



Department of
**Local Government, Sport
and Cultural Industries**

Local Government Operational Guideline

Owners and Occupiers Roll

January 2024



Table of contents

Part 1 - Introduction	3
Part 2 –Types of claims	3
2.1. Introduction	3
2.2. Ownership	4
2.3. Occupation	4
2.4. Co-ownership and co-occupation	5
2.5. Body corporate nominees	6
2.6. Continuous enrolment of persons enrolled under <i>Local Government Act 1960</i>	7
Part 3 – Eligibility requirements and checks	7
3.1. Introduction	7
3.2. Verification of State or Federal enrolment	8
3.3. Verification of rateability and ownership	9
3.4. Verification of body corporate registration and nomination	9
3.5. Verification of co-owner/co-occupier nomination	11
3.6. Verification of right of occupation	11
3.7. Already enrolled or already nominated	16
Part 4 – Removal from the roll	16
4.1 Introduction	16
4.2 Removal without notice	16
4.2.1. Removal of owner – sale of property	16
4.2.2. Removal of occupier – ceasing to occupy the property	16
4.2.3. Removal of occupier – expiry of occupiers	17
4.2.4. Removal of elector – elector requests removal	17
4.2.5. Removal of elector – elector has died	17
4.2.6. Removal of elector – enrolled as a resident	17
4.3 Removal with notice	17
Part 5 - Glossary of provisions	18
Appendix 1 – Departmental CEO Approved Forms	21
Appendix 2 – Example lease checklist	30

Part 1 - Introduction

The owners and occupiers roll (**roll**), is maintained by a local government's Chief Executive Officer (**CEO**). The roll is required to include all people who have claimed a right to vote in the local government district under section 4.30 of the *Local Government Act 1995 (LG Act)*. Section 4.30 provides (excerpt only):

- (1) *A person is eligible to be enrolled to vote at elections for a district or ward (the electorate) if the person —*
- (a) is enrolled as an elector for the Legislative Assembly or the House of Representatives in respect of a residence outside the electorate; and*
 - (b) owns or occupies rateable property within the electorate; and*
 - (c) has made a successful eligibility claim that still has effect under section 4.33.*

As such, a person who is enrolled to vote in a State or Federal election outside a district or ward, but who owns or occupies a rateable property in a local government district or ward, may claim eligibility and be enrolled to vote in elections for that district or ward. However, there are additional requirements to be considered when assessing an enrolment claim, including requirements under the Local Government (Elections) Regulations 1997 (**Election Regs**).

This guideline aims to assist local governments in understanding the various requirements in the LG Act and Election Regs for enrolment eligibility claims.

When using this guideline, local governments should be aware of section 4.32(5) of the LG Act that allows the CEO to make any inquiries needed to make a decision on a claim. As such, a CEO should ensure they are satisfied that a claimant has a genuine claim based upon the evidence provided.

They should also be aware that all references to a CEO in this guideline include a delegate if the relevant power or duty has been delegated by the CEO to that person under section 5.44 (CEO may delegate powers) of the LG Act.

It is important to note that this document does not constitute legal advice and has been prepared to assist CEOs in the performance of their duties. Accordingly, if in doubt, local governments should seek legal advice and should always refer to the relevant provisions of the LG Act and Election Regs.

This guideline has been prepared based upon the requirements of the LG Act and the Election Regs following the commencement of relevant sections in the *Local Government Amendment Act 2023* and the *Local Government Regulations Amendment Regulations (No.3) 2023*.

Part 2 –Types of claims

2.1. Introduction

Section 4.30 of the LG Act allows two types of claims – a claim of ownership or a claim of occupation. This is supplemented by section 4.31 of the LG Act which covers various ownership or occupation scenarios; including where more than two people (including body corporates) own or occupy the property.

Eligibility to vote as an owner or occupier, relies generally on three things:

1. the claimant or their nominee being eligible to vote in a State or Federal election;
2. the claimant being the owner or occupier of the property, as per the definitions and requirements in the LG Act and Elections Regs; and
3. the property that a claim is made against is rateable.

Electors can make enrolment eligibility claims by using the forms enclosed in these guidelines, which have been approved by the Departmental CEO (Director General) to be the forms for enrolment eligibility claims and nominations. These can be found at appendix 1.

This guideline addresses potential situations that could arise when assessing enrolment eligibility claims. These are (see section 2.5 for details):

- one or two owners/occupiers who are natural persons
- more than two owners/occupiers who are natural persons
- one body corporate owner/occupier
- two or more body corporate owners/occupiers
- a body corporate owner/occupier and a natural person owner/occupier
- a group of body corporates and natural people owning or occupying a property
- a claim under clause 12 of Schedule 9.3 of the LG Act.

2.2. Ownership

Claims of ownership are generally straightforward although they do not necessarily always reflect what is shown on the Certificate of Title for the relevant property. This is because the definition of “owner” in the LG Act applies.

When determining eligibility, the term “owner” means:¹

- the holder of an estate of freehold
- the holder of an interest via contract with the Crown (State)
- the holder of the right to acquire or purchase in fee simple
- a crown lease holder (or tenant) which the terms of the lease provides they are required to pay rates
- a trustee, executor, administrator, attorney, or agent of a holder
- the holder of a licensee to take profit of Crown land
- the holder of certain tenements under the *Mining Act 1978* and the *Petroleum and Geothermal Energy Resources Act 1967*.

Disputes about the ownership of a property should primarily rely on what is registered on the Certificate of Title, subject to any lease, contract or other legal instrument that otherwise provides the person with an applicable interest in the land.

2.3. Occupation

The LG Act and the Election Regs impose a series of requirements and tests on occupier claims. To make a claim of occupation, the claimant must have a written lease, tenancy agreement or other legal instrument, such as a licence to occupy to evidence a claim of a right of occupation to rateable property. They must have held a right of occupation for 12 months prior to making their claim and have a right of occupation which will last for at least three months following the claim.

The Election Regs set out a series of requirements for a person to be enrolled as an occupier including:

- That they must have quiet enjoyment (exclusive occupation) of their occupied property;
- They must be able to secure their occupied property from intruders;
- They must genuinely operate or intend to operate their business from that property;
- They must lease at least 10m² of property, subject to a series of exclusions; and
- They must pay a minimum amount of rent for the property.

Local government CEO’s have a responsibility to ensure a free and fair election. This includes ensuring that those enrolled to vote have an actual entitlement to be enrolled.

Broadly it is possible for many occupiers to occupy a property. For example, large office towers in the Perth central business district house many different companies and organisations, this may mean that a single office tower produces more than a dozen voters. This however is similar to how a large building of apartments may contain more than a dozen residences.

¹ LG Act s.1.4.

The nature of the right to enrol as an occupier may be further complicated by the process of sub leasing, and chains of subleases.

The eligibility requirements for “occupation” are covered further in Part 3 of this guideline. To further assist local governments, an occupation claim assessment checklist is included at the rear of this guideline which may be adapted to suit your local government.

2.4. Co-ownership and co-occupation

The LG Act provides generally for two people that own a property to have a vote each. This reflects the common ownership arrangements of residential property. However, some property ownership arrangements mean that a property is not always owned by one or two natural persons or a single body corporate. It can be co-owned or co-occupied by a group of people. Section 4.31(1E) and (1F) of the LG Act states that:

(1E) If more than 2 people own rateable property in conjunction with each other, the owners are whichever 2 of those people who, being eligible under section 4.30(1)(a), are nominated as owners by all or a majority of those people.

(1F) If more than 2 people occupy rateable property in conjunction with each other, the occupiers are whichever 2 of those people who, being eligible under section 4.30(1)(a), are nominated as occupiers by all or a majority of those people.

Due to the nature of property ownership it is possible for more than one body corporate, or a mixture of bodies corporate or natural people to have co-ownership or co-occupation of a property, and claims of this nature are occasionally made.

Co-ownership refers to when more than two natural persons or more than one body corporate (or a mixture of both) are listed as the owner on the certificate of title (or are otherwise owners in accordance with the definition in section 1.4 of the Act).

Co-occupation refers to when more than two natural persons or more than one body corporate (or a mixture of both) are listed as lessee on the lease.

