



Torres Strait
Regional Authority Elections

By-Election Guide 2019

Ugar Island Ward

The **TSRA** Members provide a critical link between you and the Australian Government. The **TSRA** consists of 20 community representatives who serve a four-year term.

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ABBREVIATION

Act	<i>Aboriginal and Torres Strait Islander Act 2005</i>
AEC	Australian Electoral Commission
AEST	Australian Eastern Standard Time
Rules	<i>Torres Strait Regional Authority Election Rules 2017</i>
TSRA	Torres Strait Regional Authority

Commonwealth of Australia 2019

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INTRODUCTION

The Torres Strait Regional Authority (TSRA) By-Election Guide provides information about the Ugar Island ward by-election on Saturday 12 October 2019. The By-Election Guide does not take the place of the *Aboriginal and Torres Strait Islander Act 2005* (the Act) nor the *Torres Strait Regional Authority Election Rules 2017* (the Rules). Copies of the Rules are available from the TSRA Office.

The Australian Electoral Commission (AEC) is responsible under the Act for conducting the by-election as per the Rules, and is available to assist with any questions you have regarding the by-election process. The AEC does not give formal legal advice on any aspect of the by-election.

Addresses of the AEC's National Office, its Queensland State Office and the Returning Officer for the by-election are listed at the end of this booklet.

TORRES STRAIT REGIONAL AUTHORITY BY-ELECTION

The TSRA has a requirement to fill a vacancy in the Ugar Island ward. Polling day will be on Saturday 12 October 2019. The TSRA by-election will be conducted by the AEC.

All Aboriginal and Torres Strait Islanders, 18 years or older, resident in the Ugar Island ward, will have an opportunity to say who will be their representative. The representative will be elected by residents voting in a secret ballot. Residents must also be enrolled on the Commonwealth Electoral Roll to be able to vote.

ENROLMENT

To vote in this by-election, you must be enrolled on the Commonwealth Electoral Roll by the Close of Roll at 5pm AEST on Friday 27 September 2019.

TORRES STRAIT REGIONAL AUTHORITY

The TSRA consists of 20 elected members. Each member is a Torres Strait Islander or Aboriginal person living in the region who represents one ward of the TSRA. They are elected every four years by their individual communities.

The TSRA develops and monitors policies to meet national, state and regional needs and priorities of Torres Strait Islanders, and Aboriginal persons, living in the Torres Strait.

BY-ELECTION TIMETABLE

Gazettal of notice fixing day of polling	29 July 2019
Nominations open	13 August 2019
Close of Nominations	11 September 2019 5pm AEST
Close for receipt of candidates' photos	11 September 2019 5pm AEST
Declaration of Nominations	12 September 2019 12–5pm AEST
Close of electoral roll	27 September 2019 5pm AEST
Commence postal voting	30 September 2019 (provided ballot papers are available)
Polling day	12 October 2019

NOMINATIONS

WHO CAN NOMINATE

Candidates must be nominated before they can be elected to the TSRA. Candidates for the TSRA must:

- be a Torres Strait Islander or an Aboriginal person;
- be on the Commonwealth Electoral Roll for an address within the ward they want to represent when the candidate makes their nomination declaration;
- be entitled to vote at the TSRA ward election for which they are nominating;
- not be a TSRA staff member or a consultant to the TSRA;
- not be bankrupt;
- have no personal insolvency agreement in operation with their creditors under the law relating to bankruptcy;
- not have been convicted against a law of the Commonwealth, a State or a Territory and sentenced to imprisonment for one year or longer;
- not have been convicted of an offence against a Commonwealth, a State or a Territory law involving dishonesty and sentenced to prison for three months or longer.

If you have been convicted against a law of the Commonwealth, a State or a Territory and sentenced to imprisonment for one year or longer, or convicted of an offence against a Commonwealth, a State or a Territory law involving dishonesty and sentenced to prison for three months or longer, you are still allowed to stand for election to the TSRA if:

- you were never actually imprisoned for the offence and at least two years have passed since your conviction; or
- if you were imprisoned for the offence, at least two years have passed since your release from prison.

