

INQUIRY INTO 2008 LOCAL GOVERNMENT ELECTIONS

Organisation: Local Government Association of NSW and Shires
Association of NSW

Name: Mr Bill Gillooly

Position: Secretary General

Date Received: 12/06/2009



Our Ref: R06/0036

12 June 2009

Ms Cherie Burton, MP
Chair, Joint Standing Committee on Electoral Matters
Parliament House
Macquarie Street
Sydney NSW 2000


Dear Ms Burton

Inquiry into the 2008 Local Government Elections

Please find attached the Local Government Association of NSW and the Shires Associations of NSW submission to the Inquiry into the 2008 Local Government Elections.

If you have any questions regarding this submission please do not hesitate to contact the Associations Director of Corporate Services, Mr Peter Coulton on [REDACTED]

Yours sincerely,


Bill Gillooly AM
Secretary General

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Sydney NSW 2000

Dear Ms Burton

Inquiry into the 2008 Local Government Elections

Introduction:

The Local Government Association of NSW and Shires Association of NSW (the Associations) are the peak bodies for NSW Local Government.

Together, the Local Government Association and the Shires Association represents all the 152 NSW general-purpose councils, the special-purpose county councils and the regions of the NSW Aboriginal Land Council. The mission of the Associations is to be credible, professional organisations representing Local Government and facilitating the development of an effective community-based system of Local Government in NSW. In pursuit of this mission, the Associations represent the views of councils to NSW and Australian Governments; provide industrial relations and specialist services to councils and promote Local Government to the community and the media.

The Associations thank the Joint Standing Committee for the invitation to make a submission to the Inquiry into the 2008 Local Government Elections. The Associations have a vital interest in this issue of concern to all NSW local councils.

We would be happy to address the Committee on the matters outlined should it be appropriate.

The Associations have had serious concerns regarding the costs and conduct of the 2008 local government elections for some time. Whilst dealt with in more detail later in this submission these issues can be broadly summarised as:

- Poor performance delivery – for example insufficient numbers of ballot papers being provided to some polling places/booths, inappropriate placement of polling booths, and a refusal in some instances by the NSW Electoral Commission to utilise council offices or other space which added to both the costs of the elections and confusion of residents as to where they could vote
- Lack of transparency - both in terms of costs and conduct

- *Costs – which increased dramatically since the 2004 elections* Issues which related to candidates, and ongoing issues of compliance for elected councillors
- Additional matters

The Associations Position

Well before the 2008 elections the Associations and its members raised serious concerns in relation to the way in which both the costs and conduct of the elections were being dealt with by the New South Wales Electoral Commission (NSWEC) to the extent that both Associations discussed the issues and passed resolutions at their respective annual conferences.

At the 2007 Annual Local Government Association Conference it was resolved:

That the Association:

1. Deplores the significant and unsubstantiated cost increases advised to Councils for the 2008 Local Government elections over the cost of the 2004 elections;
2. Encourages Councils to meet individually with the NSW Electoral Commissioner to seek review of and adjustments to these costs;
3. Calls for the return of any revenue from fines, to the area in which the fines were incurred.
4. Expresses its concern to the Treasurer and the NSW Government at their full cost recovery model for Local Government elections within which Councils are expected to fund a state monopoly provider with little or no capacity to manage or influence costs;
5. Calls on the NSW Government to enter into negotiations with a view to formulating an agreed scheme and complementary legislative amendments, allowing Councils to conduct their own elections if they so wish; and
6. Calls on the Federal Government to recognise that Local Government elections are integral to the democratic process and fund all elections from taxation revenue.

The Annual 2008 Shires Association Conference resolved:

That the Shires Association:

- Abhors the State Government policy of using the Electoral Commissioners monopoly to extort money from the people of NSW which could otherwise be used to fund basic services and vital community infrastructure.
- Advise the NSW Electoral commission that councils will pay a maximum amount based on 2004 costs plus cumulative CPI.
- That the Association's submit the costs to independent assessment by IPART.