It is important to note that, in any case, no more than two people can be nominated. The table below provides how many persons may be nominated in the following situations:

Table 1 – Nominees permitted based upon co-ownership/occupation situation

Ownership/occupation situation	Total number of electors permitted
One body corporate owner or occupier.	Two people nominated by the body corporate, refer to section 2.5.
Two or more body corporate co-owners or co-occupiers.	Two people nominated with support of the majority of co-owners/co-occupiers.
One body corporate and one natural person co-owners or co-occupiers.	Two people nominated with support of the majority of co-owners/co-occupiers.
One body corporate and two natural persons co-owners or co-occupiers.	Two people nominated with support of the majority of co-owners/co-occupiers.
Two bodies corporate and one natural person co-owners or co-occupiers.	Two people nominated with support of the majority of co-owners/co-occupiers.
Two or more bodies corporate and two or more natural persons co-owners or co-occupiers.	Two people nominated with support of the majority of co-owners/co-occupiers.

This means for example where a property is owned by a body corporate and a natural person, the body corporate needs to nominate its two electors, then those two electors, and the natural person may nominate two of the three to vote on behalf of the owners. For this purpose, the forms 2, 2B and 2C would need to be completed.

2.5. Body corporate nominees

In relation to the ownership or occupation of properties by companies and associations, section 4.31(1G) of the LG Act provides that:

“If a body corporate owns or occupies rateable property, the owners or occupiers are 2 people who, being eligible under section 4.30(1)(a), are nominated as owners or occupiers by the body corporate.”

This allows a body corporate to appoint two persons (nominees) to vote on its behalf. The LG Act and Election Regs do not require this person to be related to the body corporate, only nominated by the body corporate.

The following are examples of a body corporate:

Table 2 – Examples of what is a body corporate

Body corporate	Incorporating legislation and registration authority
A corporation (e.g. Pty, Pty Ltd, Ltd).	<i>Corporations Act 2001</i> (Cth) Australian Securities and Investments Commission
An incorporated association (e.g. Inc.)	<i>Associations Incorporation Act 2015</i> (WA) (Associations Act) The Department of Mines, Industry Regulation and Safety
A strata company	<i>Strata Titles Act 1985</i> (WA) Landgate
A union of employees or employers	<i>Industrial Relations Act 1984</i> (WA) The Western Australian Industrial Relations Commission

There are some common misconceptions associated with body corporates as owners or occupiers, as those concepts are tied to the legal status of the entity involved and not how a business is generally operated in practice. The examples below set out common claimants which are not “body corporates” for the purposes of the LG Act, although the claimant may still be eligible to enrol to vote in a different capacity.

Table 3 – Examples of what is not a body corporate

Not a body corporate	Reason	Who has the claim
An unincorporated partnership (e.g. law or accounting firm)	A partnership is an agreement between individuals, not a separate corporate entity.	The partners if they hold the lease or ownership as a group of individuals and utilise co-ownership/occupation provisions for individuals to nominate two of the partners as owner or occupier.
A trust	A trust is a legal relationship between a trustee or trustees who holds assets on behalf of a beneficiary or beneficiaries. A trustee of a trust may be either an individual or a body corporate, or a group or combination of individuals and body corporates.	The trustee if they own or have a right to occupy (lease) the property on behalf of the beneficiaries.
A club or society	Unless incorporated under another law (for example, the Associations Act), a club or society is an “unincorporated association” and as such, is not a separate legal entity.	The owner or occupier listed on the title or lease.
A business name	Business names are not legal entities, but rather are held by an underlying entity, either an individual/s or body corporate.	The owner or occupier listed on the title or the lease.

Where in doubt as to if a nominating body corporate is indeed a body corporate it may be prudent to seek legal advice.

2.6. Continuous enrolment of persons enrolled under *Local Government Act 1960*

Clause 12 of Schedule 9.3 to the LG Act provides for the continuous enrolment of persons who were enrolled under the *Local Government Act 1960 (1960 Act)* which did not necessarily require a person to hold Australian citizenship to be enrolled to vote. Section 35 of the 1960 Act allowed for natural born or naturalized British subjects ordinarily residing in the State to vote.

Clause 12 of Schedule 9.3 to the LG Act allows those persons on the electoral roll, prior to the commencement of the LG Act², who have continuously owned or occupied property in a district since then, to remain enrolled. A local government CEO is obliged to maintain a copy of that roll under that clause.

For a claim to be successful the claimant needs to have:

1. been enrolled for the last local government election before 1 July 1996.
2. continuously owned or occupied a rateable property in the same district for all those years
3. not obtained Australian Citizenship since that election (and thereby being able to enrol via another means).

As a result, it is possible, though unlikely due to the effluxion of time, that any claimant can meet these tests. Nevertheless, this avenue for enrolment remains within the LG Act.

Part 3 – Eligibility requirements and checks

3.1. Introduction

The CEO considering an enrolment eligibility claim should ensure that suitable evidence has been provided or gathered to confirm the person is eligible for enrolment. The checklist below provides guidance on what should be confirmed for each enrolment claim:

Table 4 – Checks to be conducted against claims

Category	Checks
Owner	<ol style="list-style-type: none"> 1. Is the claimant enrolled to vote for State or Federal elections outside of the district/ward? 2. Is the property claimed rateable? 3. Is the claimant the owner as shown on the Certificate of Title for the property in accordance with official Landgate record of title search? 4. Is the person already enrolled in the same ward or district if there are no wards?
Co-owner	<ol style="list-style-type: none"> 1. Is the claimant enrolled to vote for State or Federal elections outside of the district/ward? 2. Is the property claimed rateable? 3. Is the claimant one of the owners as shown on the Certificate of Title for the property in accordance with official Landgate record of title search? 4. Does the claimant have the support of a majority of owners? 5. Is the person already enrolled in the same ward or district if there are no wards?
Body corporate owner	<ol style="list-style-type: none"> 1. Is the nominee enrolled to vote for State or Federal elections outside of the district/ward? 2. Is the property claimed rateable? 3. Is the body corporate the owner? 4. Is the body corporate legally a body corporate?

² The LG Act commenced on 1 July 1996.

Category	Checks
	5. Is the nominee already enrolled in the same ward or district if there are no wards?
Occupier	<ol style="list-style-type: none"> 1. Is the claimant enrolled to vote for State or Federal elections outside of the district/ward? 2. Is the property (or portion) claimed rateable? 3. Does the claimant have a right of occupation under a written legal instrument with the owner that meets the requirements of the LG Act? 4. Is the leased property a residence? 5. Does the claimant leases give them quiet enjoyment (exclusive occupation) over at least 10m2 of eligible space? 6. Is the claimant able to secure their occupied property from intruders? 7. Does the claimant pay the minimum amount of rent prescribed for that district? 8. Is the person already enrolled in the same ward or district if there are no wards?
Co-occupier	<ol style="list-style-type: none"> 1. Is the claimant enrolled to vote for State or Federal elections outside of the district/ward? 2. Is the property (or portion) claimed rateable? 3. Does the claimant have a right of occupation under a written legal instrument with the owner that meets the requirements of the LG Act? 4. Does the claimant have the support of the majority of occupiers? 5. Is the person already enrolled in the same ward or district if there are no wards?
Body corporate occupier	<ol style="list-style-type: none"> 1. Is the nominee enrolled to vote for State or Federal elections outside of the district/ward? 2. Is the property (or portion) claimed rateable? 3. Does the body corporate have a right of occupation under a written legal instrument with the owner that meets the requirements of the LG Act? 4. Is the body corporate legally a body corporate? 5. Is the person already enrolled in the same ward or district if there are no wards?
Continuous enrolment of persons enrolled under the <i>Local Government Act 1960</i>	<ol style="list-style-type: none"> 1. Was the claimant enrolled prior to 1 July 1996? 2. Has the claimant continuously owned or occupied a rateable property in the local government for all those years since? 3. Has the claimant not obtained Australian Citizenship since that election (and thereby being able to enrol by another means)?

3.2. Verification of State or Federal enrolment

The first step with all claims should be to verify that the claimant (or corporate nominee) is enrolled to vote for either:

- the Legislative Assembly of Western Australia via the Western Australian Electoral Commission; or
- the House of Representatives of the Commonwealth via the Australian Electoral Commission.

These checks can be conducted through the websites of either electoral commission through the “check my enrolment” feature. The details provided on the enrolment form by the applicant should allow you to verify this. If you are experiencing difficulties verifying a claimant, or the claimant indicates they are a silent elector, the local government can contact the Western Australia Electoral Commission via waec@waec.wa.gov.au to verify enrolment.

Silent elector status can only be claimed by a person if they are already a silent elector on the State or Commonwealth electoral rolls. This can be verified through the Western Australian Electoral Commission as needed.

It is important to verify that the claimant is not already enrolled to vote in the ward, or in a local government with no wards, the district, as a person cannot be enrolled as both a resident and on the owner and occupiers roll for a ward.

