

REPORT OF PROCEEDINGS BEFORE

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

**INQUIRY INTO PUBLIC FUNDING OF LOCAL GOVERNMENT
ELECTION CAMPAIGNS**

At Sydney on Wednesday 13 October 2010

The Committee met at 11.45 a.m.

PRESENT

Mr R. A. Furolo (Chair)

Legislative Council

The Hon. L. A. Foley
The Hon. D. T. Harwin
Dr J. Kaye

Legislative Assembly

Mr R. D. Coombs

CHAIR: This is the Committee's second public hearing as part of its inquiry into public funding of local government election campaigns. This inquiry follows an inquiry into public funding of election campaigns that was completed earlier this year. The Committee did not consider a model for public funding of local government in great detail as part of its original inquiry but recommended that issues relating to local government election campaigns be considered separately. On behalf of the Committee I thank all witnesses for appearing today, as well as those individuals and organisations that have made submissions. I welcome Councillor Anne Connon and Mr Peter Gesling.

ANNE SPIERS CONNON, Mayor, Mosman Council, PO Box 211, Spit Junction, New South Wales, and

PETER GREGORY GESLING, General Manager, Port Stephens Council, PO Box 542, Raymond Terrace, New South Wales, sworn and examined:

CHAIR: Councillor Connon, in what capacity are you appearing before the Committee?

Ms CONNON: As the Mayor.

CHAIR: The Committee has received a submission from your council. Is it your wish that that submission be included as part of your sworn evidence?

Ms CONNON: Yes. I have a slightly longer version of the same thing, whichever you think is more useful.

CHAIR: Thank you. Under standing orders witnesses are examined on oath or affirmation upon the subject matter of the inquiry. Before we proceed do you have any questions concerning the procedural information sent to you relating to witnesses and the hearing process?

Ms CONNON: None at all.

CHAIR: Mr Gesling, in what capacity are you appearing before the Committee?

Mr GESLING: As General Manager of Port Stephens Council.

CHAIR: The Committee has received a submission from your council. Is it your wish that that submission be included as part of your sworn evidence?

Mr GESLING: Yes, thank you.

CHAIR: Under the standing orders witnesses are examined on oath or affirmation upon the subject matter of the inquiry. Before we proceed do you have any questions concerning the procedural information sent to you relating to witnesses and the hearing process?

Mr GESLING: No.

CHAIR: Councillor Connon, we might give you an opportunity to make an opening statement if you so wish.

Ms CONNON: Thank you for the opportunity of commenting on the public funding of local government election campaigns. As you may know, this matter was considered at a Mosman Council meeting on 7 September and interested councillors met, together with the General Manager, to discuss the matter further. I note at this point that Mosman is an unusual council in that all nine councillors are Independents and no party politics come into our meetings. I believe that has always been the case in Mosman. Of course, we have some idea of how certain people vote privately at the elections, but even then sometimes our suppositions are quite wrong.

Firstly, Mosman Council does not support public funding for local government election campaigns. Even if the State Government were to undertake to provide the necessary funds we believe it would inevitably disadvantage genuine community-based individual candidates. Apart from anything else, the State's coffers reportedly are very low and we doubt whether members of the community would want to see their tax dollars used in such a way. There are far greater priorities. If the State were to provide the funding it might attract a large number of nuisance candidates. In 2008, 4,620 candidates were nominated. If the State were footing the bill that number could rise to, say, double that figure, and the costs would blow out accordingly. Local councils are already footing large bills and could not be expected to provide any more funding for elections.

Secondly, Mosman Council believes that the existing electoral rules, as they relate to local government, presently are to the advantage of registered political parties. In my view that is unfortunate. I would greatly prefer to see many more Independents who are interested in doing the right thing by their area rather than following a party line that might only create unnecessary tensions. However, we are not likely to see a change in the foreseeable future. The costs to individual residents wishing to stand for local public office are seen by many as a disincentive to grass roots local government democracy. Of course, it is a matter of personal preference as to how much an individual wishes to spend. For some it has been very little, say, \$200; but for others I understand that \$50,000 has been spent. No doubt the size of the electoral area and the number of votes would have a bearing on that.

However, it must be noted that an individual wishing to stand for council is greatly disadvantaged when trying to compete with a party machine's manpower and finances. The excessive complexity and cost resulting from above-the-line voting is another major disincentive within the current system. For Mosman residents with no party system to back them up, an individual has to persuade at least one if not two other residents to stand on his or her team. I know from experience how difficult it can be to find suitable and interested persons to join a group. For those sturdy individuals willing to stand alone, which has to be below the line, the necessity to fill in all the boxes is just too much for many people. A young man who recently stood in Mosman on his own would have done very well if all the ticks and crosses were valid. Many people thought they had voted for him but he lost out when voters misunderstood the need to complete all the boxes.

So far as the cost of the 2008 election is concerned, Mosman was not happy that, under the new regime, its costs were four times what they were when council staff administered the local government elections. In 2008 we were charged over \$142,000. Under the old regime, 25 per cent of that money would have been approximately \$35,000, which is what we would have anticipated. We could have saved \$107,000—a large amount for the second smallest council in Sydney. On top of rate pegging we cannot afford to lose \$100,000. Additionally, when handled locally and before the above-the-line and below-the-line system was introduced we had a result by the end of the day, whereas now seven or eight days is the norm.

I have to say though that Mosman had no problems with the way in which local aspects of the election were conducted. Everything was handled efficiently by the relevant electoral officer. However, so far as the Election Funding Authority (EFA) is concerned, the demand for auditing seems like overkill. Do State Government members have to complete comprehensive forms every six months even with a nil return?

The Hon. DON HARWIN: We do.

Ms CONNON: I am surprised. I was asked, admittedly in the 2004 election, to provide receipts totalling \$21.20 for some material that I had used to make up rosettes. Anybody who is earning a decent salary surely would not come back to me and ask about that. It would just be too much. Finally, Mosman is opposed to the introduction of full postal voting, or even the option of councils choosing attendance or postal voting. We believe the result could seriously erode, or possibly even corrupt, the democratic process. Thank you for listening to me.

CHAIR: I invite Mr Gesling to make an opening statement.

Mr GESLING: Thank you, Mr Chairman. I state at the outset that Port Stephens Council does not have a unanimous view on the matters before this Committee. However, the majority view is that council generally is in support of public funding of local government elections. This matter was considered by available councillors who chose to attend a two-way conversation—a process that was established to conduct a conversation between staff and elected members—about issues that they had raised or about issues that had come up through other parties such as the Parliament or other community members.

They had a conversation one evening around this which generated the submission that we have made to you. The primary issue seems to be about equity in people being able to stand for local government. In the councillors' view, there are a number of people in the community who are not able to stand because of the perceived cost of standing and needing to generate a profile in the community

to get elected. They would see the availability of some funding would be appropriate in this circumstance to manage that.

They are certainly concerned about the move that is happening in our area to go to a popularly elected Mayor and the resources required for somebody to run a campaign across our local government area with a number of booths and the number of people you need to man them and the resources required for advertising, et cetera. I think most of the other elements are canvassed in the submission. The dissenting view of council is that, if people want to stand, they can generate those resources from friends, family and wherever, but that is not necessarily available to all people. I think that concludes my opening comments.

CHAIR: I direct this question to both of you to answer. Could you please detail the councils you represent in terms of the area, the structure of the council in terms of whether it is divided by wards, and the number of residents in your council areas? Perhaps you could give us a bit of an overview of each council.

Mr ROBERT COOMBS: And whether they have popularly elected Mayors.

Ms CONNON: Our Mayor is elected at the moment by the councillors. It was decided in 2004, I think, that we would be going to a popularly elected Mayor and that will happen two years from now, so that system will change. We have about 28,000 residents. At the moment we have three wards. It had been four, but during this last term it was changed to three, and that means nine councillors.

Mr GESLING: The Port Stephens Council is located just north of Newcastle on the mid-coast of New South Wales and has a population of approximately 67,000. It is growing at about 2 per cent a year. We currently have 12 councillors in three wards and the three wards system has been there for a number of years. We have been able to maintain that balance between the wards by adjustments to the boundaries, but still keep the east, central and west wards.

In a referendum at the last election the community determined that we would have a popularly elected Mayor at the next election. That had previously been voted on sometime in the seventies and the council of the day chose not to act on that. But that is happening next time, and we will go to a popularly elected Mayor and three councillors per ward.

CHAIR: Councillor Connon, could you explain how fundraising was done for your own campaign and what you may have spent on your last campaign, roughly?

Ms CONNON: For my last campaign, about \$1,500.

