

2012 LOCAL GOVERNMENT ELECTIONS

Organisation: LGSA
Name: Mr Peter Coulton
Position: Director Corporate Services
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15 February 2013

Joint Standing Committee on Electoral Matters
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Sir,

Inquiry into the Conduct of the 2012 Local Government Elections

Opening

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

Please note that effective 1 March 2013 the Associations will be merging and will be known from that date as *Local Government New South Wales*. Contact details; postal address, phone numbers etc will remain unchanged

Submission

The Associations are pleased to make the following comments to assist the Joint Standing Committee's considerations to improve future Local Government Election processes.

The Associations are aware that many of our member Councils will provide their own submissions to this Committee, and as such, and where possible, the Associations do not intend to repeat the issues and concerns outlined by the Councils.

Executive Summary

The Associations recommend:

1. That the New South Wales Electoral Commission NSWEC be required, during a Local Government Election cycle, to undergo a functional split such that there exists an advisory function which can be accessed, at no charge, by Councils and the respective Returning Officers of those Councils who are managing their own elections, and a delivery function which can, at an agreed cost, manage the election process on behalf of those Councils who wish to retain the NSW Electoral Commission to undertake the delivery option.

2. That the New South Wales Electoral Commission of NSW be required to tender to any Council which wishes to consider using the services of the Commission to manage their election.
3. That Failure to Vote revenue be returned to the relevant Council area to offset the costs involved in managing the election process.
4. That Section 296(3) of the Local Government Elections Amendment Bill (2011) be amended to allow Councils to make the decision as to who will manage their elections from 12 months after an election to 12 months prior to an election. Note the Minister for Local Government has previously announced that he will make this change to the legislation.
5. The Local Government Elections Amendment Bill (2011) be amended to allow for a Council to enter into an arrangement with the Electoral Commissioner to administer a by-election without being locked into having the Electoral Commissioner then administering all future elections until the conclusion of the next ordinary election for councillors.
6. That legislation be amended to allow Councils to reduce the two week pre-poll for Local Government elections to a maximum of one week prior to polling day.
7. That the Election Funding Authority's requirements for nominating candidates be simplified.

Detail

- 1. That the New South Wales Electoral Commission NSWEC be required, during a Local Government Election cycle, to undergo a functional split such that there exists an advisory function which can be accessed, at no charge, by Councils and the respective Returning Officers of those Councils who are managing their own elections, and a delivery function which can, at an agreed cost, manage the election process on behalf of those Councils who wish to retain the NSW Electoral Commission to undertake the delivery option.***

On 27 June 2011, the Local Government Amendment (Elections) Act 2011 (the Act) was passed in NSW Parliament, with the object being generally to provide that councils, in general, are to administer council elections, council polls and constitutional referendums rather than the New South Wales Electoral Commissioner.

The Local Government sector was of the view that this would permit Councils to manage their elections in an efficient and cost effective manner while accessing the advisory services of the NSW Electoral Commission. This was not the case, and Councils who chose to manage their own elections were effectively on their own. It makes no sense for the NSW Electoral Commission not to manage a central advisory and complaints handling service on behalf of all Councils.

During the election cycle an advisory and complaints handling service being made available to all Councils would avoid duplication and ensure advice is consistently provided across all electorates.

- 2. That the New South Wales Electoral Commission of NSW be required to tender to any Council which wishes to consider using the services of the Commission to manage their election.**

Currently if a Council wishes to use the NSW Electoral Commission to manage their elections no tender is required. Councils have no way to determine the likely final costs of an election. If they intend to utilise a company other than the NSW Electoral Commission, and the tender thresholds will be reached, then the Council is required to tender. This does not provide for a level playing field.

- 3. That Failure to Vote revenue be returned to the relevant Council area to offset the costs involved in managing the election process.**

(2012 costs are not available at this time in final form, however 2008 costs are still relevant to the discussion.)

The cost of the 2008 elections was some \$25.9 million (Source: *Report on the 2008 Local Government Elections published by the Electoral Commission of NSW, page 131*).

The penalty for a Failure to vote is \$55.

In 2008 398,489 penalty notices were issued (Source: *Report on the 2008 Local Government Elections published by the Electoral Commission of NSW, page 136*), totalling \$21,916,895.

It is not known how much of this amount was actually recovered from voters, but in any case these funds, whatever they might be, should be returned to the Council area where the "Failure to Vote" occurred to assist offset the costs of running the election. It is not appropriate for this revenue to flow to State Government consolidated revenue. It is understood that in Victoria, such "Failure to Vote" fines are returned to the respective Council areas.

- 4. That Section 296(3) of the Local Government Elections Amendment Bill (2011) be amended to allow Councils to make the decision as to who will manage their elections from 12 months after an election to 12 months prior to an election. Note the Minister for Local Government has previously announced that he will make this change to the legislation.**

It is noted that the Minister for Local Government has undertaken to have this amendment acted upon.

- 5. The Local Government Elections Amendment Bill (2011) be amended to allow for a Council to enter into an arrangement with the Electoral Commissioner to administer a by-election without being locked into having the Electoral Commissioner then administering all future elections until the conclusion of the next ordinary election for councillors.**

The legislation as it stands means that if a council requires a by-election, and determines to use the NSW Electoral Commission to manage the by-election, then the Council is "locked in" to using the NSW Electoral Commission for all further elections until the conclusion of the next ordinary election.

The Associations submit that a Council should be able to determine who manages each election as an individual event.

6. That legislation be amended to allow Councils to reduce the two week pre-poll for Local Government elections to a maximum of one week prior to polling day.

This recommendation results from a 2012 Local Government Association Conference resolution. It is argued that a two week pre-poll puts onerous requirements on candidates in terms of costs and the logistical requirements to man a pre-poll both for such an extended period of time.

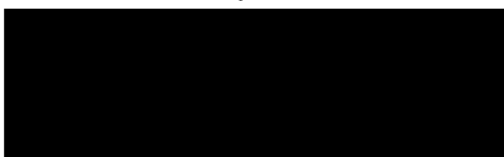
7. Election Funding requirement

The requirements placed on candidates by the Election Funding Authority are considered onerous. The requirements in terms of registering as a candidate, appointing an official agent – who is then required to pass a training program, issues with unintended consequences - for example the use of company provided vehicles acts as a disincentive to prospective candidates. These requirements should be simplified.

The Associations thank the Committee for the opportunity to make this submission and would appreciate an opportunity to present at any Hearings the Committee may wish to hold.

For any further information in relation to this submission please contact the Associations' Director Corporate Services, Peter Coulton on 9242 4030.

Yours sincerely,



Peter Coulton

Director Corporate Services