

**INQUIRY INTO ADMINISTRATION OF THE 2007 NSW
ELECTION AND RELATED MATTERS**

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Economic and Social Council of the United Nations

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Joint Standing Committee on Electoral Matters
Parliament House
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Administration of the 2007 NSW election and related matters (Inquiry)

People with Disability Australia Incorporated (PWD) is a national disability rights and advocacy organisation. Its primary membership is made up of people with disability and organisations primarily constituted by people with disability. PWD also has a large associate membership of other individuals and organisations committed to the disability rights movement. PWD was founded in 1981, the International Year of Disabled Persons, to provide people with disability with a voice of our own. PWD has a cross-disability focus – we represent the interests of people with all kinds of disability.

PWD has advocated for the rights of people with disability to participate in electoral processes for many years. We are currently on the Australian Electoral Commission (AEC) Disability Advisory Committee and the New South Wales Electoral Commission (NSWEC) Advisory Committee on the Equal Access to Democracy Plan. Despite the work of electoral authorities many people with a disability are still unable to cast a secret and verifiable vote. This is especially relevant for people with vision impairment, mobility impairment and people with limited hand function.

We are pleased to have the opportunity to make a submission to the Committee. We are available to make verbal submissions to any hearings that may be held by the committee if the committee so desires. PWD would also draw attention to previous verbal and written submissions made to this committee during 2007.

NSW Electoral Commission Equal Access to Democracy Plan

PWD is pleased that the NSWEC have developed the Equal Access to Democracy Plan. The plan set out many initiatives to help people with disability access a secret vote. The initiatives for people with vision impairment have increased access to information before voting and on polling day. It is understandable that the NSWEC trialled many of the initiatives in a small number of centres. These trials, where successful, must now be rolled out across the state. They must also extend to the interstate and overseas voting centres that are available to other voters.

The NSWEC Equal Access to Democracy states that there are legislative impediments to implementing a truly accessible election. It is with great concern that we note that there was a slate of legislative reform in 2006 and that this reform did not include important reforms that the disability sector had recommended. This would have ensured greater access for people with disability to the election.

PWD has previously commented on the lack of access of polling places. We believe that it is imperative that a target is adopted that all sites utilised by the NSWEC be fully compliant with Australian Standard 1428 Part 2.

PWD notes that the Equal Access to Democracy Plan does focus on wheelchair access. This is a great start. We hope that the work can continue so that more polling places are accessible and that the needs of people with limited mobility who do not use wheelchairs are also considered.

For many of our members accessibility would also mean being close to accessible transport nodes. Many people with disability are still unable to use much of the public transport system and are forced to spend large amounts on specialist travel, such as wheelchair accessible taxis.

The NSWEC Equal Access to Democracy Plan states that it cannot trial electronic voting. We believe that this deserves particular attention especially in light of the fact that the federal government trialled electronic voting in their election held in November 2007.

PWD hopes the NSWEC will be able to continue the work emanating from the Equal Access to Democracy Plan through the local government elections later this year.

PWD hopes that the work of the commission can be extended by changing the current legislation to allow the NSWEC to implement a number of items recommended to it through the Equal Access to Democracy Plan process, but were unable to implement due to legislative restrictions.

Electoral Reform of 2006

Amendments to legislation relating to NSW elections were made in 2006. PWD and other organisations in the disability sector engaged with the government at this time. PWD sees that this was a missed opportunity to ensure greater access for people with disability.

PWD at that time raised concerns about section 21 of the *Parliamentary Electorates and Elections Act 1912*. PWD believes the concepts in this section are not well defined. The Act states that a citizen may be disqualified from voting if the person “is, because of being of unsound mind, incapable of understanding the nature and significance of enrolment and voting”. PWD questions who can make such an important determination in a democracy. PWD works with a number of people with intellectual impairment or psychiatric impairment who are able to understand the ramifications of enrolment and voting but could be judged to fall into this definition inappropriately. Typically this would be by someone who is not engaged with the person regularly, someone who does not understand the complex nature of capacity, someone who does not understand the episodic nature of some impairments, or someone who has a desire to exert control over the person. We see this section of the act as a priority of future reforms so people with particular kinds of disability are not unreasonably prevented from exercising their democratic and political rights. PWD looks forward to people with disability being included in any review of the Act.

PWD questions why the government had the political will to allow licensed premises to be used as polling places (section 85(3)) but did not take that opportunity to make changes ensuring accessible polling places. PWD has previously suggested that buildings compliant with Australian Standard 1428.2 to be used to ensure access to premises.

