

Mr Leon Last
A/Committee Manager
Joint Standing Committee on Electoral Matters
Parliament House
Macquarie Street
SYDNEY NSW 2000

10 October 2018

Dear Mr Last

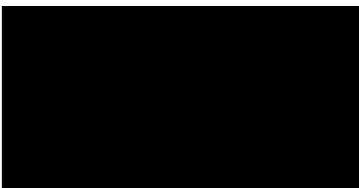
Inquiry into the impact of expenditure caps for local government election campaigns

With reference to my appearance with Ms Rachel McCallum, Director Legal and Governance, at Parliament House on 24 September 2018, please see attached my responses to questions taken on notice in the course of the Public Hearing. My responses have been informed by consultations with my colleagues in the Elections Division of the Commission.

If Committee Members have any additional questions as part of the Inquiry, please direct them to me on [REDACTED] or at [REDACTED].

I note also that the Electoral Commissioner has written to Mr Mark Morey, Secretary, Unions NSW, in response to comments made by him in relation to the NSW Electoral Commission in the course of his evidence to the Committee on 24 September 2018. A copy of that letter is attached for the information of Members of the Committee.

Yours faithfully



Hugo Bergeron
A/Executive Director, Funding, Disclosure and Compliance

**REPORT ON PROCEEDINGS BEFORE
JOINT STANDING COMMITTEE ON ELECTORAL MATTERS
INQUIRY INTO THE IMPACT OF EXPENDITURE CAPS FOR LOCAL
GOVERNMENT ELECTION CAMPAIGNS**

At Macquarie Room, Parliament House, Sydney on Monday 24 September 2018

The Hon. COURTNEY HOUSSOS: You mentioned that you prepared some feedback in terms of the figures as to the expenditure in 2012—is that correct?

Mr BERGERON: Exploratory, saying what is the average, what is the mean expenditure by candidates, group-on-group, general data—not testing one particular threshold.

The Hon. COURTNEY HOUSSOS: Would you be able to provide that on notice to the Committee?

Mr BERGERON: Definitely.

The Hon. COURTNEY HOUSSOS: If there was an average spend, perhaps the highest?

Ms McCALLUM: Yes.

1. See [Appendix A](#).

The CHAIR: What level of granularity were you asked for? Were you asked for unitary electorates or ward-based council areas or was it just: "What is the average across the State? What is the mean across the State? What is the median?"

Mr BERGERON: We had data per council, from memory, for each of the councils grouped together.

The CHAIR: It is a high level of granularity.

Mr BERGERON: That is it.

The Hon. COURTNEY HOUSSOS: Could you provide on notice what the largest expenditure was across the councils as well?

Mr BERGERON: Yes. For 2012?

The Hon. COURTNEY HOUSSOS: For 2012 and also for the last—

Mr BERGERON: For the last, I can only provide for the first tranche of local government in 2016, because—

The Hon. COURTNEY HOUSSOS: Of course—because 2017 is still undertaking. I understand.

Mr BERGERON: It is actually due today.

The Hon. COURTNEY HOUSSOS: If you could provide them for 2012 and 2016 that would be useful, and any analysis that you provided on those two, either for the Government or you have prepared individually.

Mr BERGERON: No analysis per se but raw information about the expenditures.

2. See [Appendix A](#) and [Appendix B](#).

The Hon. COURTNEY HOUSSOS: What is the current advice that you are providing to third party campaigners about the acting in concert provisions?

3. See [Appendix C](#).

The CHAIR: What do you do now? When someone nominates, do you write to them and say, "You can spend this amount on your campaign"?

Mr BERGERON: The legislation took effect on 1 July. There were two local government by-elections at the time that were exempted from the Electoral Funding Act; they were held under the old Act. Two local government elections have since been called. I would have to take the question about what happens at the time of registration on notice. We let the candidates know of their cap for their particular area.

4. The NSW Electoral Commission creates specific websites for each electoral event, for example, for the current Ku-ring-gai local government by-election. These websites list the specific expenditure caps for each by-election, so that prospective candidates can ascertain the expenditure cap even if not yet registered for the election. See http://www.elections.nsw.gov.au/elections/ku-ring-gai_council_st_ives_ward_by-election_27_october_2018/candidate_information

See also [Appendix D](#) for the letter provided by the Electoral Commission to candidates upon their registration.

The Hon. COURTNEY HOUSSOS: How many people registered as third party campaigners in the 2016 and 2012 local government elections? I am happy for you to take the question on notice.

Mr BERGERON: In 2016 three candidates lodged a disclosure. There was no concept of third party campaigners in 2012; that was introduced in 2016.

The Hon. COURTNEY HOUSSOS: Who were the three?

Mr BERGERON: Off the top of my head, there were two community groups and one union.

The Hon. COURTNEY HOUSSOS: Can you provide that detail on notice? I would also like the amounts they spent.

Mr BERGERON: Yes.

5. The disclosures were lodged by the following organisations:
- Byron Shire Community Action Network - \$4,536.50;
 - Camden Community Alliance Incorporated - \$5,870.40; and
 - NSW Local Government Clerical Administrative Energy Airlines & Utilities Union - \$40,611.00

The CHAIR: How many of those incidents have occurred?

Mr BERGERON: Do you mean failure to lodge a disclosure?

The CHAIR: Yes.

Mr BERGERON: That information is published every year and it is on our website. I am happy to take the question on notice.

6. The following statistical information was published on the Electoral Commission's website about action taken in response to failures to lodge a disclosure in relation to the 2016/17 disclosure period which includes the 2016 Local Government election:

Warnings issued to Political Parties, Elected Members, Candidates, Groups, Third Party Campaigners and Donors.	Enforcement Decision	#
	First Level (FL) Warning	1342
	FL Warning elevated to Caution	320
	FL Warning elevated to Penalty	32
	FL Warning elevated to Prosecution	1

Mr PAUL SCULLY: How many candidates across New South Wales were there in 2016 and 2017? I accept that you may have to take that question on notice.

Mr BERGERON: Generally, if it was just all local government areas—I will go back to 2012, because it was an overarching election—I think we had roughly 8,000 candidates. Obviously there are less councils now but there might be more wards, so it is probably around that ballpark, but I can provide you figures.

Mr PAUL SCULLY: Yes; that would be useful. You run information sessions for candidates after their registration and during the campaign period.

7. There were approximately 4,587 registered candidates and 887 registered groups in the disclosure period that includes the 2012 local government elections.

In the 2016 tranche of local government elections there were 2,422 registered candidates and 358 registered groups; and in the 2017 tranche, 1,993 registered candidates and 487 registered groups.

The CHAIR: Do they get a copy of the roll for their ward?

Mr BERGERON: I would have to take that question on notice.