If you are not allowed to stand for election to the TSRA because you have been sentenced or are in prison, you can still apply to the Federal Court of Australia to declare that, despite your conviction, you are not disqualified to stand as a candidate.

You cannot nominate in more than one ward, or more than once for that ward.

If you are a candidate you cannot be a member of the staff of, or a consultant to, the TSRA. If you are, you must resign before you nominate.

HOW TO NOMINATE

Each candidate must complete a nomination form. Nomination forms are available from the Returning Officer, the TSRA Office and on the AEC website, www.aec.gov.au/tsra.

When completing the nomination form, please ensure that you provide all the required information and that appropriate signatures are obtained. Each candidate must sign a declaration on the nomination form that they are entitled to be a candidate and consent to act if elected. All candidates must be nominated by at least four Torres Strait Islander or Aboriginal voters (other than the candidate), who are enrolled on the Commonwealth Electoral Roll in the ward for which the candidate is nominated. It is strongly advised to have more than four nominators in case some are not enrolled in the ward. Please note that enrolment for the by-election closes at 5pm AEST on Friday 27 September 2019.

WHEN TO NOMINATE

Nominations open on Tuesday 13 August 2019 and close at 5pm AEST on Wednesday 11 September 2019. The Returning Officer **MUST** receive completed nomination forms by this time or they will not be accepted. It is suggested that nomination forms are lodged at least a week before the due date to allow time for any problems to be resolved. The names of candidates standing in TSRA elections are confidential until the Returning Officer publicly announces them.

WHERE TO NOMINATE

Nominations can be made in person, by post, by email or by fax. **Nominations MUST be lodged at the office of the Returning Officer by the due date and time (5pm AEST on Wednesday 11 September 2019).** Do not rely on the mail if you are nominating close to the due date. Nominations that have been posted and are delivered after 5pm on Wednesday 11 September 2019 will not be accepted. The address, telephone, email address and fax numbers for the Returning Officer are at the back of this guide.

CANDIDATE PHOTOGRAPHS

If a candidate wishes to provide a photograph, it should be provided to the Returning Officer by the close of nominations – no later than 5pm AEST on Wednesday 11 September 2019. The photograph must be only of the head and shoulders and be of a suitable quality for reproduction on a poster to be displayed wherever polling takes place in the ward. The photograph may be provided in an electronic format by emailing the file containing the photograph to tsra@aec.gov.au. A recent passport size photograph is recommended, but it is not essential to provide a photograph. If a photograph is provided please print the name of the candidate in the email, covering fax or on the back of the photograph.

ACKNOWLEDGEMENT OF NOMINATION

Your Returning Officer will send you a letter advising that your nomination has been received.

REJECTION OF NOMINATION

A nomination will be rejected if the form is not completed as the Act and Rules require – for example, if only three of your four nominators are enrolled on the Commonwealth Electoral Roll in the ward for which you are nominating. It is in your interests to lodge your nomination early to allow time for any problems to be resolved.

WITHDRAWAL OF NOMINATION

A candidate may withdraw his or her nomination any time before nominations close but cannot do so after that. The withdrawal notice, which you can get from the office of the Returning Officer, must be given back to the Returning Officer when completed. If the notice of withdrawal is received prior to the close of nominations the nomination is then cancelled.

UNCONTESTED ELECTIONS

There is one vacancy in each ward. If there is only one candidate in a ward, the Returning Officer declares the candidate elected after the close of nominations.

ORDER OF NAMES ON THE BALLOT PAPERS

The Returning Officer will conduct a public draw for the order of the candidates on the ballot paper. Where two or more candidates' names look the same and this is likely to cause confusion, the names of these candidates may have other descriptions to distinguish them from one another. The Returning Officer will contact the relevant candidates if this occurs.