The 2008 Annual Local Government Association Conference resolved:

That the Local Government Association request the Electoral Commission to undertake:

1. A review of the application of a consistent approach, for all elections in relation to the definition of a polling place and the minimum distance that candidate workers are required to be from all polling place entrances.
2. An enquiry into the length of time taken to determine local government elections.
3. That the Local Government Association request the federal government to review the tax deductible allowance applicable to campaign expenses for candidates in LG elections to bring it into line with the allowance for candidates in the State and Federal elections.
4. That all polling booths should be created within the council area unless there be exceptional circumstances.
5. That the local government association ask for an independent review to be undertaken in regards to the costings and conduct of the 2008 local government elections.
6. That the following issues be raised with the NSW Electoral Commission:
 - Recycling of ballot papers;
 - Education and advertising;
 - Declared institutions;
 - Delays in refund of monies;
 - Training of returning officers and polling booth staff;
 - Scrutineering involvement;
 - Rigidity of names on ballot papers;
 - Incorrect and absence of voters on electoral roles;

Many of the issues raised as a result of these conference resolutions remain unresolved.

The Associations Submission

Much of the feedback, and therefore the content of this submission, comes directly from the Associations' member councils. Various media reports have also been referenced as well as submissions made by various local interest groups. Many councils will provide the Standing Committee with their own submissions however this submission will highlight various issues as raised by member councils under the broader headings outlined above.

All source documents which relate to this submission are available should the committee require them.

Poor Performance Delivery & Council issues of cost

The issues surrounding the elections which have been brought to the attention of the Associations by councils and other parties are summarised as follows:

Council/Group	Issue/s
Albury	<ul style="list-style-type: none"> • Exorbitant costs • Extended time taken to declare the election results • Issues with above the line voting • Inconsistent rules regarding public access to polling station toilets • Unclear guidelines about recycling "how to vote" papers
Ashfield	<ul style="list-style-type: none"> • Exorbitant costs • Issues with timing of notification of estimates • Believe methodology used in determining budget should be disclosed • Better resource sharing and utilisation of combined purchasing
Auburn	<ul style="list-style-type: none"> • Insufficient ballot papers • Potential voters advised no ballot papers but just had to get their name marked off the role and they would not be fined • Exorbitant costs • Duplication of overheads in managing conduct of elections • Lack of discretion for councils to achieve greater efficiencies • Lack of clarity in levied charges • Operational difficulties on election day
Balranald	<ul style="list-style-type: none"> • Exorbitant costs • Traditional booth at Hatfield replaced by 3 hour availability of pre-poll booth. Staff however sent from Broken Hill to Hatfield rather than from Balranald, which is a trip of over 450kms each way • Council did not receive a visit from the returning officer
Berrigan	<ul style="list-style-type: none"> • Returning Officer employed for 10 weeks at exorbitant cost • Whilst shared amongst 7 councils the councils contribution of the costs of the Returning Officer was greater than the cost of a dedicated Officer in 2004 • NSWEC did not arrange for the training of council staff despite previously indicating they were not capable of managing election • Failure to advertise in relevant local media against councils instructions • Lack of exposure of the NSWEC to any competitive pricing process • Exorbitant costs • Council charged for voting centres contrary to Council's cost of hiring the facilities for a total of \$75.00 • Service issues
Blacktown	<ul style="list-style-type: none"> • Insufficient provision of ballot papers • Potential voters advised no ballot papers but just had to get their name marked off the role and they would not be fined • Exorbitant costs • Electoral staff inadequately trained • Major issues with NSWEC call centre • Some polling booths closed early due to insufficient ballot