Ms McCALLUM: We can take that on notice

8. Pursuant to clause 284A of the *Local Government (General) Regulation 2005*, the Electoral Commissioner must, on request, provide candidates for a local government election with a list of electors and their particulars for the relevant council area or ward.

The Hon. COURTNEY HOUSSOS: First I will ask a question about the non-residential roll and what efforts you put in to raise awareness to be on the non-residential roll prior to the elections.

Mr BERGERON: All councils manage their non-residential rolls. The commission does not do any education with regard to the non-residential roll—or no active education.

The Hon. COURTNEY HOUSSOS: So you do not do any management of the roll.

Ms McCALLUM: I might take that on notice in terms of what efforts might be taken by the commission in relation to that, but councils—

9. Section 299(1) of the *Local Government Act 1993* provides that preparation of the non-residential roll is the responsibility of the general manager of each council. It should be noted that, pursuant to section 299(2), a non-residential roll lapses after each election for which it is prepared. The only exception in this regard is the City of Sydney where, pursuant to section 18D of the *City of Sydney Act 1988*, the general manager is required to maintain the non-residential roll on an ongoing basis.

The Hon. BEN FRANKLIN: Could you provide us on notice with a detailed assessment of what the logistical challenges and considerations would be for you to implement the system? What considerations would have to be given if we go down the line of having expenditure caps calculated on a per capita basis?

Mr BERGERON: I think we have talked about all of them.

The Hon. BEN FRANKLIN: I understand; I am asking you to consider further after this hearing and then respond to us in writing, because other things may come up as you discuss this with your colleagues.

Ms McCALLUM: If there are any other issues that might be of relevance, we can take those on notice. That would be the response we would provide, is that correct?

10. I understand that the following administrative considerations would arise for the Electoral Commission should local government expenditure caps be calculated on a “per elector” basis:

Potential impact of requiring the Electoral Commission to calculate the number of electors at a point in time between ordinary elections

In the course of the hearing, the Chair and other Committee members canvassed the possibility of including the number of electors on a non-residential roll 12 months prior to an ordinary election for the purpose of determining an expenditure cap. I am advised that calculating the number of non-residential electors at a point in time other than at the most recent ordinary election would create an additional administrative complexity for councils and the Electoral Commission.

I am also advised that, other than for the City of Sydney, the number of non-residential electors for NSW local government elections is miniscule. The number of non-resident electors at the 2017 local government elections was only 389. Of those electors, only 301 voted, representing approximately 0.014% of the 2,193,349 total votes cast. For the 2016 local government election, the City of Sydney had 118,398 electors on its residential roll and 22,972 electors on its non-residential roll.

With the above observations in mind, the most administratively straight forward approach would be to use the number of residential electors in an area/ward at the most recent ordinary election in setting a “per elector” cap for the next election (and any intervening by-election).

Potential impact on the Commission of publishing a list of caps for each local government area/ward

To enable the Electoral Commission to enforce expenditure caps set by reference to the number of electors, there would need to be a legislated mechanism for publishing those caps for each area/ward before any regulated period commences. As with the current expenditure caps, publication of those caps should be sufficient to demonstrate awareness of the relevant cap by a defendant in criminal prosecutions.

Calculating and publishing such information would be a new function for the Commission. The Commission would also need to undertake additional activities to inform and engage with political participants about the published caps. Carrying out these functions would require additional resourcing for the Commission.

Preparation for local government by-elections

Unlike ordinary elections, there is generally a short period of notice for by-elections. The Commission suggests, therefore, that only the number of electors on the residential roll for the area/ward at the previous ordinary election should be used in any “per elector” cap calculation. This would not only assist in the administration of expenditure caps by the Commission, but would make it easier for potential electoral participants at a by-election to assess what expenditure they are allowed to incur.

The Hon. BEN FRANKLIN: Yes, that would be great. Secondly, in terms of the new system that currently operates for local government expenditure caps, have you received any feedback on that system?

Mr BERGERON: Not that I am aware of. As I said, it was not in place for the two by-elections in July.

The Hon. BEN FRANKLIN: I understand that, but the legislation has now been passed and those people who are interested may have come to you to provide feedback.

Mr BERGERON: I do know we have received inquiries from stakeholders in the working of these caps, but I do not believe we have received either a complaint or feedback around their application.

The Hon. BEN FRANKLIN: Could you also take that on notice in case you have?

11. The Electoral Commission has received three enquiries: two from council employees and one from a councillor. These enquiries were received via telephone and information was provided to the enquirers by the Commission via email. I have been advised that our records do not indicate whether the enquirer also expressed concerns about the new caps.

Appendix A - Statistical information candidates and groups at 2012 local government elections

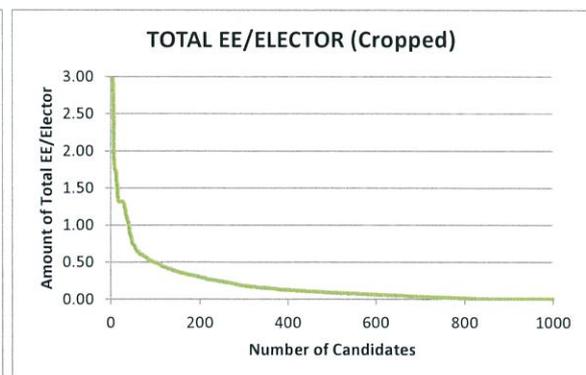
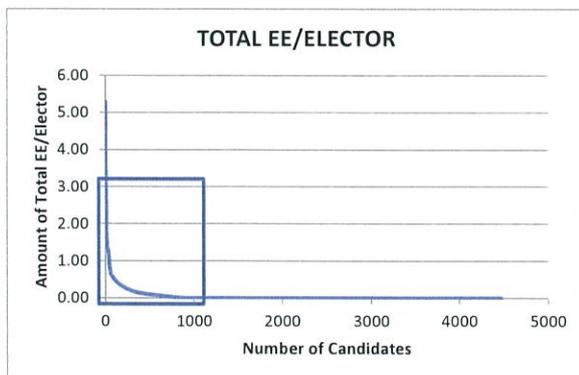
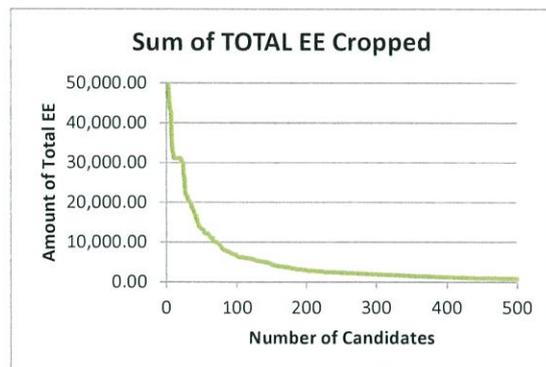
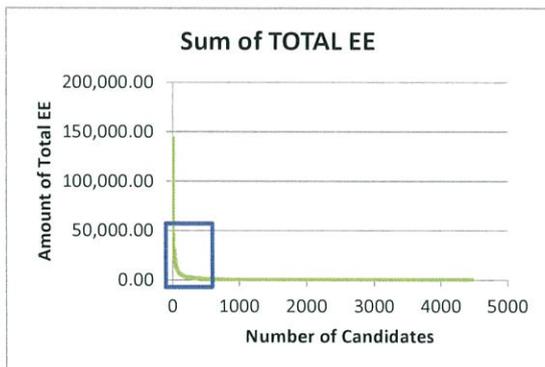
Notes:

- EE: Electoral Expenditure;
- Based only on disclosures received; and
- For divided Local Government areas, an assumption was made that each wards have the same number of electors.