CHAIR: Was it self-funded?

Ms CONNON: Oh, yes—not a penny from anybody else. My first election was in 2004 and I think one person gave a \$110—I have always remembered it because it was such a funny figure—and somebody else came up with about \$300. At that time I thought that it was fair enough, but talking to some of the other councillors they said, "Oh, look, you just don't want to get into getting money from anybody. Just do your own thing." So, of course, this last time I did not accept. Nobody offered me any money, but I would have said, "No, thank you very much", anyway, and it did not cost much. I know one of our councillors who has been on the council for at least 20 years never spends more than \$200. So it is not a lot.

CHAIR: Do you have any understanding of how the councillors in your council area manage their campaign finances?

Mr GESLING: Primarily it is personal resources. There have been donations from political groups for individuals, and that has been declared over time; those records are available. My understanding is it has ranged from a few hundred dollars to a significant amount, in the tens of thousands of dollars at times. That has been rare. Generally, on average, my understanding would be that it is in the order of \$5,000.

CHAIR: Thank you. Councillor Connon, in the submission from the Mosman Council, which we are very pleased to have received, it suggests is that the council does not support public funding, which is fine, but the next dot point states:

Council believes the existing electoral laws as they relate to Local Government already are to the advantage of registered political parties and the costs to individual residents to stand for local public office are serving as a disincentive to grassroots local government democracy.

Is there a thought, perhaps, that by providing public funding to prospective candidates, it might remove that disincentive and give them equal access to being able to be a candidate?

Ms CONNON: I think our thoughts on the public funding were that it was simply more money to be spent that basically is that taxpayers' dollar, whether it comes into the council or the State Government. We did not think that the bulk of the population would feel that that was a good way to spend the money.

CHAIR: I am not sure if you have had a chance to look at the submissions that have been made by some of the other people who have made submissions.

Ms CONNON: No.

Mr GESLING: No.

CHAIR: They are available on our website, if you would like to have a look at them. I have a couple of quotes from the Independent Commission Against Corruption [ICAC], which I will read for you, and I would be interested in your views:

The fact that candidates for elected office have to wear competing hats: as a fundraiser and current or aspiring public official, is of particular concern. This concern is heightened by the fact that persons with a direct stake in the decisions of a council, such as developers, are the most obvious fundraising targets.

The ICAC went on to state:

Nevertheless the Commission is of the view that a culture of political donations involving individuals with an interest in council decision-making has fuelled perceptions of inappropriate conflicts of interest and undue influence and also represents a significant corruption risk.

Do you share the view of the ICAC that donations at local government level have that perception and tarnish people's confidence in decision making?

Ms CONNON: Perhaps it depends on how much money we are talking about. For instance, looking at my case, it was less than \$500 and from people whom I had never met before and from whom I never heard again. It would be irrelevant. I do think that if we were to hear that some of our local developers had substantially funded one of the members, we would not be happy about it, and the community generally would not be very happy about it.

CHAIR: No doubt you have heard of some of the higher profile cases of corruption inquiries by the Commission in relation to some of the councils—Wollongong, for one, and councils on the North Coast. Do those sorts of concerns resonate in your community?

Ms CONNON: Certainly they do because they assume that we are all tarred with the same brush.

Mr GESLING: Yes. Certainly those matters are of concern to the council. It is certainly the fact that there are perceptions in the community that that is what happens: if someone stands with a particular background in an industry, they are there for their own purposes. At times that could be reinforced, but very often in my experience people who have stood in local government are there for the community generally.

CHAIR: Do you think there would be a view in either of your communities that if public funding was made available to candidates it would remove perhaps the demand for donations that could be

seen to be influencing decision making and that that would be a good price to pay for improving integrity of local government?

Ms CONNON: I do not think in Mosman's case it would really matter that much. To be perfectly honest, it is seen as a wealthy area, and by and large it is. I think the individuals who want to stand are not going to be concerned that they have to fund it themselves. Perhaps we are in a fortunate position there, but I do not think it is something that we need to be worried about.

Mr GESLING: Certainly the views of the councillors, and I suppose my personal views, are that it would help that perception in the community. We are an area that attracts significant growth. A lot of the areas that are easy to develop are now gone. The process in getting through the approval process is difficult and complex. Certainly the community does have those concerns.

The Hon. LUKE FOLEY: Councillor Connon, do I take it that what you have said about your own expenditure applies to your fellow councillors and indeed fellow candidates at recent Mosman Council elections, which is that people spend very little money?

Ms CONNON: I cannot be definitive about that because I have never spoken to them individually to ask them what they spent, but I would be very surprised to hear that anybody spent anything substantial. As I say, one of our longstanding councillors never spends more than \$200. He just refuses to do that. Several of the others, I think, only put their hand up at the very last minute. They would not have had time to go out fundraising and had not planned to stand anyway. As I say, I cannot definitively say because I did not ask.

The Hon. LUKE FOLEY: Sure.

Ms CONNON: But I would be surprised to hear that there was anything substantial. That could change, of course, when we go to this popularly elected Mayor. I hear the most horrific stories of what those people pay in other councils. Admittedly, those councils are bigger than ours but, you know, that would certainly put me off—not that I would want another four years in that job anyway. But if I thought I was going to have to spend \$50,000 to get in, it would put me right off.

The Hon. LUKE FOLEY: Would we be right in assuming that as far as Mosman Council is concerned, there is not a common practice of developers or other businesses doing business in your footprint seeking to influence elections—

Ms CONNON: Not that I have seen.

The Hon. LUKE FOLEY: —or to back certain candidates over others?

Ms CONNON: Not that I have seen.

The Hon. LUKE FOLEY: That does not occur in Mosman.

Ms CONNON: Not that I have seen, no. I cannot honestly say what happened 10 or 15 years ago, but at the present moment I would say no.

The Hon. LUKE FOLEY: Do you think that quite untainted democracy—democracy that is not polluted by predatory outside interests—would be best protected by legislation that imposes some maximum cap on both the size of donations allowed for any candidate or the amount of expenditure allowed by any candidate? Do you think that would help to preserve the healthy democracy that you have in the Mosman Council?

Ms CONNON: Yes, I think it probably would.

The Hon. LUKE FOLEY: Mr Gesling, you said that there have been some donations. I think you said up to several thousand dollars. Would we be right in assuming that because you are a coastal council and there are development pressures, developers and others doing business within the Port Stephens local government area have been donating to some candidates for local government?

Mr GESLING: That has happened, yes, but I would not say it happens every time. It has happened to my knowledge and certainly there is a view about ensuring that a voice is heard. I do not know that there is any intent to try to ensure an outcome, but it is to ensure that a voice is heard.

The Hon. LUKE FOLEY: Do you think that legislation to cap both the size of donations and the amount of expenditure allowable would be in the best interests of democracy in the Port Stephens local government area?

Mr GESLING: Certainly that is the council's view, or the majority view of the council, and I would support that personally.

The Hon. DON HARWIN: The Hon. Luke Foley has covered my question.

Mr ROBERT COOMBS: The Hon. Luke Foley has nearly covered my question, too. The difficulty we have is that you are approximately the fifth set of witnesses to give evidence. We basically have a situation on the one hand where there are many examples like the Mosman Council where very little money is expended on campaigns and on the other hand other examples, such as one we learned about from a Committee member where his local Mayor spent in the order of \$90,000.

The Hon. DON HARWIN: It was a previous Mayor.

Mr ROBERT COOMBS: A previous Mayors spent in the order of \$90,000. If that is happening in one council and there are 150 councils, it is a pretty fair bet that is happening in a number of them. What we are trying to do is address three questions: first, expenditure; second, caps on donations; and, third, ensuring that levels of influence are negated because of the amount of money people have. I suppose my question is this. To overcome, first and foremost, Councillor Coonon's concerns, if we go to a publicly funded model it might encourage the nuisance element—which it might do; I agree with you but there are ways of overcoming that. Already in State and Federal elections you have to get to a certain level of primary vote until such time as you qualify. I am wondering whether, in your considerations with your colleagues, you have considered that. If there were opportunities for people basically not to have access to a largesse, if you like, but access to some public funding to compensate them for their expenditure, would that minimalist approach affect your structure too much? The same question goes to Mr Gesling.

Ms CONNON: No, I do not think it would affect things in Mosman, but obviously in other areas that could well be the case.

CHAIR: It seems to me that in Mosman people have the capacity to self-fund their election campaigns, which is great for them, but in other councils around New South Wales for individual candidates seeking election having to pay for their own campaign could be a barrier to them standing and the opportunity of being reimbursed for their election expenses might provide them with a chance to be a candidate and a representative of their community. Is that a reasonable proposition?

