

**Supplementary
Submission
No 66a**

INQUIRY INTO 2008 LOCAL GOVERNMENT ELECTIONS

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

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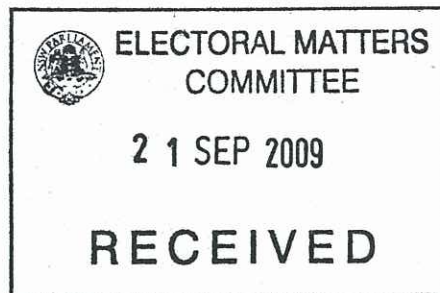
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18 September 2009

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



Dear Mr Furolo

2008 Local Government Elections (Inquiry)

Following the Associations submission and evidence given at the public hearing on 27 August 2009, please find enclosed the Local Government and Shires Associations supplementary submission to the Inquiry into the Local Government elections (2008).

Again, the Associations wish to thank the Committee for the opportunity to provide the following supplementary submission.

This submission further highlights the significant issues regarding the costs and conduct of the local government elections. The NSWEC went some way into providing a comprehensive report and subsequently answers to the Committees questions on notice, however, the Associations consider the NSWEC report and responses created more doubt and confusion as to whether the elections were conducted in the most effective and efficient manner and that the values of transparency and full disclosure were respected.

Provision of information and documentation

As advised in our previous submission, the Associations have had a number of issues with the NSWEC, the DLG and the Department of Premier and Cabinet being obstructionist in the provision of information. Further, the Associations are concerned that the level of information, statistics, and analysis provided in the NSWEC report appears to have been targeted.

Reference was made to a NSWEC Results and Services plan:

"To achieve this, the NSWEC introduced measurement of the satisfaction of stakeholders as part of its 2008 – 2011 Corporate Plan and its Results and Services Plan."

Neither document was included in the appendices. The Associations recently requested a copy of the *Results and Services Plan* for information in addition to the *Review of costing and local government and non-government elections*. The Legal Officer at the NSWEC informed the Associations that the documents were not available and were "Cabinet in Confidence." Evidently, stakeholders cannot determine performance measures when they are not made

available. Further, any performance measures should have been determined by the stakeholders in the first instance, particularly when full -cost recovery of elections have been imposed.

Additionally, results of any survey undertaken by the NSWEC have not been made available. The NSWEC, in its submission referred to a number of surveys undertaken by general managers, voters and candidates. The full and comprehensive results of those surveys are not provided in the appendix of the submission. Those results included within the submission give the impression they are framed to satisfy the NSWECs own performance measures and do not appear to be reflective of reports given to the Associations by our members or of those submissions made to this Inquiry.

The NSWEC stated:

“...requires the performance of the NSWEC to be measured and open to scrutiny.”

This has never been the experience of the Associations.

Costs

Councils follow strict guidelines and procedures when purchasing goods and services, the Associations have concerns that NSW Commerce Procurement procedures have not been followed by the NSWEC and would request evidence to the contrary.

There is no reference to invoices, quotes or tendering of supplies and services even under the chapter entitled “Procurement of Equipment and Materials”, with one exception:

“...Printing of ballot papers is a large scale logistical exercise... The supplier arrangements were undertaken via a restricted tender approved by the NSW State Contracts Control Board...The total aggregated expenditure for each council is set out in Appendix 14 with volume 3 providing fully itemised expenditure for each council...”

Appendix 14 is a total cost of elections broken down to council, and is not itemised in any sense.

Five councils had uncontested elections. While it could be debated that the costs arrived for these councils are sunk costs, the following councils paid for an election they did not have:

- Botany Bay – \$45,100 / \$1.85 per elector;
- Carrathool - \$7,300 / \$3.81 per elector;
- Conargo - \$4,100 / \$3.47 per elector;
- Lockhart - \$7,500 / \$3.11 per elector; and
- Uralla \$15,600 / \$3.68 per elector

Cost savings referred to by the Commissioner in the forward to the submission indeed need to be clarified.

“...the actual expenditure for the 2008 Local Government elections was \$25.9 million with savings of some \$5.2 million achieved.”

Not only was it concerning to have the original figure of \$31.1 million thrust upon local government, but to generate cost savings with no basis for the original figure is disturbing.

Not surprising, there has been no breakdown of line items produced in councils' invoices or within any documentation originating from the Commission. Further confusion has been created where savings were implied, such as with the regional returning officer initiative, particularly when those supposed cost saving cannot be justified by the provision of the service or as a comparison to other councils or previous elections.

The Commission stated that the Walter Turnbull review:

“...found that NSWEC had captured all operational costs associated with the 2008 NSW Local Government Elections and apportioned them in a fair and equitable manner.”
(Page 132 – report on the Local Government elections).

The Associations are aware that the NSWEC's funding was decreased in the financial year of the election. This shortfall of Treasury funds appears to have affected a direct cost shift to local government.

“The NSWEC has a contingent liability of \$2,503,000 as at 30 June 2008, (\$10,000 as at 30 June 2007) in respect of the rendering of services for the Local Government Election. This revenue when received will be paid to NSW Treasury.”