Candidate disclosures

As the number of nil expenditure disclosure is large, the information is provided for all and non-nil disclosures only.

	All disclosures (\$)	Non-Nil Disclosures (\$)	Non Nil \$/Electors
Number of disclosures (#)	4,478	875	875
Min (\$)	-	5.00	0.00
Max (\$)	144,035.41	144,035.41	5.30
1st Decile (\$)	-	183.72	0.02
Median (\$)	-	976.17	0.11
9th Decile (\$)	955.53	7,632.57	0.53
Average (\$)	678.11	3,470.36	0.24



Average per local government area

Area	Number of Candidates	Average of Total EE	Average of Total EE / Elector
Botany Bay	14	3,635.96	0.42
Murray	11	1,995.88	0.41
Shoalhaven	45	9,217.51	0.39
Harden	6	1,096.16	0.39
Wentworth	11	1,427.74	0.36
Coonamble	12	854.70	0.31
Singleton	14	2,074.36	0.28
Gloucester	9	976.47	0.25
Blayney Shire	12	1,137.84	0.23
Jerilderie	8	256.58	0.23
Walcha	15	128.40	0.22
Central Darling	12	85.25	0.22
Kyogle	18	462.43	0.21
Lachlan	17	177.77	0.19
Ballina	24	1,632.39	0.17
Upper Hunter	10	1,592.67	0.17
Hunters Hill	22	792.86	0.17
Wellington	15	889.15	0.16
Balranald	11	237.64	0.16
Tenterfield	18	153.75	0.16
North Sydney	56	1,627.05	0.15
Dungog	11	300.51	0.14
Uralla	18	192.73	0.13
Lockhart	12	105.70	0.13
Guyra	8	362.39	0.12
Urana	8	34.38	0.12
Maitland	52	1,371.15	0.11
Willoughby	44	1,164.09	0.11
Berrigan	10	621.82	0.11
Young	17	900.50	0.10
Gunnedah	15	834.73	0.10
Moree Plains	12	823.60	0.10
Tumbarumba	11	250.40	0.10
Bourke	11	185.95	0.10
Newcastle	78	2,312.27	0.09
Liverpool Plains	10	486.22	0.09
Griffith	15	1,203.63	0.08
Camden	47	1,062.22	0.08
Cowra	13	754.28	0.08
Kempsey	19	1,453.90	0.07
Cootamundra	11	387.13	0.07
Upper Lachlan	13	373.34	0.07

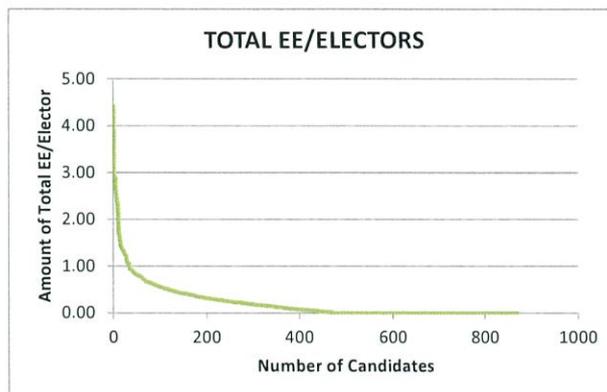
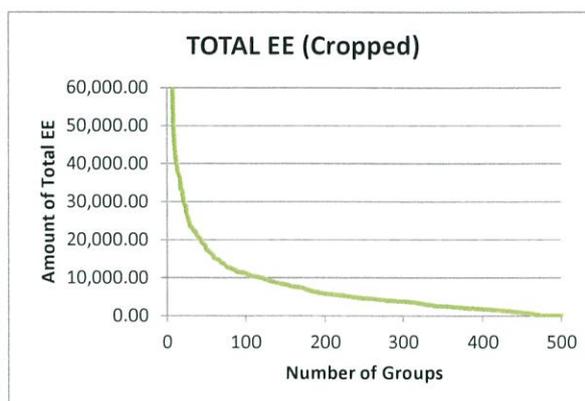
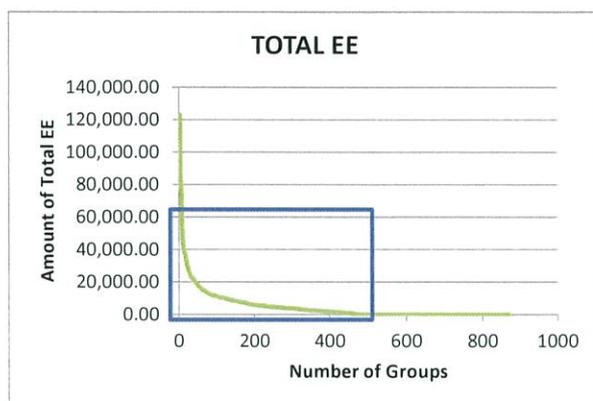
Area	Number of Candidates	Average of Total EE	Average of Total EE / Elector
Snowy River	9	326.33	0.07
Gwydir	12	268.19	0.07
Dubbo	53	1,522.01	0.06
Auburn	80	1,145.99	0.06
Ku-Ring-Gai	33	1,004.12	0.06
Armidale Dumaresq	30	981.45	0.06
Broken Hill	24	747.63	0.06
Palerang	27	657.25	0.06
Muswellbrook	13	633.27	0.06
Narromine	13	252.41	0.06
Gilgandra	13	203.77	0.06
Port Macquarie-Hastings	31	2,552.84	0.05
Tamworth	17	1,881.99	0.05
Bega Valley	15	1,287.70	0.05
Randwick	69	748.16	0.05
Blue Mountains	47	730.49	0.05
Nambucca	12	696.53	0.05
Wollondilly	46	537.36	0.05
Narrabri	16	440.74	0.05
Warrumbungle	14	350.74	0.05
Lane Cove	36	333.94	0.05
Weddin	23	134.53	0.05
Orange	42	923.30	0.04
Richmond Valley	17	592.83	0.04
Port Stephens	66	585.61	0.04
Rockdale	58	531.58	0.04
Yass	20	428.00	0.04
Inverell	11	397.73	0.04
Cessnock	60	391.63	0.04
Bland	14	161.94	0.04
Liverpool	63	1,938.44	0.03
Fairfield	83	1,231.39	0.03
Bathurst	30	846.72	0.03
Ryde	75	776.85	0.03
Queanbeyan	37	719.25	0.03
Great Lakes	45	711.80	0.03
Parramatta	72	682.62	0.03
Goulburn Mulwaree	18	674.01	0.03
Holroyd	41	476.80	0.03
Tumut	12	236.94	0.03
Cooma-Monaro	16	216.30	0.03
Forbes	13	213.01	0.03
Glen Innes	10	173.54	0.03

