

2012 LOCAL GOVERNMENT ELECTIONS

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Lane Cove Council

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Jai Rowell MP
Chair
Parliament of New South Wales
Macquarie Street
Sydney NSW 2000

Dear Mr Rowell,

I refer to your invitation to make a submission to the Committee on Electoral Matters Inquiry into the 2012 Local Government Elections.

Attached please find a submission from Lane Cove Council for the Inquiry. I note that on the basis of costs and efficiencies, Council did not engage the NSW Electoral Commission to conduct the 2012 Ordinary Election.

Should you require any further information, please contact me on 9911 3510 or email cdalli@lanecove.nsw.gov.au

Yours sincerely,



Craig Dalli

Executive Manager Corporate Services

Submission to Joint Standing Committee on Electoral Matters

Costs

The passing of the Local Government Amendments Bill 2011, 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 (NSWEC) 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 NSWEC took over the full conduct of elections from March 2004. Lane Cove Council's decision to run its own election was based on both reducing the costs of conducting the election and the time in obtaining a result. In the case of Lane Cove Council the NSWEC costs increased as follows:-

Election Year	Cost
2004	\$82,000
2008	\$173,510
2012 estimate	\$200,184, based on indexing provided by NSWEC
2012 actual	\$113,288 direct costs, \$146,690 inclusive of internalised costs

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. This continued for the 2012 election and provision was made in the internalised costs for the additional staff resource utilised in the election, together with the theoretical forgone cost of the Council office facilities utilised for the election (\$26,666). In reality the internalised costs are not an additional cost to the community as staff still attend to other service obligations during the election period and the office space is not available for lease.

One of the main reasons for the large cost discrepancy is that the NSWEC at the last election charged an election management fee of \$195 per hour for staff, which is well in excess of normal direct staff employment costs. Costs such as election official's salaries, polling place and returning officer accommodation are always going to be similar no matter who runs the election.

The costs that were negated or substantially reduced by Council running the election were:-

- Management and coordination costs are covered in payments to the Returning Officer;
- Substantially reduced printing costs for all documentation and ballot papers etc being produced in house at full cost recovery;
- Substantially reduced stationery and cardboard structure costs through private sourcing and recycling all stationery back to council use;
- Minor software costs for a computerised election count; and
- No transportation and security costs for ballot papers to a central counting area.

This resulted in a direct cost saving for Council of approx \$87,000 on the minimum cost estimate indicated by the NSWEC for conducting the election.

Neither the full NSWEC or full General Manager conducted elections are considered optimum by Council. Council Staff upon being advised of the changes wrote to the Premier on 25 July 2011, requesting a return to the hybrid model, which was supported by councils and the previous Electoral Commissioner. Under a hybrid model, the NSWEC manages the process, sources all materials and appoints a Returning Officer for the conduct of the election with councils being liable for these costs. All other costs such as computers, telephones, brochures, training and staff costs were borne by the council. **This is considered the most cost effective arrangement for councils.**

The current NSW Electoral Commissioner does not support the hybrid model. The disappointing aspect of the Commissioner's approach was his refusal to engage in an alternative collaborative approach to the elections which would allow Council to look after the logistics and just pay for the 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". This is not in the best interests of the State and Council's efforts to minimise the cost of the election to the ratepayers.

Experience of Councils Running their Own Election

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 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. However, a consistent complaints handling mechanism (standard) should be established for all councils detailing who (Election Manager, Returning Officer, Contractor etc) is responsible for dealing with the range of complaints likely to be encountered in elections.

Staff developed a timetable for all critical tasks and deadlines to meet legislative election responsibilities. The Returning Officer coordinated most of the logistical tasks such as recruitment, polling place supplies, printing, postal votes and polling official training.

Lane Cove Council attended bi-monthly meetings with Penrith, Fairfield, Sutherland, 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 Returning Officers would be in attendance which added a wealth of election experience to discussions.

The Electoral Commissioner adopted an intransigent position to control all aspects of the process while being totally unaccountable for their costs. The Commissioner failed to provide a contractual quote to Council prior to the decision date (end November 2011) required by the DLG.

