

## **2012 LOCAL GOVERNMENT ELECTIONS**

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**Date Received:** 12/02/2013



## Draft Submission

# **Submission to Committee on Electoral Matters Inquiry into the 2012 Local Government Elections**

January 2013

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## **1. Background**

In 2011 the NSW Parliament passed the Local Government (Amendment) Elections Act 2011 enabling councils to make a decision to conduct the 2012 local government elections themselves, or have the NSW Electoral Commission conduct the election. This Council decided to conduct its own election and the General Manager became the Election Manager.

In taking its decision the Council noted the severe escalation in costs since the NSW Electoral Commission had undertaken elections on local governments' behalf and the poor performance of the NSW Electoral Commission in completing the 2008 election. The NSW Electoral Commission highlighted, in a threatening way, the responsibilities which would be placed on councils which conducted their own elections.

Council was fortunate that it had a number of senior staff who had conducted elections and moved quickly to secure an experienced Returning Officer and substitute Returning Officer, and retained a legal advisor.

Council would have preferred to conduct the elections with the assistance of the NSW Electoral Commission in a collaborative approach which would allow the Council to look after the logistics and pay for the Electoral Commission's expertise and documentation. This alternative was put to the Commissioner but was refused outright; it was a case of "*all in or all out*".

The Electoral Commissioner adopted an intransigent position to control all aspects of the process but was not prepared to provide a contractual quote to Council prior to the decision date (in November 2011).

The Electoral Commission's approach was in contrast to the very supportive and co-operative assistance provided by the Division of Local Government.

Council took the decision wanting to reduce the cost of conducting the election and in shortening the time to obtain a result. Council achieved both outcomes.

Attachment 1 "*Conduct of Elections by Council, 26 September 2011*" outlines the background to Council's decision.

## **2. Election Process**

Following the decision, Council moved quickly to engage the services of an experienced Returning Officer, Substitute Returning Officer and legal advisor. Expressions of Interest were publicly advertised for a Returning Officer (RO) and Substitute Returning Officer (SRO). Several applications were received and following interviews Council engaged Mr Greg Greening and Mr Craig de Plater respectively. Both gentlemen held the same positions at the 2008 Sutherland Shire Council elections. Greg and Craig were engaged on a contract basis for a set fee for the election period

and also on an hourly basis during the preceding months to coordinate all the pre election work.

The Division of Local Government (DLG) provided two documents to assist councils seeking to conduct their own elections. These were "Guidelines for Council Administered Elections 2012" and "The Election Process". Both documents were helpful and the Division provided two staff, John Davies and Doug Friend to assist non NSWEC councils. Both DLG staff kept the lines of communication open and quickly followed up any questions asked.

In contrast to the NSWEC, which shut the Council out, the support and assistance from staff of the DLG was outstanding, professional and very much appreciated. One of the major stumbling blocks for many councils considering to conduct their own election, is the false notion that proportional representation voting requires an electronic count and therefore the use of expensive software and hardware. Following a review of the two documents from the DLG, Sutherland Shire's RO identified that Council could conduct a manual count of the ballot papers. Discussions with John Davies from the DLG resulted in a report (see Attachment 2) to Council seeking endorsement of this approach.

From November 2011 until the commencement of the RO full time in July 2012, the RO and SRO developed a timetable for all critical tasks and deadlines to meet legislative election responsibilities. The RO also coordinated all the logistical tasks such as recruitment, accommodation, purchasing (stationery/cardboard structures etc) and polling place accommodation. The RO purchased all electronic forms, electronic documentation and envelope designs from the Australian Electoral Commission (AEC) and, along with the ballot papers, were printed in-house or locally whichever was the least cost to Council.

The RO and SRO were paid monthly following the receipt of an appropriate invoice. Using the RO and SRO in this way resulted in a significant reduction of staff time and the RO was already in full swing by the time he was employed full time during the election period.

### **Other non NSWEC Councils**

Sutherland Shire Council attended bi-monthly meetings with Penrith, Fairfield, Lane Cove, Botany Bay and Shoalhaven Councils to discuss the various tasks associated with conducting their own elections, share resources, contacts and legislative legal interpretation. These meetings were vital to ensure each Council met their legislative milestones as well as providing encouragement and clarity of direction. Each Council was represented by a staff member and often the various ROs would be in attendance which added a wealth of election experience to discussions.

## **New South Wales Electoral Commission**

Legislation ensured that the NSWEC provided certain information such as hard copy rolls, Registered General Postal Voter (RGPV) information and access to the electronic electoral roll database. Paul Beeren and his small team from the Commission were assigned to assist councils who were not clients of the NSWEC. Our experience with Mr Beeren and his team was quite positive. However, the level of support was clearly limited and no doubt reflected the decision of the Electoral Commissioner to provide only minimum assistance to non client councils. The failure to advertise the candidate information session and a refusal to provide full access to the electoral roll are just some of the many decisions that were unsupportive or not in the best interests of councils running their own elections.

The decision by the NSWEC not to advertise (Web and Metropolitan papers) candidate information sessions for non client councils is questionable as these sessions were arranged and funded by the NSW Election Funding Authority (EFA), an arm of the NSWEC. While the EFA did advertise these sessions on its website, the decision of the NSWEC to only advertise their client councils even though the EFA arranged and paid for our sessions caused confusion for the public and a number of prospective candidates.

The refusal of the NSWEC to provide a soft copy of the roll and only provide a very limited web access to the electoral roll, was obstructive as the candidates were provided with soft copies and their client council ROs were given a significantly easier level of access. It is imperative for an RO to be constantly referring to the latest electoral roll as part of processing postal and declaration votes all through the lead up to and during the election. The limited access provided was a constant daily irritation for the RO and his staff.

## **Elections and Count**

The RO reported his progress regularly to the General Manager. The RO's final report is Attachment 3. The candidate nominations, subsequent ballot, pre-poll and postal voting were completed with only minor issues being raised and these were resolved quickly through seeking advice from the Division of Local Government or independent legal advice.

The day of the elections brought the usual competitive issues between candidates and their workers at the polling places. These again were minor issues and all polling places reported adequate staffing and more than sufficient ballot papers available.