Ms CONNON: Yes, I suppose if you were in a large area—I dare say, perhaps Liverpool or Blacktown—with far more substantial numbers than we have and a larger area to cover and many more booths and so on, yes, it is possibly slightly different from Mosman's case. But please do not waste taxpayers' money.

Dr JOHN KAYE: Councillor Coonon, thank you for your submission and your presentation today. One of your key objections to public funding of local government election campaigns is that it "would disadvantage genuine community based individual candidates". Can you explain why public funding would disadvantage individual candidates? What is the mechanism there?

Ms CONNON: Individual candidates.

Dr JOHN KAYE: I am just quoting your words.

Ms CONNON: Yes, I know you are. I looked at that the other day and I thought, "Now why did we put that?" It was obviously a great idea at the time when we were putting the letter together.

Possibly it gets back to this above and below the line business. I had to admit that I am not absolutely clear on exactly why the General Manager put that bit in the letter, and if he were not overseas I would have been saying to him, "Just give me the answer to that because someone's going to ask me".

CHAIR: If you like, you are welcome to take that question on notice.

Ms CONNON: All right, yes, I will. He will not be back until next week.

Dr JOHN KAYE: Okay, that is fine. My second question goes to your concerns about nuisance candidates. Your proposition is that public funding would encourage nuisance candidates.

Ms CONNON: I said it could; I did not say it would.

Dr JOHN KAYE: Fair enough, that is a good point—could encourage. Let us focus on a specific public funding model, which is a model based purely on reimbursement so it does not allow you to walk away with a profit; you get back only what you spend. Secondly, let us fixate on a model that says that there is a threshold; unless you get above 4 per cent of the votes, unless more than one in 20 electors chose you as their first preference, you get no funding. Do you think those two mechanisms—

Ms CONNON: Yes, that would make a difference. I think if it were just open slather I can think of a number of people in my community who would put their hand up immediately and drive us all mad.

Dr JOHN KAYE: I think it is fair to say there is a general perception amongst people who worry about these issues that entitlement-based funding, which means you give people cash based on their votes, would not necessarily have that effect. But I think what is being considered here is more likely to focus on some mechanism for a refund.

Ms CONNON: That would be fair enough. If it were an automatic "here's cash in hand" then I think no, but if it is a refund, yes, or as you say a percentage—I think you said 4 per cent.

Dr JOHN KAYE: So if there is a refund plus threshold, which are the two things being considered—

Ms CONNON: Then I would be a lot less concerned.

Dr JOHN KAYE: Would that remove all of your concerns?

Ms CONNON: Basically. I suppose at every election we get some people who you wonder why they are standing but they will never go away. Basically I think that would answer it, yes.

Dr JOHN KAYE: You talked about the costs and complexity of above the line voting. Obviously I come from a political party so I have certain attractions to above the line voting. You may not remember this, but you might remember the 1974 Federal election in the Senate, which is the stimulus for above the line voting, where I know in Victoria where I voted there were 118 candidates. So unless you had the capacity to number between one and 188 your vote was informal. That wiped out a large section of the non-English speaking background population in Victoria, and I suspect the same happened in New South Wales. That is by way of background. Can you explain to me what the costs are of above-the-line voting? I understand the complexity but you talk about the costs.

Ms CONNON: The costs to the council. Since we have had this above the line voting, first, it has cost the council four times what it did previously when they were running it themselves and it takes a great deal longer.

The Hon. LUKE FOLEY: What—to count it?

Ms CONNON: Presumably, yes. We used to have the answer by the end of the day, and now you are lucky if you get it in seven or eight days.

The Hon. DON HARWIN: Correct me if I am wrong but I think Ms Coonon is referring to the fact that because you have above the line voting, from a previous inquiry we were told that the electoral office believes that they cannot do it at a local level. They prefer to do it centrally by a computer, as they do it for the Legislative Council. Therefore, that has necessitated them making arrangements for a central counting centre, and that is where the extra cost comes.

Mr ROBERT COOMBS: And time.

The Hon. DON HARWIN: And time of course because they have to count 150 odd councils. They then have to have a priority list. It was a matter we extensively canvassed at a previous inquiry.

CHAIR: Further questions, Dr Kaye?

Dr JOHN KAYE: No, that is all.

The Hon. DON HARWIN: I was just going to go to one of the options that was outlined in the Committee's issues paper. I do not know whether you saw it. In relation to public funding, not public funding of campaigning costs as such but in the form of an allowance to fund the auditing of disclosure reports that are required, a registered company auditor has to, for example, audit the disclosure that you make at election time. I am wondering whether you have any views as to whether that perhaps might be viewed as something that was appropriate, particularly for independent candidates like yourself?

Ms CONNON: It just struck me as being overkill. Not everybody has access to someone who can do that. Particularly in a country area, getting a registered auditor, you would be travelling a long way to get hold of somebody. I think it is too much. Maybe of course if you were talking about big numbers, that could be different, but I thought in my case, fortunately I knew somebody and it was not too complicated but I think overall it is rather much.

Mr GESLING: My comment to that would be that I expected that to be a view from the council. They thought that while it was onerous maybe there should be a limit above which it applies, that you do not need it until you get above a certain limit. But they all found that they were able to access it. Most of them had to go outside their area to find somebody who was appropriately qualified for it, but they did not see it as a particular issue they wanted to support in this inquiry.

CHAIR: So the idea of being reimbursed for the costs of the audit was not something that the councillors thought was important.

Mr GESLING: No, they found it reasonably minor.

CHAIR: Is there anything further either of you wish to add?

Mr GESLING: I would just like to comment about the diversity in local government that I think impinges on this question about some contribution. I have been fortunate or unfortunate to work in areas many times larger than where I am working now in the far west, and you have a totally different dynamic in terms of covering an area for election. So if you are looking at that issue, while there needs to be a limit, the council is very clear about the need for a limit on that—

CHAIR: An expenditure cap.

Mr GESLING: —a cap for both a councillor and a popularly elected Mayor, just as a matter of equity. They would see that if there is reimbursement, and it is covered in my council's submission about a figure, but that figure I just clarify that is related to the number of the quota that is required to get elected, not the total number of electors, which gives you a different sort of number when you come out with that. I think the issue about the diversity of the area, the distance people have to travel to manage that, to man booths across local government, all come into this question and make it a complex issue to resolve. I think the final thing the council wanted to particularly emphasise is that they find that the media gouges during the time of an election and the cost of advertising in media

multiplies many times. Secondly, if you are in business and you advertise in the media regularly you get a preferential placement in terms of access to media exposure.

CHAIR: I was having another look at the submission of your council, Mr Gesling, and there was a suggestion of an expenditure cap based on a dollar amount per elector, and there was a range of figures of \$2.50 to \$3 per elector. I think you indicated that your council has in the order of 67,000 people.

Mr GESLING: That is right.

CHAIR: So for a popular election of a mayor at your council, using that criteria or that value, they would be able to spend in the order of \$200,000?

Mr GESLING: No. That is where I was qualifying that by saying it is related to the quota required to get elected and that is more related to an individual candidate. So in that case a bit over 2000 is the quota for within a ward, and that gives round about the \$5,000 to \$6,000 figure. They have not had experience with a popularly elected mayor but the discussion around the table was that it should not need too much more than that for a popularly elected mayor either.

Mr ROBERT COOMBS: I suspect that Mosman Council is a member of the Local Government Association. What about Port Stephens Council?

Mr GESLING: Port Stephens is, too.

Mr ROBERT COOMBS: It might well be that you might encourage some further information from both those councils, because we had a contribution from representatives of both those organisations yesterday and they both basically put up a situation for no change. That might go along with the wants and wishes of Mosman Council but it certainly does not reflect that of Port Stephens Council.

Mr GESLING: No, that is right.

CHAIR: Did the LGA or the LGSA contact either of your councils to seek your views about this matter?

Mr GESLING: Not particularly, no. Not that I am aware of.

Ms CONNON: No.

CHAIR: On behalf of the Committee I thank you both for the submissions of your councils and your appearance here today. We appreciate your views, input and expertise on the issue.

(The witnesses withdrew)

(Luncheon adjournment)

LEE RHIANNON, Member, The Greens (NSW), 19 Eve Street, Erskineville 2043, and

CHRISTOPHER HENRY MALTBY, Registered Officer, The Greens, 19 Eve Street, Erskineville 2043, affirmed and examined:

CHAIR: I am sure both of you are familiar with the Standing Orders. Witnesses are examined on oath or affirmation on the subject matter of the inquiry. Before we proceed, do you have any questions concerning the procedural information sent to you in relation to witnesses and the hearing process?

