

## **INQUIRY INTO 2008 LOCAL GOVERNMENT ELECTIONS**

**Organisation:** City of Botany Bay  
**Name:** Cr Ron Hoenig  
**Position:** Mayor  
**Telephone:** 93663600  
**Date Received:** 29/07/2009

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Mayor  
City of Botany Bay

23 July 2009

Cr Robert Furolo MP  
Chair & Joint Standing Committee  
on Electoral Matters  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000



Dear Sir,

**RE: INQUIRY INTO 2008 LOCAL GOVERNMENT ELECTIONS**

I refer to the above inquiry to which I wish to make a submission and apologise for it being subsequent to the deadline and would be grateful if it could be taken into consideration.

***Improper Rejection by Electoral Commissioner of Candidates Abbreviated Name***

In the 2008 Local Government Elections Stan Kondilios (*Eustathios Kondilios*) was nominated by the ALP as a candidate for Ward A in the Local Government Area of the City of Botany Bay.

Councillor Kondilios was a serving councillor having first been elected in 1995, re-elected in 1999 and re-elected again in 2004. He nominated in those previous elections in the name as appeared on his birth certificate, *Eustathios Kondilios* and his name appeared on the ballot paper as Stan Kondilios being the Anglicised version of his name.

At the 2008 Local Government Elections Councillor Kondilios nominated in the same way as he had in three previous elections. The Electoral Commissioner rejected his nomination on the basis that the Local Government (General) Regulations 2005 requires a person proposed as a candidate to have one of their given names or generally recognised abbreviation or derivative of that name, asserting that Stan was not such an abbreviation or derivative of *Eustathios*.

Councillor Kondilios informed the Returning Officer, Mr Pittman, that Stan was an Anglicised version of his name, that he had been known as Stan all his life and had been elected as a councillor under that name on three previous occasions. He advised the Returning Officer that he was known as Stan Kondilios at school, and that as a partner in a law firm, his partnership documents are in the name of Stan Kondilios. He further advised that he was listed on Council's website as Stan Kondilios, his Council business cards list him as Stan Kondilios, that all of Council's literature provide information to the community about his details as Stan Kondilios and that this can be readily discovered on Council's website or by making an enquiry of the Council's General Manager.

None of these assertions made by Councillor Kondilios carried any weight with the Electoral Commissioner. As a result Councillor Kondilios sought the assistance of the Assistant General Secretary of the Australian Labor Party to whom he wrote on the 6<sup>th</sup> August, 2008. I enclose Councillor Kondilios letter to Mr Allen of that date.

In response to Councillor Kondilios letter, Mr Colin Barry, the Electoral Commissioner wrote back on the same date requiring Councillor Kondilios to provide to him a statement from an authoritative source that Stan is a recognised abbreviation or derivative of an Anglicised version of his name, and if he did so he would consider including Stan on the ballot paper in place of his formal name of *Eustathios*.

I enclose here with a copy of the Electoral Commissioner's letter.

As a result of the Electoral Commissioner's requirement, and on advise from the Returning Officer, Mr Pittman and the ALP, Councillor Kondilios was required to speak to the Consulate General Of Greece in Sydney and obtain from him a certificate certifying that the name of Stan is a recognised abbreviation and Anglicised version of the Greek name *Eustathios*. For the Committee's information I attach here with a copy of the letter written by Councillor Kondilios to the Returning Officer and the certificate obtained from the Consulate General Of Greece in Sydney.

Councillor Kondilios was annoyed and very distressed and in fact embarrassed by having to undergo this sort of hurdle particularly bearing in mind all the circumstances and the material that was actually available to the Electoral Commissioner. I can attest to the fact that he was insulted by the process and deeply hurt by it.