In the lead up to the elections and on election day/night, council used its website to provide residents and candidates with current information. On election night the website displayed progressive totals from each of the 60 polling places and a cumulative ward by ward total. This was updated as each polling place manager phoned in their results. The election website pages received over 8,000 hits on election day/night, with 3,000 of those hits being from mobile devices.

The RO coordinated a check count of ballot papers from all the polling places on the Sunday and a further check count and Ward consolidation was completed on the

Monday and Tuesday to include all the postal and declaration votes. The RO personally managed each Ward's manual ballot paper distribution of preferences on the Wednesday, Thursday and Friday. All Ward counts were completed on Friday 14 September.

The RO waited until Monday 17 September to provide each candidate with 24 hours notice to decide if they required a recount and then declared the poll on Tuesday 18 September. This action was taken to allow candidates a working day to make their decision regarding requesting a recount.

**All candidates and elected Councillors expressed positive comments on the way the election was conducted by Council's RO (and staff) and were satisfied with the advice and assistance received throughout the process. The elections ran smoothly and fully complied with all legislation. The decision to conduct a manual count significantly contributed to the reduced costs, process transparency for candidates and the accountability of the count/distribution process. The General Manager's final report to Council following the election is provided as Attachment 4.**

### **3. Response to Terms of Reference**

#### **(a) Cost of the Election**

The cost of conducting a local government election has escalated in recent years, particularly since the NSW Electoral Commission has undertaken the task.

<b>Year</b>	<b>Conducted by</b>	<b>Cost</b>
1999	SSC	\$301,255
2004	NSW Electoral Commission	\$409,361
2008	NSW Electoral Commission	\$770,000
2012	SSC	\$607,540

The cost to Council for the NSW Electoral Commission to conduct the 2008 election increased by 88% over the 2004 amount.

An indicative quote from the NSW Electoral Commission for the 2012 election was \$880,000. This was not firmed up as a tender but based on that quotation Council saved its ratepayers \$270,000.

Regardless of whether a council or the NSW Electoral Commission conducts an election there will be common costs incurred to ensure a successful election, particularly in the delivery of the election to the community. Clause 393A of the Regulation requires that councils that conduct their own election need to provide a report, through the General Manager, to the Minister providing the following information:

- (a) Cost of General Manager's involvement in the election
- (b) Cost of staff involvement in the election

- (c) Cost of staff employed specially for the election
- (d) Cost of election officials
- (e) Cost of running candidate information seminars
- (f) Cost of hiring venues and equipment
- (g) Cost of technological support
- (h) Cost of preparing a report written under this clause
- (i) Electoral services provided to an elector
- (j) Electoral services provided to candidates
- (k) Operational details of the election
- (l) Overall evaluation of the conduct of the election including feedback from stakeholders.

Council wrote to the Division of Local Government regarding their requirement to report (Attachment 5).

The letter of 19 April 2012 to the Division, was formulated on the presumption that sometime after the election there would be attempts to compare costs incurred by those councils conducting their own elections and costs incurred by councils that opted for the Electoral Commission to conduct the election. Comparisons should be made, however they must be made on an even playing field. At the moment it is not an even playing field as there is no requirement for the General Manager of those councils where the election was administered by the Electoral Commission to maintain similar records and provide a similar report.

In regard to the requirements of Clause 393A, Council made the following points to the Division of Local Government.

- (a), (b) and perhaps (c) are common costs, which may be higher if a council conducts its own election, but they are costs that will be incurred by a council even if the Electoral Commission administers the election. For example the Commission's circular, Number 2. 2012, issued on 13 April makes reference to tasks associated with "Non Residential Rolls", "Consultation with councils, re-election services", "Returning Officer's office location", "Polling Places", "Estimated number of polling places", "Potential candidates request for information", "Review of Ward Boundaries", "Referenda and Polls" and "Candidate Information Sessions".
- (e) regardless of who administers the election candidate information seminars will be conducted. I was invited, probably by the Department, to present at a seminar and I would assume other General Managers across the State were invited to present in their local areas.
- (f) there is a cost of hiring venues regardless of who conducts the election
- (g) technological support will be the same, other than accounting software which will be provided by the Electoral Commissioner.
- (h) this cost only applies in the case of councils administering their own election



- (i) electoral services provided to electors and (j) electoral services provided to candidates would apply in both scenarios
- (l) from this it would appear that council will need to undertake a survey and I would assume the Electoral Commission will undertake similar surveys, similar processes and procedures would need to be put in place for a fair comparison to be made. Is it proposed that feedback would come from – candidates, voters electoral officials?

**At a time when the State government is aiming to reduce red tape Council believes that this provision should be removed from the regulation.**

A number of costs such as election official's salaries, polling places, returning officers, accommodation, will be the same no matter who conducts the election. Council was able to save in a number of areas:

- management and co-ordination
- printing
- stationery and cardboard structures
- manual count, which is approximately 10% of the electronic count and can achieve a much faster result
- transportation and security

It must be questioned whether centralising the management of the election provides additional costs and whether it brings economies of scale. For example, centralising the printing of ballot papers which must be printed, stored in a secure environment and then distributed all over NSW with security is costly. Council's cost was approximately 20% of the cost charged by the NSW Election Commission.

A General Manager putting his or her hand up to conduct the election for the Council adds a further level of responsibility and accountability in an already complex and challenging role and environment. There are and will be in the future, many General Managers who will not want this responsibility, particularly as those with background leave the industry.

#### **(b) Experience of councils that conducted their own election**

In terms of reduced costs and timeliness of result Council is satisfied that it conducted a successful election. There were a number of reasons that this occurred;

- Council had a number of senior experienced staff who had run or been closely involved in elections in the past

- Council was able to secure an experienced returning officer and substitute returning officer
- an experienced lawyer was retained in the event that legal advice, interpretation or decisions were required
- the ability to purchase intellectual property, such as forms, training manuals and advice from an experienced private election company
- the support of documentation provided by the Division of Local Government was outstanding.

Council felt that the position adopted by the NSW Electoral Commission ran against the spirit of the legislation and other than what the Commission was legislatively required to provide, gave no support to councils which conducted their own election.

The Commission heavily promoted the risks to councils, possibly in a bid to persuade councils not to conduct their own election.

Council found that it is possible to accurately undertake a count under the proportional representation system by manual process and without the software used by the Commission.

