

Our ref: R18/0027

Further contact: Damian Thomas – [REDACTED]

9 October 2018

The Hon. Dr Peter Phelps, MLC
Chair
Joint Parliamentary Committee on Electoral Matters
Parliament House
Macquarie Street
SYDNEY NSW 2001

By email: electoralmatters@parliament.nsw.gov.au

Cc: Members of the Joint Parliamentary Committee on Electoral Matters

Dear Chair

Response to questions on notice – Inquiry into the impact of expenditure caps for local government election campaigns

Thank you for the opportunity to appear before the Joint Standing Committee on Electoral Matters on 24 September 2018.

Local Government NSW (LGNSW) has now consulted with individual councillors and senior council staff (via survey), and the LGNSW Board to assist in formulating responses to the questions on notice from September's hearing.

LGNSW conducted its survey between 28 September and 8 October 2018. LGNSW received 92 individual responses to its survey, representing respondents from 64 individual councils. 20 respondents were from the 31 metro-urban councils in the Greater Sydney region, and 72 respondents were from the 97 regional-rural councils.

Given the short timeframe, views from all NSW councils were not able to be obtained. As such, LGNSW is not able to definitively recommend a preferred model based on the responses received. The complexity of the issue is reflected in the range of responses received and highlights the need to present a model to all councils for further consultation.

Preliminary findings based on responses to survey are as follows:

- A clear majority of respondents support a model based on per elector expenditure caps.
- A slight majority of respondents supported using a model based on tiered expenditure levels for bands of elector numbers.
- A majority of respondents support having the same expenditure caps for independent candidates and party candidates.

- A slight majority of respondents supported each grouped candidate being subject to the same cap as an ungrouped candidate.
- A majority of respondents did not support any additional expenditure cap for mayoral candidates.
- A majority of respondents did not support any additional expenditure cap based on the geographical size of the local government area (LGA) or whether it was a metropolitan LGA or based on the Local Government Remuneration Tribunal categorisation of councils.

Based on feedback LGNSW has received, a model based on the above preliminary findings is the model that most councils would support.

That is, the model:

- **would be clearly linked to the number of electors in the electorate (whether the electorate is a ward or an undivided LGA),**
- **would not provide an additional amount for a mayoral candidate, and**
- **would balance the expenditure caps for independent and party candidates.**

However, it is LGNSW's view that it is properly the role of the NSW Government to consult with all stakeholders to finalise a preferred model for local government electoral expenditure caps.

More detailed responses to the questions on notice are outlined below.

Question on Notice 1 – Preferred model for expenditure caps

LGNSW presented two models for electoral expenditure to survey respondents:

Model 1 used tiered expenditure levels for bands of elector numbers (similar to the model used for local government electoral expenditure caps in New Zealand):

Number of electors in the ward or undivided LGA	Model 1A Candidate cap (calculated as approx. \$1 per elector at the top end of the scale)	Model 1B Candidate cap (calculated as approx. \$2 per elector at the top end of the scale)	Model 1C Candidate cap (calculated as approx. \$3 per elector at the top end of the scale)	Number of councils that would be in this category (as at Aug 2018)
1 to 9,999	\$10,000	\$20,000	\$30,000	53
10,000 to 19,999	\$20,000	\$40,000	\$60,000	28
20,000 to 29,999	\$30,000	\$60,000	\$90,000	19
30,000 to 39,999	\$40,000	\$80,000	\$120,000	8
40,000 to 49,999	\$50,000	\$100,000	\$150,000	8

50,000 to 59,999	\$60,000	\$120,000	\$180,000	6
60,000 to 69,999	\$70,000	\$140,000	\$210,000	3
70,000 to 79,999	\$80,000	\$160,000	\$240,000	1
80,000 to 89,999	\$90,000	\$180,000	\$270,000	0
90,000 to 99,999	\$100,000	\$200,000	\$300,000	0
100,000 to 109,999	\$110,000	\$220,000	\$330,000	1
110,000 to 119,999	\$120,000	\$240,000	\$360,000	0
120,000 to 129,999	\$130,000	\$260,000	\$390,000	0
130,000 to 139,999	\$140,000	\$280,000	\$420,000	0
140,000 to 149,999	\$150,000	\$300,000	\$450,000	1
150,000 +	\$150,000 + \$1 per each additional elector over 150,000	\$300,000 + \$2 per each additional elector over 150,000	\$450,000 + \$3 per each additional elector over 150,000	0

Note that 100 of NSW's 128 LGAs (78%) would fall into the lowest three tiers of this model.

Model 2 used a directly calculated per elector amount (similar to the model used for local government expenditure caps in the United Kingdom, and proposed for Queensland by the Local Government Association of Queensland).

Model 2A – Candidate cap is **\$1** per enrolled elector in the ward or undivided LGA in which the candidate is standing

Model 2B – Candidate cap is **\$2** per enrolled elector in the ward or undivided LGA in which the candidate is standing

Model 2C – Candidate cap is **\$3** per enrolled elector in the ward or undivided LGA in which the candidate is standing

Respondents were asked to select their preferred model for expenditure caps or propose an alternative.