In rejecting claims on this basis, the following reasons should be provided on the form that rejects their application:

Table 5 – Rejecting claim because of State or Federal enrolment

Applicant is currently on the residents roll for the ward.	You are already enrolled to vote for [name of local government] elections as a resident in the [name of ward]. To be eligible for enrolment as an owner or occupier, section 4.30(1)(a) of the <i>Local Government Act 1995</i> requires that you be enrolled for a State or Federal election for a residence outside of the relevant ward.
Applicant is not enrolled to vote for the Legislative Assembly or House of Representatives.	You are not enrolled to vote for the Legislative Assembly of Western Australia or House of Representatives of the Commonwealth of Australia. To be eligible to be enrolled as an owner or occupier, section 4.30(1)(a) of the <i>Local Government Act 1995</i> requires that you be enrolled for a State or Federal election for a residence outside of the [name of local government]/[name of ward].

3.3. Verification of rateability and ownership

The second step on all claims is to verify that a property is rateable. These records are held by the local government and should be easily accessible for verification purposes. It is important to note that if a property is receiving a rates concession, it is still rateable. It is only if the LG Act or another written law provides an exception for that property from paying rates that it is unrateable.³

As the owner of the property under the LG Act is ordinarily the person liable for the payment of rates, ownership can be verified through these records. If disputes arise regarding the ownership of land, a local government should rely on the Certificate of Title and any other contract or legal instrument that provides the person an interest in the land.

Occasionally, some claimants may also be unaware of the specific boundaries of a local government. This may result in them applying to the wrong local government. For example, the suburb of Mount Lawley is located in the Cities of Vincent, Bayswater and Stirling.

If rejecting a claim due to these checks, one of the following reasons should be provided:

Table 6 – Rejecting claim because of rateability and ownership

Claimant has applied for property that is not rateable.	The property you have claimed for eligibility to vote is not a rateable property. To be eligible to be enrolled, section 4.30(1)(b) of the <i>Local Government Act 1995</i> requires that you (or the body corporate that nominates you) own or occupy rateable property in the [name of local government].
Claimant has applied for property that is not in the local government district.	The property that you have claimed for eligibility to vote is not within the [insert name of local government]. It is in the boundaries of the [insert name of local government]. To be eligible to be enrolled, section 4.30(1)(b) of the <i>Local Government Act 1995</i> requires that you (or the body corporate that nominates you) own or occupy rateable property within the [insert name of local government].
Claimant is not the owner of the property.	You (or the body corporate that has nominated you) do not own the property that you have claimed for eligibility to vote. To be eligible to be enrolled, section 4.30(1)(b) of the <i>Local Government Act 1995</i> requires that you (or the body corporate that nominates you) own or occupy rateable property within the [insert name of local government].

3.4. Verification of body corporate registration and nomination

Where a body corporate makes an enrolment eligibility claim, it is important that the CEO is satisfied the body corporate exists. In doing so, the local government should verify that the body corporate has a current

³ See LG Act s.6.26 for the legal basis of the majority of exceptions to rating.

registration through the registration authority (for example, the Australian Securities & Investments Commission (ASIC) or the Department of Mines, Industry Regulation and Safety (DMIRS)). This can be done online via the relevant websites.

If a body corporate cannot be found online, the local government may wish to conduct an ABN lookup to establish the nature of the business to help determine if the entity is a body corporate at all.

The nomination by a body corporate (for example, a company) must be made by an officer of that body corporate, as defined in the Election Regs. This means the nomination must be made by:

- A director of the body corporate or equivalent; or
- The CEO of the body corporate or equivalent; or
- The secretary or equivalent of the body corporate.

For body corporates which are not companies under the *Corporations Act 2001* (Cth) the local government will need to consider if the nominator is the equivalent of these positions for that body corporate. The nominator may also nominate themselves.

Finally, in this check, the CEO should establish if the body corporate already has two nominees on the roll. This is not a basis for rejection; however, the body corporate should confirm its withdrawal of a previous nomination to before they can add any new nominees.

In refusing claims due to a failure to satisfy this check, the following reasons should be provided:

Table 6 – Rejecting claim because of body corporate registration and nomination

<p>Claimant's body corporate is not registered.</p>	<p>To be eligible to be enrolled as a nominee of a body corporate under section 4.31(1G) of the <i>Local Government Act 1995</i>, you must be nominated by a body corporate that owns or occupies property in the [insert name of local government].</p> <p>Based on the evidence provided, the body corporate that has nominated you is not registered with [insert relevant authority] and is unable to nominate you to vote on its behalf.</p>
<p>Claimant's business is not a body corporate.</p>	<p>The entity that has nominated you is not a body corporate as it is a [insert relevant details]. <i>e.g. A trust, which is a financial relationship between a trustee and beneficiary. A sole trader, which is a natural person with an Australian Business Number. A partnership, which is a legal relationship between two or more people.</i></p> <p>To be eligible to be enrolled as a nominee of a body corporate under section 4.31(1G) of the <i>Local Government Act 1995</i>, you must be nominated by a body corporate that owns or occupies property in the [local government district/ward].</p>
<p>Claimant has failed to provide a nomination from the body corporate.</p>	<p>You have not provided a nomination from the body corporate that owns/occupies the property at [insert address].</p> <p>To be eligible to be enrolled as a nominee of a body corporate under section 4.31(1G) of the <i>Local Government Act 1995</i>, you must be nominated by a body corporate that owns or occupies property in the [local government district/ward].</p>
<p>Claimant has not been nominated by an officer of the body corporate.</p>	<p>You have not provided a nomination signed by an officer of the body corporate. An officer of the body corporate must be a director, the CEO or company secretary or equivalent role.</p> <p>To be eligible to be enrolled as a nominee of a body corporate under section 4.31(1G) of the <i>Local Government Act 1995</i>, you must be nominated by a body corporate that owns or occupies property in the [local government district/ward].</p>

3.5. Verification of co-owner/co-occupier nomination

Where more than two persons (or bodies corporate) co-own or co-occupy a property, they may nominate two of the co-owners or co-occupiers to vote on their collective behalf. In doing so, they should provide a completed form 2B or other document that meets the requirements of the regulations regarding this nomination requirement.

Where a body corporate owns a property with other bodies corporate or natural persons, the nominees of the body corporate under 4.31(1G) are to be considered as being the owners and occupiers for the purposes of section 4.31(1E)&(1F).

Occasionally, there may be applications to remove and replace nominees. Where this arises, the CEO should rely on the process in section 4.35(1)(c) of the LG Act to provide 28 days' notice of removal. This is discussed further in Part 4.

If a claimant cannot satisfy the majority nomination requirement, the following reason should be provided:

Table 7 – Rejecting claim because of co-owner/co-occupier nomination

<p>Claimant has failed to provide a nomination from a majority of the joint owners or occupiers.</p>	<p>To be eligible to be enrolled as a nominee of a group of more than two owners/occupiers* under section 4.31(1E)/(1F)* of the <i>Local Government Act 1995</i>, you must be nominated by a majority of the owners/occupiers*.</p> <p>You have not provided a nomination from a majority of the joint owners/occupiers* of the property.</p> <p><i>*Delete what is not relevant</i></p>
--	--

3.6. Verification of right of occupation

Unlike ownership of rateable property, which is often a clear outcome with only two voters for the owners of a property, there can be many occupation claims from a single property. Large commercial shopping centres or office buildings give rise to a large number of potential “separate and distinguishable portions” of a rateable property that could be used to each claim up to two votes.

When considering a right of occupation, the CEO must establish the following to confirm that a genuine right of occupation that is sufficient to establish a right to be eligible to vote under the LG Act.

A claim must meet the following:

1. The claimant has a lease, tenancy agreement or other legal instrument to evidence a claim of a right of occupation to rateable property.

Section 4.31(1C) of the LG Act states that a person can only be considered to have a right of occupation if the person has a right of continuous occupation under a lease, tenancy agreement or other legal instrument. A verbal arrangement does not meet this test. At a minimum, a written agreement signed by the lessor and lessee setting out the terms of occupancy must be provided.

2. The claimant is the lessee.

To claim a right of occupation, the individual or body corporate claimant needs to be the person listed on the legal instrument. If they are not, they need to be able to produce a deed of novation or assignment to demonstrate that they are the person with the right of occupation. If the legal instrument does not list the claimant as lessee, they are not the person holding the right of occupation.

