

**NSW Electoral Commission's Responses to Questions on Notice**

**1. COSTS**

**Question:**

*As the NSWEC is aware the costs associated with the 2008 local government elections are a primary concern of this inquiry. This issue featured prominently in over 40 council submissions received thus far by the Committee.*

- a. A common complaint from councils has been that they were charged substantial administration fees with no clear indication of the basis for levying these fees. Page 136 of the NSWEC's Report on the 2008 local government elections indicates that the charge was the product of an internal audit review.*
  - i. What inputs did this review consider in determining the administration fee?*
  - ii. What were 'head office' costs of the NSWEC, as referred to at page 7 of the WalterTurnbull report?*
  - iii. How was the administration fee explained to councils?*
  - iv. In planning for future elections will consideration be given to greater itemisation of the inputs that make up the administration fee, and if not what impediments are there to greater itemisation?*

**Response 1a:**

The hourly charge methodology employed by the NSWEC is no different to the methodology employed by the Crown Solicitor or Auditor General. ... *omission on Committee's resolution, following request of NSWEC, on grounds of commercial-in-confidence.*

The Administration Fee Review was conducted in early 2006 and reported on by Walter Turnbull in their report 'Review of Costing of Local Government and Non-Government Elections' dated May 2006. At that time the charge out rate was \$50/hr and following the review by independent auditors this was increased to \$195/hr.

**1a(i) Inputs were:**

- Direct expenses incurred by the client service function
- Indirect overhead of other branches to support the client service function
- Determination of chargeable vs non-chargeable hours over a four-year cycle

**1b(ii) Head Office Costs are made up of:**

- Employee salary, superannuation, taxes, agency wages, recruitment costs, workers compensation, rent, electricity, telephone, IT, and depreciation.

**1c(iii) Explanation to Councils:**

- Councils were issued with a budget estimate in May 2008 that contained the line item 'administration fee'. Any council that questioned this item were provided with an explanation that this was recovery of overhead for frontline permanent staff. Calculated as: 18 staff X 19 weeks X 35 hrs X \$195 = 2.3M / # electors. The 19 weeks is considered a very conservative charge and was based on the revenue expectations for the NSWEC contained in the NSW Treasury Budget papers for 2008/09.
- Please note that a search of the communications received from councils revealed that only 5 of the 148 councils (0.03%) requested further information of the line item 'administration fee'.

**1d(iv)** Yes, further explanation of this fee can be made in future elections

**Question 1b:**

*Submission 68 from the Local Government and Shires Associations (LGSA) asserts that the \$195 per hour administration charge is considerably more than basic cost recovery. According to the LGSA \$195 charge would, if extrapolated, amount to \$8.162 million more than the staffing costs as outlined in the NSWEC's annual report. According to the LGSA the true cost was more like \$76.98 of an hour for staff.*

*What was included in the \$195 per hour administration charge for NSWEC staff who worked on the 2008 local government election?*

*Were there any time constraints or software/other impediments to the NSWEC itemising, for councils, the inputs that went into the \$195 per hour administration charge?*

**Response:**

The premise that the \$195/hr is purely staffing costs is incorrect, therefore the extrapolation is incorrect.

The LGSA submission does accurately state that the NSWEC's staffing costs in 2008 were \$5.324M, however this is only the staffing costs and the same page (page 70) of the NSWEC Annual Report shows operating expenses were in fact \$17.637M. The \$2.3M admin fee is a relatively small recovery against the operating expenses.

In terms of salary costs, direct salary costs Walter Turnbull found to be \$53.67/hr with the balance of costs being indirect overhead costs. Costs included in the charge include: Employee salary, superannuation, taxes, agency wages, recruitment costs, workers comps, Rent, Electricity, Telephone, IT, Depreciation.

The Walter Turnbull review was conducted in May 2006 and the rate of \$195/hr has been applied since. The rate is due for review next year on a four year cycle.

**Question 1c:**

*Page 140 of the Commission's report indicates that the NSWEC "encouraged" councils to charge the NSWEC for the costs of council premises used by returning officers "so that the full cost of the elections could be reported".*

*How were these costs invoiced to council?*

*Did councils have to claim back these costs from the NSWEC?*

*If so, what was the benefit of following such a procedure rather than, in cases where councils provided suitable accommodation, simply omitting the cost of accommodation from the charges levied to councils?*

*Page 139 of the NSWEC's report indicates that in some cases the charges levied by council exceeded the budget set by the NSWEC for returning officer accommodation and in such cases alternative accommodation was sought. In such cases were councils given the opportunity to revise their charges prior to the Commission leasing alternative accommodation?*

*Did some councils have to pay the cost of leased non-council accommodation as a consequence of the fact that the charges nominated for their own council accommodation exceeded the Commission's budget?*

**Response:**

**1c(i) – (ii):**

If a council supplied premises we requested that they invoice the NSWEC as they would invoice any other organisation utilising their premises. These costs were captured in the NSWEC's accounting system with a code so they could be clearly identified as belonging to that council.

The cost was then represented on the final invoice as the actual cost; no mark-up is involved.

39 councils of 43 councils that supplied premises claimed the cost back from the NSWEC in this manner. The other four Councils that did not invoice for premises and therefore the final invoices were not able to show the total cost of the election.

**1c(iii):**

The purpose was to capture the full cost of conducting the election and to be able to benchmark between all councils on a like for like basis the cost of the election.

To include some costs for some councils but not for others makes comparisons inaccurate and prevents the use of such data for future planning purposes. For example, a council that could provide accommodation in 2008 may not be able to do so in 2012 and reliance on the expenditure figures for 2008 LGE if they did not include accommodation cost would be misleading.