Mr MALTBY: No, I am fine.

CHAIR: We have received a submission from the Greens. Is it your wish that the submission be included as part of the sworn evidence?

Ms RHIANNON: Yes, please.

Mr MALTBY: Yes.

CHAIR: Ms Rhiannon, I am sure you understand the standing orders, but I just wanted to make sure. The witnesses are examined on oath or affirmation upon the subject matter of the inquiry. Do you have any questions concerning the procedural information sent to you in relation to witnesses and the hearing process?

Ms RHIANNON: No.

CHAIR: Would either of you like to make an opening statement?

Ms RHIANNON: Yes, I will just make a short one please. Firstly, it is good to be on this side of the table. I would like to open our remarks for the Greens to this inquiry by backing the comments of former New South Wales Premier Nathan Rees when he appeared before ICAC in August this year. He said:

Out there in lawn mower land the fact that people donate to political parties means that they want something.

Mr Rees has summed up the public mood. The concern is not confined to lawn mower suburbs. From rural New South Wales to the inner city cynicism about the political process is on the rise, highlighting that electoral funding reform is long overdue. Our suggestions to this inquiry include: a reasonable wage for councillors; modest public funding of local government elections; and caps on election spending; a prohibition on all but small donations by individuals; greater transparency of donations; limits on third party election expenditure; and a workable compliance process. As the Green's position on bans and caps on political donations and election expenditure are well documented, I will use this time to provide a few details on some of our other points.

Firstly on funding, we suggest that public funding is provided for those candidates or groups who gain four per cent or more of the primary vote and those who are elected. The number of votes or the percentage of votes obtained should determine the maximum funding entitlement for a candidate or group. We also suggest that no-one can receive more than half the pool. The size of the funding pool, we argue, should be the same as applies for a Legislative Assembly seat after adjustment for the number of votes cast in the council or the ward.

Moving on to the disclosure of donations, if bans and caps on political donations are not introduced, there is an urgent need to tighten up the current disclosure system. I understand that Mr Colin Barry, the Election Funding Authority (EFA) Commissioner, said in his evidence that the disclosure needs to be robust and transparent; and Mr DeCelis, also from the EFA, effectively said that the current system is not transparent. On the channelling that Mr DeCelis spoke about, the Greens support that all councillors in a party that has channelled a donation are recognised as having a conflict of interest, as they have benefited from the party's election campaign expenditure. We also suggest that EFA disclosure forms should be amended so that details about how the donation was to

be used, for example for a particular campaign, are detailed.

On compliance, the failure of the EFA to follow through on breaches of the law further undermines public confidence in how the electoral system is managed. We strongly urge the Committee to adopt compliance measures. Our suggestions include: on the spot fines for minor breaches; total or partial loss of public funding for more serious breaches; and possibly the disqualification of candidates in cases of extreme over expenditure. An independent commissioner in the EFA, possibly modelled on the DPP office, is needed to give weight to these laws.

I noted that the submission from the Auburn Residents Action Group has identified many problems with the current compliance regime and we found their submission very useful. The Greens certainly acknowledge that there are many challenges in designing a public funding model for the local government level. It is probably the toughest of the three tiers of government, but it is achievable. I spoke at the beginning about the public cynicism towards politicians accepting donations and to the political process in general. I believe the public are also becoming cynical about the holding of inquiries that do not result in reform. We have also noted that the ALP and the EFA to date have not put in a submission. We certainly wish the inquiry all the best and hopefully the recommendations that you come forward with I am sure will benefit democracy and will be adopted.

CHAIR: Mr Maltby, did you wish to add anything?

Mr MALTBY: No, thank you.

CHAIR: During the course of these public hearings we have heard from a number of councils, particularly smaller regional councils, country councils with quite small populations where candidates who stood have often been on the council for many years. They have talked about their experiences where they invariably spend a couple of hundred dollars and in their view public funding is not warranted, necessary or useful. Do either of you wish to comment in relation to their experiences?

Mr MALTBY: We noted that in the submissions as well. There are some local government areas that have a small number of thousands of enrolled voters and the like. I think the sort of funding model we are proposing would not generate a lot of funding there. To the extent that they might spend a small amount of money to print how to votes and that it would be refundable, I do not think that is a problem. In fact, it probably is an enhancement of democracy in those areas because there are people who might make good councillors who might not be able to afford to produce that material either. But that should not distract us from where this is a big issue, which is in more densely populated local government areas where there is an enormous amount of pressure and potential conflict for councillors in dealing with the different competing demands of constituents.

Ms RHIANNON: We certainly agree that the funding should be at a modest level, and although we set out some suggestions in our submission, we are certainly open to that being possibly lowered. That is why we were interested in reading a submission from the EFA. We certainly hope that that will come forward. We believe it would be useful to the Committee. I think also on the issue of public funding, when you think of some of these councils, we need to ensure that they feel comfortable, and certainly the Greens' position is that this money should be State money, there should not be any cost shifting here and at no point should they bear any costs.

CHAIR: That was my next question. A number of the submissions have talked about the potential financial burden on local government of having to fund the cost of the campaigns for candidates. Your suggestion is that the money should come from the State Government?

Mr MALTBY: Yes.

Ms RHIANNON: Yes, definitely.

The Hon. DON HARWIN: Ms Rhiannon, I note in recommendation 3 in your submission, you have at 3.3 suggested a donation cap of \$1000. Forgive me if I have overlooked the part of your submission that deals with it. An issue we struggled with on a previous inquiry is the issue of sector specific bans on particular donors. I think in relation to a previous inquiry you had a view that to take away the need for sector specific bans the caps would need to be very low. At a \$1000 level, would

that be sufficiently low, do you think, to take off the sector specific requirement that we have at a State level at the moment in relation to property development?

Ms RHIANNON: The Greens' position has been, and remains, for a total ban on donations from corporations and other organisations and for there to be the strict limit on the donations from individuals.

The Hon. DON HARWIN: As you know, the current law applies to individuals, not just to corporations who are involved in property development, but individuals, for example the spouses of managers in a company that deals with property development. With individuals who have some connection to property development, do you envisage that they would be able to donate up to \$1000?

Ms RHIANNON: Just to clarify, so we understand your question, you are identifying where individuals are closely connected with a sector and you talk about development?

The Hon. DON HARWIN: That is the one sector specific ban that we have at present, yes.

Mr MALTBY: I tend to agree with you that it would be unreasonable to limit those people as individuals to participate in a functioning democracy. The question is whether an amount of \$1000, in the context of this inquiry, would be sufficient to cause a perceived distortion in the political process in a particular local government area. Therefore, you might want to constrain it or there might be a public benefit in limiting it. I do not think we have considered this in great detail but my feeling is that the proper way to resolve it is through appropriate expenditure caps in the campaign as well.

If you have people who are making donations to a particular councillor or a council candidate team which are perhaps at the maximum level, and \$1,000 might be quite a substantial amount in a council campaign, that could potentially create a conflict of interest. We already have provision for that in the model rules for councils. The combination of that plus a spending cap might be sufficient to mean that the perception would not be as strong such as to result in public outrage about the fact that elections would be bought by people who might have an interest in the outcome or decision.

Ms RHIANNON: While it is interesting and worthwhile to consider the point you are expanding on or fleshing out, considering that we do not have anything at the moment, to start with the Canadian model, which is what the Greens have outlined once again, it would be excellent if we got that. If we needed to improve on it, as you are alluding to, we could take that step. Right now when we do not have anything, just to move to a cap on individual donations of \$1,000 would be an important step forward.

The Hon. LUKE FOLEY: I will move to public funding. If I have heard you correctly you are suggesting an entitlement to public funding after one catches 4 per cent of the vote and payment to be based on a share of the votes received. How would we guard against an unintended consequence, what I call the Hanson effect, where a party or a high-profile individual would nominate across a series of councils not so much with the aim of gaining election but with the aim of capturing large amounts of public funding?

Mr MALTBY: Lee was perhaps not completely explicit in her remarks but we are advocating a reimbursement-style funding. So that would not be an issue. I share your concern about the entitlement model, though in previous submissions we have made on related topics there are solutions for entitlement-based models which involve auditing of the way the money is expended and to make it potentially an offence to spend the money on non-electoral purposes. It is the case that the Greens as an example of parties have made surpluses at Federal elections that have an entitlement funding. The Pauline Hanson effect, which was a push behind Federal reform initiatives, also could be addressed by putting specific requirements on how the money was expended.