Area	Number of Candidates	Average of Total EE	Average of Total EE / Elector
Junee	9	121.74	0.03
Coolamon	13	84.48	0.03
Gundagai	10	83.11	0.03
Boorowa	13	49.98	0.03
Greater Taree	30	758.87	0.02
Clarence Valley	17	722.60	0.02
Wagga Wagga	57	679.16	0.02
Canterbury	46	671.15	0.02
Warringah	45	637.54	0.02
Sutherland	81	602.24	0.02
Bankstown	46	567.30	0.02
The Hills	45	533.49	0.02
Eurobodalla	54	497.22	0.02
Hurstville	72	346.29	0.02
Marrickville	52	263.83	0.02
Pittwater	32	235.50	0.02
Leichhardt	44	180.51	0.02
Kogarah	47	151.67	0.02
Greater Hume	9	130.50	0.02
Walgett	10	91.21	0.02
Temora	13	83.43	0.02
Gosford	46	1,036.60	0.01
Coffs Harbour	42	486.12	0.01
Blacktown	63	338.90	0.01
Hornsby	42	330.28	0.01
Strathfield	33	315.02	0.01
Lake Macquarie	61	281.94	0.01
Hawkesbury	63	255.97	0.01
Lismore	59	243.11	0.01
Penrith	126	212.02	0.01
Byron	30	207.50	0.01
Mosman	30	180.01	0.01
Cabonne	21	138.22	0.01
Mid-Western Regional	35	125.30	0.01
Kiama	33	113.05	0.01
Waverley	40	76.53	0.01
Parkes	12	75.17	0.01
Bombala	11	27.17	0.01
Hay	13	19.97	0.01
Bogan	10	14.46	0.01
Sydney	60	355.25	0.00
Tweed	58	229.46	0.00
Wingecarribee	54	133.90	0.00
Burwood	23	95.12	0.00

Area	Number of Candidates	Average of Total EE	Average of Total EE / Elector
Manly	30	89.36	0.00
Campbelltown	100	62.68	0.00
Lithgow	41	54.53	0.00
Canada Bay	27	40.74	0.00
Bellingen	25	20.61	0.00
Wyong	53	18.87	0.00
Albury	63	11.75	0.00
Cobar	9	0.00	0.00
Brewarrina	10	0.00	0.00
Corowa	9	0.00	0.00
Conargo	8	0.00	0.00
Leeton	7	0.00	0.00
Oberon	9	0.00	0.00
Narrandera	9	0.00	0.00
Warren	12	0.00	0.00
Woollahra	44	0.00	0.00
Ashfield	48	0.00	0.00
Murrumbidgee	11	0.00	0.00
Wakool	7	0.00	0.00
Carrathool	10	0.00	0.00
Deniliquin	7	0.00	0.00

Group disclosures

	All disclosures	Non-Nil Disclosures	Non Nil \$/Electors
Number of disclosures (#)	872	473	473
Min (\$)	-	105.35	0.00
Max (\$)	122,919.56	122,919.56	4.43
1st Decile (\$)	-	1,317.51	0.06
Median (\$)	1,012.00	4,869.71	0.26
9th Decile (\$)	11,863.98	18,526.14	0.83
Average (\$)	4,802.51	8,853.67	0.40



Average per local government area

Groups not endorsed by a political party

Area	Number of Groups	Average of Total EE	Average of Total EE / Elector
Murray	1	11,534.03	2.39
Woollahra	1	9,163.20	1.23
Kogarah	3	7,738.57	0.81

Area	Number of Groups	Average of Total EE	Average of Total EE / Elector
Byron	4	16,647.57	0.77
Willoughby	12	8,316.05	0.76
Manly	1	19,409.27	0.73
Burwood	1	12,440.00	0.64
Wentworth	4	2,583.78	0.64
Strathfield	2	13,139.11	0.62
Yass	2	6,501.30	0.61
Kempsey	1	10,877.25	0.54
Fairfield	21	20,883.15	0.49
Palerang	3	4,550.36	0.44
North Sydney	15	4,372.03	0.41
Dubbo	8	10,879.34	0.40
Hunters Hill	7	1,776.68	0.37
Mosman	5	6,739.35	0.35
Marrickville	4	4,757.69	0.35
Warringah	3	11,200.95	0.34
Lithgow	6	4,631.12	0.32
Wollondilly	12	3,231.51	0.32
Hornsby	3	11,382.77	0.31
Great Lakes	8	8,486.24	0.31
Port Stephens	18	4,788.77	0.30
Ku-ring-gai	13	4,686.49	0.30
Hurstville	9	4,974.96	0.28
Wingecarribee	6	8,974.19	0.27
Bathurst	3	6,956.73	0.26
Holroyd	2	3,775.35	0.24
Port Macquarie-Hastings	3	12,723.28	0.23
Broken Hill	4	3,117.65	0.23
Waverley	1	2,399.94	0.23
Pittwater	9	3,118.91	0.22
Blue Mountains	2	3,104.00	0.22
Ryde	9	4,794.37	0.21
Richmond Valley	5	3,308.55	0.21
Maitland	17	2,517.26	0.21
Ashfield	8	1,374.76	0.21
Eurobodalla	5	5,470.09	0.20
Orange	6	5,316.14	0.20
Armidale Dumaresq	4	3,288.94	0.20
Penrith	25	7,737.68	0.19
Wagga Wagga	6	7,415.53	0.18
Greater Taree	6	6,229.52	0.18
Lismore	7	5,359.21	0.18
Randwick	6	3,027.16	0.18