**1c(iv):**

Councils were requested to provide the true cost of the premise to enable the NSWEC to deduct that cost from the total invoice or to apportion the indicative cost to another council if that council was part of a region.

The only time the NSWEC secured commercial premises for a Returning Officer (RO) was when the council was unable to offer suitable premises for the RO's operations. Where this occurred, the costs were billed back to the council. Every council was advised prior to the election the location of the RO's office and of course, whether it was commercially sourced.

**1c(v):**

The primary reason for securing non-council leased accommodation was due to the inability of a council to offer suitable accommodation (in terms of available space and facilities) for the RO to conduct the election for that LGA.

**Question 1d:**

*Page 9 of the WalterTurnbull report identified the potential for overcharging by councils providing accommodation in cases where a returning officer was to be shared by a number of councils. How did the NSWEC overcome this potential problem?*

**Response:**

The cost was referenced to local real estate agents estimates. Given that the council would be paying the final account containing their own charges the NSWEC accepted the cost invoiced by councils in all cases. The average cost invoiced to the NSWEC was \$16,594. Councils could achieve a higher headline election cost by charging the NSWEC a large fee for accommodation.

The highest costs charged to the NSWEC were by the Councils of Randwick at \$152,514 and North Sydney at \$68,313. Local real estate estimates were used to validate rents charged by Councils where the shared Regional Returning Officer (RRO) model was used.

## **2. PROPOSED CHANGES**

**Question:**

*A number of councils and other stakeholders have proposed postal voting only elections (submissions 6, 23, 27, 43, 49, 50, 53, 57), a matter that was also raised in feedback to the NSWEC (page 156 of the NSWEC report). Page 156 of the NSWEC report indicates that NSWEC will raise with the Minister for Local Government the option of providing councils with the choice of either attendance or postal voting.*

*What option(s) will the NSWEC put to the Minister for Local Government?*

**Response 2(a)(i):**

Possible alternative options for the conduct of local government elections using universal postal voting instead of in person voting include:

- Optional\* universal postal voting for individual council areas (Vic model)

Under this option, a council may resolve to adopt universal postal voting as the method for conducting their election. Under this arrangement each elector would receive their postal voting material in their mail box.

- Optional universal postal voting for rural/remote council areas only (or parts of) (Qld model)

Under this option, a Council in a designated rural area may resolve to have their election conducted using universal postal voting.

- Mandatory\*\* universal postal voting for all LGAs (SA, Tas and NT models)

Under this option, all local government elections in NSW would be conducted by way of universal postal voting.

- Optional universal postal voting for by-elections
- Mandatory universal postal voting for by-elections
- Optional universal postal voting for constitutional referendums/ polls (if held separate to a general or by-election)
- Mandatory universal postal voting for constitutional referendums/ polls (if held separate to a general or by-election)

Note: \* by Council resolution

\*\* by force of legislation.

The briefing to the Minister will provide full information on the options available and background information for example, on what other voting options Australian jurisdictions provide for Local Government elections.

**Question 2a(ii):**

*Is the NSWEC aware of any costs savings that could accrue to councils if local government elections were conducted exclusively by postal vote?*

**Response:**

Conducting the Local Government Elections by postal vote could deliver cost savings to councils. The NSWEC has had preliminary discussions with the Victorian Electoral Commission (VEC) who conduct local government elections using both attendance and universal postal voting. Data from the VEC suggests that the cost per elector for attendance elections in rural areas would be greater than for postal voting but regardless of attendance or postal, the cost per elector for smaller Councils remains greater because they do not achieve the same economies of scale as the larger Councils.

Despite the greater cost per elector for smaller Councils, cost savings are expected to be greatest for remote and regional Councils. This is largely as a result of

removing the cost of establishing polling places to service communities. Whilst there are potential cost savings for some metropolitan councils if they choose to have universal postal voting it depends on the size of the council and whether it is divided or not. Those Councils that have many wards are likely to see more cost savings by adopting universal postal voting.

The NSWEC will undertake more detailed examination of the costs for the Committee if required.

**Question 2(b):**

*Page 157 of the NSWEC report has recommended that a candidate's membership of a registered political party and whether a candidate is endorsed by a registered political party, be prescribed as matters that must be included in a Candidate Information Sheet.*

*Have there been matters before the Administrative Decisions Tribunal (ADT) in relation to these two issues?*

*To what extent would the NSWEC's proposed legislative change have the benefit of reducing the number electoral matters before the ADT?*

**Response:**

As indicated in the NSWEC's Report, the proposal is designed to address regular complaints received by the NSWEC that the legislation as currently drafted denies electors the ability to cast an informed vote. This is because candidates that are members of registered political parties, but not formally nominated ("endorsed") as candidates by those parties, are nevertheless permitted under the legislation to apply for independent candidacy on the ballot paper. Section 329 of the *Local Government Act 1993* provides that any person may bring proceedings in the ADT to order the dismissal of a councillor where "an irregularity in the manner in which the person has been elected" has occurred. One of the necessary elements under the Tribunal's approach to determining "irregularity" is to establish a breach of the local government elections provisions.

In this regard, the NSWEC is aware of an ADT decision to order the dismissal of a councillor for "irregularity" under section 329 of the Act due to, among other things, causing the display of an election poster bearing the logo of a particular registered political party contrary to the councillor's independent candidate status on the ballot and as asserted by the candidate on the candidate information sheet (CIS) (*Jeffery & ors -v- Roberts* [2002] NSWADT 57). In this case, a clear breach of the prohibition on misleading electoral material was established.