All candidates and elected Councillors expressed positive comments on the way the election was conducted by Council's Returning Officer and staff and were satisfied with the advice and assistance received throughout the process. The elections ran smoothly and fully complied with all legislation. The decision to conduct the manual count significantly contributed to the reduced costs, process transparency for candidates and the accountability of the count/distribution process.

The General Manager's final report to Council following the election is provided as Attachment 4.

### **(c) Possible legislative changes**

The following suggestions have come from Councillors, candidates and Council staff:

- The requirements of Clause 393A of the Local Government (General) Regulation 2005 for General Managers conducting their own elections to provide a written report setting out details of the election should be repealed as it is not required from the other Councils. From previous experience all the other councils will incur additional costs even if the Electoral Commission is conducting their elections and they are not required to provide a report for a proper comparison.
- Legislation should be altered to force the NSWEC to submit a fixed tender price to any Council prior to the Council being required to make a decision on who should conduct the election.
- Section 296 (2 & 3) LGA states a Council may resolve to enter into an arrangement with the Electoral Commissioner by resolution within 12 months after an Ordinary Election to administer all elections for the Council. This is not a realistic time frame for any Council to make such a

decision. This should only be decided after a formal tender has been issued and approximately 12 months before the election. It is understood that the Minister proposes to alter Section 296.

- Candidates expressed a preference for candidate voter information material to be registered with the RO, prior to the commencement of the pre-poll period to ensure consistency of how to vote material being handed out at pre-poll and on Election Day.
- The length of the pre-poll period was a major problem for all candidates and they expressed a preference for the period to be reduced significantly.
- Candidate Information Sheets – Lack of information provided by the Candidate – The DLG could consider making this mandatory to complete. Many candidates were unaware that the sheets were to be placed on the Councils' website and therefore failed to take the opportunity to state their political platform. This should be highlighted to prospective candidates. Many web users were disappointed by the lack of information provided by candidates on the Candidate Information sheet and were wanting Council to provide more information about each candidate's platform.
- A candidate suggested that information on all candidates should be inside the polling place or polling booth to eliminate the waste of printed material handed out on Election Day.
- A candidate suggested the following *"Is it possible that if you vote that you need to identify yourself. Should we look at the handing out How to Vote cards and maybe a system of the candidate making available what the candidate stands for and who they are. We then look at the ACT system where there is no election material within 100 metres of the polling place or the NZ system which I believe prohibits the election material 3 days before an election. Maybe the Robson system in ACT is also worth looking at which means that no one is disadvantaged by the position on the ballot paper ( 4 candidates were elected from the number 1 position on the ballot form from 5 Wards )"*

Some related comments which may be of value to the Committee include:

- The decision by the NSWEC not to advertise (Web and Metropolitan papers) candidate information sessions for non client councils is questionable as these sessions were arranged and funded by the NSW Election Funding Authority (EFA), an arm of the NSWEC. While the EFA did advertise these sessions on its website, the refusal of the NSWEC to also do this caused confusion for the public and a number of prospective candidates.
- NSWEC web enquiry access to the registered voters roll was limited and not equal to that provided to other Councils. These restrictions resulted in ROs developing alternative searches to find the information required.

- The NSWEC should be required to submit a fixed price to any Council prior to the Council being required to make a decision on who should conduct the election.
- Candidates for Sutherland Shire Council said that they had problems when contacting the NSW Electoral Commission because they were from Sutherland Shire and they also had problems contacting the correct people within the Election Funding Authority when seeking advice. They considered that the responses were not as helpful as they were expecting because they were from a non NSWEC council.
- Some Councillors stated that they received complaints from registered postal voters who claim to have not received postal ballot papers. The RO stated that all registered postal voters on the NSWEC data base provided to the RO were definitely sent ballot papers. The SRO commented that to his knowledge the NSWEC and Australian Electoral Commission lists are identical but it was evident that some of the information on the list was out of date eg it contained the names of deceased persons, old addresses, etc. While these errors are not necessarily the fault of the NSWEC or Australian Electoral Commission, they do suggest a reason why some voters did not receive a ballot paper. A check with the NSWEC and the Australian Electoral Commission identified that each department have their own registered postal database although they share information. No specific examples were provided so this could not be further investigated.
- NSWEC would not supply Combined Reference Rolls as they said this was an additional significant expense. Lane Cove Council took 15 minutes to consolidate the data provided by the NSWEC into one roll.
- The Non Residential Roll Enrolment Form requires changes and the suggestions have been passed on to the NSWEC.

**(d) Non residential voting in local government elections**

The current legislation provides no issue for this Council and only 3-5 people claimed this status at the recent and previous elections.

**(e) Impact of the Election Funding, Expenditure and Disclosures Act 1981**

Council does not directly operate under this Act, however from observations it clearly needs review and the requirements placed on candidates and elected Councillors would appear to be impossible to comply with and places onerous requirements on candidates. Generally, it needs to be more practical and realistic in its approach, as it was obvious that those present at information sessions run by the Electoral Funding Authority, expressed the Act as a potential impediment to people standing as Councillors without the aid of significant administrative support.

**(f) Any other matters**

No submission.

#### **4. Conclusion**

Council appreciates the opportunity to make this submission to the Committee on Electoral Matters and would be pleased to make further comments on the submission if required.

## Finance and Management

MinuteNumber: 292

Council Meeting Date: 10/10/11

**26/09/2011 FIN070-12**

**Conduct of Elections by Council**

**File Number: GO/05/944516**

**Director: Corporate Services (TR)**

**Report Item**

### REPORT IN FULL

#### Purpose

The purpose of this report is to advise Council of recent amendments to the Local Government Act, 1993 (the Act) whereby council elections are to be administered by the General Manager and requiring Councils to make a decision to conduct the 2012 elections themselves or pass the role over to the NSW Electoral Commission.

#### Background

The NSW Parliament has passed the Local Government (Amendment) Elections Act 2011 (the Amending Act). This amendment resulted in changes to the Act concerning the conduct of council elections. Section 296 of the Act now provides that council elections (and, by operation of section 18 of the Act, constitutional referendums and polls) are to be administered by the General Manager of the Council concerned.

Attached as Appendix 'A' to this report is the Circular from the Division of Local Government regarding the amendment and the conduct of elections by Councils. The major change to the legislation requires Council to make a decision to run the elections themselves or contract the NSW Electoral Commission to run the September 2012 elections on Council's behalf. This decision must be made by Council prior to 30 November 2011 (amended date). The Local Government and Shires Associations are currently making representations to the Premier to extend the deadline for this decision.