It is my submission that the Electoral Commissioner had no power under the Local Government (General) Regulations 2005 to act the way that he did. In my submission, the Electoral Commission's conduct was grossly inappropriate. As a result Councillor Kondilios and the ALP really had no choice but to comply with the Electoral Commissioner's unreasonable demands



It is my submission that to avoid this sort of conduct again that the regulations be amended to entitle where there is some doubt, not that there could have been any doubt in Councillor Kondilios case, a candidate provide a Statutory Declaration to the Electoral Commissioner.

The Committee would be aware that breaches of the Oaths Act involve substantial penalties of incarceration and the deterrence of a false declaration can occur by way of operation of the law rather than the inappropriate conduct of a Statutory Official who in these circumstances appears to be answerable to no one.

### ***Polling Booths Required To Be Wholly Within Council Boundaries***

At the 2008 Local Government Elections the Electoral Commission determined that Polling Booths could be set up to enable electors from multiple Councils to vote. It is my submission that allowing more than one Council to be elected at a particular Polling Booth creates considerable confusion. It might not for the Electoral Commissioner but it certainly does for the community, and to the Booth workers actions on behalf of candidates.

As far as Poll Booth workers are concerned there is already confusion with multiple Wards being elected. If one adds multiple Wards and multiple Councils then one has a recipe for absolute confusion.

At the 2008 Botany Bay City Council elections, the Council was elected unopposed and there was no election. However the Electoral Commissioner decided to use the Polling Booth at Matraville Public School, a booth located within the City of Botany Bay Council area as a Polling Booth for Randwick Council. The Randwick Council Polling Booth for that area was always the St Agnes School in Bunnerong Road, located perhaps 300 or 400 yards from that Polling Booth. Randwick Council electors in that vicinity would go to St Agnes Polling Booth and Botany Bay City Council electors would go to the Matraville Public School Polling Booth.

Whilst there was no election for the Botany Bay City Council many of the residents that resided in the area around the Polling Booth upon seeing it operating thought an election was on and thought they had to vote. It created considerable confusion and anger among residents of the Botany Bay Council area who thought that they had been inconvenienced, when they came to vote and were then told they didn't have to.

Whilst it is easy to say that electors should be informed and therefore it is their fault, had the Polling Booth remained consistent as they have been for decades then the confusion would not have eventuated.

It is my submission that the legislation, be it by either an amendment to the Act or Regulation, should specify that Polling Booths for a particular Council area should be located within that Council area.



### ***Delay in Counting Ballot Papers***

It is my submission that the length of time taken by the Electoral Commissioner to declare the Polls for many of the Local Council Elections is completely unacceptable. No doubt the lengthy delay is because the Electoral Commission took all the Ballot Papers to a central location and no doubt will assert that because of the computerised efficient system, this is the way in which Local Government Elections should be counted.

If the Committee looks at the history of Local Government Elections going back some decades most of them were able to be concluded within a few days. Local Returning Officers counted the ballot with their staff and declared the Polls. No doubt the Electoral Commissioner will suggest that Local Returning Officers are not capable of counting proportional representation ballots and as a result the computerised system is more efficient. That with respect is nonsense.

It was my submission to the Government prior to 1993 to provide control of Local Government Elections to the Electoral Commissioner. Prior to the 1993 Act, the Town Clerk or General Manager, were generally appointed as Returning Officers. I was never a supporter of that concept and from the time I was elected in 1980 the Council appointed an outside person as Returning Officer, someone who was recommended by the Electoral Commissioner. The Council in addition required the Returning Officer to appoint outside staff to man Polling Booths to ensure independence. I was roundly criticised for so doing however the independence of the election process is an important part of democracy.

Whilst I am prepared to accept that it might have been stock in trade for Town Clerks and General Managers to count proportional representation ballots efficiently, which had been something that they had been trained in throughout their Local Government career, I have never found an independent Returning Officer that wasn't able to do so efficiently.