	papers
Blue Mountains	<ul style="list-style-type: none"> • Inadequate numbers of polling places • Inadequate numbers of pre-polling booths • Inadequate numbers of how to vote cards printed • Incorrect information provided on how to vote a Springwood polling place • Exorbitant costs
Cabonne	<ul style="list-style-type: none"> • Exorbitant costs • Pre-polling only available in Molong which was inadequate • Pre-poll staffed by one full time and one part time person increasing costs – previously undertaken by existing council staff • Lack of access to election information • Lack of information regarding candidates • Reliance by NSWEC on website when not all people have access (especially elderly) • Election inquiries referred back to council from election hotline • High cost of placing advertising
Carrathool	<ul style="list-style-type: none"> • Anticipated savings in Council staff time did not occur
Corowa	<ul style="list-style-type: none"> • Exorbitant costs • Distrust of councils – having election process removed from council for transparency reasons, yet councils ran pre-polls • Inadequate pre-poll declarations • Candidate information did not arrive in one lot
Fairfield	<ul style="list-style-type: none"> • Booths understaffed • Insufficient ballot papers • Potential voters advised no ballot papers but just had to get their name marked off the role and they would not be fined
Forbes	<ul style="list-style-type: none"> • Issue with \$1,000 candidates election campaign threshold being too low
Gosford	<ul style="list-style-type: none"> • Inadequate community awareness of elections • Returning Officer, contrary to council's request stationed at Erina and not Gosford, caused inconvenience as Erina is not a central location • Pre-poll venues understaffed • Businesses adjacent to pre-poll centres adversely affected by long queues • Gosford voting booth closed for over 2 hours on election day due to running out of ballot papers • Valley View polling booth difficult to access for older/disabled voters, Booth at Gosford West had inadequate access and dangerously close to busy road
Griffith	<ul style="list-style-type: none"> • Lack of tailoring of information sent to electors by NSWEC • Exorbitant costs • No Returning Officer in Griffith • Timeliness of results • Council staff still required to provide administrative support
Gunnedah	<ul style="list-style-type: none"> • Exorbitant costs • Insufficient ballot papers

Hay	<ul style="list-style-type: none"> • Delays in finalising count
Hurstville	<ul style="list-style-type: none"> • Candidate handbook incorrect • Issue with dual voting booths • Inadequate facilities (ie toilets) at polling booths • Exorbitant costs
Inverell	<ul style="list-style-type: none"> • NSWEC rejected accommodation offered by Council without substantiation which increased costs • Accommodation actually used did not meet standards set by NSWEC
Kogarah	<ul style="list-style-type: none"> • In some cases Candidates, Council staff or the returning Officer contacted the NSWEC on issues were told to contact the Department of Local Government. Similar approaches made to the Department of local Government saw people referred to the NSWEC • Exorbitant costs • Lack of evidence, documentation evidence of source of the costs
Ku-ring-gai	<ul style="list-style-type: none"> • Exorbitant cost • Lack of justification of costs
Leeton	<ul style="list-style-type: none"> • Delays in deposits being returned to candidates who are eligible for refunds
Lismore	<ul style="list-style-type: none"> • Exorbitant costs • Council had no control over the costs of the election • Returning officer had no incentive to contain costs • Lack of transparency regarding costs • Proposal for a joint returning Officer was marketed to council on the basis of a cost saving measure, no evidence of any savings provided to council • Returning Officers need to talk to councils to gain an appreciation of local circumstances • Rationalisation of polling places required • Council happy with the performance of the returning Officer • Greater attention regarding the training of polling place staff required.
Liverpool	<ul style="list-style-type: none"> • Insufficient ballot papers • Potential voters advised no ballot papers but just had to get their name marked off the role and they would not be fined • Complaints raised against campaign workers ignored by returning officer • Exorbitant costs • Traditional polling places closed, new polling place opened but not advertised
Marrickville	<ul style="list-style-type: none"> • Booths understaffed • Lack of accessible voting booths
Mid-Western Regional	<ul style="list-style-type: none"> • Exorbitant costs • Delays in finalising results • Council believes that technology should be better used to speed processes and results
Murray	<ul style="list-style-type: none"> • Exorbitant costs • Misleading how to vote instructions