Prior to the 2008 Local Government elections, Councils' were responsible for running elections with the assistance of the NSW Electoral Commission. Under this arrangement Councils were able to minimise costs, while still providing accountable and transparent elections. The 1999 elections were conducted at a cost of \$301,255 (ex GST) and the 2004 elections at a cost of \$409,361 (ex. GST).

In 2008, the NSW Electoral Commission informed all Councils that they would be running all Council elections on their behalf at a full cost recovery basis. **This resulted in the 2008 elections costing Council \$770,000 (ex. GST), an increase of 88%.** This significant rise in costs was considered to be unacceptable by many Councils and the Local Government and Shires Associations, who made representations to the government of the day.

Council has received correspondence from the Electoral Commissioner (Appendix B) which

indicates, allowing for CPI and other increases, that if Council request the NSW Electoral Commission to run the 2012 elections, **the costs will be at least \$880,000 (ex GST).**

The letter also highlights the responsibilities placed on Councils conducting their own elections. If Council were to conduct their own election, external legal expertise would be engaged to assist with any legal queries. This would supplement the extensive experience held by senior administrative staff in the conduct of Local Government Elections over the last 30 years.

The very disappointing aspect of the Commission's letter is their refusal to engage in an alternative collaborative approach to the elections which would allow Councils to look after the logistics and use the Commission's expertise and documentation. This alternative would reduce Council's costs significantly.

Council staff have reviewed the costings provided by the NSW Electoral Commission and have questioned many of the amounts being charged e.g. printing of ballot papers (2008 - \$78,840) and election materials (2008 - \$58,410) which appear to be quite excessive. In addition there are other charges which are management related which could be absorbed at minimal cost, if Council were to conduct the elections.

It is anticipated that Council could conduct the elections and make savings of a minimum of \$200,000 on the costs provided by the NSW Electoral Commission (see Appendix C for a costs comparison table).

The Electoral Commissioner, Colin Barry has met with the General Manager and stated that the Commission is not prepared to work with Council by conducting the elections as a joint activity thereby reducing overall costs. If the Commission is involved they will take full responsibility and bill Council (advised to be at least \$880,000 ex GST) at the end of the process as they did in 2008.

#### **Additional Issues to be considered.**

##### **1 - Local Government Department Guidelines**

The Department has recently published a document "Guidelines for Council Administered Elections 2012" (see Appendix D - available electronically only). This document is available on the Department's website and provides a detailed review of the actions to be followed by Councils conducting their own elections. The guidelines cover the following services which were provided by the NSW Electoral Commission in 2008 and 2004, and by Councils in all Local Government elections prior to 2004;

- appointing Returning Officers
- employing and training staff
- use of electronic counting equipment
- reporting requirements etc.

##### **2 - Delay in declaring the polls**

Following the elections in 2004 and 2008, many councillors were dissatisfied with the length of time between the "close of poll" and the 'Declaration of the Poll' by the Returning Officer.

This situation arose because the Electoral Commission required all the distribution counts for both the 2004 and 2008 elections to be carried out centrally by the Commission staff. Sutherland's voting distribution was placed in a queue behind other Councils. This delay did not occur following the 1999 elections as the counting was completed locally.

The 1999 elections were declared 6 days after the close of poll  
The 2004 elections were declared 14 days after the close of poll  
The 2008 elections were declared 13 days after the close of poll

### 3 - Alternative options for running an election

With the changes to the Act has come the option for Councils to engage a private enterprise company to run the election on Council's behalf under the supervision of the General Manager. This could occur by tendering out the complete process or by engaging a company to assist in those areas where they can provide assistance and resources which would be more costly for Council to develop or purchase elsewhere.

Councils in NSW have been approached by a Queensland based Company who have provided a detailed indicative price to run the election on Council's behalf and also indicated that they would be prepared to work with Council on a collaborative approach if Council requested. The indicative price was substantially below the Electoral Commission's estimates. If Councillors want to view this indicative quote then they should make a request of the General Manager as there is significant Commercial in Confidence to be maintained. However, if Council decided to have a private company run the elections totally on their behalf, then Council would go through the proper tender selection process as the amount will exceed \$150,000.

Another option still to be explored is through resource sharing with other Councils who have elected to conduct their own elections. Councils could make use of Local Government Procurement to arrange tenders for training, equipment, vote counting software and legal advice.

### **Recruiting a Returning Officer**

Recruiting an experienced Returning Officer is an essential part of this process if Council are to conduct the elections. To ensure this occurs Expressions of Interest (EOI) advertisements have been placed in the Public Notice sections of the Leader and Sydney Morning Herald. The EOI will close on 14 October 2011.

### **Conclusion**

From the information in the report it is clear that the changes to the Act require a decision to be made as to how and who will run the 2012 Sutherland Shire Council elections.

The alternatives are

- to use the NSW Electoral Commission at a cost of approx \$880,000
- to conduct the elections by tendering out to a private company
- to conduct the elections in-house and work collaboratively with a private company



It is recommended that Sutherland Shire Council conduct their own elections and work collaboratively with a private company as this will significantly reduce costs in running the 2012 election.

**Report Recommendation:**

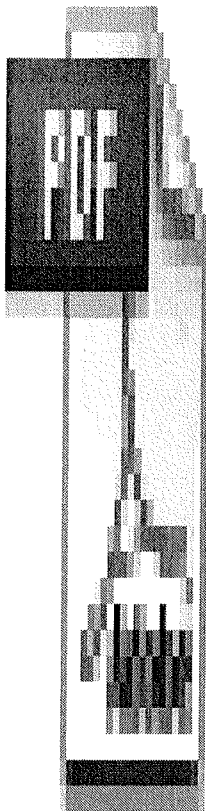
That the General Manager of Sutherland Shire Council conduct the 2012 Elections on behalf of Sutherland Shire Council.