Legislation ensured that the NSWEC provided certain information such as hard copy rolls, Registered General Postal Voter (RGPV) information and electronic access to the electoral roll database. 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 (Internet 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 clients even though the EFA arranged and paid for our sessions caused confusion for the public and a number of prospective candidates.

Comments received from staff and other councils were that the Candidate Information Sessions need to be less regulatory, more interactive and include local information.

The refusal of the NSWEC to provide a consolidated copy of the Roll, with all Wards combined as a Preference Roll for Polling Places, or a soft copy (other than PDF) of the roll for each Ward and only provide a very limited web access to the electoral roll, was obstructionist as the candidates were provided with soft copies and their client council Returning Officers were given a significantly easier level of access with greater search capability. It is imperative for a Returning Officer 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 irritant for the Returning Officer and their staff, ultimately reducing productivity from time consuming alternatives.

The drafting of S314 (4) (c) of the Regulation restricted electronic postal vote applications to the Electoral Commissioner's website. The legislation often refers to the Commissioner where it should refer to Election Manager. This restriction prevented Council from offering Electronic Postal Vote applications. Notwithstanding this, NSWEC staff were of the view that such applications would still need to be manually marked off a roll for scanning and processing. In reality such a system would allow an electronic file of the electors who voted using this method to be used for processing, negating the manual process. With the increasing popularity of postal voting this matter needs to be addressed, in particular some compulsion on the NSWEC to allow data to be exchanged electronically.

It was reported that the NSWEC had targeted people qualified to act as Returning Officers in an attempt to stop them working for those councils who were self-managing their elections. This is once again evidence of the Electoral Commissioners attitude towards councils running their own elections. Lane Cove Council had made arrangements with a Returning Officer which was reported to Council in a public report, who was told by Electoral Commission staff that Lane Cove had arranged an alternative and would no longer be required, and therefore contracted him to work for the NSWEC.

The Returning Officer and polling officials commented that pre-poll voting was slowed down by voters being required to sign the pre-poll declaration and voting on election day was slowed down by provisional voting.

In 2008 the counting of votes was completed on 19 September, 6 days after the election. Counting of votes in 2012 was completed on 11 September, 3 days after the election. It is noted that the changes introduced for the 2008 election to allow postal votes to be received

up until 6pm on the Monday of the election, effectively makes it impossible to complete the count earlier than the Tuesday.

Legislative Changes

- 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 NSWEC 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) of the Local Government Act 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 resolved after a formal tender has been issued and prior to 12 months before the election.
- Candidates expressed a preference for candidate voter information material to be registered with the Returning Officer, 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.
- Candidate Information Sheets – Lack of information provided by the candidate, The DLG should 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.
- NSWEC web enquiry access to the registered voters roll was limited and not equal to that provided to other councils. These restrictions resulted in Returning Officers developing alternative searches to find the information required.
- NSWEC would not supply Combined Ward Reference Rolls as they said this was an additional significant expense. Lane Cove Council used other means to consolidate the data provided by the NSWEC into one roll, in less than 1 hour.
- The legislation be amended specifically in respect to elections to avoid the need to tender as there are very few options of election service providers in the market. Alternatively, both known providers and any others should be required to tender so as to create a level playing field.
- Enrolment on Election Day. Whilst the introduction of provisions allowing persons not on the roll to vote by showing a valid drivers licence to prove they are a

resident, provides opportunities for residents not enrolled to vote, it did cause queues and delays in processing votes. It is considered that there is ample opportunity and notices advertising the roll closing date and this should strictly be applied.