DEATH OF A CANDIDATE

If any candidate dies between the close of nominations and polling day and there is only one remaining candidate in the election for that ward, the remaining candidate is declared elected. However, if there is more than one remaining candidate in that ward, the election will proceed. A vote on the ballot paper for a deceased candidate is passed to the candidate the voter had as the second choice and the numbers showing the other preferences are then altered accordingly.

ELECTORAL OFFENCES AND LEGAL PROCEEDINGS INVOLVING CANDIDATES

Candidates and their supporters should be aware that there are a number of rules by which they are bound and for which substantial penalties are prescribed. It is in the interests of candidates and their supporters to be aware of these rules. While the AEC

will help candidates by giving information about your nomination or campaign, the AEC does not give formal legal advice. You must be sure of your own legal position and get advice from your own legal advisers if you think it is necessary.

CANDIDATES ELECTION MATERIAL

Rule 139(1) of the Rules require that:

“A person must not print, publish or distribute or authorise to be printed, published or distributed, an electoral advertisement, handbill, pamphlet or notice unless:

- (a) the name and address (not being a post-office box) of the person who authorised the electoral advertisement, handbill, pamphlet or notice appears at the end of it; and
- (b) for an electoral advertisement, handbill, pamphlet or notice that is printed otherwise than in a newspaper - the name and place of business of the printer appears at the end of it.”

The penalty for infringing this rule is 10 penalty units (currently \$2,100).

The above rule does not apply in relation to a car sticker, T-shirt, lapel button, lapel badge, pen, pencil or balloon.

Copies of the Rules are available from the TSRA Office.

ENROLMENT

To vote in the 2019 TSRA by-election for the Ugar Island ward, you must be enrolled on the Commonwealth Electoral Roll by 5pm AEST on Friday 27 September 2019.

To enrol, you must complete an Electoral Enrolment Form. These are available from all Post Offices, AEC Offices, the TSRA Office, the Returning Officer and the AEC website, www.aec.gov.au.

If you have changed address or your name since you last enrolled, you can update it at www.aec.gov.au or just fill in another enrolment form and send it to the AEC. This will change your enrolment from your old address to your new address.

WHO CAN VOTE

All Torres Strait Islanders and Aboriginal people who:

- are 18 years of age or over; and
- are enrolled on the Commonwealth Electoral Roll by 5pm AEST on Friday 27 September 2019; and
- are enrolled at an address in the Ugar Island ward

are entitled to vote in the 2019 TSRA by-election for the Ugar Island ward.

LIAISON OFFICERS

LIAISON OFFICER

Liaison Officers must be Torres Strait Islanders or Aboriginal people who reside in the Torres Strait area. Liaison Officers must not be a candidate for the by-election or a member of the staff, or a consultant to, the TSRA.

The Liaison Officer's job is to protect the rights of Torres Strait Islanders and Aboriginal people in this by-election. Because they come from the Torres Strait area, the Liaison Officer will know most of the voters. The Liaison Officer may ask you questions to help him or her decide if you are a Torres Strait Islander or an Aboriginal person. If the Liaison Officer believes that a voter is not a Torres Strait Islander or an Aboriginal person then they must complete an "Objection to Voter's Eligibility" form.

If this should happen and you believe you are a Torres Strait Islander or an Aboriginal person and wish to appeal, you must complete and sign the box called "Voter's Appeal and Request for Review by Regional Panel", saying you are appealing against the Liaison Officer's objection. Then put your envelope in the ballot box. You have seven days to provide proof to the Senior Liaison Officer that you are a Torres Strait Islander or an Aboriginal person.

THE SENIOR LIAISON OFFICER

The Senior Liaison Officer must be a Torres Strait Islander or Aboriginal person, reside in the Torres Strait area, and must not be a candidate for the by-election or a member of the staff, or a consultant to, the TSRA. The Senior Liaison Officer's job is to review any appeals against a decision of a Liaison Officer.