Dr JOHN KAYE: We have heard a great deal of evidence over the last two days particularly from smaller councils about concerns that the sort of model proposed by the Greens will increase the amount of money spent on local government elections, which is not necessarily what the voters want. It will mean more advertising, more pamphlets chucked in letterboxes and so on. Can you respond to that?

Ms RHIANNON: It is really worth asking and in some ways it reminds us of the argument that went on in this place when there was a debate about public funding for State elections when that ground was broken. What we have learnt is that we need both the limits on the donations and the cap on election expenditure. We need to get that balance right. No cost shifting is an important part of the equation. From the way the State funding issues have developed, councils obviously have that fear and that needs to be allayed. If we can come up with the right package we could move forward. Understandably, often the unknown is not favoured by people and they are not too sure about going there. But there is a need for urgent reform in this area and the inquiry could work on getting the balance right.

Mr MALTBY: It is also fair to say that there may be candidates who are unable to express their qualifications for election on the basis that they do not have access to a very modest amount of funding that would allow them to put an ad in the local paper or produce a flyer. There are both sides to that statement.

Dr JOHN KAYE: Another issue that has been raised with us is the issue of nuisance candidates. Because there is public funding some people will put up their hand who otherwise would not do so. They termed them nuisance candidates. Can you respond to that allegation?

Ms RHIANNON: Again, that is well set out in our submission in that we have the 4 per cent threshold before funding kicks in. What is a nuisance to one person may be part of the democratic process to somebody else. We cannot make that call. You need a system that is robust and that works. Again, once they have kicked in, 4 per cent demonstrates that they have a level of public support. By providing some funding it can enhance the democratic process. Yes, I know there are some councils where people spend minimum amounts of money, but there are other areas where clearly they do need to spend some money if they are going to have a decent go and have some reasonable level playing field. That is what we are aiming to achieve.

Mr MALTBY: Let us imagine the archetypal nuisance candidate. If they take advantage of the opportunity to spend a bit more money, I think they will make it very clear to the electorate that they are in fact a nuisance and perhaps damage their prospect.

Mr ROBERT COOMBS: It would be fair to say that the majority of witnesses who have come before us over the last few days do not support any change to the current arrangements. That view was also expressed by two representatives, one from the local government association and the other from the shires association. In your introductory remarks you said there has to be some consultation with councils. That is agreed. Hopefully that consultation would result in unanimity amongst councils on this issue. Did you take into account in your modelling and the proposals you have made that by the very nature of the way the councils exist, their structure, the number and so on, it will make it very difficult to put in place a new regime that standardises these sorts of rules, provisions and issues across the board? We have learnt in the last couple of days that the smallest council has 100 voters and the largest is in the vicinity of 170,000. Obviously there is a great variance in the finances that would be available to candidates in the different situations. In your modelling and your consideration of these issues, did you give some thought to the great variance in structure across New South Wales councils?

Ms RHIANNON: Certainly we grappled with that. To go back to your opening remarks about where the support lay, while I have not heard any of the evidence that has been given and maybe the majority of them were not happy with public funding, when I looked through the submissions in preparing for today I found that 17 of the submissions supported public funding and seven opposed it. There is obviously variation depending on where you look. The issue of the modelling and the variation is one of the enormous challenges before all of us in coming forward with a solution here. We certainly did take that into consideration. But as I remarked earlier, while we have come forward with a suggested model, we are open to looking at what those amount should be. That is why we are keen to see a submission from the EFA because the level of detail that they would be able to supply would be excellent and necessary to inform us. To address this issue of variation, again in terms of talking about the general aspects, when you put the issue of the caps on donations that we are proposing, the caps and limits, with also the caps on election expenditure you are going to come up with a model that we believe can adapt to those various situations.

Mr MALTBY: I would add that we have a uniform funding model base very similar to the one we are proposing here for State lower House seats. There is a wealth of difference between a seat like Murray-Darling, for example, and a seat like Coogee. In one you have to campaign across a very large area, yet the funding pool is identical in those seats. One thing that is a theme in the other submissions is that geographical size is an issue and the number of electors or density of electors, which is a corollary of that, is also a factor. It may make sense to look at that more broadly both at the State level and the local level to see whether the current arrangements for public funding take account of the legitimate cost for mounting a campaign in all the circumstances in that particular district.

CHAIR: In your submission the caps you recommended on donations are different to the caps that look like being adopted at a State level. Do you think there is an advantage in having consistency in caps on donations for State, Federal and local elections?

Ms RHIANNON: Absolutely.

CHAIR: If this State did come in with a cap of \$2,000 on donations from individuals, in your mind would that level be appropriate at local government level as well?

Ms RHIANNON: We certainly believe that consistency is incredibly important. But when you consider local government and what is needed at that level, to go with what is being proposed by the Government at the moment I think would really weaken the reforms that are needed. It really is so much at local government where you see that small amounts of money can have a big influence. Allowing the donations to continue even at the caps that are proposed at the local government level would be unfortunate. I would imagine—obviously I would have to speak with my colleagues—that even though we strongly support consistency we would continue to advocate for the caps on donations from corporations and other organisations and the limit at \$1,000 for individuals at a local government level.

Mr MALTBY: It is worth noting too that all the proposals in relation to donations have been on an annual basis. So long as the council and State elections remain out of step in different financial years, if you like, and there will always be some crossover between candidacy for State and local government, essentially you are dealing with two separate donation spheres. So the conflict between donating for one or the other does not really arise in those circumstances. Having uniform donations is probably necessary and it is probably worthwhile keeping the whole donations regime a single entity within New South Wales. We have seen in relation to the proposals made in New South Wales how they would relate to a Federal funding reform and the idea of creating Federal accounts within State parties that might be used to fund Federal elections while there was increased control over what happened in New South Wales. I do not think it would be productive to see a third level produced in that regard, so that you have your local fund, your State fund and your Federal fund.

The Hon. DON HARWIN: If you have expenditure caps, the usual thing is to have a regulated period with the expenditure caps as well. What are you advocating in terms of a regulated period?

Mr MALTBY: I am not sure whether we explicitly addressed that issue.

CHAIR: In your submission you referred to four months prior to an election.

Ms RHIANNON: Paragraph 5.6 refers to "continuous disclosure of electoral expenses to be required for the four-month period up to and including any election". That refers to continuous disclosure.

Mr MALTBY: As others have suggested, a period of about three months is a suitable sort of time frame. In my direct experience with local government campaigning, if there is anything longer than that, generally there is very little interest in local government elections earlier than three or four months before an election. I do not think there would be a great incentive for people to flood the media with electoral advertising that early. However, you never know. That probably would be a good place to start.

Dr JOHN KAYE: In your opening remarks you suggested that councillors who were members of a political party that received a channelled donation automatically had to declare a conflict of interest. I think by that you mean that a councillor who is a member of party that has received a donation—not necessarily through that council election but through another election or through another account, for example, from a hotel, club or supermarket chain—would then have to declare a conflict of interest. Do you want to explain that issue in more detail? Do you want to explain why that is important?

Ms RHIANNON: Yesterday Mr Brian DeCelis spoke about channelling. It will be interesting to read his remarks. The Electoral Funding Authority [EFA] is identifying that donations increasingly are from Labor and the Coalition parties rather than being identified by the local candidate or local member of Parliament and being receipted by head office. It therefore appears as though the hands of the local member of Parliament or local council are clean and that they have not accepted any corporate donations or donations from any organisations. This issue has been in the paper recently and there are some examples of this. I think most members are aware that this issue is quite fresh and that it comes up regularly.

We believe it is relevant to this inquiry as it is one of those aspects that is damaging the democratic process. Members of the public are aware of these donations. There is an increasing understanding in our communities of political donations and the impact that they have. When a corporation hands over money to a political party, in the eyes of the public it does not mean that it ends there. Members of the public believe that there can be a conflict of interest, and that conflict of interest can be real. Even though New South Wales has banned developer donations other large corporate interests are still donating to political parties. One corporate interest that comes to mind is the hotel industry, which is giving large donations to political parties. Members of the Australian Labor Party and the Liberal Party in particular are in receipt of amounts of money.

Individual councillors and individual members of Parliament often are in a position where they are making key decisions about issues that will affect that industry. That is where there is a link, that is where there is conflict of interest and that is why the word "channelling" has come into existence. There has been a change after recent elections and it appears as though it has come about as a way of avoiding scrutiny. There is a link between a corporate donation and what happens with a member of Parliament or a councillor in his or her day-to-day work.