3. The lease is with the owner or former owner or tenant who had the right to sublet.

It is also reasonable to expect that any legal agreement provided is with the owner of the rateable property. On occasions, agreements have been presented to a local government that are between persons who are not the owner and a claiming occupier. Where the lessor listed does not have the power to lease the land, this may mean that no right of occupation exists.

Likewise, where the claimant is a sublessee, the local government should make enquiries to clarify if the sublessor had the ability to sublease the property from the head lessor.

4. The claim is not disqualified by the regulations made under section 4.31(1CA).

Section 4.31(1CA) allows regulations to be made that provide that a person is not regarded as occupying rateable property unless they meet prescribed requirements.

These prescribed requirements are set out in regulation 10A of the Election Regs. In summary terms these are:

a. The property or portion of the property is not a residence (r10A(2)(a)).

A person who occupies a residence should be enrolled as a resident, not as an owner and occupier. This is also to prevent people seeking to rent out rooms of their residential property to obtain additional voting rights.

Subregulation (3) provides that a property or portion thereof is a residence or includes a residence.

Subregulation (4) additionally provides that a property is considered a residence if a person is enrolled on the residence roll for that property.

A residence is a place in which a person can live. Determining if a property is a residence consideration may be given to:

- The properties zoning and approved purpose;
- The properties use; and
- The structure and fit out of the building.

b. The person has a right of quiet enjoyment to 10m² of floor area which is not excluded floor area (r10(2)(b)).

There are two aspects of this requirement. The first is the right of quiet enjoyment.

The right of quiet enjoyment is a term used in the leasing of property that conveys the right to a tenant to have occupancy of the property without unreasonable interference from their landlord or another tenant. This is intended to reflect that an enrolled occupier should have an exclusive right to their property. In general, a clause granting the lessee the right of quiet enjoyment is present in a lease. If this clause is not present, but 'exclusive occupancy' is granted this achieves the same intent.

The second component is the 10m² of floor area leased. Generally, a lease will specify the square meterage of area that has been let. If not, the CEO should seek information from the applicant regarding this. There are also a series of exclusions to what should count towards the square meterage requirement to deal with a number of the alleged sham instances which were occurring. These are:

Exclusion	Examples
Outdoor space or any other space that is not wholly indoors	Vacant land, a beer garden or outdoor service area
Room if the right to quiet enjoyment does not cover the whole of the room	Common areas shared between tenants or a hot desk in an open plan space
Cupboard or closet	Cleaning cupboards, wardrobes, closets
Storeroom or storage unit	The cool store room in a restaurant or a storage unit for storing furniture
Toilet or bathroom	A water closet, shower or other bathing area
Tool or garden shed	A household garden shed
Parking space or bay	The individual parking space or bay, if its an entire parking garage, they may have eligible space.

Crawl space	This may be vents or other maintenance areas, but does not include a working basement.
Roof cavity	The area between a ceiling and roof, but not an attic where that is a habitable space.
Billboard or hoarding	An advertising sign including digital advertising sign
Net lettable area	Stairs, toilets, cleaner cupboards, lift shafts, motor rooms, escalators, tea rooms, plant rooms, other service areas, Lift lobbies, areas of public space or thoroughfares and facilities areas that are not for the exclusive use of the occupiers of the floor or building.

While this may appear to be a significant number of exclusions, these exclusions will only need significant assessment where the lease provided is for a very small area. If it is clear and obvious that there are more than 10m² of valid floor area leased. It is generally anticipated most cafes, bars, retail shops and company offices would meet these requirements. As would many industrial and commercial complexes.

Where this requirement may require scrutiny is for the renting of a single office or for very small shops or food businesses. In this instance the local government may want to examine any plans provided in the lease or held in the local government's property records, such as the approved building permit plans.

- c. The property or portion of the property can be secured from intruders (r10(2)(c)).

The requirement that the property can be secured from intruders is intended to ensure that occupier claims for properties are for places with 'four walls, a roof and lockable door'. This reflects a basic expectation that occupiers on the owners and occupiers roll do have a secured premises.

Specifically, this means that arrangements such as for renting a desk would be unlikely to meet this requirement unless the desk was in a lockable office, which the person exclusively occupied, which was at least 10m² overall and the minimum amount of rent was being paid.

Subregulation (7) clarifies that any outdoor space or area to which the right of quiet enjoyment does not extend does not need to be secured against intruders.

Evidence of this can be demonstrated through an examination of the floor plan, the building plans kept by the local government or photography evidencing the ability to secure the property.

- d. The relevant person is using the property to genuinely carry on their business (r10(2)(d)).

This requirement captures the overall intent of the revised non resident occupier franchise, that it is for people who carry on their business within the local government. The regulation captures both the current carry on of the business, or the intent to do so to capture where for example building fit out is underway.

This requirement is ultimately one of judgement for the local government where consideration may want to be given to the actual or permitted uses of the property under the lease and the law.

While a local government may initially accept a claim believing the claim that the business is genuinely carried on the from property, where it becomes apparent that this is not occurring, the proposal to remove the elector from the roll under section 4.35 relying on this regulation may be appropriate.

Election Regulation 12D extends these requirements to also apply to the lease(s) which is relied upon to meet the requirement for 12 months tenure prior to the date of claim.

- The claim is for a separate building or portion of a building or some other separate and distinguishable portion of the rateable property which meets the requirements of the regulations.

Section 4.31(1D) of the LG Act provides that a reference to occupation includes a separate building or portion of a building or some other separate and distinguishable portion of the rateable property.

This provides grounds to at least expect a lease of a separate space. As a result, the local government should examine the leased area to confirm it is for a space that could be reasonably distinguished from the rest of the rateable property, such as:

- a whole floor of an office tower;
- an office with walls and a securable door;
- a shop within a shopping centre; and/or
- a separate outbuilding.

This requirement should be considered in conjunction with the election regs regarding the requirements to occupy property.

- The claimant has had a lease in the district for 12 months prior to their claim and their existing lease has a term of at least three months at the date of the claim and is paying the minimum amount of rent prescribed on those leases..

Section 4.32(3) of the LG Act requires a claimant to have:

- had a right of occupation for the 12 months prior to the date of their claim;
- paid the minimum amount of rent prescribed for those 12 months;
- a right of occupation for the next 3 months from the date of their claim; and
- pay the minimum amount of rent prescribed for those 3 months (pro rata).

This is intended to bring to an end the practice of short-term leasing arrangements in order to stand for election or vote.

If the right of occupation is dated after the date of the claim or there is a break in the leases, the claim should not be accepted as the claimant did not have the right of occupation required.

A local government should also consider if the lease allows for termination without cause with less than three months' notice, such as during a holding over period. Clauses of this nature may not provide sufficient security of tenure.

The minimum amounts of rent are prescribed in Election Reg 12C and are:

City of Perth	\$100 per m ² per annum	\$10,000 per annum
Other Perth Metropolitan Area and Mandurah	\$50 per m ² per annum	\$5,000 per annum
Other local governments	\$10 per m ² per annum	\$1,000 per annum

The minimum amount of rent to be paid is the lower of the two amounts. This means for example if a person rent 20m² in the City of Perth they need to be paying at least \$2,000 per annum in rent following the formula:

$$\frac{\text{Total rent per annum}}{\text{Floor area}} = \text{Rate per m}^2$$

Example:

$$\frac{\$2000}{20\text{m}^2} = \$100 \text{ per m}^2$$

Likewise, if the per metre squared rate is known, the formula would be:

$$\text{Rate per m}^2 \text{ per annum} \times \text{floor area} = \text{Annual rent}$$

The flat minimum rate has been set to reduce the burden of local governments to conduct these calculations. For example, if they are paying \$12,000 per annum then no calculation would be needed.

The minimum rates of rent have been set as round numbers for the ease of local governments in calculating the minimum rent requirements. Regulation 12C also details what to do if the claim relates to multiple properties.

Subregulation (8) provides that minimum rental requirements do not apply to registered charities, recognising they often lease property at a 'peppercorn' rate.