	<ul style="list-style-type: none"> • Postal votes not processed efficiently • Murray believes that compulsory postal voting should be introduced
Muswellbrook	<ul style="list-style-type: none"> • Exorbitant costs • Reduction in staffing levels compared to previous elections
Narrandera	<ul style="list-style-type: none"> • Information sessions for prospective candidates poorly promoted • Issues with NSWEC follow up and feedback regarding proposed booths • NSWEC website not providing progress details of the count • Delays in finalising count • Only 1 returning officer for 7 councils • Council does not believe returning officer could have managed if councils had not provided assistance • Inadequate numbers of ballot papers
North Sydney	<ul style="list-style-type: none"> • Confusion for electors as a result of putting polling places in different locations to those previously used • Insufficient staffing • Exorbitant costs • Inadequate facilities at polling places
Parkes	<ul style="list-style-type: none"> • Inadequate security of ballot papers – 1,000 papers went missing having been discarded for rubbish, spotted and recovered on way to tip
Penrith	<ul style="list-style-type: none"> • Poll not declared until 12 days after the election, when councils ran the elections this took only 4 days • Unclear directions provided by NSWEC to returning officers • Name of Ward not appearing on “How to Vote” material causing confusion • Confusion over polling place on/too close to ward boundaries • Insufficient ballot papers
Singleton	<ul style="list-style-type: none"> • Exorbitant costs
Tamworth	<ul style="list-style-type: none"> • Exorbitant costs • Significant delays in declaring the count • Process inefficient and not effective • Issues with disabled access to returning officer's accommodation • Anecdotal issues with accuracy of electoral role
Temora	<ul style="list-style-type: none"> • Issue of regional Returning Officer was a failure – lack of face to face contact, inconveniently located • Timeliness of results • Postal votes closed Monday afternoon after the election which could provide an opportunity for results to be manipulated • Exorbitant costs
Upper Lachlan	<ul style="list-style-type: none"> • Exorbitant costs • Council costs involved in pre-polling not reimbursed • Council incurred advertising costs • Inadequate dissemination of information by NSWEC • Ongoing requirements for completion of 6 monthly

	councillor returns seems unnecessary and excessive
Urana	<ul style="list-style-type: none"> • Review of ward boundaries a debacle • Significant assistance provided by council staff was required • Cost of advertising outrageous • Returning officer not based locally • Delays in declaring the count
Willoughby	<ul style="list-style-type: none"> • Exorbitant costs • Despite cost increase no noticeable improvement in running elections • NSWEC advertising campaign failed to change numbers of residents who voted compared to prior elections • Opportunities for councils to achieve cost savings not available as much of the operations centralised and proscribed
Yass Valley	<ul style="list-style-type: none"> • Sharing of returning officer inadequate • Lack of understanding of process by staff • Exorbitant costs • Distribution of receipt books a wasted resource • Candidate Handbook inadequate • Ongoing reporting requirements (declarations) onerous given most rural councillors will have "Nil" returns • Positive comment regarding website • Only able to recruit polling place staff online which disadvantages less technically savvy people • Need for scrutineer training to be improved
Vincentia Ratepayers & Residents Association (Shoalhaven)	<ul style="list-style-type: none"> • Booth understaffed • Insufficient ballot boxes • Unsecure ballot boxes • Confusion over ballot boxes versus cardboard bins resulting in at least 26 spoilt ballots • 10 days to declare the election
Woollahra Municipal Council (ex Mayor)	<ul style="list-style-type: none"> • Need to streamline NSWEC forms • Inadequate pre-polling facilities • Lack of ability to recycle "how to vote" flyers • Lack of facilities for institutional voting • Inadequate selection and numbers of polling places • Cavalier attitude of person in charge of one polling place • Time taken to finalise count

The volume of comments received from councils indicates there is clearly a pattern. Issues are not isolated but relatively widespread.

Transparency and consistency of information from the NSWEC

It is an irrefutable tenet of modern society that the democratic process should be open and transparent. This surely must relate to all facets of managing an election process.