Area	Number of Groups	Average of Total EE	Average of Total EE / Elector
Gosford	4	20,671.86	0.17
Queanbeyan	4	4,382.82	0.17
Mid-Western Regional	6	2,796.88	0.17
Rockdale	9	2,256.73	0.17
Lane Cove	10	1,209.93	0.17
Auburn	6	2,880.95	0.14
Cessnock	21	1,293.67	0.14
Hawkesbury	5	5,192.36	0.12
Goulburn Mulwaree	1	2,406.70	0.12
Leichhardt	2	1,118.81	0.12
Bellingen	6	1,106.54	0.12
Wellington	1	683.85	0.12
Tweed	10	6,925.73	0.11
Lake Macquarie	15	5,485.76	0.11
Kiama	5	1,764.09	0.11
Blacktown	7	3,578.31	0.10
Bankstown	6	2,973.26	0.10
Camden	12	1,234.88	0.10
Wyong	3	4,601.18	0.09
Coffs Harbour	9	4,316.16	0.09
Cabonne	2	740.85	0.08
Albury	10	2,180.27	0.07
Newcastle	27	1,683.82	0.06
Shoalhaven	10	1,478.50	0.06
Griffith	5	789.80	0.05
Campbelltown	1	3,684.26	0.04
Canterbury	4	1,277.50	0.04
Moree Plains	4	367.81	0.04
Sydney	2	2,679.27	0.03
Liverpool	3	1,914.17	0.03
Sutherland	26	1,016.65	0.03
Parramatta	2	187.50	0.01
Cobar	1	0.00	0.00
Cooma-Monaro	1	0.00	0.00
Berrigan	1	0.00	0.00
Weddin	1	0.00	0.00
Upper Hunter	1	0.00	0.00
Greater Hume	1	0.00	0.00

Groups endorsed by a political party

Area	Number of Groups	Average of Total EE	Average of Total EE / Elector
Burwood	3	29,969.49	1.53
Strathfield	3	14,192.78	0.67
Bankstown	6	20,117.29	0.66
Canterbury	10	16,776.45	0.58
Hurstville	8	9,891.51	0.55
Marrickville	12	6,360.08	0.47
Broken Hill	1	5,739.40	0.42
Ashfield	10	2,381.29	0.36
Canada Bay	4	18,194.50	0.35
Byron	2	7,604.08	0.35
Rockdale	11	4,352.64	0.34
Palerang	1	3,514.06	0.34
Holroyd	11	4,778.21	0.30
Leichhardt	11	2,365.96	0.25
Blacktown	10	8,668.99	0.23
Sydney	6	21,598.33	0.22
Lismore	3	6,676.36	0.22
Kogarah	11	2,059.59	0.22
Woollahra	14	1,495.30	0.20
Auburn	9	3,434.45	0.17
Parramatta	23	3,207.79	0.16
Lithgow	2	2,324.95	0.16
Hawkesbury	4	6,495.16	0.15
Queanbeyan	2	3,920.30	0.15
Randwick	19	1,666.58	0.10
Blue Mountains	13	1,426.92	0.10
Waverley	12	1,010.83	0.10
Manly	4	2,283.34	0.09
Campbelltown	8	7,457.12	0.08
Port Macquarie-Hastings	2	4,262.66	0.08
Liverpool	10	3,713.11	0.07
Gosford	2	6,707.15	0.06
The Hills	14	1,684.50	0.06
Wyong	8	2,956.85	0.05
Sutherland	1	1,540.00	0.05
Ku-ring-gai	2	725.27	0.05
Wagga Wagga	2	1,846.95	0.04
Albury	1	1,388.79	0.04
Wingecarribee	3	805.80	0.02
Hornsby	8	190.44	0.01
Warringah	7	0.00	0.00
Camden	3	0.00	0.00

Area	Number of Groups	Average of Total EE	Average of Total EE / Elector
Mosman	2	0.00	0.00
Eurobodalla	5	0.00	0.00
North Sydney	1	0.00	0.00
Tweed	2	0.00	0.00
Willoughby	1	0.00	0.00
Kiama	1	0.00	0.00
Armidale Dumaresq	2	0.00	0.00
Pittwater	1	0.00	0.00
Wollondilly	1	0.00	0.00
Orange	1	0.00	0.00
Bellingen	1	0.00	0.00
Ballina	3	0.00	0.00
Ryde	10	0.00	0.00

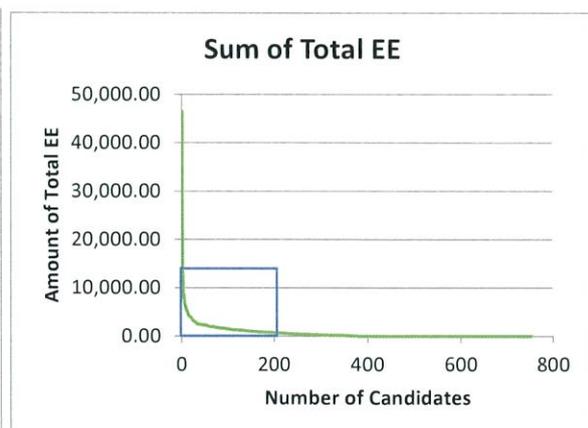
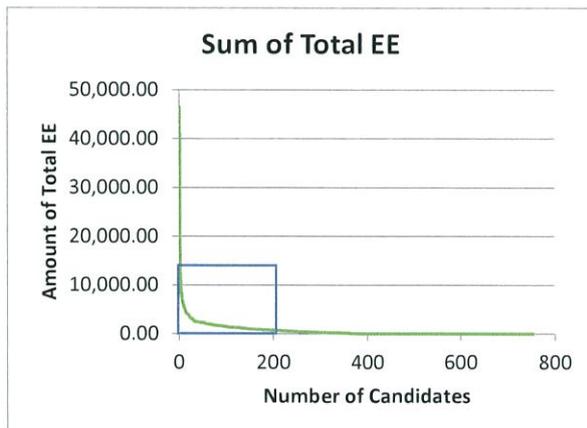
Appendix B - Statistical information candidates and groups at 2016 tranche of local government elections

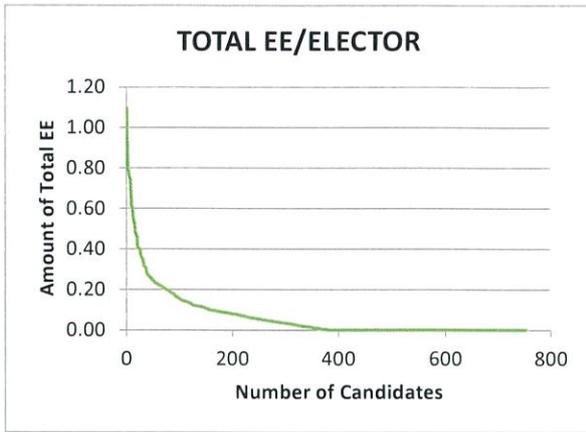
Notes:

- ECE: Electoral Communication Expenditure;
- Based only on disclosures received;
- Also includes disclosures for local government by-election candidates/groups during 2016/17;
- As the disclosure system changed in 2013, the data has been extracted in a different manner than for the 2012 elections; and
- For divided local government areas, an assumption was made that each wards have the same number of electors.

