

**Submission
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INQUIRY INTO 2008 LOCAL GOVERNMENT ELECTIONS

Organisation:

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ELECTORAL MATTERS
COMMITTEE

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I congratulate the Committee on providing the public with opportunities to comment on the 2008 local government elections.

My comments are not directed specifically to the 2008 elections, but to wide ranging disadvantages to the public that may be a result of inadequacies in the electoral process. I believe that the greatest abuses come from the politicisation of the process, involving funding and other forms of assistance to candidates by the major parties, which leads to promotion of the Party line at the expense of proper independent debate. The business of Council has little to do with politics.

I am not a member of a political party and I have never donated to one. I have lived and voted in the Parramatta local government area for 50 years. During the 2004 elections I assisted a candidate who had declared himself independent. He was elected. Once elected, he continued to vote with the major party, which, his electorate would have believed, he had broken away from. He also worked in the office of the local MP for the major party he had presumably left.

In the 2008 elections I helped another declared independent candidate. He had once been president of the local branch of the other major party. He, too, was elected. Since the election he has invariably voted with his previous party. Along with two other independents, he holds the balance of power and this, together with the fact that he seems to be genuinely committed to the local community, has led to the introduction of a number of benefits to this community.

While it is somewhat alarming that power at Council is at a balance, it illustrates that major parties can be redundant and this is costly to the community. There is also the likelihood that the balance of power may be in the hands of those who do not give priority to the public interest. If I were voting for the directors in a company in which I own shares, I would be provided with resumes of the directors' accomplishments, interests, affiliations, etc. At Council elections we are told virtually nothing about the candidates. We are encouraged to vote above the line for the Party and leave the rest to it. All voters at Council elections can be classed as shareholders in Council and it is costing them a great deal.

It is against these concerns that I offer the following outline of the experiences I have had with Council over the last 7 years. Over this period I have attended most Council meetings. My main reason for doing so has been to attempt to obtain answers to questions that Council failed to answer through other channels. The questions have been predominantly on overdevelopment, covering such items as Council's approval of construction without first of all obtaining prescribed documents, inaction on breaches of public safety standards, extensive breaches of development controls, contradictions and inconsistencies, unsatisfactory inspection procedures, lack of substantiation and a general lack of initiative in promoting the public interest.

It has been very difficult for me to obtain adequate answers at the public forum sessions at Council meetings. In too many cases no answers have been supplied. Just recently I have been declared out of order in my question, for obviously invalid reasons.

Responses have been so delayed that I have had to obtain the assistance of the NSW Ombudsman. Council refused to supply me with further information on three development sites under unsubstantiated claims that all my concerns had been answered.

At a recent Council meeting a Lord Mayoral minute was introduced in an effort to prevent the public from speaking about development applications at public forum. Lord Mayoral Minutes do not appear in the agenda papers so we had no prior knowledge of the issue being raised at the meeting. It was resolved that the issue be presented to a workshop. This is the second time that there have been moves to prevent the public from asking questions at public forum. On the previous occasion a workshop was also to be set up, with interested Councillors to be appointed at Council meeting. The meeting concluded without the matter being raised. No Councillors had shown an interest. The Lord Mayor had to admit the error.

Very few, if any, of the issues I have raised at Council meeting have been taken up and acted upon by the Councillors. Any assistance has to be asked for. Individual initiative on the part of Councillors seems secondary to the party line and this can be at the cost to local issues. One Councillor told us that he does not care about our concerns.

There is increasingly less discussion of issues. Decisions are being made at "caucus" meetings and not at open Council meeting after meaningful debate. There appear to be hidden agendas. Objectors are told that the development application is to be "considered" at the next Council meeting, only to find that it will be approved without discussion because none of the Councillors have registered it for discussion.

The cost of elections is mentioned as a topic for this inquiry. Major party candidates are financed or otherwise assisted by the party. It ensures party solidarity, which is not necessarily to the benefit of local communities. One of the findings of Professor Twomey was that political parties are not entitled to taxpayer funding, except in certain circumstances and to specified limits. It seems that candidates are able to transfer their funding to the party. This, of course, would affect party pre selection of candidates, again, possibly, to the disadvantage of the community.

Candidates who are backed by the parties do not have to campaign to any great extent; their election is more or less assured. They do not need to make themselves known to their constituents and they do not need to show their concern for local issues.

The independent candidate at the 2008 elections, referred to above, financed his campaign from local fundraising. He also engaged in wide ranging contact with local voters. In the 50 years that I have been voting in this local government area I have never had a candidate from a major party knocking on my door to show an interest in local affairs. There are always many brochures from them in the letter box, which mainly promote the party line. They are largely paid for by the electors, both local and state.

Catering costs at Council meetings are considerable. At all general Council meetings, food and drink is provided before, during and after the meetings. I understand that it is also provided at caucus and at Councillor workshops.

There are also associated costs based on the fact that the business of Council could be done with fewer Councillors. Why are 15 Councillors necessary when the major parties vote as one?