In June 2007, councils began receiving correspondence from the NSWEC regarding the conduct of the elections. Initial correspondence from the NSWEC Commissioner to councils in June 2007 made reference to the fact that a review of the NSWEC had been undertaken by the Council for the Cost and Quality of Governments.

The Associations made a number of unsuccessful attempts to obtain a copy of this review from both the NSWEC and the Department of Premier and Cabinet (DPC). The review document was only finally released after the Associations lodged a Freedom of Information application with the DPC.

The Associations believe that this review should have been made publically available without the need to lodge an application under the Freedom of information Act.

Furthermore the NSWEC correspondence referred to the commissioning of independent auditors *"to review the current pricing structure and to recommend a pricing structure based on a full cost recovery model"*.

Again, the Associations requested a copy of the report produced by the auditors which was refused except so far as the NSWEC forwarded the Associations a copy of the "Assurance Statement" of the report.

In frustration the Associations once again lodged an FOI application (on 1 August 2008) with the NSWEC for the release of the report which "coincidentally" timed with the NSWEC releasing the report publically, in conjunction with a press release. The NSWEC then returned the Associations FOI application fee.

This pattern of the NSWEC of frustrating and delaying the release of documentation which clearly belongs in the public realm however continues.

On the 23 April 2009 the Associations wrote to the NSWEC requesting details of the final costs for the 2008 elections in total and on a council by council basis. The Electoral Commissioner responded 7 May 2009 advising in part; *"As you are aware, the financial arrangement for the conduct of each council's election is a commercial matter between the council and the New South Wales Electoral Commission (NSWEC). While I have no problem in making the information available, I will not abscond with each council's prerogative in the matter. You may however, seek the information from each council."*

The Associations contend again that the election process in all its facets must be totally transparent.

There is no reason to conclude that any election process, let alone one managed by a monopoly provider, could conceivably be a commercial matter between a council and the NSWEC. However, even if this was the case, overall costs, which would not disclose the information on a council by council basis should have been provided.

On 14 May 2009 the Associations lodged an FOI application with the NSWEC for the requested information.

On 4 June 2009 The NSWEC advised the associations that the information requested would be released on *"Friday 12 June 2008"*(sic). The Associations expect that on receipt of this information that a supplementary submission to this inquiry will be required.

The matter of *"failure to vote penalty notices"* is dealt with later in this submission, however again we contend that there is a demonstrable pattern of non-disclosure by the NSW Electoral Commission. On 13 May 2009 the Associations wrote to the NSWEC as follows:

"The Associations note that the NSWEC has an obligation under electoral legislation (Parliamentary Electorates and Elections Act 1912 and Local Government Act 1993)

to issue a penalty notice to an elector indicated in the electoral records as having failed to vote without sufficient reason.

Could you please advise:

- *the number of penalty notices issued as a result of the 2008 local government elections,*
- *the total dollar sum of the penalty notices,*
- *the amount of revenue received to date, and*
- *who is the final beneficiary of money collected as a result of the issuing of the penalty notices."*

The NSWEC responded in a letter dated 19 May 2008:

"I acknowledge receipt of your letter dated 13 May 2009 regarding penalty notices for failure to vote at the above election.

Most of the information you have requested will be available in our Report on the Conduct and Administration of the 2008 Local Government Elections which will be the basis of our submission to the current inquiry being held by the New South Wales Joint Standing Committee on electoral matters."

The Associations' contend that this is an obstructionist response. The information requested should be publically available outside the scope of the current inquiry. The Associations do not understand why the NSWEC refuses to release information which clearly belongs in the public arena in a timely fashion.

Costs relating to the local government elections

There are two primary issues surrounding the costs of the elections:

- The quantum of the costs themselves, which are a significant increase over the costs for holding previous elections, and
- The methodology or basis by which the costs are derived.