- The Local Government (General) Regulation 2005, Clause 314 (4)(c) should be amended to allow persons to make a postal vote application electronically on the Election Managers monitored website. Currently the legislation only allows this on the NSWEC website.
- The legislation should be amended to close Postal Voting by Friday 6pm prior to the election day to allow counting of votes to be finished as soon as possible after the election.
- Clause 320 of the Local Government (General) Regulation 2005, requires Councils to provide Enrolment Forms & Envelopes (First Time or Transferring Enrolments) effectively as a broker for the Australian Electoral Commission. It is a concern that both the NSWEC and Australian Electoral Commission would not provide forms and envelopes which effectively maintained the Roll on their behalf. This is counter to the spirit of encouraging participation in all elections.
- Presently, there is in place, the Local Government Act and Regulations, the Parliamentary Electorates and Elections Act 1912 and Regulations, the Guidelines for Council Administered Elections and the Election Process document. Consolidation of these would be helpful, particularly if in 2016, other councils are considering conducting their own elections.

Non-Residential Voting

The application form for Non-Residential voting is outdated and needs to be reviewed prior to the next election. Once again the refusal of the NSWEC to provide access to the rolls made verification by council officers of non-residential applicants very difficult unless they provided date of birth, full name, address and phone number.

The requirement of lessees to provide a copy of their current lease and documentation showing their company seal seem to be irrelevant in this day and age. After the 2012 election representations were sent to the DLG requesting many amendments to the current form, these representations are shown below.

Below are suggestions for amendments to the application form for Non-Residential Voting, the majority of which will ease confusion and make the process easier for applicants and Council officials.

Section 1 – Applicants claim for enrolment

- 1) Amend residential line to include an area for a Postcode
- 2) Delete the section to state which Ward they wish to be enrolled in – this causes confusion amongst people just wanting to be on the roll as opposed to those that want to run as a candidate in a Ward different to the address of the subject property. This form is for getting on the NRR not for electing which Ward a Candidate may wish to stand for.

Section 2 Nomination of Elector – 2nd box

- 3) If the owner/s is a corporation make a note on page 2 that they must submit a company search indicating who the Directors, Secretary, Officers are. (See also 13 below)
- 4) On the residential line make provision to include Post Code
- 5) After the area for nominating the Ward and identifying the Council underneath, have a requirement for the Nominator to include their email address and contact numbers
- 6) Put a note under * Please provide copy of lease to substantiate claim for continuous occupation or requirement to pay land rates
- 7) Under signed/sealed section provide space for signatories to print their name – if 2 or more people own the property how can you distinguish the signatures against the names of the owners
- 8) Under signed/seal line make provision to include email address and phone number – if there is an error on the form and the person has a silent phone number or is not in the phone it is difficult to contact them in a timely manner – This could also be repeated in Section 1 under the residential address of the applicant however, a second entry is probably superfluous.

Section 3 – Statement of witness

- 9) After witness name include the words (Please print)

Footer

- 10) Before the word “Processed” make a provision for the words “Received and Name – Received and processed may occur on different days and by different people
- 11) After the word “Processed change initials to “Name”

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- 12) For Councils with Wards - Make a note that the person must be on the NRR for the Ward in which the property is located.
- 13) Under “Who is an Owner” section make it clearer for corporations. If the owner is a corporation there should be a note that the corporation must nominate the applicant and the name and the position of the person within the corporation signing and as to whether they have authority to do so, i.e. can the Secretary, Director or CEO nominate. Also the form provides for the seal, is this necessary? If so it must be stated. – (Also see comments in 3 above) Refer S 127 (1) & 129 (5) of the Corporations Act 2001 (CTH)

General

- 14) When registering people for enrolment and they are not recorded as living at the address they stated on the form, is Council supposed to follow-up and ask for proof that they are enrolled at the address indicated and therefore eligible to be on the NRR or is this the domain of the NSWEC once Council's finish the on-line registration? Should people attach documentation as proof of their residence? In other words do we register by skip roll check or reject the application?
- 15) In the 2nd section there should be a provision for the owner to state (and print) their name rather than just the address.

It would be appreciated if the DLG could take on board the above suggestions to overcome confusion not only for persons seeking to be on the NRR just to vote but also for those persons wishing to be on the NRR with a view to standing as a candidate for election. The amendments would also give better direction to Council Officers in charge of receipting and processing NRR applications.