Mr MALTBY: It is worth putting that into context. In the event of a donation regulation, which is what we were advocating, or a ban against corporations and other entities donating, this kind of reform is not so important. However, substantial amounts of money can be donated or declared by the State office of a party and then expended on a particular campaign and no conflict is created under the model code that applies to councillors. Apparently the Independent Commission Against Corruption and the EFA agree that that is a serious omission in the current rules. We are not seeking a fully fledged reform relating to who can donate and how much but we desperately need to fix that problem quickly.

Ms RHIANNON: I agree with the point made by Chris that we need to fix this problem urgently. If we implement rules relating to channelling there will still be the bad news stories. The Australian Labor Party, the Liberal Party and anybody who is reluctant about implementing these reforms must recognise that the bad news stories and front-page headlines in the *Sydney Morning Herald* and the *Daily Telegraph* will continue. People will become aware of these problems, the link will be made and the stories will be printed. We will work hard to restrict the impact of such channelling and to prevent a conflict of interest. However, the bad news stories will continue until we ban political donations from corporations and other organisations.

Mr ROBERT COOMBS: I agree with some of the cynicism. However, the bad news stories might continue if members of the community come to the conclusion that they are paying for the electoral propaganda of the three major parties, individuals and Independents. Evidence we received over the past few days—and evidence we received at an earlier inquiry—reveals there is great reluctance to adopt this new model. Members of the public will not be willing to accept that hard-earned taxpayers' dollars are paying for the electoral propaganda of the Labor Party, the Liberal Party, the Greens, or whoever.

Ms RHIANNON: I disagree with you. Having said that, there could still be bad news headlines. How has this whole issue of public funding played out since we achieved public funding in New South Wales? At the time there was an interesting debate in this place. Initially the Coalition did not agree with the proposals but eventually it did. At the time there was not a huge outcry about it; there was some disagreement relating to the spending of public money. These days no-one is advocating that public funding for this aspect of the electoral process should be wound back. I hope all parties are able to clarify why funding is needed for our democratic process and it should be done modestly. Scare campaigns can be run in relation to any issue, and that issue can be discredited. At the same time it is part of the democratic process, and democracy comes at a cost. We would need to handle this issue responsibly, and I think we can achieve such a result.

Mr MALTBY: The question is whether that is a symptom or the disease. There is cynicism about seeing public money expended on campaigning because people are already cynical about the political process. That is because there is a perception that those elected are working by whatever means for the interests of somebody else. If we can work towards reforming that perception people will be more comfortable about receiving genuine information about those who might seek to represent them.

Mr ROBERT COOMBS: Those who are seeking a solution to this problem are saying that as long as a strict disclosure policy is in place and members of the public can see where these donations are going, or how a party member is supported, that would be good enough. Do you have any comments in relation to that issue?

Mr MALTBY: It is an alternative view in this sphere. Over time improvements have been made to the disclosure process but we still have a fair way to go. We still have the problem to which you were alluding earlier relating to the channelling of donations, removing that important piece of transparency, and the periods in which disclosures are made. We still do not have information relating to who contributed to a particular campaign. That information is not available at the time that people vote in a particular campaign. In the Federal sphere they might find out only 15 months after the event. It is not a terribly helpful thing to find out later that the person for whom you voted, on the basis of his or her wonderful material, received very large donations or something that you found objectionable. We can do more in relation to disclosure. Computer technology might make that more feasible these days. There should be a control on the amounts that are received and expended. That would be more practical at the moment.

Ms RHIANNON: On the disclosure issue we can certainly do a lot more. If we relied only on disclosure that would leave the whole issue open to many problems. If the Committee decides to go down that track, compliance must be part and parcel of it. At the moment the EFA does not have sufficient resources to pursue anyone who does the wrong thing. Funding is so minimal that it does not really happen. We listed a number of recommendations relating to compliance. I will not go into those recommendations in detail as you have them before you. If you wanted to limit it to the issue of disclosure, compliance must be a solid part of the package.

CHAIR: None of the submissions that we have received that supported or opposed public funding of local government elections made any direct reference to public funding of political parties to contest the elections. Paragraph 4.3 of your submission talks about a cap on the expenditure of State registered political parties. Is it the view of the Greens that State registered political parties that are contesting local government elections should qualify also for public funding, or is it just the candidate group representing a party that should qualify?

Mr MALTBY: Let me give you more detail of what we proposed. All the funding should be based on candidates and groups on ballot papers rather than on parties. Those may operate as part of a political party but the funding would be returned based on the performance of that individual group. Money received from parties ought to be declared as a donation to that campaign. There would not be funding for the party as a whole. Through its individual campaigns some of the money that the party outlaid to fund the initial campaign might be restored.

CHAIR: Would the cap on expenditure for State registered political parties during local government election campaigns be separate to the cap on the local candidate group?

Mr MALTBY: We were envisaging the possibility that State parties might choose to run a statewide campaign on behalf of their local council candidates, for example, "Vote Labor across New South Wales for a better council" and those sorts of things. There might be some potential for a shift of campaign expenditure to those areas. It has not happened in the past and I am not sure whether it would happen in the future because local government is much more parochial and people would be highly suspicious of a statewide campaign. In the event that that occurred it is worthwhile being cautious and saying that there ought to be a limit on the ability of parties to campaign on a statewide basis in the local government sphere.

Dr JOHN KAYE: We heard some evidence about the complexity of local councils. Some councils are small, some councils are big, some councils have wards, some councils do not have wards and some councils have elected mayors. Hence any funding system to adapt to the complexity of each council would need to have some degree of complexity; that is, it would need to have broad sets of categories and so on. Are you concerned about that complexity? Do you think that complexity is a problem or something with which we can live?

Mr MALTBY: To some extent it is inevitable. I agree that there is a concern for Independent candidates, for example, in a Legislative Assembly seat. It is challenging now to work out what might be the amount per vote or what your vote might be in relation to funding. It will be more complex at local government elections for all the reasons that you just outlined. Some work could be done in this area. As Lee mentioned earlier, it would be interesting to get some detail from the EFA on ways in which that could be simplified. It might be possible to distil that down to a cents-per-vote number and to publish that information before the election campaign. Candidates for that election would then have a reasonable idea of what they could expect, based on certain vote modelling things that they could do. They would then be able to say, "I can probably afford to spend \$500 or \$1,000 on my campaign."

Dr JOHN KAYE: The Greens' proposal, from my recollection, includes separate funding for a directly elected mayor. Would an unintended consequence of that be that everybody would stand for mayor and would that be a problem?

CHAIR: We discussed this scenario yesterday that if you have an expenditure cap as a councillor and an expenditure cap as a popularly elected mayor, everyone who wanted to be a councillor would stand as mayor and use that cap towards their council.

Mr MALTBY: Certainly it would increase their expenditure cap. Whether they would get funding, of course, would depend on whether they could get to the 4 per cent in the mayoral race as well as in the position for councillor. Councils which are divided you would be unlikely to see separate major party candidates nominating from each of the different wards also nominating to be mayor. You would probably only have the one capped party's candidate for mayor at that point. In undivided councils there just would not be that many groups, I do not think, that would benefit. They are probably already nominating a mayoral candidate anyway. So I am not sure that it is a serious issue. It might be something to monitor if this were to be brought into effect to see if it was making the mayoral ballot more complicated.

We have made earlier submissions particularly in relation to the inquiry into the 2008 local government elections about the voting system and ways that work to encourage mayoral candidates because they are a separate position on the council and not drawn from the body of councillors and so forth. The above-the-line voting system has also added complexity to the system and has been raised in submissions to this inquiry.

CHAIR: Do you have a view on expenditure caps for third parties that you wish to share?

Ms RHIANNON: We think that that is urgently needed. That, again, needs to be part of the package. But if that is not brought in at the same time we can just see that shift of money over. So we strongly recommend that those caps are in place.

Mr MALTBY: We propose a cap of \$5,000 for a third party in relation to local government elections.

CHAIR: Regardless of the size of the council? The same cap would apply for Bega council as for Blacktown council, for example?

Mr MALTBY: That is a good point. That may be too simple for those circumstances. I am thinking though that the sorts of councils where that is likely to be an issue are ones where that would be a relatively small amount of money to expend and less likely to influence the outcome. I do not see third parties getting excited enough to spend \$5,000 influencing the result in Wentworth Shire Council.

Ms RHIANNON: That is why we went for \$5,000, because it was a low amount and we thought that that took into account that enormous variation in the size of councils. Again, it was something that we grappled with and we thought it was a compromise. If you came up with a complicated formula I think it is less likely for it to be adopted and probably harder for it to work.

CHAIR: Is there anything else you wish to add?