Independent candidate disclosures

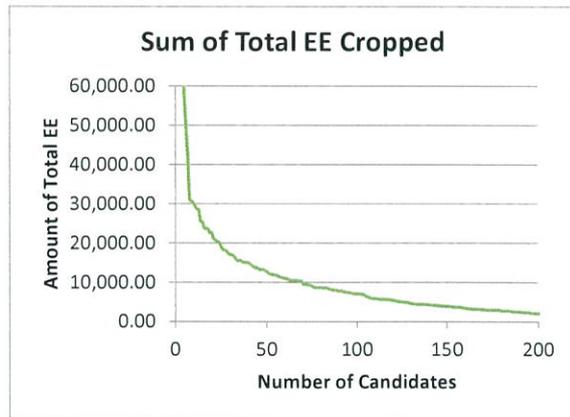
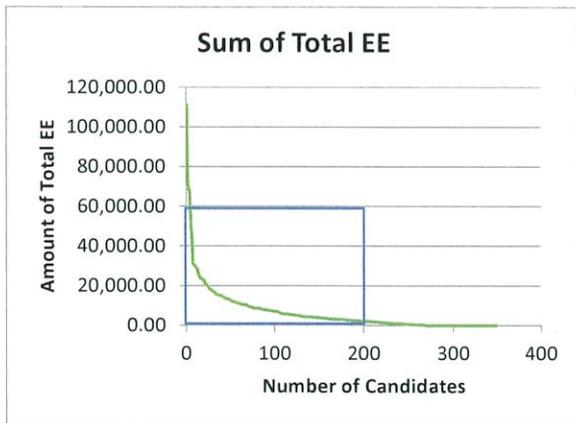
	All disclosures (\$)	Non-Nil Disclosures (\$)	Non Nil \$/Electors
Number of disclosures (#)	755	380	380
Min (\$)	-	20.00	0.00
Max (\$)	44,490.94	46,490.94	1.10
1st Decile (\$)	-	180.00	0.02
Median (\$)	30.00	788.85	0.08
9th Decile (\$)	1,756.74	2,475.91	0.28
Average (\$)	667.58	1,326.38	0.13

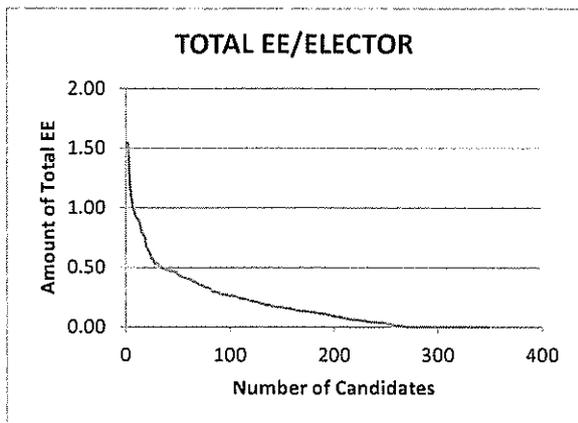




Grouped candidate disclosures (group and all candidates within the group combined)

	All disclosures (\$)	Non-Nil Disclosures (\$)	Non Nil \$/Electors
Number of disclosures (#)	350	270	270
Min (\$)	-	33.98	0.00
Max (\$)	111,229.19	111,229.19	1.55
1st Decile (\$)	-	849.50	0.04
Median (\$)	2,959.76	4,384.30	0.18
9th Decile (\$)	15,548.10	18,115.13	0.54
Average (\$)	6,428.45	8,333.17	0.27





Area	Number of groups or independent candidates	Average of Total ECE	Average of Total ECE / Elector
Greater Hume - North Ward	2	1,679.14	0.68
Port Macquarie-Hastings - Mayoral	1	37,662.94	0.62
Sutherland - Ward C	2	18,174.36	0.55
Fairfield - Parks Ward	5	23,793.89	0.54
Uralla - Mayoral	1	2,429.00	0.53
Sutherland - Ward B	3	15,640.99	0.47
Blue Mountains - Ward 3	4	6,457.89	0.44
Fairfield - Fairfield Ward	7	17,742.79	0.40
Camden - North Ward	4	6,843.37	0.39
Sutherland - Ward A	3	12,825.48	0.39
Wollondilly - East Ward	6	4,519.10	0.39
Blue Mountains - Ward 2	3	5,562.01	0.38
Walcha - Ward D	4	210.00	0.37
Camden - Central Ward	4	6,301.33	0.36
Sutherland - Ward D	3	11,961.92	0.36
Wentworth	8	1,426.84	0.35
Blue Mountains - Ward 4	3	5,189.76	0.35
Sutherland - Ward E	4	11,398.23	0.34
Kyogle - Ward A	7	777.04	0.34
Fairfield - Cabravale Ward	7	15,185.54	0.34
Wollondilly - Central Ward	6	3,607.78	0.31
Greater Hume - South Ward	3	721.11	0.29
Richmond Valley	3	4,534.76	0.27
Wollondilly - North Ward	6	2,969.37	0.25
Broken Hill	5	3,353.40	0.25