This is to be compared with a situation that occurred at the 2008 LG elections where electoral material regarding a candidate's independent status had been validly registered by the NSWEC but was distributed on election day by campaign workers wearing t-shirts and hats bearing the logo of a particular registered political party. It was alleged by a number of complainants that the independent candidate concerned was a member of that party. While the conduct described might be considered

inappropriate, it did not, in the view of the NSWEC, constitute a breach of the provisions regulating the registration or dissemination of electoral material.

There are a number of options available to improve transparency in this area and enable electors to make informed decisions when voting. They are:

- Amend the Act to disallow applications for independent candidacy where the applicant is a member of a political party (in which case, nothing is printed next to the candidate's name on the ballot paper. Note endorsed candidates must have the party name/abbreviation printed next to the candidate's name on the ballot paper).
- Amend the regulations to require electoral material printed on behalf of an independent candidate to clearly state whether the candidate is a member of a political party (this option has the potential to create confusion and would not solve the problem in circumstances where no electoral material is displayed/disseminated on behalf of the candidate)
- Amend the Act to require a candidate information sheet belonging to an independent candidate to state whether he or she is a member of a political party (candidates would also have an opportunity to clarify the reasons for their independent candidacy despite continued party membership)

Option 1 goes to policy and is a matter for the Government. Out of the remaining options, the NSWEC prefers option 3 for its flexibility and accessibility.

**Question 2(c):**

*On page 157 of the NSWEC report it is suggested that candidates be required to indicate on their candidate information sheet whether they are qualified to contest an election on the basis of residential or non-residential status, so as to reduce confusion, enhance understanding of candidate eligibility on the part of electors, and minimise misconceived challenges to candidate elections. Does the NSWEC receive complaints from the public with regard to candidates standing or being elected as non-residential candidates in local government elections?*

**Response:**

Yes. However, this is usually due to the complainant not understanding that a person is entitled to be included on the non-residential roll for an area, and therefore entitled to vote and stand for election in the area, if they are the owner, occupier or ratepaying lessee of property in the area. The policy underpinning this entitlement is that a person who has a property or business interest in a council area should be able to participate in that area's election process.

The NSWEC is aware that a member of the public commenced proceedings in the ADT seeking the dismissal of a person elected to a Sydney metropolitan council following the 2008 elections, that person having qualified for nomination due to non-residential roll status. The councillor concerned conducted a business in the council

area for which she stood and was a resident of a neighbouring council area. The ADT, which ultimately refused the application, noted in its decision that the applicant had initially submitted that the councillor was *disqualified* from holding civic office, presumably on the basis that she was not a resident of the area. The applicant apparently confirmed at the hearing a revised submission that a dismissal order was sought on the basis of an irregularity in the election of the councillor having occurred due to the respondent having falsely stated her non-residential address (that is the address that qualified her inclusion on the non-residential roll) under the “residential address” field in the candidate information sheet.

The NSWEC is of the view that similar challenges could be avoided, transparency enhanced and the public’s understanding of the LG election process improved, by amending the legislation to ensure that the minimum requirements in the CIS include the residential address of the candidate AND the non-residential address, if any, relied upon to entitle the candidate to nominate for election.

**Question 2(d):**

*The NSWEC’s report recommends streamlining and simplification of the local government pre-poll process, including dispensing with the envelopes for Declared Institution ballots and pre-poll voting (p.157). Similar recommendations for Declared Institution ballots were made in the Committee’s report on the 2007 State Election (JSCEM report no. 1/54). What is the Electoral Commission’s understanding of the Government’s position on this proposal?*

**Response:**

The NSWEC notes that the NSW Government is yet to formally respond to the Committee’s report on the 2007 State elections. Therefore, the NSWEC is not in a position to comment.

**Question 2(e):**

*Page 158 of the NSWEC report recommends that certain items be expressly exempted from the requirement to be authorised, for example t-shirts, hats and pencils, and indicates that this is the case in Commonwealth legislation and that of all other States. Has the NSWEC received any complaints in relation to items such as t-shirts and the like not being authorised?*

**Response:**

The complaints and queries received by the NSWEC on this issue are rarely about lack of authorisation and more about the ambiguity in the legislation as to whether or not authorisation is required. As the provisions currently stand, it is arguable that t-shirts, hats, business cards containing electoral matter fall within the scope of the authorisation requirements. This is impracticable and inconsistent with the Commonwealth and other State and Territory jurisdictions. The proposed amendment would put the matter beyond doubt and give certainty to candidates, election officials and other participants in the election process.



**Questions 2(f):**

*Page 158 of the NSWEC report also recommends that express provision be made that electoral material cannot be registered “unless it clearly identifies the person, political party, organisation or group on whose behalf the card is to be distributed”.*

*Is the NSWEC proposing that subdivision 6 clause 356Q 3(c) of the Local Government Regulation 2005 expressly provide that elected material cannot be registered material unless it not only includes the name and address of the person on whose instructions the material was printed, and the name of the printer and the street address at which it was printed, but also the political party, organisation or group on behalf of whom electoral material, including how-to-votes, is being distributed?*

*Have there been complaints made to the NSWEC by electors that they have been misled into voting for a certain candidate due to the fact that electoral material did not indicate that it was being distributed on behalf of a particular political party, organisation or group?*

**Response**

Clause 356Q(3)(c) of *the Local Government (General) Regulation 2005* requires the NSWEC to refuse registration of electoral material that does not contain the name and address of the person who has instructed that the material be printed, and the name and address of the printer. The NSWEC is NOT proposing that this provision be amended to also require the name and address of the candidate, group, party, or organisation on behalf of whom the material has been produced. Rather, the NSWEC proposes that registration should be refused where the candidate, group, party or organisation on whose behalf the material has been produced is not clearly identifiable on the face of the material.