Response	Percentage of respondents	
Model 1A	40%	Total Model 1: 51%
Model 1B	8%	
Model 1C	3%	
Model 2A	22%	Total Model 2: 38%
Model 2B	5%	
Model 2C	11%	
Other or unsure	11%	

Of the 11% of respondents preferring an alternative model, key themes from provided comments include:

- A flat cap for each candidate regardless of LGA, set at between \$8,000 to \$15,000.

- No cap on local government electoral expenditure
- Regional and rural local government areas in particular suggested that the caps should be set at very low levels.

It is LGNSW's view that the most appropriate model for local government electoral expenditure will be based on an amount per elector in the relevant electorate. Model 1 and Model 2 will result in similar per elector expenditure caps. Model 2 will more precisely align with the number of electors, but Model 1 will perhaps be slightly simpler to understand.

It is important that any model selected does not create an incentive for a council to divide into wards, or to combine from wards into an undivided council, in order to access higher per elector expenditure caps. Under both models 1 and 2 proposed above, moving from a ward structure to an undivided council would result in a higher *overall* cap for a candidate in that council. However, this would be offset by a higher number of electors with which the candidate may wish or need to communicate and would thus have higher potential electoral expenditure costs. Whether a council has a ward structure or is undivided, under both models the cap on a *per elector basis* would be the same (or very similar).

While, on balance, LGNSW and councillors support a per elector model, the quantum of the cap should be determined following a reasonable period of NSW Government consultation with stakeholders and should allow for reasonable level of electoral expenditure per elector.

Floor

Respondents were asked whether a floor should apply to per elector caps on expenditure, and if so, what the floor should be.

Response	Percentage of respondents
Floor	39%
No floor	30%
Unsure	30%

Of respondents that supported a floor, the median floor proposed was \$10,000.

Ceiling

Respondents were asked whether a ceiling should apply to per elector caps on expenditure, and if so, what the ceiling should be.

Response	Percentage of respondents
Ceiling	50%
No ceiling	25%
Unsure	25%

Of respondents that supported a ceiling, the median ceiling proposed was \$40,000.

Independent and party-endorsed candidates

Respondents were asked if they supported the same expenditure caps for independent candidates and for candidates endorsed by parties.

Response	Percentage of respondents
Same expenditure caps for independent candidates and for party candidates	59%
Higher expenditure caps for independent candidates to align with the expenditure allowed for parties	33%
Unsure	4%
Other	4%

Of the 4% of respondents selecting 'other', key themes from provided comments include:

- It is not a given that political parties invest in their individual candidates at the local government level.
- Party and third-party expenditure should be added to a candidate's expenditure so that the same cap applies to all candidates.

Grouped candidates

Respondents were asked about the model of expenditure cap for grouped candidates that they supported.

Response	Percentage of respondents
Grouped candidates for election should be subject to a single, larger cap	33%
Each grouped candidate for election should be subject to the same cap as an ungrouped candidate	51%
Unsure	12%
Other	4%

Of the 4% of respondents selecting 'other', key themes from provided comments include:

- A group of candidates should have the same cap as an ungrouped candidate, and each candidate within a group should be limited to half of the cap's expenditure on that candidate.
- A higher grouped cap should apply, especially if the group has endorsed a mayoral candidate for election.

Party expenditure caps for LGAs divided into wards

Respondents were asked about the model of expenditure cap they would support for **parties** in LGAs that are divided into wards.

Response	Percentage of respondents
A party is allocated an expenditure cap for each ward in which it endorses candidates based on the number of enrolled electors in the ward	41%
A party is allocated an expenditure cap for the entire LGA based on the number of enrolled electors in the LGA and without reference to the number of wards	40%
Unsure	13%
Other	5%

Of the 5% of respondents selecting 'other', key themes from provided comments include:

- There should be no difference in cap between independent groups and party groups
- Party expenditure should be added to and reported as candidate/group expenditure, to make disclosures more transparent.

Question on Notice 2 – Formulation of expenditure caps for directly elected mayors

Respondents were asked what expenditure cap should apply for mayoral candidates in a number of scenarios, as follows:

A candidate who is running for both councillor and for directly elected mayor:

Response	Percentage of respondents
Double the relevant councillor candidate cap that would apply for the LGA	14%
1.5 times the relevant councillor candidate cap that would apply for the LGA	20%
No additional cap beyond the councillor candidate cap	57%
Unsure	3%
Other	7%

A candidate who is running for directly elected mayor but not separately for councillor:

Response	Percentage of respondents
Double the relevant councillor candidate cap that would apply for the LGA	2%
1.5 times the relevant councillor candidate cap that would apply for the LGA	14%
No additional cap beyond the councillor candidate cap	73%
Unsure	7%
Other	4%

Respondents were also asked if there should be any additional cap beyond the councillor cap for councils that select their mayor from among elected councillors. Respondents strongly disagreed (85%) with the idea of any additional cap in this scenario.