Mr MALTBY: No, I think we are happy.

Ms RHIANNON: Thank you for asking us to give evidence.

CHAIR: Thank you for your time and effort today. We appreciate your contributions to the inquiry.

(The witnesses withdrew)

LAURENCE PETER GORDON, Chairman and Party Agent, Residents Action Group for Auburn Area, and

IAN HAMMERTON, President, Burwood Community Voice, P. O. Box 1273, Burwood, sworn and examined:

CHAIR: Thank you very much for attending here today to give your contributions to the inquiry. Mr Gordon, we have received a submission from your organisation. Is it your wish that the submission be included as part of your sworn evidence?

Mr GORDON: Yes.

CHAIR: Under the standing orders, witnesses are examined on oath or affirmation upon the subject matter of the inquiry. Before we proceed do you have any questions concerning the procedural information sent to you in relation to witnesses and the hearing process?

Mr GORDON: We have not spoken to anyone. We had the information given to us and we have kept it secret. There were only the two councillors, Irene Simms and myself, prepared it on the authority of the general meeting.

CHAIR: Mr Hammerton, we have received a submission from your organisation as well. Is it your wish that the submission be included as part of your sworn evidence?

Mr HAMMERTON: Yes, please.

CHAIR: Under standing orders, witnesses are examined on oath or affirmation upon the subject matter of the inquiry. Before we proceed do you have any questions concerning the procedural information sent to you in relation to witnesses and the hearing process?

Mr HAMMERTON: No, I am right to go.

CHAIR: Mr Gordon, would you like to make an opening statement?

Mr GORDON: Yes. First up I should point out I am rather deaf, unfortunately. I represent the Residents Action Group for Auburn Area. We are a group whose reach goes back to the 1970s when we started a little group called Berala Committee for Better Townhouse Code, which has been a total failure. The Residents Action Group for Auburn Area is a registered local government political party and we have been successful in contesting elections since 1995. We presently have one councillor. We have had two on previous occasions. We mainly started up out of a couple of public meetings which were held when the prospect of overdevelopment, mainly in the Auburn shopping centre high-rise, was coming on. There were two public meetings and about 200 people attended each. From that our organisation was formed. I was one of the founding members.

We have mainly been an environmental voice on the council until such times as the Greens got a representative on council. We are not totally opposed to high-rise or any development, which a lot of people think we are. But we draw the line between appropriate and inappropriate development. Being small people we are a local group and we do, of course, have a little bit of trouble getting money and funding. Otherwise we have been successful in four elections.

CHAIR: Mr Hammerton, do you have any opening comments?

Mr HAMMERTON: I come from Burwood Community Voice. We have existed for just over 10 years and we have a councillor on Burwood Council at the moment and we have over the last 10 years. We support public funding for reasons that are quite common and that you put in your issues paper. We think there is a need for a public funding model but we think at the same time we should have a whole look at the way that election campaigns are conducted for local government. We think that local government is quite different to State and Federal government because it is very much a parochial local area and the media attention, in terms of the city papers, the television and all that, is not really there in terms of providing information to the voters about what the local issues are. So we

have developed a model that we think is quite different but is really suitable for local government elections.

The other thing that I have found, and I have only been involved in local government for the last five years, is that at the last election it is amazing—and I have also done a straw poll with the people I work with, et cetera—that people go to local government elections not really knowing and not being informed about the candidates that are standing, for the obvious reasons that I have stated before. If we are going to have a democratic process we need to have informed voters, voters that know what the individual candidates stand for and are not just voting on issues saying, "I will just vote for that party because I always vote for that party" or "I will vote for that guy because I saw him on the corner the other day in the shopping centre and he said hello and he seemed to be nice to me", rather than what do they actually stand for and what they are.

So in terms of the model that we have developed we do not believe any candidate should independently issue any election material during an election campaign. It should all be done through an authority, whether it is the New South Wales Electoral Authority or the local council, and there will be three main ways in which election material or information gets to the voters. One would be that there would be a sort of newspaper that would be issued by this authority. It could be issued two or three times during the election campaign period—whether that is six weeks or eight weeks or whatever you want to make the election campaign—and each party and each candidate would submit material to go into that paper. You could base it on the fact that individual candidates could have a quarter of a page of that paper, and obviously groups, if they have got four candidates, they would have a whole page. Other than a basic criterion, people could put into that paper what they wanted in terms of their own election campaign or what information they wanted to provide the voters. That paper would be issued two or three times and candidates could change their information for each issue of the paper.

The other way that it would be done is that there would be a website. So for every local government area there would be a website and people could get on the website and each candidate could have a page on the website, again providing information about what they stand for and why you should vote for them. That website could obviously send people to their own group's or their own candidate's website, but there would be an official website. The third way that voters would get an understanding of their candidates would be that there would be forums held throughout the election campaign for all different areas of the council area, and depending on how big the area is you could have four or five forums; candidates would be asked to appear at those forums; they could present their case for five minutes and then the local residents could ask questions. I think many of the issues about public funding are really controlled by that model.

I cannot emphasise enough, firstly, that you would have much better informed voters when they go to vote for the candidates because all this material would be available. Secondly, in terms of controlling expenditure and in terms of producing a newspaper and having a website and having forums, I think the expenditure would be very much controlled. Also you would not have any need for external expenditure in funding that election campaign. The other thing is in terms of sorting the system. Again I think there is very much controlled.

I do not think there is an issue of people agreeing with public funding or even local government funding it because the ratepayers would know, "Here is our funding and here is what we are getting." What we propose will end up with a much better understanding of what material there is. People, especially in relation to local government, are sick and tired of all the material they get through their letterbox. Every voter would get one paper, and in that one paper they would be able to compare all the candidates and know exactly. Again our emphasis is on getting a voter to fully understand what the candidates stand for. I do not think it favours anyone. I think it is a very equitable system. It does not favour independent candidates and it does not favour major parties. At the end of the day, you will understand what the candidates are standing for.

CHAIR: I direct a question to both of you as representatives of both your organisations. Do you see the cost of campaigning as a barrier to small community-based political parties who are contesting local government elections?

Mr HAMMERTON: Yes, I do.

CHAIR: How do you raise funds for your campaigns?

Mr HAMMERTON: Basically we have a membership fee. First of all, everyone in the [BCV] is a volunteer. There is no payment to anybody in terms of their time. We get money or funds from having a membership fee. Obviously we have some expenses, such as administration expenses over every year in terms of postage and things like that. At the end of the day most of that membership fee will go into the election campaign. Our membership is only \$20 per year and we do not have a lot of members.

The other thing is that some members are prepared to donate money to get our campaign going. In general, we would feel that we do not have a lot of money to spend. We do not issue a lot of electoral material. What we go for is quality rather than quantity in making sure we use expertise in the group to ensure that we have good pamphlets to hand out. But we do feel restricted, especially compared to the major parties and the sort of funding that they have available and how they are able to get around. There are little things, too, that sort of annoy us in some ways. Some of the cost of printing our material and even printing the corflute signs is quite expensive because we have such small volumes. We can see that the bigger parties can get it really cheap because of the volumes and contracts they have across the whole or a lot of government areas.

CHAIR: Mr Gordon, do you have a view of those questions?

Mr GORDON: Following on from that: of course, we are rather strapped for cash, but we never go looking for more than what we expect to be able to raise. The way we run our campaign and do things is always at a low level. I have some rough figures showing that for our 2008 election, we had some money in hand when we started and we spent in cash \$4,122. The figure we gave before of approximately \$4,500 was a gross figure. I managed to get a discount on the printing which brought the price down, and that was declared as a donation-in-kind.

We had a barbecue, one only, and we got \$454. We ran three trivia nights, which gave us a total sum of \$1,548, and that was because we had the use of the room donated. That is now a problem which is coming up in the current legislation. Our cash donations for the period were \$966. So for \$4,500, that is the sort of thing we do and we can live with it. We get one or two people on. We would have expected to get two on this time, but we missed out by 16 votes. As pointed out in the submission, the Commissioner wanted \$13,000-odd for a recount. We did not think 16 was a figure on which that should be redone anyway.

The Hon. DON HARWIN: He would not even do it when someone won by one.

Mr GORDON: No. It was pointed out that for the previous election, the previous Commissioner did it for 300 votes at a cost, but a much smaller cost. We have always cut our cloth to suit what we can get, yet for that sort of money we can survive. As I pointed out in a submission, about \$6,000 would allow us to do things a bit better, particularly on voting day, which is the main problem. You are crowded out by signs and people. Everyone else uses corflute. We still do not do that. We use a rather downmarket method of doing it. With your permission, I will show you what we do.

