.286 of the Local Government Act 1993 (NSW) (“Act”) it is compulsory for a person who is listed on the residential roll in respect of a ward or area to vote at a contested election in the ward or area unless the person has a sufficient reason not to vote*

*Upon the close of the poll, the Electoral Commissioner (“Commissioner”) is to review the residential roll to determine persons who have failed to vote without sufficient reason. The Commissioner subsequently is to prepare a list of those persons (Absentee List). Pursuant to s.314 of the Act, the Commissioner is within three (3) months after the close of the poll to serve an “Apparent Failure to Vote” letter (Letter) and a Penalty Infringement Notice (PIN) on persons who appear to be on the Absentee List. The recipient of the Letter and PIN must provide the Commissioner a sufficient reason for their failure to vote within twenty-eight (28) days from the date of the Letter.*

*The Act defines sufficient reason to include one of the following:*

- (a) The resident is dead; or*
- (b) Was absent from the area on polling day; or*
- (c) Had an honest belief that he or she had a religious duty to abstain from voting;*  
*or*
- (d) Was unable to vote for any other reason acceptable to the Electoral Commissioner.*

*If the Commissioner is satisfied that a person has a sufficient reason for failing to vote, the person will not be liable for further proceedings for the offence for which the PIN relates. However, where an insufficient reason is provided the person will be liable for the payment of a penalty*

*The Act prescribes a penalty of \$55 for the above offence which is enforceable*

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Council, dated 28 July 2015, submitted on 28 July 2015.

**MM5/15 (continued)**

*pursuant to the Fines Act 1996 (NSW). It must be noted that the Act prescribes a maximum penalty of \$110.*

Council distributed information to the community in a variety of ways, including advertisements in the local newspapers, media releases to the local press, information on its website, posters in Council facilities, information on social media including facebook and twitter, flashing street-sign notices and community announcements on local radio. In addition, both local newspapers throughout the period leading up to the by-election ran stories relating to the candidates. This information was published from 15 December 2014 to 21 February 2015.

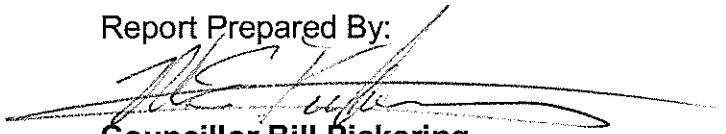
**RECOMMENDATION:**

That the information be received and noted.

**ATTACHMENTS**

There are no attachments for this report.

Report Prepared By:



**Councillor Bill Pickering**  
**The Mayor**