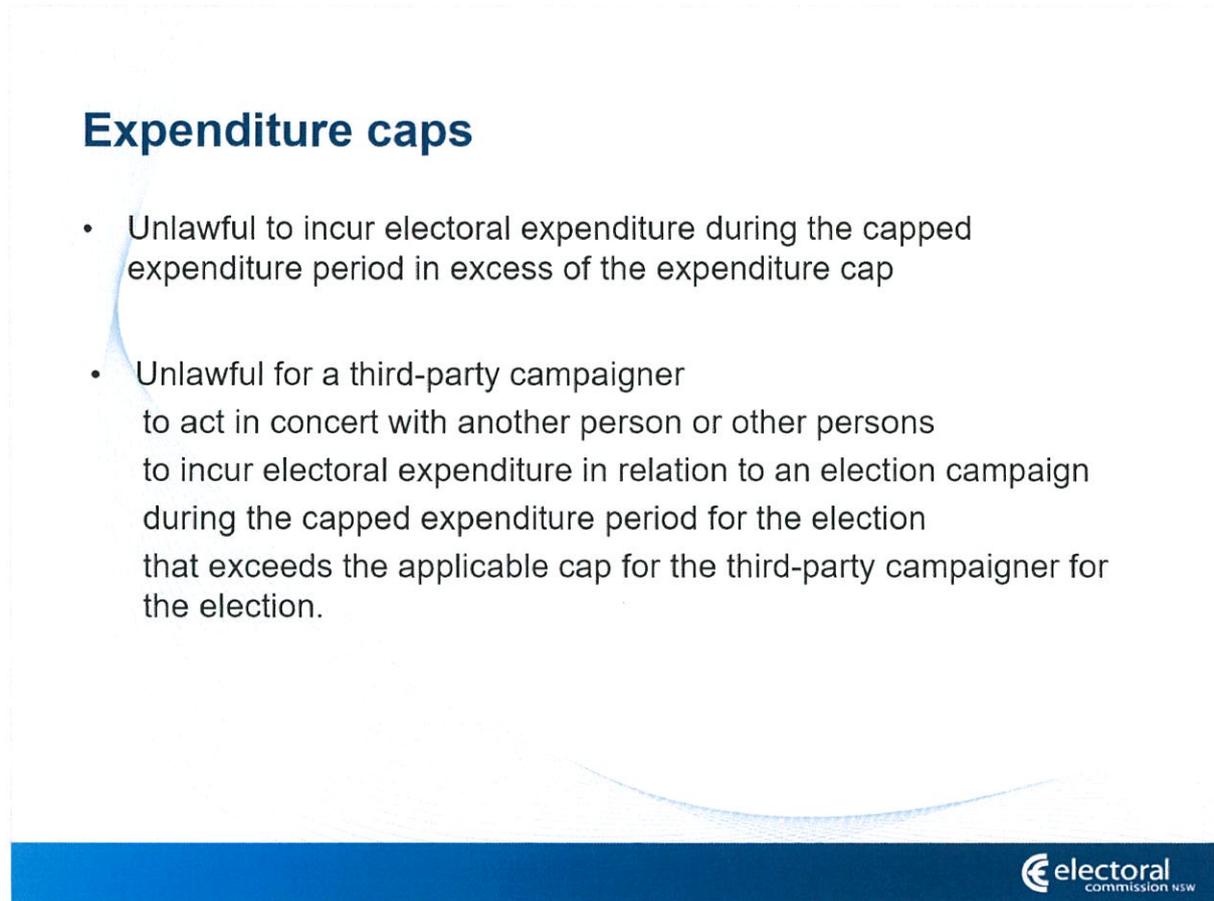
Area	Number of groups or independent candidates	Average of Total ECE	Average of Total ECE / Elector
Camden	6	4,248.79	0.25
Liverpool - North Ward	4	15,908.89	0.24
Eurobodalla	11	7,317.10	0.24
Sydney	6	33,056.21	0.23
Lithgow	10	3,458.45	0.22
Ballina - Ward C	8	2,380.84	0.22
Byron	7	5,364.84	0.22
Wingecarribee	12	7,908.05	0.21
Kiama	6	3,554.48	0.21
Penrith - East Ward	3	9,000.90	0.20
Walcha - Ward B	3	113.33	0.20
Lismore	9	6,139.15	0.19
Tenterfield - Ward B	3	183.28	0.19
Shoalhaven - First Ward	4	4,685.29	0.18
Bourke	12	333.43	0.18
Shoalhaven - Third Ward	4	4,654.69	0.18
Yass Valley	15	2,079.61	0.18
Cessnock - Ward A	4	1,757.95	0.18
Penrith - North Ward	5	7,636.37	0.17
Cessnock - Ward B	4	1,704.00	0.17
Blacktown - Ward 4	5	6,907.47	0.16
Lachlan - Ward B	3	150.65	0.16
Liverpool - South Ward	7	10,314.88	0.16
Cessnock - Ward C	4	1,557.98	0.16
Ballina - Ward A	6	1,682.22	0.16
Tenterfield - Ward A	3	153.33	0.15
Lachlan - Ward D	2	143.14	0.15
Shoalhaven - Second Ward	4	3,956.75	0.15
Uralla - Ward B	6	342.88	0.15
Ballina - Ward B	4	1,614.08	0.15
Kyogle - Ward C	5	326.83	0.14
Cessnock - Ward D	4	1,423.98	0.14
Kyogle - Ward B	6	322.40	0.14
Griffith	12	2,303.70	0.14
Balranald	10	193.53	0.13
Lake Macquarie - East Ward	4	6,755.93	0.13
Penrith - South Ward	7	5,529.26	0.12
Gunnedah	13	1,085.67	0.12
Coffs Harbour	11	6,624.16	0.12
Upper Hunter	13	1,201.95	0.12

Area	Number of groups or independent candidates	Average of Total ECE	Average of Total ECE / Elector
Greater Hume - East Ward	4	290.66	0.12
Cobar	8	356.18	0.11
Upper Lachlan	11	677.38	0.11
Uralla - Ward A	8	248.86	0.11
Gilgandra	13	339.59	0.11
Kempsey	14	2,263.58	0.11
Inverell	12	1,202.19	0.10
Leeton	15	775.19	0.10
Broken Hill - Mayoral	3	1,320.74	0.10
Blacktown - Ward 1	3	4,004.75	0.09
Tweed	17	6,321.73	0.09
Blue Mountains - Ward 1	6	1,377.50	0.09
Nambucca	12	1,312.46	0.09
Mid Western	12	1,445.90	0.08
Port Macquarie-Hastings	11	4,972.42	0.08
Warrumbungle	16	562.66	0.08
Hawkesbury	11	3,729.05	0.08
Lachlan - Ward C	3	73.33	0.08
Wagga Wagga	17	3,403.17	0.08
Tamworth	13	3,305.38	0.08
Cowra	12	714.91	0.07
Blacktown - Ward 2	5	2,956.04	0.07
Blacktown - Ward 3	5	2,881.96	0.07
Narrabri	17	622.79	0.07
Forbes	17	465.58	0.07
Lake Macquarie - North Ward	4	3,324.94	0.07
Moree Plains	10	540.08	0.06
Lockhart - Ward A	4	48.63	0.06
Bellingen	6	611.19	0.06
Blacktown - Ward 5	5	2,597.55	0.06
Berrigan	9	357.75	0.06
Hay	14	129.41	0.06
Walcha - Ward C	3	33.33	0.06
Singleton	11	885.13	0.06
Albury	10	1,950.59	0.05
Lake Macquarie - West Ward	5	2,659.95	0.05
Coonamble	12	147.50	0.05
Goulburn	14	1,091.00	0.05
Bega Valley	22	1,305.85	0.05
Muswellbrook	15	548.20	0.05