Councils are required to justify their expenditure to ensure, and to reassure, the citizens they represent, that public monies are being spent appropriately, transparently and conscientiously. They are required to seek quotes, call for tenders, market test and the like to ensure they comply with both the spirit and letter of the law.

In relation to the costs of the elections, councils have been provided various iterations of estimated costs by the NSWEC. These estimates were followed by a final expense claim by the NSWEC. To the Association's knowledge the basis for the costs for each line item for each council have never been fully disclosed, that is, the provision of copies of invoices, quotes and/or tender acceptances.

The Associations wrote to the NSWEC on 22 July 2008 expressing concern over the costs and breakdown of the budget estimates which had been sent to councils. The Associations were also concerned with the extreme disparity of some of the costs outlined in various estimates that our member councils had received. Examples included an item in each budget for "council visits" and "NSWEC Administration fee").

The NSWEC responded 28 July 2008 and advised in part that: Individual project costs are allocated by:

- Cost per voter
- Specific district costs; or
- Regional shared costs, thence elector numbers across councils sharing services.

The response from the NSWEC however deals with the methodology of allocation, but not the basis of the costs in themselves. The only basis for costs disclosed relates to the NSWEC Administration fee, which was calculated, according to the NSWEC on the basis of 18 staff X 19 weeks X 35 hours X \$195 per hour = \$2.3Million. The NSWEC advises that this rate was set after a review of operating costs by an independent audit firm. The Associations presume that the audit report referred to is the Walterturnbull report, the "Final report" dated July 2008.

Note that the Associations are somewhat confused in relation to the Walterturnbull report. In the NSWEC's letters to councils in June 2007 the NSWEC said in part: *The NSWEC commissioned [our emphasis] independent auditors to review the current pricing structure and to recommend a pricing structure based on a full cost recovery model. The pricing structure reflects the full cost of providing professional election services...*

The advice continues to outline part of a pricing structure. These comments (dated June 2007 to councils) suggest that the independent audit report had been both commissioned and completed. *The Walterturnbull report at page 1 however outlines that a "review was completed during March, April and July 2008..."* The Associations could be forgiven for concluding that there is in fact another report, however the Associations have not seen a copy.

In relation to the Administration fee the NSWEC provides the estimate of \$2.3million, on the basis, according to the NSWEC letter to the Associations of the 28 July 2008, that *"Treasury have an expectation of recovery of costs where the services are being provided to parties outside of State Government"*, and further *"The hours billed are only those of frontline permanent Elections staff"*

It is interesting to note, that according to the most recently released NSWEC Annual Report (2007 - 2008) the total employee related expenses (including salaries and wages, recreational leave, superannuation, long service leave, workers compensation insurance and payroll and fringe benefits tax) amounted to \$5.324 million. An administration fee of \$2.3 million equates to 43.2% of the total actual annual employee costs.

The same report outlines that the NSWEC had 38 permanent full time staff as at 30 June 2008.

The Associations contend that a charge of \$195 per hour is considerably more than basic cost recovery. Using the NSWEC maths this charge would provide that each person employed by the NSWEC costs the NSWEC 1 X 52 weeks X 35 hours X \$195 = \$354,900.

This is clearly nonsense as extrapolating would provide a total employee cost of 38 staff X \$354,900 = \$13,486,200. As mentioned above the NSWEC annual report provides a total cost of a mere \$5.324 million, a difference of some \$8.162 million.

The actual overall per person cost can be broadly calculated using the NSWEC's own figures:

\$5,324,000 / 38 staff / 52 weeks / 35 hours = \$76.98 per hour. A normal full cost recovery is, by way of example, an employee's hourly rate plus 20% – 30% to cover oncosts such as superannuation, insurances, etc, however the figure of \$76.98 is inclusive of these oncosts.

The Associations must conclude that in broad terms, the NSWEC has marked up the per staff member hourly rate by \$118.02 (ie \$195 - \$76.98 = \$118.02). This, again using the NSWEC's own formula, over the whole election equates to:

18 staff X 19 weeks X 35 hours X \$118.02 per hour = \$1,412,699 in overcharge.