In the event a claimant is unable to demonstrate these matters, the following reasons for refusal should be provided:

Table 8 – Rejecting claim because of right of occupation

<p>Claimant's lease did not meet the requirements of the LG Act.</p>	<p>The lease(s) and other materials you have provided:*</p> <ul style="list-style-type: none"> • were not with the owner of the property and evidence connecting this lease to the owner has not been provided. • are not in your name/the name of the body corporate** that has nominated you and no deed of assignment has been provided. • was for a property which is a residence. • was not for a right of quiet enjoyment to at least 10m² of property which meets the prescribed requirements. • did not demonstrate that the lease property can be secured from intruders • did not demonstrate a right of occupation for the 12 months prior to the date the enrolment eligibility claim was made. • did not demonstrate that the property is being used for the genuine carry on of your/the body corporates business or the intention to carry on that business from the property. • has a term of less than three months, as at the date the enrolment eligibility claim was made. • did not demonstrate that you have paid the minimum amount of rent prescribed • does not set out occupation of a separate building, a portion of a building of the rateable property or some other separate and distinguishable portion of the rateable property. <p>Based on the evidence provided you/the body corporate that has nominated you**, you do not have a right of occupation to rateable property, which meets the prescribed requirements for the 12 months prior to your claim and for at least three months subsequent to your claim, under a lease, tenancy agreement or other legal instrument** in the [name of local government].</p> <p>This is required by sections 4.30(1)(b), 4.31(1C) and 4.31(1D) of the <i>Local Government Act 1995</i> and regulations 10A, 12C and 12D of the <i>Local Government (Elections) Regulations 1997</i>.</p> <p><i>*Delete whatever reasons are not required</i> <i>**Delete what is not required</i></p>
<p>Claimant did not provide a lease, tenancy agreement or other legal agreement.</p>	<p>Select either:</p> <ul style="list-style-type: none"> • You have not provided a lease, tenancy agreement or other legal instrument to evidence your claim of a right of occupation of rateable property in the [insert name of local government].

	<ul style="list-style-type: none"> You have provided [insert what was provided] which is not considered to be a lease, tenancy agreement or other legal instrument. <p>Based on the evidence provided, you/the body corporate that has nominated you* do not have a right of occupation of a separate or distinguishable portion of rateable property, under a lease, tenancy agreement or other legal instrument** for at least three months, in the [insert name of local government].</p> <p>This is required by sections 4.30(1)(b), 4.31(1C), 4.31(1D) and 4.32(2) of the <i>Local Government Act 1995</i> and regulation 12B of the <i>Local Government (Elections) Regulations 1997</i>.</p> <p><i>**Delete what is not required</i></p>
--	--

3.7. Already enrolled or already nominated

Some local governments have historically rejected enrolments because a person is already on the owners and occupier roll or is already nominated for a different body corporate. It does not appear that these represent a valid basis for rejecting enrolment. If this occurs, a local government should update the enrolment of the claimant or nominee to the most recent enrolment.

A person can be the nominee of several bodies corporate; however, that person can only receive one vote for the district or in the case of a local government having wards, a ward, as per section 4.66 of the LG Act.

Part 4 – Removal from the roll

4.1 Introduction

Sections 4.33, 4.35 and 4.43 of the LG Act provide the ways a person is to be removed from the roll. As part of their maintenance of the roll, local governments should ensure they appropriately maintain their roll, follow the correct processes, and only remove those persons who they have the power to remove. The processes provide certain avenues for a CEO to remove someone without a need to seek submissions for 28 days; however, the submission process may need to be adhered to in some cases.

4.2 Removal without notice

4.2.1. Removal of owner – sale of property

Section 4.33(1) of the LG Act provides that a person’s enrolment expires when they are enrolled based on their ownership of rateable property and their property is sold. Local governments regularly receive details of land sales, consistent with section 9.68 of the LG Act.

CEO’s should ensure that where advice of change of ownership is received, the roll is checked to ensure that the owner is removed if they were enrolled.

A CEO should however ensure that it does not remove all owners if only one owner of a group changes.

If one person in a pair of owners changes, only the person that no longer has ownership should be removed.

If a property is owned by a group of three or more people and there is an ownership change, a local government should check if the change of ownership changes the majority required for the nominees under section 4.31(1E).

4.2.2. Removal of occupier – ceasing to occupy the property

Section 4.33 of the LG Act provides enrolments based upon occupation to expire when a person no longer occupies the property to which their claim relates.

CEO’s that become aware that a business has moved or closed down may remove that person from the roll. Local governments should however ensure they verify that the lease has ended as, just because a shop has closed does not mean the legal tenure over the property has concluded.

4.2.3. Removal of occupier – expiry of occupiers

Section 4.33 of the LG Act provides for the expiration of enrolments when a person is enrolled based on the occupation of rateable property. The table below outlines when claims expire based on when they were originally made.

Table 9 – Expiration of occupier claims

Date of claim	Claim expiration
Between the last ordinary election day and the close of roll for the next ordinary election.	The day six months following the second ordinary election day since the claim was made.
After the close of roll but before the ordinary election.	The day six months following the third ordinary election day since the claim was made.

If accepted for enrolment, a claimant will always have the opportunity to vote in two ordinary elections before expiry.

For example, for claims that expire based on the effluxion of time, this means for claims made between the 2021 Ordinary Election Day and the close of roll for the 2023 Ordinary Election expire on 21 April 2026, being two ordinary elections and six months from 21 October 2023.

Section 4.33 of the LG Act also provides that where a council is suspended or dismissed and an ordinary election is skipped because of this, it is to be treated as though an ordinary election did take place for the purposes of this section.

If an extraordinary or other election will be held within 50 days of a person's expiry day under this section, expiry is not to occur until the day after that extraordinary or other election day.

It is recommended that a local government review their roll six months following an ordinary election to remove all occupiers who are due to expire.

4.2.4. Removal of elector – elector requests removal

Section 4.35(1)(a) of the LG Act allows an elector to advise the CEO that they are no longer eligible to be enrolled. If this occurs, the CEO should remove this person from the roll.

4.2.5. Removal of elector – elector has died

Section 4.35(1)(b) of the LG Act allows a CEO to remove a person from the roll who has passed away. A CEO may be notified of this when property ownership changes to the executor of an estate, by the family of the deceased person or by the Electoral Commission. Local governments can also check death notices to proactively maintain a roll. In these instances, the local government may remove a person from the roll.

4.2.6. Removal of elector – enrolled as a resident

Section 4.43(1) of the LG Act requires the Returning Officer (RO) to delete the name of any person who is also on the residents roll from the owners and occupiers roll for that ward (or if there are no wards, that district).

For elections where the CEO is not the RO, such as when an RO is appointed by the Electoral Commissioner, section 4.43(3a) of the LG Act permits the RO to direct the CEO to make the changes required by section 4.43(1).

In both cases, the CEO must remove the person that appears on the residents roll from the owners and occupiers roll.

4.3 Removal with notice

Section 4.35 of the LG Act provides a process for removal with notice where the CEO has reason to believe an elector is no longer eligible. This method is to be used when removal cannot be done in line with one of the five reasons set out in part 4.2 of this guideline. Reasons why a CEO may consider a person to no longer be qualified to be included on the roll can include:

1. the occupier no longer occupying the property

2. the body corporate nominating an elector being deregistered, wound up or liquidated
3. the body corporate or group of owners/occupiers withdrawing the nomination of an elector
4. the property used for the enrolment claim no longer being rateable.

In these instances, the CEO may give notice to the elector setting out the reasons they believe they are not eligible. In doing so, the CEO should set out the reasons they believe the person is no longer eligible and detail the evidence they are relying on in forming their view.

The CEO must provide that elector 28 days to provide a submission in response. This submission may contest the CEO's evidence or provide information that resolves the eligibility question.

Specific note on withdrawal of nomination under regulation 11

Regulation 11 of the Election Regs allows a body corporate or group of co-owner/co-occupiers to withdraw their nomination of an elector. While there is no express requirement to provide notice to the elector prior to withdrawal of the nomination, the CEO may wish to consider doing so. This is due to there being instances where nomination withdrawals have been contested because of business or family disputes.

For consistency with section 4.35(2) of the LG Act, and to prevent arbitrary withdrawals, the CEO may wish to provide 28 days' notice even though it is not required to do so.

There is a chance that when providing 28 days' notice, issues could arise for new nominees if their application is lodged less than 28 days before the CEO must compile the roll for an election. In these instances, a CEO could choose to provide a shorter notice period or a body corporate could seek to have their existing electors write to the CEO to advise they are no longer nominated by the company for the purposes of section 4.35(1)(a), allowing for their instant removal.

Part 5 - Glossary of provisions

The following are other relevant provisions of the LG Act and Election Regs to keep in mind in managing the roll.

Section 4.34

This section obliges the CEO of a local government to maintain up-to-date records of electors on the roll.

Section 4.41

This section provides the deadline for the CEO to prepare and certify the roll by the 36th day before election day, being 14 days after the close of roll under section 4.39.

Section 4.44

This section reinforces the 1 vote per person principle. A person cannot appear on the roll for a ward more than once no matter how many properties they may own or occupy. However, if they own or occupy properties across several wards they may be enrolled in several wards, but only once per ward.