This is what we did for the 2004 election. We put it over masonite or medium-density fibreboard [MDF] and stick them on a stake. It is all hand put together. It consists of two A3 sheets carefully joined up after having been duplicated. These I took off and we reuse them. We are still using the original boards we had from 1995, but these days, seeing that everyone else uses corflute and usually multicolour, we get lost. So we really need a bit more money to contend and carry on the same as other people.

But whereas some people spend a lot of money—\$30,000 or more—they really do not do much better. Our point of view is the fact that we do think that the Government regulates the local government elections, as well as local government all over, very firmly, and the Government should be the one to fund it, but the funding should be kept down to a reasonable level. Also, in answer to question 7, we made a point in our submission that electronic equipment could be used a lot to replace everything and do away with a lot of the stuff that comes around. We would agree on that.

Mr ROBERT COOMBS: Ian, correct me if I am wrong but in one of your proposals you state that basically you would like to see some independent authority issue campaign or election propaganda, and it would be limited to that.

Mr HAMMERTON: Yes.

Mr ROBERT COOMBS: Have you had that tested against any legal opinion?

Mr HAMMERTON: No, I have not.

Mr ROBERT COOMBS: I have to say to you that in all of the considerations we have heard, first and foremost we have not had that proposal put to us. Also we are very careful about constitutional rights and whatnot, so I am just interested in your response.

Mr HAMMERTON: No, we have not. I guess it is an idea. I admit that it is mainly my idea. I test it with people. Really the basis of it is trying to be aware of controlling the public funding for these campaigns and we think this does it. Plus I cannot emphasise enough that we are really trying to get the information out there to the voters so that they understand every candidate. In local government elections, you get a lot of independents and residents groups like us. I think it is really difficult for voters to really know the candidates. Maybe for the Labor Party, the Coalition, the Liberal Party and the Greens there is a greater understanding of what they stand for, but in terms of the independents and local residents groups, it is very hard for the residents to understand what we stand for. I guess that is what we are about.

Mr ROBERT COOMBS: Basically you are trying to say that you support the public funding model on whatever basis.

Mr HAMMERTON: Yes.

Mr ROBERT COOMBS: I think you are also trying to say that it should not be too generous, but there is a requirement to get information out there.

Mr HAMMERTON: Yes.

Mr ROBERT COOMBS: I must say that we have had to consider these issues at a number of levels. Our learned friends tell us that to put a total prohibition on donations to political parties or independents standing for political positions probably flouts the Australian Constitution. The proposal that you have put forward might indeed fall into that category.

Mr HAMMERTON: You see, I see that there is freedom in it for people to put out whatever information they want. All I am trying to do is put it into one context on a website, which is obviously where a lot of people go to now. There are a lot of people who are now saying that if you read it all, the social media on the web is the way to go, especially for the younger generation who are looking for information. I guess what I am saying is, "Let's do that for local government elections", and that you can do that in a controlled way and in a way that confines expenditure. The other thing was of the newspapers. It is just saying that you can put whatever you want in that newspaper in your space that has been allocated to you, but it is all in that one paper. One of the benefits I see is that someone can open a paper and say, "Who do I want to vote for?" I can go through every party in the one thing and find it out.

What you find with local government is that local papers—obviously you do not get the issues in the city media—do not have a lot of articles about local government elections because of a lack of resources. For example, the local Burwood paper does not want to get involved in politics to that degree. Obviously, they do not want to put anyone off. They want it more just as an information-type paper. They might have very short stories and confine stories just to when the election campaign is on. Other than that, there is nothing in them.

Mr ROBERT COOMBS: One of the difficulties with which we are trying to grapple is the different types of councils in different areas.

Mr HAMMERTON: Yes.

Mr ROBERT COOMBS: I think you are right about city-based areas. Even in regional-based areas it is very difficult and newspapers generally do not pick up. They are interested in who is the mayor, and that is about it. But as they understand it, in the bush it is very different. The bush candidates get fair access to newspapers and articles.

Mr HAMMERTON: Yes.

Dr JOHN KAYE: Mr Hammerton, with your proposal for an election campaign paper, would there be any entry requirements about?

Mr HAMMERTON: No.

Dr JOHN KAYE: Could every candidate be in there?

Mr HAMMERTON: Every candidate would have the right. As I said, you could establish some sort of criterion that would say that for every candidate you can put in information that would go in at a quarter of a page, whatever size that it would need. Depending on how many were in your group, you could have a whole page so you could have for all of that particular group a whole page of material. Everyone that puts themselves up for election would have the right to put information in that paper. Whether they do it or not is up to them.

The material could be anything from someone just having a black and white piece saying, "I am the candidate and this is what I stand for", to obviously other groups having much more colour, a slogan and an emblem and all that sort of stuff. There is a whole variety.

Dr JOHN KAYE: For argument's sake, the "Totally Silly Party", that will get two votes—the bloke and his mother—would get the same space as a resident action party that has broad community support?

Mr HAMMERTON: Normally a resident action party—and we stood for candidates at the last election—would get a page, and if the "Silly Party" stood four candidates, they could. But again it forces them to put information there to the voters. Without naming names, there are independent candidates that have been elected. There is one near Burwood and the reason he got elected is basically because he stood on the corner with a sign and made a lot of noise for a long period of time. He went into council, made a mess of it and has resigned. I spoke to someone who voted for him and they said, "Oh, he seems a nice guy. I see him all the time down at the station."

What I am trying to do is say, "Okay, you might see him, but what does he actually stand for?" Here is a space in this paper for candidates to state what they stand for. If a candidate represents the "Silly Party" and puts down a whole lot of things they stand for, but at the end of the day when they get into council they do not do anything about it, there is some accountability there.

Dr JOHN KAYE: Mr Hammerton, in a council where, for example, they are electing nine candidates, would you give all nine candidates on a ticket the same allocation of space as you give to an individual independent? For example, suppose there is a resident action group that has nine candidates—

Mr HAMMERTON: Right, okay.

Dr JOHN KAYE: —and they are in a group or on a ticket of nine, with No. 9 having no likelihood of being elected.

Mr HAMMERTON: You could have a maximum. Every candidate would get a quarter of a page and a group of more than four candidates would get only one complete page in the newspaper. You could have some rules like that. The maximum could be a page and the minimum could be a quarter of a page.

The Hon. DON HARWIN: Your model is very interesting, but I do have some concerns. First, by removing the capacity for the candidates to spend money, rather than privileging the central actors in an election campaign, you would in effect potentially allow other players who are not central actors to play the largest role in terms of influence. In particular, for example, if a local newspaper editor had a particularly strong agenda in terms of potential candidates that he or she was pushing through the editorial pages, no candidate would have the capacity to spend money to respond. Secondly, I am also concerned about the role that third parties could play under your model. For example, if Westfield wanted to spend \$10,000 opposing a particular slate of candidates and it put out material talking about the candidates, again, those candidates would not have any means of responding. Could you address how those potential problems might be mitigated under your model?

Mr HAMMERTON: I will start with the third party issue. Third parties would not be permitted to put out election material. No-one, whether it was the candidate or a third party, could put out election campaign material. They could not do a letterbox drop, put ads in newspapers or things like that. That is the way I would overcome the third party issue. Westfield might put up posters, and there is an issue as to whether you could legally prevent that. Obviously that needs to be examined; that is, whether what you do in your shopping centre is beyond the control of legislation. The basis of the idea is that no-one could issue election material except through this authority that puts it in the election campaign newspaper. I have had another thought—you can see that this is a developing idea. The newspaper could end up being free. You referred to Westfield. You could have a few pages in the newspaper carrying advertisements for products—not election material—and that revenue could fund the newspaper and thereby reduce public funding.

The only comeback that I can think of in terms of editorials is that a candidate can obviously write a letter to the editor. Whether the editor chooses to publish it is obviously beyond their control. Again, that is a point. However, there are other forums. For instance, if Westfield came out with some stuff or the local newspaper came out with stuff against a candidate, because the election campaign newspaper would be issued two or three times during the campaign a candidate could use his or her space to say, "Vote for me, and by the way what has been said about me is completely wrong." They could respond in their space in the newspaper.

CHAIR: On behalf of the Committee, I thank you for your submissions, the thought you have put into them and your contribution to the hearing today. I appreciate your thoughts and thank you for appearing. I also thank the Hansard staff for reporting the hearings and acknowledge the committee staff for their help with the issues paper and production of the papers and for looking after us through this process.

(The witnesses withdrew)

The Committee adjourned at 12.49 p.m.