If the Liaison Officer has recorded your details and you have signed the "Voter's Appeal and Request for Review by Regional Panel" then you have appealed against the Liaison Officer's objection.

You have until the end of Saturday 19 October 2019 to provide the Senior Liaison Officer with information that proves you are a Torres Strait Islander or an Aboriginal person. This information could be a letter from an Aboriginal organisation or community, a letter from the TSRA, an endorsement on the form "Advice Challenging Eligibility to Vote" given to you by the Liaison Officer at the polling booth, or any other information that will satisfy the Senior Liaison Officer that you are a Torres Strait Islander or an Aboriginal person.

The Senior Liaison Officer will form a panel with two other Torres Strait Islander or Aboriginal people to consider the information provided and decide by Monday 21 October 2019 whether you are a Torres Strait Islander or an Aboriginal person. The

panel must inform the voter in writing telling him or her if their vote is to be counted as soon as practicable after the decision is made.

TYPES OF VOTING

ORDINARY VOTING

An ordinary vote is when you vote on polling day in the ward where you are enrolled. Ordinary voting will be available to voters enrolled in the Ugar Island ward.

Voting will also be available through mobile polling. A mobile polling schedule setting out the date, time and place of mobile polling will be available at the office of the Returning Officer, the TSRA or on the AEC's website <http://www.aec.gov.au>.

At the polling booth, the polling official will ask you whether you have voted before in this by-election.

The polling official will give you a Voter Card, which you must complete and hand back to the polling official. If you need help to do this, you can ask either the polling official or a friend to help you.

The polling official will separate the Voter Card showing your personal details from the Voter Card Envelope and give you back the envelope and a ballot paper for Ugar Island ward. Take the ballot paper and envelope to a voting screen and mark your ballot paper in the following way:

- Put a number '1' in the box next to the person you would most like to represent you. You may place the numbers 2, 3, 4 (and so on, as the case requires) in the squares opposite the names of some or all of the remaining candidates to indicate the order of your preference for them.
- Put the ballot paper in the Voter Card Envelope, seal the envelope and take it to the Liaison Officer who will be next to the ballot box.

The Liaison Officer will hand the envelope back to you if he or she believes that you are a Torres Strait Islander or an Aboriginal person and therefore eligible to vote.

You then put the envelope in the ballot box.

The Liaison Officer may ask you questions to help him or her decide if you are a Torres Strait Islander or an Aboriginal person. If the Liaison Officer thinks you may not be a Torres Strait Islander or an Aboriginal person they will complete an "Objection to Voter's Eligibility" form.

If this should happen to you and you are a Torres Strait Islander or an Aboriginal person and you wish to appeal, you must sign the box called Voter's Appeal and Request for Review, saying you have appealed against the Liaison Officer's objection. The Liaison Officer will give you a form called "Advice Challenging Eligibility to Vote", which states that you have the seven days after polling day to provide proof that you

are a Torres Strait Islander or an Aboriginal person to the Senior Liaison Officer, who may be contacted through the office of the Returning Officer for Ugar Island ward (for further information see the “Liaison Officers” section of this guide).

You then put your envelope in the ballot box.

ABSENT VOTING

There will be no absent voting on polling day. The only location for voting on polling day will be on Ugar Island.

PRE-POLL VOTING

You can do a pre-poll vote if you are unable to vote at a polling place on polling day.

Pre-poll voting is available at the office of the Returning Officer on Tuesday 8 October 2019, and on Thursday Island on Friday 11 October 2019. The full details of pre-poll voting times and locations will be advertised by the AEC.

The polling official will give you a Pre-Poll Voter Card that you must complete and hand back to the polling official. If you need help to do this, you can ask either the polling official or a friend to help you.