Regulation 10

This regulation deals with the nomination of a ward under section 4.31(1B)(a) where a property is located in more than one ward. It provides the nomination of a ward is to be in a written notice signed by the person who makes it and remains in force until the claim expires or is rejected. It likewise provides the ability for a person to withdraw their nomination of a ward and nominate a different ward.

Regulation 11

This regulation sets out the requirements for nominations by groups of owners or occupiers and allows the DG to approve forms for this purpose.

Regulation 11A

This regulation sets out the requirements for nominations by a body corporate and allows the DG to approve forms for this purpose.

Regulation 11B

This regulation deals with how nominations cease to be effective, including by withdrawal and allows the DG to approve forms for this purpose.

Regulation 12

This regulation clarifies that an enrolment claim can rely on several parcels of rateable land.

Regulation 12A

This regulation sets out what an enrolment eligibility claim must contain and allows the DG to approve forms for this purpose.

Regulation 12B

This regulation requires a person claiming a right of occupation to present their lease as part of their claim. It additionally requires, if they are subletting to provide evidence that the head lessor consented to or did not need to consent to the lease. Finally, it also requires demonstration of the payment of rent if subject to a minimum payment requirement.

Regulation 13

This regulation clarifies the requirements for maintaining a register of owners and occupiers from which the owners and occupiers roll is produced. This regulation requires the register to be updated as soon practicable as decisions are made. It also permits the CEO to amend the register from time-to-time to maintain its accuracy.

Regulation 14

This regulation requires Form 5 to be provided with a rejected enrolment eligibility claim and Form 7 to be provided where the CEO provides written reasons for an elector's removal under section 4.35(3).

Regulation 15

This regulation provides for appeals to the Electoral Commission to not specifically require the completion of the relevant form provided the appellant has set out all the relevant information and included a copy of the decision of the CEO with it.

Regulation 16

This regulation requires the CEO and local government employees to protect the confidentiality of the date of birth and contact number of claimants and use them solely for the purpose of preparing an electoral roll and only disclose them when otherwise permitted by law.

Regulation 17

This regulation requires a local government to retain copies of accepted and rejected enrolment eligibility claim forms for two years from their acceptance or rejection, and retain copies of the notice of acceptance until two years after the claim expires and notice of rejection from two years from the day of rejection.

Form 3

This form is to be completed by the CEO to advise a person of their successful enrolment eligibility claim.

Form 4

This form is to be completed by the CEO to advise a person of their unsuccessful enrolment eligibility claim. It must include the reasons for the CEO's refusal of the claim. If the reasons are extensive or require detailed explanation, they can be attached to the form.

Form 5

This form is completed by a person who has had their enrolment eligibility claim refused to appeal the decision to the Electoral Commissioner. This form must be attached to the Form 4 where the CEO has refused a claim. Regulation 15 does not require the appealing person to use this form if they provide all relevant details to the Electoral Commissioner.

Form 6

This form is to be used by the CEO when exercising their power under section 4.35 to cancel a person's enrolment after a 28-day submission period. This form must include the CEO's reasons for cancelling that person's enrolment.

Form 7

This form is completed by a person who has had their enrolment eligibility claim cancelled to appeal the decision to the Electoral Commissioner. This form must be attached to the Form 6 where the CEO has cancelled an enrolment eligibility claim. Regulation 15 does not require the appealing person to use this form if they provide all relevant details to the Electoral Commissioner.

Appendix 1 – Departmental CEO Approved Forms

Under regulations 11, 11A and 12A of the *Local Government (Elections) Regulations 1997* the following forms have been approved by the Departmental CEO for the purposes of making enrolment eligibility claims:

FORM 2A: ENROLMENT ELIGIBILITY CLAIM – OWNER OR CO-OWNER		
<i>Regulation 12A of the Local Government (Elections) Regulations 1997</i>		
Under section 4.32(2) of the <i>Local Government Act 1995</i> (the Act), you may make a claim for eligibility as an owner using this form at any time. However, if you want to be on the roll for a particular election, you must give your claim form to the local government more than 57 days before the election date.		
You should fill in this form if you want to vote at local government elections for that district and you:		
<ul style="list-style-type: none"> • own rateable property in a district or ward but are not on the residents roll in that district or ward; or • qualify under clause 12 of Schedule 9.3 of the Act based on ownership. 		
When you have completed this form, email it your local government. You may also send it by post or other electronic means so long as it is capable of being printed in its entirety, including a signature. If you send it electronically, you should request confirmation of receipt.		
<i>Questions marked with an asterisk (*) are mandatory, if applicable.</i>		
Claimant:		
First name:*		
Middle name(s):*		
Family name:*		
Date of birth:*		
Phone number(s):*		
Email:*		
Rateable property(s) on which claim is based:*		
If you occupy more than one property in the electorate, you may give details of them all. Add pages if necessary.		
Suite / Level / Unit / Building name:		
No.:		
Street name:		
Suburb:		
Postcode:		
Lot / Location No.:		
Electorate:		
If the property in respect of which this claim is made is partly in one ward and partly in another you, may choose which of those wards you want your claim to apply to. If you leave this box blank, the local government CEO will decide which ward the claim is to apply to. In this form the ward, or if no ward is applicable the district, is referred to as "the electorate".		
Local government district:*		
Ward:		
Enrolment entitlement:		
[Tick one box]*		
I am on the State or Commonwealth electoral roll in respect of a residence outside the electorate.	My address shown on that roll is:	<input type="checkbox"/>
	I am a silent elector on the State or Commonwealth electoral roll:	<input type="checkbox"/>

<p>I am not on the State or Commonwealth electoral roll but am qualified as an elector under clause 12 of Schedule 9.3 of the Act.</p> <p><i>You must nominate a postal address below for the receipt of ballot papers.</i></p>	<p><i>To qualify you must:</i></p> <ul style="list-style-type: none"> • own or occupy rateable property in the electorate; and • have been on the last electoral roll prepared under the Local Government Act 1960 for that electorate (generally the 1996 ordinary local government election); and • have owned or occupied rateable property in the electorate continuously since that roll was prepared. 	<input type="checkbox"/>
---	--	--------------------------

Nomination of a separate postal address (optional)

You should only complete this section if you have a separate postal address to the address for which you are enrolled to vote for state or federal elections or are claiming eligibility under clause 12 of Schedule 9.3 of the Act.

<p>I nominate the following address as a postal address which I can personally access to receive post.</p>	<p>My nominated postal address is:</p>
--	--

Ownership details:

In certain ownership situations you need to be nominated by the owner(s):

- Use Form 2C – if you are one of 3 or more owners; and/or
- Use Form 2D – if you are nominated by a body corporate owner (company or association).

<p>In relation to the rateable property described above I am:</p>	<p>Tick one box:</p>
<p>The sole owner of that property</p>	<input type="checkbox"/>
<p>One of 2 co-owners of that property</p>	<input type="checkbox"/>
<p>One of 3 or more co-owners of that property and I have been nominated by all or a majority of those owners for the purposes of being an elector on the attached Form 2C</p>	<input type="checkbox"/>
<p>The nominee of a body corporate that owns that property, and my nomination is attached on Form 2D</p>	<input type="checkbox"/>

Declaration:

Under section 4.90 of the Act, making a false declaration is an offence.

I declare that:

1. I am eligible to have my name included on any owners and occupiers roll as the owner or nominee of the owner(s) of rateable property.
2. If I have nominated a separate postal address that I have personal access to that address for the purpose of receiving the post sent to that address.
3. That all the details set out above are true and correct to the best of my knowledge and belief.

<p>Signature:*</p>	
<p>Date:*</p>	

Confidentiality: Your personal information supplied in this form will be kept confidential and will only be used by the local government and the Western Australian Electoral Commission for purposes related to the preparation and maintenance of electoral rolls.

FORM 2B: ENROLMENT ELIGIBILITY CLAIM – OCCUPIER OR CO-OCCUPIER*Regulation 12A of the Local Government (Elections) Regulations 1997*

Under section 4.32(2) of the *Local Government Act 1995* (the Act), you may make a claim for eligibility using this form at any time. However, if you want to be on the roll for a particular election, you must give your claim form to the local government more than 57 days before the election date.

You should fill in this form if you want to vote at local government elections for that district and you:

- occupy rateable property in a district or ward but are not on the residents roll in that district or ward; or
- qualify under clause 12 of Schedule 9.3 to the Act based on occupation.