Realistically, the decision making is in the hands of the 3 independents. Very often site meetings are attended by only one Councillor, sometimes with no attendance from the local ward Councillors.

Much of the workload has been taken away from Councillors (or willingly given up by them) under delegated authority. So called Complying and Exempt Development will be assessed and determined by Council staff. The responsibility is no longer with the ratepayers' elected representatives. The last stage of the process will be that Council will inform the neighbours that, for example, a very large building is about to be constructed on the adjoining property, only 900 mm from the boundary.

I have several examples of faulty decision making by Council staff and I believe this is reflected in the large turnover in their employment. Mostly these officers are very well insulated from public criticism and scrutiny. In one special case, a Senior Manager had his employment terminated in relation to conflict of interest, breach of Code of Conduct and other matters. Claims had been made that all my concerns about a development application had been answered by Council. An Internal Review found that the Manager was in no position to reach an unbiased decision. In my attempts to have the situation resolved it was necessary for me to write several letters to Council , to obtain the assistance of the Ombudsman who suggested that I had reasons for laying the conflict of interest claim. I also had to raise the matter at public forum.

During the process, and as referred to above, I was declared out of order by the Lord Mayor when I asked, at public forum, why I had not been supplied with the results of the inquiry into the Manager's decisions, which the Chief Executive Officer had told me would be provided to me. Ten weeks had passed. Within two days of me asking the question, the details were provided to me by the CEO. There is no greater evidence of contempt for the public interest than this.

I was also declared out of order when I asked why it is that a staff member is allowed confidentiality on alleged breach of the Code of Conduct when 3 Councillors were recently put under public scrutiny at Council meeting for alleged breaches of the Code. I was not asking for confidential information, but only for explanations on why there is this variation in procedure.

This Senior Manager had also been instrumental in imposing information bans on me in relation to two other development sites. Issues involved were a number of controversial decisions on development controls, approval of tree removal using an unapproved plan, unresolved matters on asbestos removal and on other tree issues. The Compliance Officer for the project was later convicted by ICAC for corruption relating to his activities at other sites. The Compliance Manager no longer works for Council.

There are non financial costs to the community in such areas as difficulties in accessing documents, eg, pecuniary interest statements of Councillors. Far too little is said about pecuniary interests of Council staff. Rights to privacy are put forward in the form of necessity to abide by industrial agreements to protect staff. It would be naïve to expect that an officer who is assessing a development application cannot be influenced by another officer who has an undeclared pecuniary interest in it.

I have applied for documents and have been told that Freedom of Information application is necessary, with no guarantee that the information will be released. This is despite the fact that the Local Government Act states that documents are to be released unless contrary to the public interest and even if embarrassing to Council. They are also to be released without cost.

Documents which once were available no longer seem to be required by Council. Council has admitted that it has issued Construction Certificates without first obtaining the Construction Management Programme, but it no longer seems that Council requires one from the developer. The CMP had to be provided before issue of the Construction Certificate to ensure that neighbours are informed of demolition and other phases of the work, safeguards against dangerous excavation, protection for public thoroughfares. Council has said that it has already introduced procedures for closer supervision of such issues and in site inspection procedures, but at this stage I have seen no evidence of improvements. There are still gross cases of Council accepting such documents as Application Forms for DA's and Waste Management Plans that contain many omissions, including consent declarations from the owners, checklist from Council officer, statement of environmental effects, disposal of asbestos.

It would not be too much to expect that Council do something about these types of issues before it becomes necessary for the public to make demands and to engage in long running campaigns to break through the perceived lack of transparency and accountability.

I have asked Council how it intends to clear up the backlog of DA's without compromising "good governance", particularly when the developer has failed to provide the information that Council has required. The answer is that some DA's will be refused, some approved, which explains nothing. I know of a DA in my area that was lodged 9 months ago. The developer is approximately 4 months overdue in supplying the required information, not including an extension of time he had applied for. Council made no attempt to reject the DA following failure to produce the information, which indicates clear advantage being given to the developer. I have no doubt that the backlog of DA's has been caused by Council allowing similar advantages to other developers.

I do not claim that the problems I have raised can be solved completely at the ballot box, particularly at the Local Government level. Some of the biggest problems are caused by the State Government imposing unpopular and unfair policy on Councils and the rubber stamping of it by the Land and Environment Court. At the same time Councils are not doing enough to support their ratepayers and objectors, including at Court hearings.

We should be told more about the candidates at elections. Councillors should be required to periodically show what they have done for their electorates, or payments by results. There should be direct dealings between Councillors and Staff, rather than through the Lord Mayor. Staff should be more directly responsible to the ratepayers. Complaints Policy should be strictly adhered to. Internal Reviews should be discontinued. Full substantiation should be provided at all times. Free speech is our right. Access to information should not be denied under questionable confidentiality claims. Independent thought and action should be encouraged at all times, as well as transparency and accountability.

I look forward to positive outcomes from this review by the Committee, but I note the imbalance in the Committee Membership, with 4 Labor, 1 Liberal, 1 National and 1 Greens members.

Bruce Berry