**Conduct of Elections by Council**

- To view the document:*                      *double click on Icon and select 'View'*
- To print document:*                        *select 'File', then select 'Print'*
- To return to report:*                        *select 'File', the select 'Exit'*

*As some diagrams may be in 'landscape' format, it may be necessary to rotate or magnify by using the icons on the toolbar.*

**APPENDIX 'A' Circular from the Division of Local Government**



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**APPENDIX 'B' Correspondence from the Electoral Commissioner**



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**APPENDIX 'C' Cost Comparison Table**



2012\_final\_estimates\_les\_d\_ward\_2-0.xlsx

APPENDIX 'D' Guidelines for Council Administered Elections 2012 (available electronically only)



2011\_09\_09\_Guidlines\_Elections\_2012\_1-0.pdf

**Committee Recommendation:**

That the General Manager of Sutherland Shire Council conduct the 2012 Elections on behalf of Sutherland Shire Council.

**Council Resolution:**

1. That the Council conduct the 2012 elections and request the General Manager to administer the 2012 Elections on behalf of Sutherland Shire Council, on the proviso that the General Manager is able to procure an appropriate returning officer.
2. That a report be provided on the number of Councillors and the number of wards.

## Special Finance and Management

MinuteNumber: 739

Council Meeting Date: 19/03/12

12/03/2012 FIN174-12

**Conduct of Elections by Council - Update Report**


**File Number: GO/05/944516**

**Director: Corporate Services (TR)**

**Report Item**

### REPORT IN FULL

#### **Purpose**

To update Council on the 2012 Local Government Elections and the following Council Resolution (refer FIN070-12 ) on 10 October 2011:

*"That the Council conduct the 2012 elections and request the General Manager to administer the 2012 Elections on behalf of Sutherland Shire Council, on the proviso that the General Manager is able to procure an appropriate returning officer".*

#### **Appointment of a Returning Officer and Substitute Returning Officer**

Following Council's decision to conduct its own election in 2012, Expressions of Interest were invited for the positions of Returning Officer (RO) and Substitute Returning Officer. Mr Greg Greening has been appointed to the position of Returning Officer and Mr Craig de Plater as Substitute Returning Officer. All Councillors were notified of these appointments via the Councillors Bulletin 22 November 2011 and the 12 December 2011 which also contained information regarding their experience and background.

Several meetings have been conducted between the Returning Officer and Council staff and planning is well advanced in the areas of :-

- Polling booth locations (see report FIN174-12)
- Resources and equipment
- Application processes for polling booth staff
- Office for the RO in Kirkby House
- Forms and training manuals
- Appropriate insurance has been arranged
- Legal support has been arranged.

If further information is required on any of the above these can be addressed at the Committee meeting.

### **Candidate Information Seminar**

A candidate information session has been arranged for Thursday, 28 June 2012 at Council's Sutherland Entertainment Centre. The session will commence at 6.00pm, to give any prospective candidates time to attend after work. This meeting includes presentations from a representative from the Election Funding Authority, the Division of Local Government (DLG), Council's Returning Officer and the General Manager. Appropriate advertising to notify prospective candidates will be conducted prior to the date, by both the Election Funding Authority and Council.

### **NSW Electoral Commission**

In December 2011 the NSWEC wrote to Council indicating that they would convene a meeting to discuss various aspects of the election for which they still retain responsibility. In early January, Council responded and requested a meeting in early February. As no response has been received Council has sent a further letter this week requesting that the meeting be held sooner rather than later.

### **Division of Local Government**

The Returning Officer and Council's Public Officer (Trevor Rowling) have met with representatives of the DLG. The DLG is prepared to assist the 15 Councils who have resolved to conduct their own elections and are developing a handbook which addresses legislative requirements. The DLG is coordinating an information session and providing liaison officers for those Councils not using the Electoral Commission NSW. The DLG information session for the 15 Councils will be held at Sutherland Shire Council on Wednesday 21 March 2012. This meeting will be for Returning Officers and Senior Council staff coordinating their elections.

### **Counting of Ballot Papers**

The Shire is divided into five (5) wards with three (3) Councillors to be elected to represent each ward. Section 285 (b) of the Local Government Act 1993 specifies that if the number of Councillors to be elected is three (3) or more then the Proportional Representation Voting System must be used.

The proportional representation voting system is used to elect multiple Councillors (either via parties, groups or individual candidates) to Council in proportion to their support in each Ward. In 2000 the Local Government Act 1993 was amended to permit "above the line" voting, to allow the voter to determine the preferences he or she wanted, by showing one or more preferences for groups or parties in the Group Voting Squares "above the line".

The DLG have issued guidelines for Councils conducting their own elections. Within the guidelines the Division refers to the use of specifically designed software to handle the counting of complex and time consuming 'above the line' proportional representation vote counting.

At the 2008 Local Government elections conducted by the NSWEC, the Sutherland RO completed the first count and then moved all ballot papers to a central vote counting centre at Riverwood to finalise the distribution count. This resulted in Sutherland's ballot count being finalised almost two (2) weeks after the election date and made scrutineering of the final count distribution difficult if not impossible.

Council has decided to administer its own election and has two (2) options to conduct the ballot count.

1. Electronic Software

A private company from Queensland (Australian Election Company) are conducting elections for approximately nine (9) NSW councils, mainly in the Hunter region and have set up a central electronic scanning and count centre at Newcastle. Although Sutherland is conducting our own elections we can use their centre at Newcastle at a cost of between \$60,000 and \$80,000. There are several concerns attached to this option which relate to security of transporting ballot papers, difficulties for scrutineers and the time associated with completion of the count. Sutherland would have to wait their turn similar to the 2008 count conducted by the NSWEC.

2. Manual Count

Sutherland's RO (Greg Greening) has reviewed the 2008 and 2004 counts along with the "above the line" group ballot papers and has informed Council that the ballot count can be completed manually, without the need for electronic software. Discussions have been held with a senior staff member in the NSWEC who has confirmed that the regulations for the proportional representation counts were written for a manual count.

In addition discussions with senior staff at the DLG also confirmed that the statements made in the DLG guidelines to use electronic software for the ballot count **were advisory only and Councils were able to pursue a "manual count"** where they considered the number of 'above the line' groups in a ward were minimal.

A review of Sutherland's 2008 group numbers by ward confirms the RO's advice. The number of groups are minimal which reduces the complexity of the count.

A Ward - 7 groups

B Ward - 4 groups

C Ward - 5 groups

D Ward - 3 groups

E Ward - 4 groups

The option of a "manual count" has significant benefits for candidates and Council as it will allow scrutineers and candidates to better monitor the initial and distribution counts, it will be significantly cheaper as it will eliminate software and transportation costs and will provide a result within one (1) week of the election date. The Returning Officer will undertake the first preference check count on the Sunday after polling day and will commence the distribution count on the Tuesday after the close of postal votes on the Monday night.