To qualify as an occupier, you must:

1. have a right, under a lease, tenancy agreement or other legal instrument, to be in continuous occupation of a rateable property in the local government district for at least the last 12 months.
2. have a right, under a lease, tenancy agreement or other legal instrument, to be in continuous occupation of the property for at least the next 3 months.

The occupied property must also comply with requirements set in the Act and *Local Government (Elections) Regulations 1997*. If you are an occupier and your enrolment eligibility claim is accepted, it will expire in accordance with section 4.33 of the Act (being usually the earlier of 6 months after the second ordinary election in which you could vote or when your lease expires). If you wish to continue to qualify as an elector beyond that, you will need to make another enrolment eligibility claim.

When you have completed this form, email it to your local government. You may also send it by post or other electronic means so long as it is capable of being printed in its entirety, including a signature. If you send it electronically, you should request confirmation of receipt.

Questions marked with an asterisk () are mandatory, if applicable.*

Claimant:

First name:*	
Middle name(s):*	
Family name:*	
Date of birth:*	
Phone number(s):*	
Email:*	

Rateable property(s) on which claim is based:*

If you occupy more than one property in the electorate, you may give details of them all. Add pages if necessary.

Suite / Level / Unit / Building name:	
No.:	
Street name:	
Suburb:	
Postcode:	
Lot / Location No.:	

Electorate:

If the property in respect of which this claim is made is partly in one ward and partly in another, you may choose which of those wards you want your claim to apply to. If you leave this box blank, the local government CEO will decide which ward the claim is to apply to. In this form the ward, or if no ward is applicable the district, is referred to as “the electorate”.

Local government district:*	
Ward:	

Enrolment entitlement:

[Tick one box]

I am on the State or Commonwealth electoral roll in respect of a residence outside the electorate.	My address shown on that roll is:	<input type="checkbox"/>

	I am a silent elector on the State or Commonwealth electoral roll:	<input type="checkbox"/>
I am not on the State or Commonwealth electoral roll but am qualified as an elector under clause 12 of Schedule 9.3 of the Act. <i>You must nominate a postal address below for the receipt of ballot papers.</i>	<i>To qualify you must:</i> <ul style="list-style-type: none"> • own or occupy rateable property in the electorate; and • have been on the last electoral roll prepared under the Local Government Act 1960 for that electorate (generally the 1996 ordinary local government election); and • have owned or occupied rateable property in the electorate continuously since that roll was prepared. 	<input type="checkbox"/>
Nomination of a separate postal address (optional) You should only complete this section if you have a separate postal address to the address for which you are enrolled to vote for state or federal elections.		
I nominate the following address as a postal address separate from the address for which I am enrolled to vote for state and federal elections and I can personally access this postal address.	My nominated postal address is:	
Nature of occupation: [Tick one box]		
In relation to the rateable property (or portion of rateable property) described above I am:	Tick one box:	
The sole occupier of that property.	<input type="checkbox"/>	
One of 2 occupiers of that property.	<input type="checkbox"/>	
One of 3 or more co-occupiers of that property and I have been nominated by all or a majority of those occupiers for the purposes of being an elector on the attached Form 2C.	<input type="checkbox"/>	
One nominee of a body corporate that occupies that property, and my nomination is attached on Form 2D.	<input type="checkbox"/>	
In certain occupation situations you need to be nominated by the occupier(s). To do this, you should if you are: <ul style="list-style-type: none"> • one of 3 or more occupiers, use Form 2C; and/or • nominated by a body corporate occupier (company or association), use Form 2D. 		
Details of occupation: You must supply for your claim to be considered: <ol style="list-style-type: none"> a copy of the lease, tenancy agreement or other legal instrument; and proof of payment of rent, unless you are a registered charity with the Australian Charities and Not-for-profits Commission (ACNC); and if the right of occupation is claimed under a sub-lease, evidence that the occupier has the approval, if any, required under the head lease(s). 		
This rateable property(s) that are occupied are eligible on the basis that: [Please confirm the following in relation to occupation]*		
This property is not a residence or a portion of a property which is a residence (r. 10A(2)(a)).	Yes <input type="checkbox"/>	No <input type="checkbox"/>
This property has a floor area of at least 10 square metres that does not include any disregarded areas (r. 10A(5)). To make a claim of occupation you (or the body corporate) must occupy at least 10 m ² of space which cannot comprise disregarded areas. This includes things such as a cupboard, toilet, parking bay or garden shed.	Total square meterage leased: Yes <input type="checkbox"/>	No <input type="checkbox"/>
Can the property be secured from intruders (r. 10A(2)(c)).	Yes <input type="checkbox"/>	No <input type="checkbox"/>

<p>The minimum amount of rent* for the property prescribed by law is paid and I have attached evidence of payment of that rent (r. 12C and r. 12D)</p> <p>* City of Perth: \$10,000 for 100 m² or more; \$100 per m² if less than 100 m² Perth Metro / Mandurah: \$5,000 for 100 m² or more; \$50 per m² if less than 100 m² Rest of WA: \$1,000 for 100 m² or more; \$10 per m² if less than 100 m²</p>	Rent per annum:	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
	\$		
	Rent per square metre:		
	\$		
<p>This property (or another rateable property) has been occupied by myself / the body corporate for at least 12 months. I can evidence this occupation and that a right to that occupation was established by a lease, tenancy agreement or other legal instrument which I have attached to this claim (s. 4.32(2A)).</p>	Date lease commenced:	<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
<p>I / the body corporate have a right to occupation for at least the next 3 months with a lease, tenancy agreement or other legal instrument which I have attached to this claim. (s.4.32(3)).</p>	Date lease expires:	<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
<p>The lease, tenancy agreement or other legal instrument is with the owner of the rateable property; or is a sublease that had the consent of the head lessor and I have attached evidence of that consent (s.4.31(1C)).</p>		<p>Yes <input type="checkbox"/></p>	<p>No <input type="checkbox"/></p>
<p>Declaration: Under s. 4.90 of the Act, making a false declaration is an offence.</p>			
<p>I declare that:</p> <ol style="list-style-type: none"> 1. I am eligible to have my name included on any owners and occupiers roll prepared for an election in the electorate. 2. I (or the body corporate nominating me) have met the requirements of section 4.32(1) <i>Local Government Act 1995</i> and regulations 12C and 12D of the <i>Local Government (Elections) Regulations 1997</i>. 3. If I have nominated a separate postal address that I have personal access to that address for the purpose of receiving the post sent to that address. 4. All the details set out above are true and correct to the best of my knowledge and belief. 			
Signature:*			
Date:*			
<p>Confidentiality: Your personal information supplied in this form will be kept confidential and will only be used by the local government and the Western Australian Electoral Commission for purposes related to the preparation and maintenance of electoral rolls.</p>			

FORM 2C: ENROLMENT ELIGIBILITY CLAIM NOMINATION BY GROUP OF OWNERS/OCCUPIERS

Regulation 11 of the Local Government (Elections) Regulations 1997

Under section 4.32(2) of the *Local Government Act 1995* (the Act), you may nominate up to 2 persons to vote for your group of owners/occupiers using this form at any time. However, if you want to be on the roll for a particular election, you must give your claim form to the local government more than 57 days before the election date.

You should fill in this form if you want your nominees to vote at local government elections for that district and you:

- own or occupy rateable property in a district or ward as a group of 3 or more people; and
- the nominees are not on the residents roll in that district or ward.

To qualify as an occupier, you must:

- 1 have a right, under a lease, tenancy agreement or other legal instrument, to be in continuous occupation of a rateable property in the local government district for at least the last 12 months.
- 2 have a right, under a lease, tenancy agreement or other legal instrument, to be in continuous occupation of the property for at least the next 3 months.

The occupied property must also comply with minimum standards set in the Act and *Local Government (Elections) Regulations 1997*. If you are an occupier and your enrolment eligibility claim is accepted, it will expire in accordance with section 4.33 of the Act (usually 6 months after the second ordinary election after your claim was accepted) or when your lease expires. If you wish to continue to qualify as an elector after that, you will need to make another enrolment eligibility claim and nomination.

Attach this form where you are claiming enrolment eligibility for a group of owners or occupiers alongside either Form 2A or Form 2B.

When you have completed this form, email it to your local government with the relevant enrolment form for the elector. You may also send it by post or other electronic means so long as it is capable of being printed in its entirety, including any signature. If you send it electronically, you should request confirmation of receipt.