Currently, there is nothing to preclude distribution of electoral material that does not identify the candidate, group, party or organisation on whose behalf the material has been produced. This is because the person identified as the “authoriser” on any particular item of electoral material might be someone other than the person or entity the subject of the material (for example, the official agent of a candidate/ group or registered officer of a political party/ other entity).

The proposed amendment would also address complaints received by the NSWEC regarding what are known as “second preference how-to-vote cards”. In these cases, a candidate/party recommends a second preference for themselves without recommending a first preference to anyone else. For example, “Are you thinking of voting for Party X? Give your second preference to Party Y”.

The strategy involved is for Party Y to capture the second or later preferences ahead of others after Party X is eliminated from the count. The concern is that voters might be confused into believing that these “second preference how-to-vote cards” are the official how-to-vote cards for Party X. However, there is some doubt whether this type of material falls within the scope of the prohibition on “misleading” electoral material. Transparency would be improved and voter confusion minimised if Party

Y's identity was required to be clearly communicated (this could be achieved, for example, through prominent lettering, logos etc or an unambiguous statement indicating that the message is from Party Y). The NSWEC notes that a similar requirement is prescribed under Victorian legislation (section 79(2), Electoral Act (Vic)).

### 3. COUNTING THE VOTE

*A major concern of councils and stakeholders that have made submissions to the committee is the counting of the vote, and in particular delays in reporting the results when compared to 2004. Submission makers have also expressed concern regarding the inaccessibility of vote counting to scrutineers where the count did not take place locally (see submissions 2, 5, 8, 9, 32, 33, 35, 36, 38, 40, 42, 49, 52-53, 55-57). Page 115 of your report indicates also that 48% of general managers were either unsatisfied or very unsatisfied with the timeliness of the issuing of the results of the count.*

- a. *Submission 39 indicates that Schedule 5 of the Local Government Regulation 2005, which duplicates counting provisions for the Legislative Council as set out in the Constitution Act 1902, prescribes the use of random sampling for determining the preferences of candidates that achieve a full quota. According to this submission, ballot papers must be entered into computers to ensure that random sampling is done correctly, and to minimise costs this is done centrally. The result is that ballot papers for many council elections can no longer be counted locally and this makes it difficult for local elections to be properly scrutineered.*
  - i. *To what extent is the random sampling requirement necessitate transferring the counting of local government elections to a centralised location?*
  - ii. *What other factors affected the decision to conduct a centralised count of a council election?*
  - iii. *Would changes to Schedule 5 of the Local Government Regulation 2005, including removing the random sampling provisions, facilitate counting and scrutineering of ballots locally?*

#### Response:

##### 3a(i):

- Clause 6 (g) of Schedule 5 of the LG (General) Regulation 2005 requires that the votes retained by candidates as a result of a surplus distribution, be selected at random from the bundle of votes transferred to those candidates from the elected candidates. The balance of the votes from each bundle are set aside as the quota.
- It is not entirely correct to say that "ballot papers must be entered into computers to ensure that random sampling is done correctly". Elections counted manually by returning officers require the RO to take the ballot papers at random from the bundles of ballot papers. There has never been an issue that this random selection by hand has not been "done correctly".

- It is true that the NSWEC vote counting software has been designed to enable the random selection of ballot papers to be undertaken utilising random number generating software to select ballot papers at random. This software is used for both NSW LC and LG elections.
- Up until the introduction of preferential voting “above the line” prior to the 2004 LG elections, all LG elections were counted locally by ROs, involving the physical movement of ballot papers from candidate to candidate at each surplus distribution or exclusion of a candidate.
- ATL preferential voting complicated the counting process, by introducing multiple streams of preferences which needed to be tracked to ensure that streams that exhausted (did not show a preference for a continuing candidate), were identified, isolated, and removed from the count at the appropriate time.
- It was considered that this would complicate the manual counting process to such an extent that the risk of error in identifying exhausted streams, recording these and factoring them into the transfer formula calculation was so great that it would threaten the integrity and timeliness of the count. The decision was therefore taken to bring all LG elections with group voting squares to a central counting centre to be computer counted.
- It is worthwhile pointing out that the situation with centralised counts in 2008 was no different to the arrangements in 2004.
- Well before the 2008 elections NSWEC staff visited every Council and informed each General Manager that a centralised counting centre would again be established, and at the candidate information seminars conducted by NSWEC in the lead-up to the elections, candidates were also advised of the centralised vote counting arrangements and procedures.
- NSWEC has successfully deployed the software on 3 “one off” occasions for councils that had elections deferred from the scheduled 2004 elections. The deployment, data entry and count functions were managed by experienced NSWEC staff.

**3a(ii):**

Other factors affecting the decision to centralise these counts and not conduct them locally as computer counts were:

- the cost, time and effort in training ROs in the counting process. In the 2008LGEs there were 90 ROs – this was a smaller number than could be expected in regular Local Government elections due to the introduction of Regional ROs;
- the cost of deploying the software to a very large number of individual locations across NSW;
- the lack of expertise required to support the software across many locations;
- the age and potential vulnerability of the software which had become difficult to provide technical support; and
- the ability of individual ROs to source computers locally and access competent data entry staff and the cost.