No doubt the NSWEC can provide the Committee with its own calculations as to how the administration fee was calculated, however the point is made that this is but one example of the lack of transparency of costs, and supports the Associations contention that the charging is considerably more than mere cost recovery.

The Associations contend that each council should have been provided with copies of invoices, quotes, agreements, etc, as it related to them individually so that each council could fully understand both the basis of each item and the methodology of the distribution of each cost.

It is not acceptable to permit the NSWEC to provide to councils a single one page cost summary and expect payment without question. The Associations find this manifestly abhorrent to good and proper governance practices.

Issues which related to candidates, agents, and ongoing issues of compliance for elected councillors

The Associations received some feedback from candidates, this is outlined below. A number of councils will be providing candidate specific feedback, which, for the sake of brevity, will not be reproduced here.

<p>Cr Gail Giles-Gidney (elected via by election to Willoughby Council on 2 May 2009)</p>	<ul style="list-style-type: none">• Firstly I was required to appoint an official agent. This agent was a Chartered Accountant, and required to complete the online training. If she was a CPA this would not have been required which seems to be an anomaly.• I believe that a period of pre-poll of two weeks is excessive. In addition office hours were only from 8:30am to 5pm except for the last day when it was 8:30am to 6pm. It would have been preferable to have a shorter period but say a Saturday morning or Thursday night.• I was concerned regarding the behaviour of candidates and supporters at the polling booth.
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	<ul style="list-style-type: none"> • It was inappropriate that alcohol was being served in the grounds at a primary school polling booth. • A scuffle resulted in the police attending. • Children were being encouraged to kick flyer holders in an attempt at snatch and grab.
<p>Cr Alice Glachan - Albury</p>	<ul style="list-style-type: none"> • In a border city such as Albury it is difficult to understand why Agents had to be on the NSW electoral role. Our Accountant, whom I considered to be our Group Agent, lives in Wodonga and is therefore on the Victorian electoral role. This limited my choice of Agent. I can only imagine that other border towns would be similarly affected. Could it not be that Agents simply need to be on the Electoral role federally? • Candidates need to have their Agent undertake and pass the training by a certain date. It is difficult to know if one, as a candidate, will or may either collect donations or spend in excess of a limit set. The date at which you have to have your Agent signed up was too early to allow for Candidates to decide at a later date that they needed to spend more than \$1,000. • Candidates were originally advised by the EFA that if we were part of a Group and were making our EFA submission as part of that group then we did NOT have to also submit individual forms. At the eleventh hour we were all sent letters advising us that we were to submit individual returns even if we were part of a group and making a group submission. This is was not only stressful for candidates but also a complete waste of time, effort and resources of all candidates as well as the EFA. • A limit of \$1,000 'donations' or expenditure to require an Agent is too low. I would have been happy to have an Agent go through the training and certification they did for \$5,000, but not \$1,000. The time taken to

undertake the training and complete the testing is unreasonable for either an individual or Group not aligned with a Party. A fine of \$22,500 for getting anything wrong with the process is not in balance with the limit of \$1,000.

- I offered to be the Agent for another Group standing only because I was worried that they might raise and spend over \$1,000 unintentionally and then fall foul of the deadline for registering an Agent.
- A limit of \$2,500 to have to engage an Auditor is unrealistic. \$10,000 should be the absolute minimum required so long as all income and expenditure goes through a specific campaign bank account and all original receipts and invoices are submitted with the declaration - as was the requirement but with the limit of \$2,500.
- Limits for a Group to have an Agent should not be the same as for an individual. Individuals nominating are charged \$125 and a Group \$625 in Albury (50% of the positions on council x the \$125). So engagement of an Agent and Auditor could also be pro rata; this being individuals (for arguments sake) \$5,000 and Groups in Albury could then be \$25,000 before they need an Agent. A Group pools their resources and therefore their expenditure and quite rightly should have a higher threshold than individual candidates.
- Limits for Auditors should not be the same for individuals as for Groups. see point above.
- Limits for councils with Wards should be different for those without Wards. The cost of campaigning in Wards is can be less than across an entire council for such as letter boxing and How to Vote cards. Perhaps they could come up with a limit (before having to engage an Agent or Auditor) based on the number of voters in the ward or council?
- Why is it not possible under a more realistic threshold (say \$5,000) for candidates to act as their own Agent,