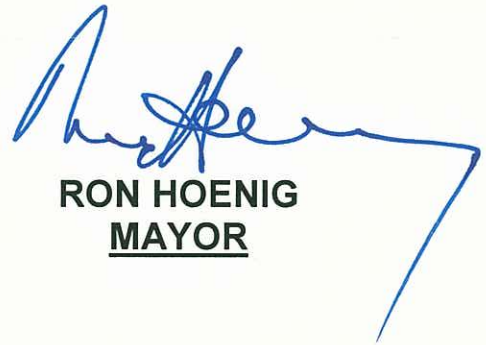
It must be unacceptable to the Legislature for the Electoral Commissioner to take, in some cases, weeks to count a local Council ballot. Whilst there might always be exceptions many of them are in my submission routine.

The other difficulty in relation to centralising the count of Council elections is that it prevents many local Council candidates from appointing scrutineers. This is not a problem for the major political parties who have access to many volunteer resources but for example if one was a candidate in Albury isn't one entitled to have a scrutineer appointed at a reasonably local location.

It is my submission that there be an amendment to the Local Government Act of 1993 or the Regulations there under to require the counting of local Council ballots to occur locally under the supervision of the Electoral Commissioner unless there be exceptional reasons in the Commissioners judgement to centralise the count.

I would be grateful if the Committee could take into consideration my views during this enquiry.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Ron Hoenig', with a long horizontal stroke extending to the right.

**RON HOENIG**  
**MAYOR**

M13088

Contact Stan Kondilios  
Direct 02 8223 4102  
Email stan.kondilios@maddocks.com.au  
Our Ref SXX:5346632

6/08/2008

**BY FACSIMILE: 9267 6062 (2 pages)**

**PRIVATE AND CONFIDENTIAL**

Robert Allen  
Australian Labor Party

Dear Mr Allen

**Australian Labor Party**

Reference is made to our telephone conversations of 5 and 6 August 2008.

I confirm my conversations with Barry Pittman who has been appointed the Returning Officer for the Local Government Elections in the Local Government Area of the City of Botany Bay.

Mr Pittman was kind enough to inform me that the NSW Electoral Commission will not accept my nomination with the stated name of *Stan* on the ballot paper.

The reason for this is that the Electoral Commission has formed the view that Stan is not an Anglicised version of the name *Eustathios*, which is my registered name and baptismal name.

I informed Mr Pittman that I have been known as Stan all of my life and the name Eustathios has been used on formal documents as recorded with the official records of the Department of Births, Deaths and Marriages. I have also informed Mr Pittman that I have been elected to the City of Botany Bay as Councillor since 1995 and have been to numerous polls where the ballot paper has identified me as Stan.

I am not known in the community as Eustathios and my parents selected my name as Stan to be the Anglicised name for Eustathios on the day that I was born in 1971. As an aside, I went to school with a person with the name Eustathios whose Anglicised name was Stanley. I was aware of another Eustathios who was known as Stavros and another Eustathios who was known as Stathis.

My point is that I have consistently been referred to and by that I mean all of my life as Stan as others have been referred to by other names all their life by reference to Eustathios. There are a variety of Anglicised versions of this name.

Moreover, the Council website lists me as Stan Kondilios, my Council business cards list me as Stan Kondilios, all of Council's literature which provides information

to the Community about my details list me as Stan Kondilios. This material is readily available on the Council's website and all are available through the General Manager of the City of Botany Bay as is appropriate.

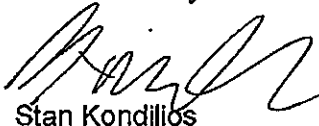
I am a Partner in a commercial law firm and I am admitted as Partner as Stan Kondilios and my business cards state me as Stan Kondilios. I am not known in the Community as Eustathios Kondilios, I have not ever put myself out as Eustathios Kondilios.

Finally, Mr Pittman confirmed that he had accepted my nomination as returning officer of Botany but that acceptance of my nomination had not yet been confirmed by the NSW Electoral Commission.

I leave this matter in your capable hands.