Questions marked with an asterisk () are mandatory, if applicable.*

Group of owners / occupiers to complete:

Full name of owner / occupier 1:*	
Full name of owner / occupier 2:*	
Full name of owner / occupier 3:*	
Full name of owner / occupier 4:*	
Full name of owner / occupier 5:*	

Attach additional pages if there are more than 5 in the group

Rateable property on which claim is based:*

If your group own or occupy more than one property in the electorate, give details of them all. Add pages if necessary.

Level / Unit / Suite / Building name:	
No.:	
Street name:	
Suburb:	
Postcode:	
Lot / Location No.:	

Electorate:

If the property in respect of which this claim is made is partly in one ward and partly in another, you may choose which of those wards you want your claim to apply to. If you leave this box blank, the local government CEO will decide which ward the claim is to apply to. In this form the ward, or if no ward is applicable the district, is referred to as "the electorate".

Local government district:*	
Ward:	

Nomination by Body Corporate:

A nomination must be made in writing and be signed by all or a majority of the owners or occupiers of the property (or if the owner or occupier is a body corporate, be signed by an officer of the body corporate) in accordance with the *Local Government (Elections) Regulations 1997*.

If you are a nominee, you must give the nomination to the local government with this form alongside either Form 2A (for owners) or Form 2B (for occupiers).

If your group owns or occupies more than one property in a district, a nomination applies to all those properties.

We the group of owner / occupiers of the above rateable property nominate the following people from the group to vote on behalf of the group.

Full name of nominee 1:*	
Address of nominee 1:*	
Full name of nominee 2:*	
Address of nominee 2:*	

Declarations:

Under s. 4.90 of the Act, making a false declaration is an offence.

Owner / occupier 1 signature:*	
Date:*	
Owner / occupier 2 signature:*	
Date:*	
Owner / occupier 3 signature:*	
Date:*	
Owner / occupier 4 signature:*	
Date:*	
Owner / occupier 5 signature:*	
Date:*	

Confidentiality: Your personal information supplied in this form will be kept confidential and will only be used by the local government and the Western Australian Electoral Commission for purposes related to the preparation and maintenance of electoral rolls.

FORM 2D: ENROLMENT ELIGIBILITY CLAIM NOMINATION BY BODY CORPORATE*Regulation 11A of the Local Government (Elections) Regulations 1997*

Under section 4.32(2) of the *Local Government Act 1995* (the Act), you may nominate up to 2 persons to vote for your body corporate using this form at any time. However, if you want to be on the roll for a particular election, you must give your claim form to the local government more than 57 days before the election date.

You should fill in this form if your body corporate wants your nominees to vote at local government elections for that district and you:

- own or occupy rateable property in a district or ward; and
- the nominees are not on the residents roll in that district or ward.

To qualify as an occupier, your body corporate must:

- 1 have a right, under a lease, tenancy agreement or other legal instrument, to be in continuous occupation of a rateable property in the local government district for at least the last 12 months.
- 2 have a right, under a lease, tenancy agreement or other legal instrument, to be in continuous occupation of the property for at least the next 3 months.

The occupied property must also comply with minimum standards set in the Act and *Local Government (Elections) Regulations 1997*. If you are an occupier and your enrolment eligibility claim is accepted, it will expire in accordance with section 4.33 of the Act (usually 6 months after the second ordinary election after your claim was accepted) or when your lease expires. If you wish to continue to qualify as an elector after that, you will need to make another enrolment eligibility claim and nomination.

Attach this form where you are claiming enrolment eligibility as the nominee of a body corporate alongside either Form 2A or Form 2B.

When you have completed this form, email it to your local government with the relevant enrolment form for the elector. You may also send it by post or other electronic means so long as it is capable of being printed in its entirety, including any signature. If you send it electronically, you should request confirmation of receipt.

Questions marked with an asterisk (*) are mandatory, if applicable.

Body corporate:

Body corporate name:*	
Body corporate type:*(e.g. Proprietary Limited Company, Incorporated Association)	
Body corporate registration number:*(e.g. Australian Company Number) Note that an ABN is not sufficient.	
Postal address:*	
Phone number(s):*	
Email:*	

Rateable property:*

If your body corporate own or occupy more than one property in the electorate, give details of them all. Add pages if necessary.

Level / Unit / Suite / Building name:	
No.:	
Street name:	
Suburb:	
Postcode:	
Lot / Location No.:	

Electorate:

If the property in respect of which this claim is made is partly in one ward and partly in another, you may choose which of those wards you want your claim to apply to. If you leave this box blank, the local government CEO will decide which ward the claim is to apply to. In this form the ward, or if no ward is applicable the district, is referred to as "the electorate".

Local government district:*	
Ward:	

Ownership and occupier details:			
In relation to the rateable property described above the body corporate is*			Tick one box
The sole owner / occupier of that property; or			<input type="checkbox"/>
One of 2 co-owners / occupiers of that property; or			<input type="checkbox"/>
One of 3 or more co-owners / occupiers of that property; or			<input type="checkbox"/>
For occupiers only:			Tick one box
The body corporate have a right under a lease, tenancy agreement or other legal instrument, to be in continuous occupation of the property for at least the next 3 months and had a right under a lease, tenancy agreement or other legal instrument, to be in a continuous occupation of a property in the district for the previous 12 months and details of this are provided on the associated Form 2B.			Yes <input type="checkbox"/>
			No <input type="checkbox"/>
Nomination by body corporate:			
<p>A nomination must be made in writing and be signed by an officer of the body corporate in accordance with the <i>Local Government (Elections) Regulations 1997</i>. An officer of a body corporate is a director of the body corporate or other member of its governing body, a CEO or equivalent for the body corporate or the company secretary or equivalent for the body corporate.</p> <p>If you are a nominee, you must give the nomination to the local government with this form alongside either Form 2A (for owners) or Form 2B (for occupiers). If a body corporate or group of people owns or occupies more than one property in a district, a nomination applies to all those properties.</p>			
Full name of officer:*			
Office held in body corporate:*			
This office is the equivalent of (circle):	Director	CEO	Company Secretary
Name of body corporate:*			
I nominate the following people to vote on behalf of the body corporate I am an officer of.			
Full name of nominee 1:*			
Address of nominee 1:*			
Full name of nominee 2:*			
Address of nominee 2:*			
Signature of officer:*			
Date:*			
Declaration:			
Under s4.90 of the Act, making a false declaration is an offence.			
<ol style="list-style-type: none"> 1. I claim eligibility for the body corporate to have nominees included on any owners and occupiers roll prepared for an election in the electorate. 2. I claim that if I have claimed eligibility for the body corporate based upon a right of occupation and that the body corporate genuinely occupies and uses this property to carry out its business, and the body corporate did not obtain a right of occupation purely to nominate voters under the <i>Local Government Act 1995</i>. 3. I declare that all the details set out above are true and correct to the best of my knowledge and belief. 			
Signature:*			
Office held in body corporate:*			
Date:*			
<p>Confidentiality: Your personal information supplied in this form will be kept confidential and will only be used by the local government and the Western Australian Electoral Commission for purposes related to the preparation and maintenance of electoral rolls.</p>			

Appendix 2 – Example lease checklist

Example Occupier Claim Checklist

This form is an example to assist local governments, you may adapt it as you wish. Evidence on this form refers to the location (e.g. clause or page of the supplied lease) where the evidence for the answer can be found

Name of Applicant			
Rateable Property Claimed			
Owner of the Property			
Body corporate nominating (if applicable)			
Name of Lessor			
Name of Lessee			
Is the lessor, the property owner? if not, is this a sub-lease? if not, has the owner of the property changed?	Yes Yes Yes	No No No	Evidence:
Is the lessee the person or body corporate listed on the application?	Yes	No	Evidence:
If the agreement is a sublease does it appear that the head lessors consent was given or was not required?	Yes	No	Evidence:
When did the lease commence?	When does the lease expire?		
Has the lease been in place continuously for 12 months or more prior to the date of the claim?	Yes	No	Evidence:
Is the term of the agreement for three or more months as of the date of the claim?	Yes	No	Evidence:
What is the overall square meterage of the leased property?			Evidence:
Of that square meterage, is at least 10m ² , eligible space to which the right of quiet enjoyment extends?	Yes	No	Evidence:
What is the rent payable for the lease?			Evidence:
Does this amount of rent meet the minimum amount of rent payable	Yes	No	N/A – Charity Evidence:
Does it appear the property be secured from intruders?	Yes	No	Evidence:
Is the property a residence or a portion of a residence?	Yes	No	Evidence:
Is any person enrolled on the residents roll at the property?	Yes	No	Evidence:
Is it reasonable to assume that this property is a place where the lessee will genuinely carry out their business?	Yes	No	Comment: