

**Submission
No 5**

**ADEQUACY OF THE FUNDING ALLOCATION OF THE NSW ELECTORAL
COMMISSION FOR THE 2023 STATE GENERAL ELECTION**

Organisation: The Greens NSW
Date Received: 11 February 2022

The Greens NSW Submission to the Joint Select Committee on Electoral Matters Inquiry into the level of funding for the New South Wales Electoral Commission and foreign interference matters.



Terms of Reference

“That the Joint Standing Committee on Electoral Matters inquire into and report on the adequacy of the funding allocation of the NSW Electoral Commission for the 2023 State General Election, and in particular, taking into account the latest advice around issues of electoral integrity arising from foreign interference in elections.”

Introduction

A strong, robust and independent electoral commission is vital to the integrity and confidence in the democratic system of government. The Greens NSW appreciate the opportunity to contribute to this inquiry; The Greens NSW have always been strong supporters of the electoral commission having sufficient available funds to do its work.

We are concerned about the adequacy and security of funding for the NSW Electoral Commission, as well as other bodies vital to the integrity of government in NSW, including the Independent Commission Against Corruption. The Electoral Commissioner is on the public record¹ expressing the need for increased funding to update computer systems, including (among other needs) to increase protection from malicious interference.

The integrity of the iVote system remains in question, and the failure of the iVote platform in the December 2021 Local Government elections is of significant concern. There is no guarantee that the 2023 State General Election will not also be affected by the COVID-19 pandemic, while the trend away from traditional election day voting is likely to continue.

The Greens NSW also want to put on record some of the concerns we have seen in regards to possible areas that might be vulnerable to foreign interference.

¹ [Budget Estimates 18/08/2021](#)

Local Government Elections

The recent local government elections have just highlighted the need for more adequate resourcing of the electoral commission. The fact that the electoral commission's website failed and was reduced to essentially static HTML pages for a number of days during the election period suggests that there was either a resource performance or support issue perhaps compounded by a lack of funding. We would hope that the Committee is able to explore this incident in more detail with the NSW Electoral Commission.

Also under the Local Government Act and Local Government regulations, it is possible for local councils/shires to opt for a private provider to run the elections. The Greens NSW believe that this is problematic for a couple of reasons relevant to this inquiry.

First, the use of private providers opens up another potential angle for foreign interference. The systems that the Electoral Commission maintains for the purposes of roll management and voting are unlikely to be the same as those of a private provider. The rigour of such systems put in place by the private provider is hard to determine and is probably beyond the scrutiny of the public or parliament. It is unlikely that it would be subject to regular audits of the IT systems similar to those of the Electoral Commission.

It is also worth pointing out that iVote which, despite its own issues in this election, was not available at all to voters in Penrith and Fairfield local government areas because those councils elected to use a private provider.

With these private providers, we do not know what undertakings may have been given in regards to the handling of voter data and ensuring that it is properly dealt with once the election is over. Similarly, what provisions there are in regard to the issuing of fines for failure to vote.

Further, the fact that local government elections are operated under contract and at the cost of NSW Councils is problematic. We believe that the NSW government should consider Local Government elections as being as important as state elections. The ability to contract to private election providers should be removed, and the NSW Electoral Commission should be resourced to provide these election services to councils without additional charge.

Recommendation 1: Remove the ability for councils to opt to use a private provider for running their elections.

Recommendation 2: That the Government scrap the fee being paid to the electoral commission from councils, instead grant an allocation from general revenue for the running of local government elections.

Performance of systems and integrity

We would draw the attention of the committee to the evidence given to Budget Estimates on 18th August 2021 by Mr Schmidt, the NSW Electoral Commissioner in relation to the

capacity of the Commission's systems, initially in reference to the deferred local government elections:

“It is too late now to move in December to a full postal vote. It just cannot be done in that time. I also, with my current ageing electoral systems which I received no money for in the budget to correct ongoing problems, cannot run simultaneously a full postal election in some councils and mixed-channel elections in others. Our system cannot cope with that and would potentially fall over. I cannot run State by-elections while I am running a full local government election because my systems cannot maintain that and could potentially fall over.” (pg 33 of the [transcript](#)).