**3a(iii):**

- The NSWEC recognises that some Councils would prefer that the ballot papers were counted locally. This is especially the case for regional and rural Councils. The desire for local counts appears to be a product of an assumption that local counts will be quicker counts, a greater sense of 'local ownership' as well as more convenience to scrutineers, candidates and other stakeholders.
- The NSWEC is currently redeveloping the vote counting software and is building functionality that will enable the software to be deployed to as many local areas as necessary, as a web based application. However, the issues regarding the cost and effort required for training, deployment, technical support and sourcing resources locally will remain. These dependencies could affect the cost and timeliness of local counting using a web based vote counting application. For the 2012 Local Government Elections, the NSWEC will aim to offer Councils a choice of having their election counted locally or centrally with the associated costs and other relevant estimates of each option.
- It is not considered necessary to change Schedule 5 to allow local computer counts to proceed.

**Question 3b:**

*Page 120 of your report acknowledges that some stakeholders believed that sending ballots to a centralised counting centre resulted in delays in the declaration of results. The average delay between the closing of the polls and the declaration of results was 9 days; however, no information was available to make rigorous comparisons with the 2004 local government election (page 121 of the NSWEC report).*

- i. Were there complaints as to a delay in the reporting of results from councils where the count was conducted locally?*
- ii. On average, were the results for councils whose vote was counted locally made public sooner than those councils whose vote was counted centrally?*

**Response:**

The NSWEC provided all councils well in advance of the commencement of the centralised count with an indicative time line for the count of ballot papers.

As mentioned in our report, we actually completed all the counts three days sooner than was indicated.

In general, those councils where the count was conducted locally were happy with the time for completion of the count. Some Councils that were part of a region complained about the time taken to complete their count. The feedback from stakeholders such as General Managers and candidates indicates that the underlying reason for much of the complaints concerned not knowing where the counting process was up to and when their count was scheduled. The NSWEC

acknowledges that the timeliness of results will always be a very sensitive issue and as stated in our report on the 2008LGEs, the NSWEC believes that it could better manage this important communication to councils and candidates. The NSWEC accepts that the provision of results needs to occur in a timely manner and that Councils and candidates need to know with as much certainty as possible when results will be known. There also needs to be an acceptance from stakeholders that some Councils will be first counted and some counted last even in Regional Returning Officer structures.

One problem was the counts in many cases were finished well before the RO was able to declare the poll. The RO is required by law to wait twenty-four hours after the completion of the count before declaring the poll. In some cases the weekend intervened after the count was finished which meant 48 to 72 hours lapsed before the RO declared the poll

#### 4. RETURNING OFFICERS

a. *Page 64 of your report indicates that “despite...initial reluctance” 23 returning officer regions were formed, comprising 81 councils and representing 54.7% of the total number of councils with elections. Please detail for the Committee which councils were members of regional groupings indicated at page 180 of the NSWEC’s report.*

#### Response:

##### 4a:

The councils in each of the regional clusters were:

1. **Albury City Council** with Corowa Shire Council, Greater Hume Shire Council and Tumbarumba Shire Council;
2. **Armidale Dumaresq Council** with Walcha Council;
3. **Ballina Shire Council** with Byron Shire Council;
4. **Bathurst Regional Council** with Blayney Shire Council;
5. **Coffs Harbour City Council** with Bellingen Shire Council and Clarence Valley Council;
6. **Narrandera Shire Council** with Bland Shire Council, Carrathool Shire Council, Griffith City Council, Hay Shire Council, Leeton Shire Council and Murrumbidgee Shire Council;
7. **Blue Mountains City Council** with Lithgow City Council;
8. **Cobar Shire Council** with Bogan Shire Council, Bourke Shire Council, Brewarrina Shire Council and Central Darling Shire Council;
9. **Orange City Council** with Cabonne Shire Council, Forbes Shire Council, Lachlan Shire Council and Parkes Shire Council;
10. **Gundagai Shire Council** with Coolamon Shire Council, Cootamundra Shire Council, Junee Shire Council and Temora Shire Council;

- 11. Cooma-Monaro Shire Council** with Bombala Council and Snowy River Shire Council;
- 12. Deniliquin Council** with Balranald Shire Council, Berrigan Shire Council, Conargo Shire Council, Jerilderie Shire Council, Murray Shire Council and Wakool Shire Council;
- 13. Dubbo City Council** with Gilgandra Shire Council, Narromine Shire Council and Warren Shire Council;
- 14. Eurobodalla Shire Council** with Bega Valley Shire Council;
- 15. Goulburn Mulwaree Council** with Upper Lachlan Shire Council;
- 16. Greater Taree City Council** with Gloucester Shire Council and Great Lakes Council;
- 17. Tamworth Regional Council** with Gunnedah Shire Council and Liverpool Plains Shire Council;
- 18. Kempsey Shire Council** with Nambucca Shire Council;
- 19. Lismore City Council** with Kyogle Council and Richmond Valley Council;
- 20. Wagga Wagga City Council** with Lockhart Shire Council, Tumut Shire Council and Urana Shire Council;
- 21. Narrabri Shire Council** with Walgett Shire Council and Warrumbungle Shire Council;
- 22. Queanbeyan City Council** with Palerang Council and Yass Valley Council; and
- 23. Young Shire Council** with Boorowa Council, Cowra Shire Council, Harden Shire Council and Weddin Shire Council

**Question 4b:**

*A number of councils and other stakeholders (submissions 9, 18, 41, 43, 49, 57) expressed dissatisfaction with the regional returning officer model, with some councils claiming that they saw no evidence of cost savings, whereas page 137 of your report indicates that councils using regional returning officers saved \$3.65 per elector. Page 70 of your report indicates that 77.7% of councils indicated that they would share a regional returning officer in future elections.*

- i. In assessing the costs of the regional returning officer model did the NSWEC compare the cost per council of this model with the costs of a returning officer for rural and regional councils that did not opt for a regional returning officer?*
- ii. What reasons did 22.4% of relevant councils give for not wanting to share a regional returning officer again in future elections?*
- iii. Was this 22.4% concentrated in any particular region?*

**Response:**

**4b(i):**

Yes, the average cost per elector for councils sharing an RO was \$1.23. For those same councils had they chosen to have their own RO the average cost would have been \$4.88.