The NSW government has stated publically that it supports the ratification of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). Article 29 of the UNCRPD is titled ‘Participation in Political and Public Life’ and states that signatories must ensure access by:

- i. Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;*
- ii. Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;*
- iii. Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;”*

PWD believes that this framework must be adopted and would urge the parliament to make further legislative change before the next state election. Areas for reform that have been raised through the Equal Access to Democracy Plan and other forums include:

- Changing the electoral timetable to allow for the production of alternative format material, especially Braille.
- Electors be able to sign forms electronically
- Electronic voting to be made available
- The option to enrol as a General Postal Voter is widened
- The option to pre-poll vote due to lack of access

NSW Electoral Commission Report on the State Election 2007

The NSWEC Report on the State Election 2007 is a valuable way for us to understand what actions the NSWEC has undertaken. A number of issues arose while analysing the report. Below are our comments with regards to these issues.

PWD is concerned about the small number of accessible polling places. PWD does understand the situation the NSWEC finds itself in with regards to being a short-term renter of buildings. We also believe that as NSW has fixed parliamentary terms and the date for elections is known well in advance that they are better placed than the AEC to plan for accessible spaces to be rented.

The NSWEC has developed and implemented a number of successful voter enrolment initiatives. The targeting of young people, Indigenous people and people with disability has been a great step forward. PWD would hope that these programs are expanded. The use of the Board of Studies as a conduit to young people is to be commended but cannot be the only way of engaging with young people. Young people with disability are more likely not to finish high school than the mainstream group.

PWD works with a number of isolated clients in the western areas of NSW. A large proportion of this work is with Aboriginal clients. We undertake outreach trips into communities where many people are not engaged with services. We also work with a number of clients who cannot read or write. PWD believes that a more targeted strategy needs to be developed to engage isolated people and communities in the electoral process. We would see this strategy being developed with Indigenous people and Indigenous services who know how to work appropriately with these communities and individuals. Sending letters, attending metropolitan events and working with Aboriginal employment services is not enough.

The NSWEC report on the 2007 election stated that "in many cases managers advised the NSWEC that this service will not be required as their residents are too sick or frail to vote." We are concerned about how this determination was made as it has the potential to deny people their individual right to vote. We believe that the individuals concerned need to be able to make the assessment themselves.

PWD is concerned about a number of aspects of the legislation regarding postal voting. The NSWEC in its report notes that the legislation still prevents postal vote applications from being submitted by email. This discriminates against a number of people with disability and makes it more likely that they will be excluded from the process. The NSWEC also reports that there are problems with the services to rural and remote people from Australia Post. We feel that the electoral timetable should be examined so that people living in the areas with a weekly postal service are not excluded. As stated previously, this would disproportionately affect a number of people with disability, especially Indigenous people, who do not have the means to travel to a polling booth on election day.

The NSWEC reported about its services to people on cruise ships and in the Antarctic at the time of the election. PWD is pleased that the NSWEC is reaching out to people, but feels that the systems created for these people should be able to be replicated to others within the state that are not able to access a polling booth or carry out a secret vote.

The NSWEC reported a reduction of polling places available during the 2007 election when compared to the 2003 election. It was also reported that the polling places with less than 100 votes cast in 2003 were the target. PWD is concerned about the effect that this would have on people with disability in remote areas. Extending the distance that needs to be travelled is likely to reduce the participation of people with disability due to the increased travel costs and a lack of accessible transport.

Throughout the NSWEC report on the 2007 election there was mention of the targeted employment of people from culturally and linguistically diverse backgrounds and Aboriginal people. These practices are to be commended. PWD notes that there was no such strategy when it comes to employing people with disability. PWD believes that a disability employment strategy should be developed for future elections.

Anti-discrimination Legislation

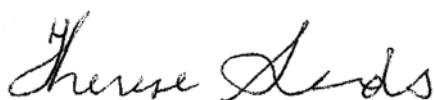
PWD is concerned that over 30 years has lapsed since the NSW government passed the Anti-Discrimination Act 1977 (NSW) yet the NSW electoral system has not caught up with the intent of the legislation. It has been over 15 years since the federal government passed the Disability Discrimination Act 1992 (C'th) yet the NSW electoral system does not provide for a fully accessible election.

PWD finds it inexcusable that a number of people with disability, such as those with a vision impairment, cannot cast a secret ballot. PWD finds it unacceptable that a number of people with physical impairment cannot access their local polling place to cast their vote. PWD is concerned that hearing augmentation or AUSLAN interpreters are not widely available to people with hearing impairment. PWD considers it unjustifiable that easy English and other accessible forms of information are not widely distributed to people, including people with intellectual impairment.

Thank you for the opportunity to make this submission on the 2007 State Election. We hope that the ideas raised in this submission can be implemented in time for the 2008 Local Government election where possible. We urge the government to take this opportunity to create a legislative framework that can allow people with disability living in NSW to participate fully and equally in this important part of political life.

If you would like to discuss any of the matters raised in this submission, please contact Dean Price, Senior Advocate, in our Systemic Advocacy Unit.

Yours sincerely



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