“A receivable has been recognised in relation to the recovery of Local Government Election costs of \$2,503,000.” (Page 100 – 101 NSW Electoral Commission Annual Report 2007 – 2008)

These figures appear to correspond with the NSWEC administration fee charged to councils which was made up of:

18 staff x 19 weeks x 35 hours x \$195 = \$2.3 million (Refer NSWEC correspondence to LGSA – see attachment A)

The NSWEC claims that the administration fee was reviewed by the independent auditors

“...Walter Turnbull in their report 'Review of Costing of Local Government and Non-Government' elections' dated May 2006... following the review by independent auditors this was increased to \$195 per hour.” (Refer: NSWEC's Responses to Questions on Notice – page 1).

The determination of the fee:

- Direct expenses incurred by the client service function

- Indirect overhead of other branches to support the client service function
- Determination of chargeable vs non-chargeable hours over a four-year cycle

The 2006 report that sets out the determination of this fee has not been made available despite requests, and indeed it seems that the 2008 report by the same independent auditors was diversionary or very coincidental to the concerns the Associations and other stakeholders had in the first instance of budget estimates being distributed.

At the hearing on 26 August, the Commission informed the Committee that the software utilised at the Local Government elections count was indeed shared by the NSW Legislative Council. No further information can be found on the costs associated with an already existing software system and how those costs were shared with local government.

Penalty Notices

The Committee was informed by the NSWEC at the hearing on 26 August that the nett revenue from penalty notices resulting from the election was \$1 million. In its submission to the same Committee, the Commission stated that 398,489 penalty notices were issued. The Associations calculate that at \$55 per notice, the figure should be given at Gross \$21,916,895 (Page 126 – Report on the 2008 Local Government elections). Clarification is required for the actual amount of revenue raised from these arrangements.

The Associations recommend penalty notices continue to be administered by NSWEC, with revenue directed to the council whereupon the penalty notice was incurred; or a fund to be set up for the next local government elections.

The Associations advocate that where the NSWEC and NSW State Treasury assume full cost recovery from councils for local government elections, it is only fair and equitable that the revenue raised from the penalty notices issued is returned to local government.

Regional Returning Officers

Councils reported utilising their own staff and resources in addition to the costs of the returning officer, particularly when the NSWEC call centre suffered technical difficulties or the returning officer was unavailable. These costs have not been captured in the full-cost recovery of the elections which is a direct contrast to the Commission encouraging councils to charge the NSWEC for the costs of council premises used by returning officers “So that the full cost of the elections could be reported”.

The Associations Recommendations

The Associations request that consideration be given to the following recommendations.

As per the LGSA submission:

1. That the NSWEC should provide a detailed analysis of all costs associated with the elections to each council;

2. That future local government elections be publicly funded, or should local government elections be funded, or should local government be required to pay for elections then councils should be able to administer the elections themselves.
3. That the costs associated with the maintenance of the electoral roll should continue to be borne by both State and Federal Government.

Further:

4. If elections are not to be publicly funded, payment of local government elections over the 4 year cycle should be implemented.
5. Where local government elections are not returned to councils for administering; counting of ballot papers should be spread over a number of geographical areas (there are 17 Regional Organisations of Councils) across the state, to allow for increased efficiency of determining results and; in addition ensure scrutineers are able to practice their democratic right.
6. Penalty notices continue to be administered by NSWEC, with revenue directed to the council whereupon the penalty notice was incurred; or a fund for the next local government elections.
7. That any legislative amendments which can affect an election be made at least one year prior to the LG elections.
8. That a comprehensive audit of the NSWEC in regards to the local government elections be undertaken to include all quotes, tenders, and invoicing of goods and services rendered, and in addition that copies of those documents be made available. That any audit needs to include governance arrangements regarding proper tendering practices.
9. That the full results from all surveys undertaken by the Commission in relation to the 2008 Local Government Elections be provided to the Committee and other stakeholders.
10. That a clear separation of the EFA and the NSWEC be established
11. That the requirements of funding disclosure be revisited to ensure equity for all candidates
12. That an investigation be undertaken in relation to implementation of Electronic voting for the 2012 elections.
13. That a recount of ballot papers be utilised replacing costly by-elections where possible.
14. That should there be insufficient candidate nominations for a full election, the NSWEC defer the council election until such time there are sufficient candidates to contest the election.
15. That a review be undertaken by IPART in relation to the NSWEC monopoly of NSW local government elections.

16. Given the option of sending out election day and polling place information to voters, the cost impost could be decreased by sending with Rates notices.
17. The Associations also conclude that questions were given on notice to the NSWEC. It would be appreciated if the Associations and stakeholders were given time to comment and prepare a further submission to the Committee on the information provided by the Commission in relation to those questions, and any other questions that may arise out of the hearings.

2009 Shires Association Resolution

Delegates at the recent 2009 Shires Association Conference in June passed the following resolution:

That the Shires Association continue to lobby the State Government and the State Opposition to change the guidelines for conducting Local Government Elections so that:

- 1. Future Local Government Elections are conducted by the respective Councils.*
- 2. That voting for Local Government Elections be changed from the current proportional representation to a straight preferential system.*
- 3. The number of candidates to be voted for be at least the same as the number of Councillors on the Council.*

Further to a report back to the Associations Executives following the hearing on 27 August, the Executives passed the following resolution and requested that the Committee be informed:

Following the Committee hearing on 27 August, a report was given to the Associations Executive in regards to the Inquiry. Subsequently, the Associations resolved:

That the Associations reinforce the position on local government elections being returned to council with an independent returning officer appointed by the NSWEC.

We trust that consideration will be given to the recommendations and hope that outcomes of the Inquiry will be positive for local communities.

Yours sincerely



Peter Coulton
Acting Secretary General