**4b(ii):**

Reasons provided in the feedback from General Managers included:

- Expectations of the local community that the NSWEC would place an RO within the local community;
- In one case, dissatisfaction with RRO;
- Belief that there would be service reductions as a result of the distance to be travelled for candidates in 'non host' councils and perceptions of reduced access to information for potential candidates;
- No cost savings; RRO not as available; count delays more likely;
- No benefits to council; and
- Council doesn't need a full time RO.

**4b(iii):**

No.

**Question 4 c(i):**

*There were some complaints with regard to the accessibility of the returning officer, including the location of their office and the provision of a mobile telephone only, with no landline access (submissions 36, 49 and 51).*

- ii. What consultation was undertaken with councils in relation to the location of returning officers?*
- iii. Were some returning officers only contactable by mobile phone? If so, why weren't landlines provided to these returning officers*
- iv. Were any complaints received from electors or candidates with regard to the cost associated with calling returning officer on a mobile; or with regard to problems with mobile coverage in rural areas?*

Response:

**4c(i):**

Prior to the election, every council was sent a questionnaire/evaluation form requesting information about possible RO premises. Included, were questions such as:

- Could the Council provide premises?
- If yes, what size could be offered, what were the security aspects, accessibility of the proposed site, location to public transport, parking, facilities, location to the CBD, etc.

Where the Council was unable to provide premise, the questionnaire requested information about whether council could recommend alternative premises or agents in the area who could offer assistance, what locations were considered suitable etc.

While the final decision about where the RO was to be accommodated within each council was the NSWEC's, the consultation process with each council was thorough and comprehensive.

**4c(ii):**

At the 2007 State General Election, landlines were used exclusively to provide communications services to RO offices. Each RO office was equipped with a line for the RO, and 3 lines in a rotary for enquiries and outgoing phone calls.

Following the 2007 election, this strategy was reviewed, and three main problems were identified.

1. The installation of temporary landlines was costly, at \$299 per line for installation and \$70 per month for each month of usage. This equates to \$2316 for voice communications, before call costs.
2. Installation of landlines took considerable time in some cases. The time gap between gaining possession of an office and needing to open the office was usually two weeks, while the minimum time to install landlines is 2-3 weeks. In some cases it took much longer – landlines were not installed into the Broken Hill office until two weeks before the election.
3. Even after the lines were installed, problems persisted. In many cases the rotary was not set up correctly, lines did not work, and significant effort had to be expended to get all services running.

The second problem could be got over by leasing the offices earlier, but there is obviously a cost associated with this.

The decision was therefore made that for LGE 2008 wireless communications would be used as much as possible i.e. for voice, mobile phones would be used. This had the following benefits:

1. The cost of mobile phones was less than landlines. The cost of the handset was \$60 per handset. The cost of the calls was 5.5c per minute under the Government Telecommunications Agreement. There was no monthly charge for the mobile services, so if a mobile was not used for outgoing calls there was no cost. This led to a significantly lower cost to Councils for voice communications. The mobile numbers were not published to the public (a 1300 number was used for public calls) so there was no cost to the public for calls to mobiles. It was felt that the cost to any individual who needed to call a mobile number for an RO office (e.g. candidates and polling place officials) was not so onerous as to constitute a major hindrance.
2. The RO could be issued with a mobile phone at the time of appointment, and so would be contactable at an earlier date than the office opening.



3. All the mobile services, including the rotary setup, were tested prior to shipping to RO offices, and were known working at the time of the RO office opening.

It was predicted that there might be some difficulties with mobile communications, particularly in rural areas. To minimise this problem, Telstra T165i mobile handsets, which offer enhanced coverage for rural areas, were used in rural districts. These handsets were borrowed from Electoral Commission of Queensland, and there was no cost to Councils for these handsets.

In one instance (Port Stephens) mobile coverage not adequate for the RO office, and this office was equipped with landlines when this service deficiency became known.

## **5. POLLING PLACES AND PRE-POLL CENTRES**

*A number of councils and other stakeholders expressed some dissatisfaction at the location of polling places and/or pre-poll centres, and have complained that there were insufficient staff at some polling booths on election day (see submissions 1, 2, 11, 27, 29, 33-36, 49, 52, 52, 58). Page 63 of your report indicates that some councils were unable to respond in time to the proposed polling places, staffing and projected number of votes.*

### **Question:**

- a. *How long did councils have to respond to the NSWEC's proposed polling places, staffing and projected number of votes?*
- b. *Was there a correlation between the abovementioned complaints and the inability of councils to respond in time to what was proposed by the NSWEC?*
- c. *How could consultation with councils be improved at the next election?*

### **Response:**

#### **5a:**

- Following the review of polling places, the NSWEC prepared a schedule of proposed polling places for review and comment by council. The schedule included the venue name and particulars, estimated number of votes for each venue and the number of staff to be appointed. Attached to the schedule, council was also provided with a map showing the location of each polling place.
- Schedules, maps and letters were progressively emailed to councils starting late November 2007 through to the 2nd week of December 2007. Initially Councils were requested to review the information and provide feedback within 14 days however as most councils failed to provide a response the due date was extended a further four weeks with reminders sent out to Councils on two separate occasions. In summary, Councils had six weeks to respond.