	<p>but be required to undertake and pass the training?</p> <ul style="list-style-type: none"> • Minimum number of candidates on a Ticket to go above the line is silly In Albury we have 9 councillors and so our minimum number of candidates in a group to go above the line is 5. This is unrealistic. I would accept the concept of even 25%, but not 50%. It would be better to allow councils to decide if they want Groups or not, just as they can decide if they want Wards or not or directly elected Mayor or not. There were a lot of complaints from residents about the vast number of candidates on the ballot papers as if we candidates were to blame! • Obviously I also don't agree with the things that have been previously raised, like the time taken to complete the actual counts (councils should be able to apply to do their own count or to have another near council to do it for them so long as they (the council wanting to do their own count or being asked to do by a near council) meet certain requirements set out by the Electoral Commission), the cost of this (Albury's went up considerably and when we did, as was suggested / encouraged, pool the Returning Officer, the cost increased again for some Councils in our pool! Outrageous! • The diminishing value of votes being passed down as surplus, and their random allocation / removal from the count, is nothing less than undemocratic! It should either be first past the post or full preferential voting; not the halfway house with some votes having less value than others by lottery as we appear to have now.
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Additional Matters

Failure to Vote

The Local Government Act requires that a person whose name is on the residential roll in respect of a ward or area must vote at any contested election in the ward or area (other than an election of the mayor by the councillors) unless the person has a sufficient reason not to vote.

The penalty a resident must pay for not having sufficient reason is 0.5 penalty units, which is currently \$55.00.

To the Associations knowledge councils are not provided a credit or offset over the cost of their elections for revenue generated by the collection of penalty payments.

The Associations are not aware of the numbers of penalty notices issued following the 2008 local government elections and wrote to the Commissioner requesting these details. This letter, and the response from the NSWEC, was detailed above.

The Associations contend that revenue generated from payment of penalty notices should be returned to the applicable council. The Associations also contend that the value of the revenue generated from the notices needs to be publicly available.

Vote Count Centre

The Associations acknowledge the establishment, conduct and final report of the central vote count observation team and note that an LGSA staff member, Mr Peter Coulton, was a member of the observation team. The Associations note for the purposes of this submission that the team acknowledged that the Associations were involved on behalf of its members in a dispute with the Electoral Commission regarding a number of aspects in relation to the costs and conduct of the elections. The observation team noted in its final report; *"It was acknowledged that the terms of reference established by the NSW electoral Commissioner for the Central Count Observation Team placed the issues the Associations were disputing outside the scope of the teams remit, as the scope was specific to the processes and procedures surrounding the central vote counting centre and did not cover all aspects of the election."*

Summary

The Associations contend that:

1. The election process in all its facets must be totally transparent, and that lack of transparency regarding both costs and conduct of the elections breaches all principles of good governance and accepted tenets of a modern democratic society,
2. The 2008 local government elections were not managed by the NSWEC to a standard that the residents and councils of NSW both expect and deserve,
3. The costs charged by the NSWEC to conduct the elections were exorbitant, unjustifiable, and significantly greater than basic cost recovery, and
4. The candidate specific issues need to be addressed by the NSWEC to ensure that they do no re-occur.

The Associations believe that:

1. That the NSWEC should provide a detailed analysis of all costs associated with the elections to each council,
 2. That future local government elections be publicly funded, or should Local Government be required to continue to pay for elections then Councils should be able to administer the elections themselves
 3. That the Costs associated with the maintenance of the electoral roll should continue to be borne by both State and Federal Government
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