Before you hand back the voter card to the polling official, you must have the voter card signed by an office bearer of an Aboriginal and Torres Strait Islander Corporation. This is to certify that you are a Torres Strait Islander or an Aboriginal person. The AEC can provide assistance in arranging for an office bearer of an Aboriginal and Torres Strait Islander Corporation to be present at the Pre-Poll Voting Centre.

The polling official will separate the Pre-Poll Voter Card showing your personal details from the Pre-Poll Voter Card Envelope and give you a ballot paper for Ugar Island ward. Take the ballot paper to a voting screen and mark your ballot paper in the following way:

- Put a number ‘1’ in the box next to the person you would most like to represent you. You may place the numbers 2, 3, 4 (and so on, as the case requires) in the squares opposite the names of some or all of the remaining candidates to indicate the order of your preference for them.
- Put the ballot paper in the Voter Card Envelope, seal the envelope and take it to the Liaison Officer who will be next to the ballot box.

POSTAL VOTING

If you will not be able to vote at a polling place on polling day, at a mobile polling place, or at a pre-poll voting centre, then you can apply to have your ballot paper sent to you through the post.

You will need to fill in an application for a postal vote, which is available from the Returning Officer or the TSRA Office. Once you have filled it in, you must send the

application to the Returning Officer who will then send you a Postal Voter Card and ballot paper. It is recommended that you post your application as early as possible, and it must be received by the Returning Officer by the last mail clearance on Thursday 10 October 2019 to allow sufficient time for the voting material to be sent to you for completion and posting before the close of poll. It may be faster to email the completed application for a postal vote to tsra@aec.gov.au

When you receive your Postal Voting materials you must:

- sign the Postal Voter Card in front of a witness, who must also sign the voter card. The witness can be any person who is on the Commonwealth Electoral Roll;
- fill in the ballot paper in front of the witness but do not let the witness see how you fill in the ballot paper;
- put the ballot paper in the Postal Voter Card Envelope and seal the envelope;
- have the voter card signed by an office bearer of an Aboriginal or Torres Strait Islander Corporation. This is to say that you are a Torres Strait Islander or an Aboriginal person; and
- mail the Postal Voter Card Envelope to the Returning Officer. You must mail it before polling day, which is on Saturday 12 October 2019.

An envelope that bears a postmark dated after polling day is taken to contain a vote that was not recorded before the close of the poll and will not be accepted.

HELP FOR VOTERS

If you are unable to vote without help because you have poor sight, you cannot read or write, or you are physically disabled, then this is what you should do.

At the polling place

You can choose someone to go with you and complete the Voter Card and fill out the ballot paper for you. No one else is allowed to watch. Just tell the Person in Charge that the other person is helping you.

If you have not chosen someone to help you, then a polling official can help you, but scrutineers may watch.

Postal Voter

You can either ask someone to help you fill in the Postal Voter Card and the ballot paper in front of the witness (the witness should not see how the person marks the ballot paper), or the witness can help you.

INFORMAL BALLOT PAPERS

A ballot paper is informal if:

- it does not show a first preference for any candidate; or
- if it has a number '1' in more than one box; or
- if there are ticks or crosses instead of numbers; or
- if it has anything written on it that may identify the voter.

Informal ballot papers cannot be included in the count.

COUNTING THE VOTES

Your vote is secret. Before any counting of ballot papers, the Returning Officer must first check to make sure that all voters are on the Commonwealth Electoral Roll. To do this the Returning Officer uses the personal information supplied on the Voter Cards (or Pre-Poll or Postal Voter Cards), which have been separated from the sealed envelopes containing the ballot papers. The envelope, with the ballot paper still sealed inside, is held in a sealed ballot box with all the other votes for Ugar Island ward. After the details of all the people who have voted for Ugar Island ward have been checked, the ballot box is then emptied and the votes counted.

The Returning Officer is required to allow 6 days after polling day before counting any votes if any postal ballot papers that have been issued to voters are still outstanding.

ELECTING ONE REPRESENTATIVE

To be elected, a candidate must get more than half the formal votes in the count for that ward.