**5b:**

- Further extensions of time were granted to councils who formally asked for additional time to respond. The NSWEC consulted with Councils on proposed polling places as late as March/April 2008. No council area was actually finalised in respect to publication of a final polling place list until the council response was received.
- In some instances, the response received from council was only cursory acknowledgement that the information had been received and seemed satisfactory and in other cases councils reviewed the schedules extensively, had presented it at council meetings and provided the NSWEC with detailed comments and suggestions. The NSWEC acknowledged this in its report.
- Where a council expressed concern at any aspect of a polling place, or estimated number of votes, the NSWEC addressed those concerns by either accommodating the request or providing justification why a certain decision had been made and could not be accommodated. Over a period of several weeks the NSWEC consulted with many councils on the issues related to polling places to ensure the best outcome for both council and the service offered to electors.

**5c:**

- The NSWEC has developed its resourcing systems and procedures and in future will be able to supply councils with additional information (namely historical data) about the number of venues, locations, estimated number of votes etc. It is anticipated that with the improved systems and procedures now in place, the NSWEC will be better placed to provide the information to councils earlier, allowing sufficient time to thoroughly review and comment on proposals made.

**6. NSWEC Elector Inquiry Centre**

One of the NSWEC's innovations for the 2008 Local Government elections was a dedicated call centre called the 'Elector Inquiry Centre'. Page 37 of the NSWEC's report indicates that there were technical problems with the centre, with NSWEC's standards not being met in "some weeks", including the period from 1 to 8 September 2008, just prior to the election. This meant that some calls were not answered.

**Question:**

- a. Some councils made complaints regarding the level of service provided by the inquiry centre and the lack of local knowledge on the part of staff answering calls (see submissions 38, 42 and 47).
  - i. What sort of training was given to staff at the Elector Inquiry Centre?

- ii. Were there staff members at the centre with specific local knowledge, for example concerning the type of voting system used in a given local council?
- iii. How did inquiry centre staff deal with telephone calls where electors had questions relating to the administration of specific council elections, for example the location of polling places or the boundaries of given wards? Was this sort of information available to inquiry centre staff?

**Response:**

**6a:**

In addition to operators, the Elector Inquiry Centre was staffed with a Manager and three experienced NSWEC staff members who acted as the first line of escalation of more complex enquiries.

Casual staff recruited to answer calls were provided with comprehensive training in and a detailed manual of typical questions and responses. They were provided with access to the NSWEC website (which has all the information to answer the majority of enquiries), Google maps and the NSWEC's customised election management application. They had all the necessary tools to assist electors.

There were three levels of escalation of enquiries. If the front line staff could not provide an answer the call was referred to one of the three experts at the call centre. If the call was more technical in nature the caller was referred to an appropriate subject matter expert.

The NSWEC website had information relating to polling places (including polling places shown on Google maps), voting systems and the operation of the centralised count centre.

**Question:**

- b. Councils have also indicated that council resources were consumed when voters called their local councils after being unable to reach the call centre or to get satisfactory information.*
  - i. Were all councils advised of the technical difficulties with the Elector Inquiry Centre?*
  - ii. When determining costs for individual councils, did the NSWEC factor in any additional staffing costs that may have been borne by the councils as a consequence of the technical difficulties?*
  - iii. Assuming the technical difficulties are not repeated at the next local government election, would it still be the case that many callers would be referred onto or have to call local councils for further information in relation to specific local government elections?*

**Response:**

**6b(i):**

Returning Officers advised both Councils and callers to the RO office of the technical difficulties being experienced by the EIC. However, the problems arose unexpectedly as a result of the NSWEC seeking to progress to the next planned stage of the technical response to growing call volumes. The information that ROs could provide was limited as the NSWEC waited upon advice from the communication technology providers as to the nature of the difficulty and the expected duration.

**6b(ii):**

The NSWEC Elector Inquiry Centre was proposed as a 'one-stop-shop'. The costs of this operation were invoiced to Councils on a cost per elector basis. No additional costs were invoiced to Councils. Should Councils have decided to employ additional inquiry staff locally these costs would have been paid for locally.

**6b(iii):**

The NSWEC will be installing new telephony infrastructure well in advance to the State election in 2011, which should mean improved services to those contacting the EIC and based on the next State election, improved services at the 2012 LGE could be expected.

**Question:**

6c. *What assessment did stakeholders make of the Elector Inquiry Centre in post-election surveys?*

**Response:**

The responses of stakeholders to the EIC need to be divided into satisfaction with the EIC in the main and satisfaction with the EIC on those days when technical difficulties with the communications provider caused severe disruption. On the latter occasions, satisfaction was obviously poorer. Overall the assessment was positive.

**Electors:**

Of those electors who participated in the survey and who knew about the EIC and had actually used the EIC, one third received the information they needed. It appears that males and rural participants were more likely to know about the EIC and obtain the information they needed.

**General Managers:**

The question asked of General Managers concerning the NSWEC's provision of call centre services did not distinguish between the call centre services for electors and those for candidates. 62.8% of General Managers however, regarded the election call centres for electors and candidates as useful services.

**Question 6d:**

*Is the Commission considering making use of Elector Inquiry Centre at the next local government elections, and if so what improvements are planned to overcome the technical difficulties experienced in 2008?*

**Response:**

Yes, and will be considered after the next State election.

**7. COMMUNITY AWARENESS**

*A number of councils have complained that community awareness of the elections was inadequate (see submissions 2, 5, 31, 36, 42 and 49). Page 23 of the NSWEC report indicates that 61 councils made use of the election information brochure produced by the NSWEC while 87 declined to use it.*

**Question:**

- a. *What reasons did 87 councils give for declining to use the election information brochure?*
- b. *Was there a correlation between reports of a lack of community awareness of the 2008 local government elections and the decision of a given council not to utilise the election information brochure?*
- c. *Is there any evidence to indicate whether the personally addressed brochure (used by only eight councils) was more effective in informing the public than the brochure addressed to households (as chosen by 53 councils)?*

**Response:**

**7a:**

Few Councils provided reasons as to why they did not take up that option. Of those that did (and this is a small sample of the total and therefore care should be taken in the conclusions drawn) councils indicated that they would provide information themselves; did not see it as necessary or thought the brochure too costly.