### **Consideration of a Manual Count**

**Council is permitted to endorse a "manual count" as long as it has given appropriate consideration to the guidelines. Section 23A of the Local Government Act 1993 states:**

#### ***"23A Director-General's guidelines***

***(3) A council must take any relevant guidelines issued under this section into consideration before exercising any of its functions."***

The section of the DLG guidelines which refers to the counts states:

#### ***"Is it possible to count the votes manually?***

*In 2000 the Act was amended to introduce 'above the line' voting, to allow the voter to determine the preferences he or she wanted, by showing one or more preferences for groups or parties in the Group Voting Squares above the line.*

*This change has meant that specially designed software with a front end data entry module is required to count and distribute preferences as individual preference streams need to be tracked separately through the count and exhausted at the appropriate time.*

*Any councils conducting their own elections will know whether 'above the line' voting is in operation after the close of nominations, which is also the deadline for submitting claims for a Group Voting Square.*

*The more preferences 'above the line', the more complex and time consuming the counts become. For example, a ballot paper with only three Group Voting Squares has the potential of 15 combinations of preference markings. At the 2008 local government elections, many councils had between five and 12 Group Voting Squares, which mean there was the potential for thousands of 'above the line' voting combinations in a single election. Such counts cannot be reliably conducted without appropriate software."*

The vote counting software was written to process ballot papers where there are a significant number of groups above the line. This situation did not occur in the Sutherland elections of 2008 and 2004.

As previously mentioned in this report discussions with senior staff at the DLG also confirmed that the statements made in the DLG guidelines to use electronic software for the ballot count were advisory only and Councils were able to pursue a "manual count" where they considered the number of 'above the line' groups in a ward were minimal.

**Following a review of the 2008 and 2004 elections it is clear that the use of a "manual count" is an acceptable and more transparent process for Council to adopt.**

### **Conclusion**

The preparations for the 2012 Local Government Election by the Returning Officer and Council staff are progressing well and within appropriate time frames and predicted costs. The decision to use a "manual count" also assists in reducing costs further and will provide a better outcome for candidates and Council.

### **Report Recommendation:**

1. That the report on the conduct of the 2012 Local Government Elections be received and noted.
2. That it be acknowledged, consideration has been given to the Division of Local Government Guidelines for Council to Administer Elections 2012 as required by Section 23A (3) of the Local Government Act 1993, and the option for a manual count of ballot papers as recommended by Sutherland's Returning Officer be endorsed for the 2012 Local Government Elections.

### **Committee Recommendation:**

1. That consideration of the report on the conduct of the 2012 Local Government Elections be deferred to the next round of Council.
2. That a demonstration of the manual count procedure be provided to interested Councillors.

### **Council Resolution:**

1. That the report on the conduct of the 2012 Local Government Elections be received and noted.
2. That it be acknowledged, consideration has been given to the Division of Local Government Guidelines for Council to Administer Elections 2012 as required by Section 23A (3) of the Local Government Act 1993, and the option for a manual count of ballot papers as recommended by Sutherland's Returning Officer be endorsed for the 2012 Local Government Elections.
3. That a report be provided on the methodology of the proportional count.



**LOCAL GOVERNMENT RETURNING OFFICER – SUTHERLAND SHIRE COUNCIL**

**Location:**

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Level 1, Suite 2,  
33-35 Belmont St  
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Mr John Rayner  
Election Manager  
Sutherland Shire Council

Dear John

**2012 LOCAL GOVERNMENT ELECTION - SUTHERLAND SHIRE COUNCIL  
REPORT BY RETURNING OFFICER ON THE CONDUCT OF THE ELECTION**

The election was successful. It was always going to be successful.

A combination of Council's management, election experience and resources and an experienced Returning Officer and Substitute Returning Officer with capable staff was always going to be a winning team.

I enjoyed working with Sutherland Shire Council. The Council is a professional, well run business. I found the staff very efficient, dedicated, supportive, helpful, friendly.

It was a huge effort by many, starting almost one year ago. I hope the savings made it worthwhile.

**RO ACCOMMODATION**

The space in Kirkby House worked well. It was modern, professional, secure and conveniently located to the SSC Administration building, post office and Sutherland CBD.

**RO STAFF**

I was fortunate that the SRO and several very experienced casual staff were available.

**POLLING STAFF**

I was fortunate that a large majority of senior polling place staff were available.

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**OFFICE EQUIPMENT**

The amount and condition of electronic equipment and furniture was good.

**COMMUNICATIONS**

RO email very busy particularly with postal vote applications. Next election there should be an email dedicated to postal vote applications with an automatic acknowledgement capability. Emails of PVAs can then be accessed by staff other than RO.

**ADVERTISING**

All mandatory advertising was done in the Leader newspaper, the Our Shire newsletter and Council website. A letterbox drop was done to Bundeena, Maianbar and Sandy Point.

**MATERIAL**

Cardboard voting screens and ballot boxes – because of their importance to polling, these were sourced and ordered early in 2012 from AMCOR. We had them on hand at the Depot in early July. I couldn't source other cardboard items because of low numbers required. The AEC Co sourced a smaller business (in Sydney I think – Christine Andrew, RO Botany Bay knows) and was able to obtain smaller amounts of the material I could not get. Next election give this business a go.

**EMPLOYMENT**

The employment process worked well. Several hundred expressions of interest were received. I commend my staff and those of SSC Personnel involved in the employment process because this was no doubt the biggest task of the whole operation.

**CANDIDATES AND POLITICAL PARTIES**

The 85 candidates was an increase of 15 from 2008. All candidates were grouped in 3s with only one ungrouped candidate. All nominations were lodged well before the deadline.

A serious concern surfaced at the nomination process. The Candidate Information Statement part of the nomination form changed mid stream and approximately half of the CIS's completed had to be redone by the candidate on the changed CIS and lodged. This caused me grief as I hated making candidates re-do work when it was not their fault.

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#### **POLLING PLACES**

Most of the usual polling place locations were used. Co-operation from polling places was very good. For public schools, we applied the agreed hire cost between the Department of Education and NSWEC and places were satisfied with this.