All the first preference votes for each candidate are counted first. If a candidate has more than half the formal votes, then he or she is elected.

If no candidate has more than half the votes, then the votes of the candidate with the fewest first preference votes are allocated to the candidates according to the second preferences on the ballot-papers. These are added to the first preferences the remaining candidates already have and if any candidate now has more than half the formal votes, that candidate is elected. This process of excluding the candidate with the lowest number of votes and distributing his or her votes to candidates still in the count continues until a candidate has more than half the formal votes in the count for Ugar Island ward.

SCRUTINEERS

ROLE OF SCRUTINEERS

Scrutineers may, on behalf of the candidates, observe the voting, the counting and the distribution of preferences conducted by electoral officials. Scrutineers are given legal rights and obligations under the Rules. Candidates may not act as scrutineers for themselves. Scrutineers are appointed by candidates and not by the AEC or the TSRA.

APPOINTMENT OF SCRUTINEERS BY CANDIDATES

Candidates may appoint scrutineers to represent them at polling booths by completing a “Scrutineer Appointment Form” which you can get from the Returning Officer. The form must be signed by the candidate (a fax or email copy of the form with the candidate signature is acceptable). The name and address of the scrutineer must be given. Each candidate may only have one scrutineer at each polling booth or issuing point at a polling booth.

Each scrutineer must sign the agreement on the form that they will not try to tell the voter how to vote and that they will not tell anybody about how the voter filled in the ballot paper.

Only polling officials, scrutineers and voters voting, or about to vote, are allowed in the polling booth during the polling. No other person can enter the polling area except by permission of the Person in Charge.

Scrutineers must organise their own transport to all polling places, including mobile polling.

Candidates may also appoint scrutineers to represent them at the scrutiny (that is, during the counting of the votes). The number of scrutineers for any one candidate must not be more than the number of people counting.

Separate forms are to be used to appoint scrutineers for the polling and for the counting of votes.

DECLARATION OF THE RESULT

As soon as possible after the results are known, the Returning Officer publicly announces the names of the candidates elected. The Returning Officer will advise the candidates of the result of the by-election and the date, time and place of the public declaration.

The Returning Officer makes a statement setting out the result of the by-election and sends it to the Electoral Commissioner, who advises the Minister for Indigenous Affairs.

RECOUNTS AND DISPUTED RESULTS

RECOUNTS

Recounts usually take place when the result of an election is very close and may happen at any time before the declaration of the result of an election.

The Returning Officer may be directed by the Electoral Commissioner at any time to recount all or some ballot papers. Only candidates are allowed to ask for a recount before the declaration of the result of a TSRA election. A recount may be conducted electronically, either entirely or in part. If the voter's intentions will have been recorded in electronic format, the recount may be conducted by reference to that record.

The Electoral Commissioner is not required to have a recount just because a candidate requests one.

When asking for a recount, candidates must write to the Electoral Commissioner giving their reasons for the request.

The Returning Officer doing a recount has the same powers as if the recount were the original count and may reverse any decision in the count to admit or reject a ballot paper.

The Returning Officer conducting a recount may, and if asked by a scrutineer must, reserve any ballot paper for the decision of the Electoral Commissioner. The Electoral Commissioner must decide whether any ballot paper reserved for his decision is to be admitted or rejected.

DISPUTED RESULTS

The validity of any election may only be disputed by a petition to the Federal Court of Australia.

Procedures for disputing an election are laid down in Schedule 4 of the Act. Neither the AEC nor the TSRA provide legal advice. Those considering a challenge should obtain their own legal advice.

ADDRESSES AND CONTACT NUMBERS

Returning Officer

David Stuart

Locality Address

Australian Electoral Commission
Level 2 Commonwealth Centre
104 Grafton Street
CAIRNS CITY QLD 4870
Telephone (07) 3834 3431
Fax (02) 6293 7622

Email: tsra@aec.gov.au

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Electoral Commissioner

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