The implications of these comments are clear. The Electoral Commission believes that significant additional funding is required to address ongoing problems with aging computer systems (presumably, both hardware and software). It is hard to imagine that the Commission is confident that these systems are likely to offer some reasonable assurance that the 2023 State General Election could be conducted without incident.

The migration or deployment of computer electoral systems to more cost-effective and scalable cloud computing platforms introduces an additional integrity risk, particularly if a foreign-owned platform is selected.

Besides the obvious performance concerns, it is also reasonable to assume that aging systems are less robust against malicious actors, whether local or foreign. Compounding those concerns is the limited time available before the election period to install and, especially, test any updated system hardware and software. Inadequately tested systems pose additional risks to election integrity.

Recommendation 3: Establish an independent process to guarantee funding to the NSW Electoral Commission to enable it to maintain best-practice electoral systems.

Replacing iVote

The Committee has long experience with the flaws in the iVote system. The failure of the registration and voting functions on election day in the recent council elections adds to the list of issues associated with iVote.

The provision of electronic voting always entails a risk to election integrity, as there can be no solution to the contradiction between true ballot secrecy and the assurance that ballots are not subject to amendment. Nonetheless, The Greens recognise the value of online and telephone voting in increasing participation for people with disabilities and those who are beyond the practical range of postal voting.

It is not necessary for us to reiterate all the various flaws that have been identified in the iVote systems. We note that we have supported the conclusions drawn by Dr. Vanessa Teague, Adjunct Associate Professor in the ANU School of Computer Science, in her past submissions to the committee regarding these flaws and the fitness for purpose of the existing iVote system. In relation to the terms of reference of this Inquiry, the assurance that votes stored in the iVote system have not been interfered with is inadequate. Given

the proprietary nature of the iVote software and the contractual terms between the overseas-based developer and the NSW Electoral Commission, it seems unlikely that this assurance can be given.

It is clear that it is a significant project to develop a replacement for iVote which is able to be more readily and regularly audited, and which provides better tools to voters and election auditors to assess the risk of interference. It will require significant investment, but the costs are likely able to be shared with other Australian and international jurisdictions.

Recommendation 4: Urgently commence a properly funded process to develop an open-source capacity for technology-assisted voting in conjunction with leading researchers in the field of election integrity and assurance.

Foreign Interference

Foreign interference can come from a wide variety of mechanisms from increased spamming style social media advertising to potentially direct attacks on the IT infrastructure of the electoral commission and others.

The Greens NSW would make the observation that if we consider the situation of an attack on the IT infrastructure of the NSWEC, then it would likely require not just the resources of the NSWEC but also likely federal government agencies who are specialists in dealing with such attacks, for example, the Australian Signals Directorate.

The Greens NSW would suggest that there needs to be significant cooperation between Federal government agencies and the NSWEC in the lead up to the next state election to minimise risks and to be prepared to identify and respond in the event of an attack.

However, in regards to more soft power style foreign interference, The Greens NSW believe that is important that the NSWEC works with social media companies to ensure that there is more transparency and also monitoring of advertising that might be being shown to potential voters, particularly in relation to micro-targeted material that can evade electoral communications laws.

The Greens NSW would also propose a review of the authorization requirements for social media posts/pages to ensure that there is adequate ability to identify who is responsible and paying for any potential messaging.

Recommendation 5: The authorisation elements of the Electoral Act 2017 and regulations to be reviewed, particularly in relation to social media and other electronic communications.

Recommendation 6: Provision of an integrated reporting tool for members of the public to report potential breaches of authorisation rules or other requirements of the Electoral Act.