#### **PRE-POLL VOTING**

The number of voters increased by approximately 5,000 to 13,773. A change in the voting process (no declaration envelope required) since the 2008 LG election made the process more simple.

Operated at the Sutherland School of Arts, 21 East Pde, Sutherland from 27 August to 7 September Monday to Friday 8.30 to 4.30 with Thursday 6/9 to 8pm and Friday 7/9 to 6pm. The venue worked well. The footpath area in front of the building was congested but not too bad.

#### **POSTAL VOTING**

This was always going to be a huge labour intensive operation. Craig de Plater did a fabulous job preparing a program of registration and label printing for each postal voter which saved a massive amount of manual labour.

Craig was also heavily involved in the design and layout of the postal vote declaration envelope and associated postal instructions.

The number of postal voters increased by approximately 1,000 to 6,760.

#### **DI VOTING**

We visited 12 places and this operation proved successful.

#### **ELECTION DAY**

The 62 polling places throughout the Council operated smoothly. As usual, voter turn out was heavy in the morning with the polling places around Cronulla experiencing large numbers for most of the day. A similar situation arose in 2008 and the NSWEC staffing formula did not allow for staff increases. However on this occasion I increased staffing at particular polling places which eased problems.

A heavy workload at Council elections is dealing with people from outside the area. At future Council elections we should consider creating a polling official position at particular polling places just to deal with people from outside the area.

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#### **COUNTING AND DISTRIBUTION OF PREFERENCES**

This task was always high on our list of priorities. We studied procedures, carried out training exercises and bought the Vote Tracker computer program. We succeeded.

During the distribution of preferences, each count was calculated manually and then checked and verified against Vote Tracker.

Results for all 5 wards were finalised by Friday after polling day.

#### **AECo MATERIAL**

We purchased a package from the AECo which provided manuals, forms etc which we desperately needed. The material did the job but the material provided at previous election by the NSWEC was better.

#### **NSWEC**

Dealings with the NSWEC were few but amicable.

#### **RECOMMENDATIONS**

Next election, if voting is available at Sydney Town Hall we should participate. I did receive several complaints.

I wish the Council all the best.

Yours sincerely

Greg Greening  
Returning Officer  
27 September 2012

## Finance and Management

MinuteNumber: 264

Council Meeting Date: 08/10/12

**02/10/2012 FIN052-13**

**2012 Local Government Election**

**File Number: GO/05/944516**

**Director: General Manager**

**Report Item**

### Introduction

The purpose of this report is to update Council on the conduct of the 2012 Election and to provide an opportunity for Councillors to make comment on changes that may improve the election process in the future.

### Background

The Local Government and Shires Associations of NSW applauded the passing of the Local Government Amendments Bill 2011, which enabled councils in NSW to conduct their own elections. The change of legislation gave councils the flexibility and choice to determine if they will manage the election themselves or appoint the NSW Electoral Commission to do so. The pressure to make this change stemmed from local government's concern that the cost of conducting elections had increased significantly since the Electoral Commission took over the full conduct of elections from March 2004.

In the case of this Council those costs increased as follows:

-	March 2004	\$409,361
-	September 2008	\$778,950
-	October 2010 (bi-election)	\$129,832
-	September 2012	\$880,000 (estimate)

Whilst the State Electoral Commission (SEC) did not provide Council with an estimate to conduct the 2012 election, based on the percentage increases to be applied the projected costs for the State Electoral Commission to undertake the 2012 election was \$880,000.

During the years that the State Electoral Commission conducted elections, Council staff provided a level of support and guidance to ensure the elections were conducted to the standard expected by Council and the community.

Comparison of Election Costs for some Councils whose elections were conducted by State Electoral Commission

Council	Electors	Candidates	Count Completed	2008 costs \$	2012 SEC Estimate \$
A	188,908	48	15/9/12	821,700	1,091,000
B	122,568	49	14/9/12	641,100	713,000
C	101,846	60	16/9/12	512,500	?
D	101,555	75	16/9/12	538,600	640,330
E	82,202	74	16/9/12	450,752	552,259
Sutherland Shire	155,649	85	15/9/12	778,950	880,000

The SEC will charge councils at actual cost, yet to be determined.

This Council is one of 14 councils that conducted its own election; 11 of these councils engaged the Australian Election Company to conduct the election on their behalf. Only Botany Bay, Lane Cove and Sutherland Shire councils fully conducted their own election.

In 2008 the counting of votes was completed 13 days after the election. Counting of votes in 2012 was completed 6 days after the election, Friday 14 September 2012.

Council's costs

The cost of Council conducting the election itself is \$605,277, (Council's estimate October 2011, \$614,348), a saving of approximately \$275,000 compared with the estimate for an election conducted by the SEC.

As is the case with each election there is always a contribution from Council's staff. This cost is included within normal salary votes and is not an additional cost to the ratepayer. In fact staff do not let other service obligations slip during the election period.

Conduct of 2012 Election

Under the legislation the General Manager is the Election Manager where councils undertake their own election. Mr Greg Greening was appointed Returning Officer and Administration Manager, Mr Trevor Rowling, was appointed by the General Manager to manage Council's responsibilities associated with the conduct of the elections.

Election Statistics

	A Ward	B Ward	C Ward	D Ward	E Ward	Total
Number of electors on roll	31,506	32,040	30,547	30,319	31,237	155,649
Number of voters	26,846	27,391	26,314	26,827	27,446	134,824
Percentage of voters to population	85.21 %	85.49%	86.14%	88.48%	87.86%	86.62%

Ballot papers printed	-	190,000
Staff employed	-	454
Number of candidates	-	85
Number of Pre poll votes	-	13,773
Number of Postal votes	-	6,760

Comments

In considering how the election was conducted a number of comments have been made:

- A number of candidates expressed concern that the pre-poll voting period (2 weeks) should be reduced to one week.
- The area outside the pre poll Polling Place was inadequate. (NB the Sutherland Entertainment Centre is booked for the 2016 election).
- The Electoral Funding Authority did not advertise in the local newspaper, choosing instead to advertise in the metropolitan dailies.
- Candidates information sheets should be completed in more detail, particularly so electors are aware of who they are voting for.
- Many people indicated that they were unaware that the election was being held.
- The inequitous reporting requirements under Clause 393A of the Local Government regulation on councils which conduct their own election, as opposed to councils that have the election undertaken by the State Electoral Commission (see attached).