LGNSW recognises that the expenditure cap regime should not create an incentive for candidates to run for election as a mayoral candidate in order to access a higher cap. Based on feedback received, it appears that most councils would not support an additional cap for mayoral candidates.

Question on Notice 3 – When should the count of the electoral roll take place to determine electoral caps?

Respondents were asked when elector numbers used for determining caps should be calculated, to provide certainty for candidates in their planning and fundraising.

Response	Percentage of respondents
Six months before the election	49%
One year before the election	26%
At the previous local government general election	15%
Unsure	8%
Other	2%

Respondents who selected 'other' preferred that the count of the electoral roll be based off figures that would most closely reflect the number of electors at the time of the election to which the cap applies.

Question on Notice 4 – Should there be a loading put on expenditure caps for physically large councils, particularly in regional areas?

Respondents were asked if they supported an additional amount added to candidate expenditure caps for geographically large councils, particularly in regional areas.

Response	Percentage of respondents
Yes	29%
No	50%
Unsure	21%

Of those that responded yes, the median amount supported was an additional \$2 per elector.

For the purposes of its membership, LGNSW categorises councils into Metro-Urban and Regional-Rural councils.

- For Metro-Urban respondents, 20% supported higher caps for geographically large councils.
- For Regional-Rural respondents, 32% supported higher caps for geographically large councils.

Question on Notice 5 – What other factors should be taken into account to potentially add on to a purist per capita model?

In addition to the question above (Question 4), respondents were also asked if there were any other factors to potentially add on to a purist per elector model.

Metro councils

Respondents were asked if there should be an additional amount added to candidate expenditure caps for metropolitan councils, for example to allow for more expensive advertising costs and the expense involved in communicating to electors in languages other than English.

Response	Percentage of respondents
Yes	18%
No	66%
Unsure	15%

Of those that responded yes, the median additional amount supported was \$0.75 per elector.

LGRT categorisation of councils

Respondents were asked if there should be an additional amount added to candidate expenditure caps based on Local Government Remuneration Tribunal (LGRT) categorisation of councils and the councillor and mayoral salaries set out in the annual LGRT determinations.

Response	Percentage of respondents
Yes	9%
No	71%
Unsure	21%

Some respondents acknowledged that the LGRT categorisations provided a mechanism for distinguishing between LGAs and one respondent suggested that a combination of a per elector amount and an amount based on the LGRT categorisations should determine the cap.

Other factors to take into account

Respondents were also asked if any other factors should be taken into account in determining the expenditure caps. Key themes and comments are summarised below.

- Caps should take into account LGAs with significant numbers of non-resident electors on the electoral roll.
- Some responses noted that the work of volunteers was more important in electoral communication, and that caps should be low.
- Other responses suggested that the caps should not favour party candidates over independents, or incumbents over new entrants.
- Others noted that access to post boxes in many apartment buildings is not available for leaflet drops, and requires postage. Areas with large numbers of apartment buildings should have a sufficiently sized cap to allow for postage.

Additional comments

The *Electoral Funding Act 2018* has also increased the frequency with which political donations are required to be disclosed. Disclosures are now required twice per year, rather than annually, increasing the administrative burden on all candidates. While LGNSW supports moves to increase transparency, the NSW Government must ensure that the administrative impost on candidates with limited financial resources is not unreasonable and does not deter potential candidates from standing for election.

LGNSW encourages the NSW Government to monitor the diversity of local government candidates over time and to promote the accessibility of standing for election for new candidates – particularly from underrepresented groups.

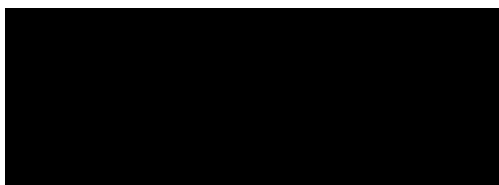
Summary of findings from survey results

To repeat the results of the survey that are outlined above:

- A clear majority of respondents support a model based on per elector expenditure caps.
- A slight majority of respondents supported using a model based on tiered expenditure levels for bands of elector numbers.
- A majority of respondents support having the same expenditure caps for independent candidates and party candidates
- A slight majority of respondents supported each grouped candidate being subject to the same cap as an ungrouped candidate
- A majority of respondents did not support any additional expenditure cap for mayoral candidates.
- A majority of respondents did not support any additional expenditure cap based on the geographical size of the LGA or whether it was a metro LGA, or based on the LGRT categorisation of councils.

LGNSW reiterates that this preliminary feedback must be bolstered by the NSW Government consulting with and seeking feedback from all relevant stakeholders once a preferred model for local government electoral expenditure caps has been identified.

Yours sincerely



Cr Linda Scott
President