**7b:**

No, examination has revealed that there did not appear to be a correlation. This is due to the fact that electors obtained their information from a variety of sources including but not limited to that provided by the NSWEC. For example, some electors reported becoming aware of the elections from candidate material.

**7c:**

No. The sample size of eight for the personally addressed brochure option is far too small to reliably draw any comparative conclusions between the effectiveness of the

two forms of the brochure. Moreover, there are many other intervening variables that prevent identification of the relative effectiveness of each option. For example, preferences for different communication forms such as internet based information rather than hard copy information.

## **8. BRAILLE VOTING INITIATIVE**

*In the 2008 local government elections the NSWEC for the first time provided Braille ballot papers to registered vision impaired electors. A total of 52 electors registered and subsequently voted. Submission 64 from Vision Australia indicates that, in conjunction with the NSWEC, 'How to vote' and 'Electoral Information' brochures were mailed to approximately 5,000 people on Vision Australia's database, a number substantially greater than the number of vision impaired electors who voted.*

### **Question:**

- a. Is the NSWEC aware of what proportion of vision impaired voters made use of Braille ballots to vote?*
- b. Page 49 of your report indicates that electors surveyed by the NSWEC who made use of the Braille ballots had expressed concern that the small number of voters meant that their privacy was lessened. How could the NSWEC allay such concerns in future elections where Braille ballots are used?*

### **Response:**

#### **8a:**

The NSWEC cannot calculate the proportion of vision impaired voters who made use of the Braille ballot papers to vote – to do so would require knowledge of the proportion of citizens eligible to vote who have a visual impairment and who use Braille. The NSWEC contacted the Australian Bureau of Statistics who was unable to assist. The NSWEC is unaware of other reliable sources of this information.

It is possible that Vision Australia could provide a response rate of those electors with vision impairment who chose to take up the Braille voting option of the total number contacted by Vision Australia when advising of the introduction of Braille voting.

#### **8b:**

In regard to the privacy issues associated with the use of Braille ballot papers, the need to order specific numbers of ballot papers printed in Braille with the correct information for each council/ward the elector is enrolled under, requires electors with visual impairment to register and nominate where they will be voting to ensure the correct Braille ballot papers are available for them in the right location according to

the nominated method of voting (attendance voting on either pre poll or election day, or postal).

## **9. ALTERNATIVE VOTING OPTIONS**

*Page 49 of your report indicates that the majority of electors who made use of the Braille ballots that were surveyed by the NSWEC wanted to see the introduction of electronic voting. Submissions 60 and 64 support the trialling of electronic voting for the vision impaired.*

### **Question:**

- a. Would the NSWEC support a trial of electronic voting for the 2012 local government elections?*
- b. Would such a trial be more viable if undertaken on the basis of an expanded franchise similar to what occurs in the ACT?*

### **Response:**

#### **9a & b:**

If the NSWEC was to proceed in this direction the concept of a trial is well passed as there is evidence and experience from 'trials' conducted in other Australian jurisdictions eg Commonwealth and Victoria. Moreover the ACT has incorporated this approach in an ongoing basis and Victoria appears to be looking at broadening its approach. The NSWEC has commissioned research on both the technical options as well as the international and Australian experiences of electronic voting and will be submitting a report to government in the near future.

## **10. ABSENT VOTING**

*Page 106 of your report indicates that 93% of election officials reported electors presenting to vote for councils other than the one in which the polling place was situated. Submissions 34 and 51 call for the establishment of absent voting.*

### **Question:**

- i. What impediments are there to absent voting in local government elections?*
- ii. Would it, in the NSWEC's view, be feasible to establish absent voting in local government elections, and if not why not?*

### **Response:**

#### **10i:**

- While absent voting works efficiently at a state general election, there are significant logistical and operational impediments to introducing absent voting to LG elections:

- Every polling place (there are about 2,500 polling places) would need to have ballot papers for every other council area and ward. If every councillor election were contested, a polling place would need multiple copies of in excess of 400 councillor ballot papers.
- While it may be possible to install a computer and printer in some polling places to print ballot papers, it would not be logistically feasible and the cost would be exorbitant. Some ballot papers are so large that printing would not be possible.
- As a number of councils have a popularly elected mayor, every polling place would need to have copies of every mayoral ballot paper.
- Similarly, a number of councils conduct constitutional referendums and/or council polls and every polling place would need to have copies of those papers as well.
- One of the great difficulties faced by electoral administrations is having robust processes in place to ensure that election officials issue the correct ballot papers to voters. While this has been overcome to a great extent at state general elections, the problem would be exacerbated at a LG election, given the potential for in excess of 400 individual and the potential to issue up to 4 separate ballot papers.
- Absent ballot papers issued in polling places obviously need to be returned to the “home” council for inclusion in the count. This is a large scale and expensive logistical operation at a state general election and would require a far greater use of resources at a LG election.
- The absent vote exchange process would not be completed before the Wednesday after election day and would further delay the count (distribution of preferences); would be conducted at great cost; would require more staff in polling places to issue absent votes; and would require more staff in the RO's office to prepare the absent votes for exchange and to receive and process them for inclusion in the count.

**10ii**

- It is the NSWEC's view that for the above reasons it would not be feasible to establish absent voting in LG elections