Conclusion

The Returning Officer and his staff, plus the efforts of Council staff, ensured an efficient and transparent election was conducted. The Council and the community have benefited by significant cost savings and candidates by a more timely result.

**Report Recommendation:**

1. That the Returning Officer, Mr Greg Greening, be thanked for his efforts in conducting the election and that thanks be passed to his staff.
2. That Mr Trevor Rowling be thanked for his efforts in undertaking Council's responsibilities associated with the election and that his staff be thanked.
3. That Council make representations to the Minister for Local Government on areas where the electoral process and requirements may be improved.
4. That Council thank the Division for Local Government for their support prior to and during the election period.



## APPENDIX 2012 Local Government Election

### Attachment A



0501\_001.pdf

*(To view the document, double click on icon and select 'Open'. Select 'File' 'Close' to return to report.)*

#### **Committee Recommendation:**

1. That the Returning Officer, Mr Greg Greening, be thanked for his efforts in conducting the election and that thanks be passed to his staff.
2. That Mr Trevor Rowling be thanked for his efforts in undertaking Council's responsibilities associated with the election and that his staff be thanked.
3. That Council make representations to the Minister for Local Government on areas where the electoral process and requirements may be improved.
4. That Council thank the Division for Local Government for their support prior to and during the election period.
5. That Councillors be invited to submit to the General Manager any suggestions or issues they had concerning the recent Council elections and that Councillors receive a timely response.
6. That thanks be extended to Council staff for their efforts and Council recognises the substantial savings made by conducting our own election.

#### **Council Resolution:**

1. That the Returning Officer, Mr Greg Greening, be thanked for his efforts in conducting the election and that thanks be passed to his staff.
2. That Mr Trevor Rowling be thanked for his efforts in undertaking Council's

responsibilities associated with the election and that his staff be thanked.

3. That Council make representations to the Minister for Local Government on areas where the electoral process and requirements may be improved.

4. That Council thank the Division for Local Government for their support prior to and during the election period.

5. That Councillors and Candidates be invited to submit to the General Manager any suggestions or issues they had concerning the recent Council elections and that Councillors receive a timely response.

6. That thanks be extended to Council staff for their efforts and Council recognises the substantial savings made by conducting our own election.



File Ref: CRMS 771753100  
Related Files: GO/05/944516

19 April 2012

Mr Ross Woodward  
Chief Executive, Local Government  
A Division of the Department of Premier and Cabinet  
Locked Bag 3015  
NOWRA NSW 2541

Dear Ross

## 2012 Election

I appreciate the level of support the Department has and will provide those councils which have taken a decision to conduct their own election in September of this year. Unfortunately the Electoral Commission NSW has taken a very strong line of not supporting those same councils; a move seen by many as being against the spirit of the government's intention.

In particular the level of support and approach from your staff, John Davies, Marie Swain and Doug Friend at Sutherland on 21 March 2012 was of great value.

As you are aware Local Government sought, and was granted by the Minister the ability to conduct its own elections. Some of the reasons included:

- high costs imposed by the Electoral Commission NSW
- delays in finalising counting
- the additional work that was required to be undertaken by council staff to ensure the success of the election

For a number of reasons I am concerned about the reporting requirements under Clause 393A of the Local Government (General) Regulation. This clause only applies to an election administered by the General Manager of a Council and requires the General Manager to provide a report including the following information:

- (a) cost of General Manager's involvement in the election
- (b) cost of staff involved in the election
- (c) cost of staff employed specifically for the election
- (d) cost of election officials
- (e) cost of running candidate information seminars
- (f) cost of hiring venues and equipment
- (g) cost of technological support
- (h) cost of preparing a report written under this clause
- (i) electoral services provided to electors

- (j) electoral services provided to candidates
- (k) operational details of the election
- (l) overall evaluation of the conduct of the election including feedback from stakeholders

I am sure that at some time after the election there will be attempts to compare costs incurred by those councils conducting their own election and costs incurred by councils that opted for the Electoral Commission to conduct the election. It is probably fair and reasonable, after the first year of allowing the councils the option, for comparisons to be made, however this comparison should be based on an even playing field. At the moment it is not as there is no requirement for General Managers of those councils where the election is administered by the Electoral Commission to maintain similar records and provide a similar report.

In particular I am concerned that a number of costs are incurred by council regardless of which body administers the election. If we look to the requirements of Clause 393A the common costs can be identified.

- (a), (b) and perhaps (c) are common costs, which may be higher if a council conducts its own election, but they are costs that will be incurred by a council even if the Electoral Commission administers the election. The Commission's most recent circular for example, Number 2. 2012, issued on 13 April makes reference to "Non Residential Rolls", "Consultation with councils, re-election services", "Returning Officer's office location", "Polling Places", "Estimated number of polling places", "Potential candidates request for information", "Review of Ward Boundaries", "Referenda and Polls" and "Candidate Information Sessions".
- (e) regardless of who administers the election candidate information seminars will be conducted. I have been invited, probably by the Department, to present at the seminar and I would assume other General Managers across the State have been invited to present in their local areas.
- (f) there is a cost of hiring venues regardless of who conducts the election
- (g) technological support will be the same, other than accounting software which will be provided by the Electoral Commissioner.
- (h) this cost only applies in the case of councils administering their own election
- (i) electoral services provided to electors and (j) electoral services provided to candidates would apply in both scenarios
- (l) from this it would appear that council will need to undertake a survey and I would assume the Electoral Commission will undertake similar surveys, similar processes and procedures would need to be put in place for a fair comparison to be made. Is it proposed that feedback would come from – candidates, voters electoral officials?

Councils which will have their elections administered by the Electoral Commission will not be making any preparation, or recording costs, for reporting post election. Based on the ill will which is currently shown by the Electoral Commission against those councils not engaging the Commission I anticipate that soon after the election there will be accusations of money wasted, poor performance, lack of value for money etc aimed at those councils that administer their own election.

If there is to be review and scrutiny then all councils should be required to report in the same manner.

I therefore request that the Minister reconsider the requirements of 393A or impose similar requirements on councils that have engaged the Electoral Commission NSW to administer their election.

Yours sincerely

J W Rayner  
General Manager