If you have any concerns or queries please do not hesitate to contact me on 0416 121 961.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Stan Kondilios', written over the typed name.

Stan Kondilios



2008/334

8 August 2008

Councillor Stan Kondilios  
Botany Bay City Council  
PO Box 331  
MASCOT NSW 1460

Dear Mr Kondilios

I write further to your letter to Mr Robert Allen of the Australian Labor Party regarding your submission that your name (the name Stan) be included as your first name on the ballot paper for the forthcoming 13 September 2008 Local Government Elections for the City of Botany Bay.

I understand the issues that you have raised in your submission and whilst I have some sympathy with the fact that you are generally known in the community and in your professional business as Stan, nevertheless, I am required to give effect to the electoral laws governing the conduct of the Local Government elections.

As you are aware the nomination form which is prescribed in Schedule 11 (Form 2) of the Local Government (General) Regulation 2005 requires a person proposed as a candidate to have one of their given names or a generally recognised abbreviation or derivative of that given name printed on the ballot paper along with their surname. As advised by the returning officer, if you provide me with a statement from an authoritative source that Stan is a recognised abbreviation or derivative or an anglicised version of one of your first names, then I will consider including Stan on the ballot paper in place of your formal given name of Eustathios.

In the absence of such advice there is no legal basis for me to agree to your request to include Stan on the ballot paper in place of your first name Eustathios.

I note that there is no prohibition to you printing electoral material including a how-to-vote card which refers to you as Stan.

I note that you must provide any authoritative advice referred to above to the returning officer by the close of nominations being 12 noon, Wednesday 13 August 2008.

Yours sincerely

A handwritten signature in black ink, reading "Colin Barry". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Colin Barry  
**Electoral Commissioner**

Contact Stan Kondilios  
Direct 02 8223 4102  
Email stan.kondilios@maddocks.com.au  
Our Ref SXX:5346632

8/08/2008

**BY FACSIMILE: 9693 5439 (2 pages)**

**PRIVATE AND CONFIDENTIAL**

Barry Pittman  
Returning Officer  
Botany Bay City Council  
Local Government Elections

Dear Mr Pittman

**Stan Kondilios/Eustathios Kondilios**

Reference is made to our telephone conversations with regard to the issue pertaining to my name for the purpose of printing the ballot papers.

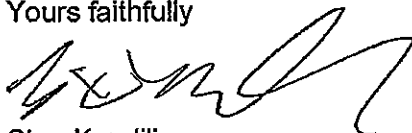
As requested I have obtained certification from the Consulate General Of Greece In Sydney certifying that the name *Stan* is a recognised abbreviation and Anglicised version of the Greek name *Esutathios*.

I trust this satisfies the Electoral Commission's concerns.

Could you please advise me of the status of the Electoral Commission's concerns in relation to this issue and the status of my nomination.

If you have any concerns or queries please do not hesitate to contact me on 0416 121 961.

Yours faithfully



Stan Kondilios

CONSULATE GENERAL  
OF GREECE IN SYDNEY

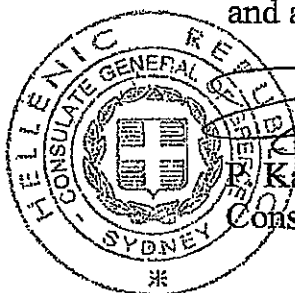


ΓΕΝΙΚΟ ΠΡΟΞΕΝΕΙΟ ΤΗΣ  
ΕΛΛΑΔΟΣ ΣΤΟ ΣΥΔΝΕΪ

Sydney, August 8<sup>th</sup>, 2008

**TO WHOM IT MAY CONCERN:**

The Consulate General of Greece in Sydney certifies  
herewith that the name “STAN” is a recognized abbreviation  
and anglicized version of the Greek name “EUSTATHIOS”.



  
P. Katsarou-Stephanopoulou  
Consular Officer