Area	Number of groups or independent candidates	Average of Total ECE	Average of Total ECE / Elector
Campbelltown	9	4,419.43	0.04
Temora	14	179.06	0.04
Glen Innes	14	241.51	0.04
Narrandera	20	129.12	0.03
Weddin	14	80.66	0.03
Junee	14	110.08	0.03
Walgett	12	104.91	0.03
Cessnock - Mayoral	3	1,018.69	0.03
Narromine	16	108.36	0.02
Gwydir	10	87.41	0.02
Bogan	13	44.04	0.02
Bland	15	92.70	0.02
Liverpool - Mayoral	2	2,684.05	0.02
Parkes	18	216.93	0.02
Tenterfield - Ward E	3	19.67	0.02
Clarence Valley	19	640.32	0.02
Liverpool Plains	10	559.37	0.00
Byron - Mayoral	2	39.00	0.00
Lismore - Mayoral	1	0.00	0.00
Brewarrina	8	0.00	0.00
Lachlan - Ward E	2	0.00	0.00
Coolamon	8	0.00	0.00
Eurobodalla - Mayoral	1	0.00	0.00
Tenterfield - Ward C	3	0.00	0.00
Coffs Harbour - Mayoral	1	0.00	0.00
Walcha - Ward A	3	0.00	0.00
Warren - Ward D	4	0.00	0.00
Lake Macquarie - Mayoral	1	0.00	0.00
Lachlan - Ward A	2	0.00	0.00
Lockhart - Ward B	4	0.00	0.00
Carrathool - Ward B	5	0.00	0.00
Tenterfield - Ward D	4	0.00	0.00
Carrathool - Ward A	5	0.00	0.00
Lockhart - Ward C	3	0.00	0.00
Fairfield - Mayoral	2	0.00	0.00
Warren	5	0.00	0.00
Warren - Ward C	5	0.00	0.00

Appendix C - Information provided to third-party campaigners about “acting in concert”

Slide from a NSWEC presentation on 20 September 2018 to potential third-party campaigners organised by Unions NSW.

The slide features a decorative background with a blue wave-like pattern on the left side and a blue footer bar at the bottom. The text is centered and presented in a clean, sans-serif font.

Expenditure caps

- Unlawful to incur electoral expenditure during the capped expenditure period in excess of the expenditure cap
- Unlawful for a third-party campaigner to act in concert with another person or other persons to incur electoral expenditure in relation to an election campaign during the capped expenditure period for the election that exceeds the applicable cap for the third-party campaigner for the election.

electoral
commission NSW

Further material (fact sheet, website) is being developed.

Appendix D - Information provided to local government candidates on registration

Local Government candidates for the by-elections to be held after July 2018 are provided with a registration letter (see example for Ku-ring-gai Council below), as well as the following fact sheet:

http://www.elections.nsw.gov.au/data/assets/pdf_file/0009/229671/FD_2868_LGBY_electoral_finance_obligations_V2-AC.pdf

Name

Address

Date

Dear XXX

Local Government Candidate Registration Acknowledgment

You are now registered as a candidate for the Ku-ring gai Council St Ives Ward by-election on 27 October 2018.

Registration

Your registration details were included in the Register of Candidates for the Ku-ring-gai Council by-election on (xxxx date). From this date you are lawfully allowed to accept donations and make payments for electoral expenditure for your election campaign.

The Register of Candidates is a public register maintained by the NSW Electoral Commission (NSWEC) and published on the NSWEC website. The public register includes the enrolled addresses of candidates, unless you indicated on your form that you are a silent elector. If you become a silent elector, you must inform the NSWEC so we can update our records and the public register.

If you have registration enquiries contact fdc@elections.nsw.gov.au or telephone 1300 022 011.

Registering is separate to nominating to contest the election and have your name appear on the ballot paper. To nominate and have your name appear on the ballot paper, you must complete separate nomination forms and lodge these forms during the nomination period which is from Monday 17 September 2018 to 12 noon Wednesday 26 September 2018. Nomination enquiries should be directed to nominations@elections.nsw.gov.au or telephone 1300 022 011.

Amendment to the Local Government Register of Candidates

You must inform the NSWEC of any change to the information that you provided in your application for registration within **30 days** of the change occurring. Penalties apply for failing to update these details with the NSWEC.

Disclosures

All registered candidates have an obligation to disclose donations and electoral expenditure to the NSWEC. You are the person with responsibility for making your disclosure to the NSWEC and operating your own campaign account (as required by Part 3 of the *Electoral Funding Act 2018*). However, if you are a member of a registered party and there is a mutual agreement between you (the candidate) and the party agent of the party (and the NSWEC has been advised of the agreement), the party agent is responsible for making your disclosure and operating a campaign account. This mutual agreement needs to be in writing (by completing form EF.730) and lodged with the NSWEC.

The frequency for making disclosures has changed under new electoral laws which commenced on 1 July 2018.

Enclosed is a fact sheet for local government by-elections summarising the requirements under the *Electoral Funding Act 2018*. More information can be found at www.elections.nsw.gov.au/fd or call client services on 1300 022 011.

Mr Mark Morey
Secretary
Unions NSW
Level 3, Trades Hall
4-10 Goulburn Street
Sydney NSW 2000

9 October 2018

Dear Mr Morey

I am writing in response to testimony given by you on 24 September 2018 before the Joint Standing Committee on Electoral Matters (JSCEM).

In the course of your appearance you made a number of statements which expressed dissatisfaction with the adequacy of advice provided to Unions NSW by the NSW Electoral Commission (NSWEC) regarding the operation of the electoral funding legislation. At one point in your evidence you observed as follows:

As with the previous Act, trying to get directions from them is virtually impossible. I have told our staff to put everything in writing and to keep every response we get, so that if we do get in a situation where we have breached the legislation, not because of trying to but because we made a mistake, we have documentation that proves we could not get answers or guidance out of them.

In support of these comments you referenced a meeting held in the previous week between Unions NSW and the NSWEC. I assume that this meeting was the information session conducted on 20 September 2018 by the NSWEC at the request of your Senior Campaign Officer. I have received feedback from the NSWEC officers who conducted this information session that it was well received and, in fact, was complimented by your Senior Campaign Officer.

The electoral funding legislation is complex and not all situations can be covered by way of examples provided in the course of a general presentation. All circumstances of a campaign must be considered in order to assess whether its cost is electoral expenditure and, consequently, whether the person or entity responsible is a third-party campaigner.

I am advised that number of 'questions on notice' were taken from Unions NSW at the information session and that the NSWEC has since responded to Unions NSW in that regard.

This was the third time since 2016 that the NSWEC has conducted information sessions for the benefit of Unions NSW and its members.

Since March 2017, the NSWEC has received three written enquiries from potential third-party campaigners, including one from a union, seeking our advice a proposed campaign. On each occasion, the NSWEC provided a written response based on the information provided.

While the NSWEC aims to support all political participants (including third-party campaigners) in meeting their legal obligations, it does not provide legal advice. Opinions expressed by the NSWEC are not a substitute for the law. All political participants must satisfy themselves as to their legal position including, where appropriate, obtaining advice from their own legal advisers. It is the responsibility of individual political participants to ensure that they comply with NSW electoral funding law.

The NSWEC remains available to provide further information to Unions NSW and would welcome constructive feedback on our information activities.

A copy of this letter has been provided to JSCEM members for their information.

Should you wish to discuss this matter further, please contact Mr Hugo Bergeron, Acting Executive Director – Funding, Disclosure and Compliance, on [REDACTED] or at [REDACTED]

Yours sincerely



John Schmidt
Electoral Commissioner