

TO RACETS L

Local Government
Association of NSW



Shires Association of NSW

Our ref: R94/0113.dh Out-15980

21 April 2008

Revd the Hon Fred Nile MLC
Chairman
Select Committee on Electoral and Political Party Funding
Parliament House
SYDNEY NSW 2000

Dear Revd Nile

Select Committee on Electoral and Political Party Funding

We refer to a question taken on notice by Cr Bruce Miller, President of the Shires Association of NSW when appearing at your inquiry concerning which councils have implemented ICAC's recommendations for codes of conduct.

In response to your question we surveyed the 152 general purpose councils in New South Wales by email dated 10 April 2008, attention to the General Manager, as follows:

"The Upper House Select Committee on Electoral and Political Party Funding has asked Cr Bruce Miller, President of the Shires Association, which councils have amended their code of conduct in accordance with ICAC's recommendations.

Last year ICAC produced a position paper on corruption risks in New South Wales in government approval processes and recommended that the model code of conduct be amended to provide clear instructions to councillors on matters pertaining to campaign donors. It also recommended that candidates for local government be required to publicly disclose donations in the period leading up to an election.

(We) would be grateful if you could indicate by return email whether your council amended its code of conduct to reflect ICAC's recommendations, and if possible, forward details of these amendments."

To date 49 councils from all regions of the state have responded to the Associations' request.

In summary, most councils have not amended their code of conduct to reflect ICAC's recommendations. Most councils were aware of the recommendations, however, and as we advised, the Associations had both endorsed the recommendations in principle and encouraged councils to consider adopting them.

As you are aware, the Department of Local Government is undertaking a review of the model code of conduct. A number of councils advised that they were awaiting the outcome of the Department's review before either commencing or completing their own review. In a few cases, council's review was well advanced or completed, but awaiting the Department's review before proceeding. Further, some councils advised that they were obliged to wait for the outcome of the Department's review before undertaking their own review, and that it was inadvisable for their code of conduct to be non-compliant with the model code.

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Where a council had amended its code or responded to ICAC's recommendations, this was generally by way of incorporating non-pecuniary interest provisions similar to those of North Sydney Council, which have been provided to you, or by way of reference in their code to ICAC's recommendations, or by bringing ICAC's recommendations to the attention of councillors and staff. For example, some councils included a link to ICAC's position paper in their code and other information to councillors and staff, or provided a copy of the paper to councillors and staff, or made ICAC's paper available for inspection.

The question of how, when and to what extent a council's code of conduct may differ from the model code needs to be resolved and may be an area for further deliberations on the part of your inquiry.

In advising that they were awaiting the outcome of the Department's review before making their own review, some councils pointed out that ICAC's recommendations were directed at the Department of Local Government and not at councils, and that it was ICAC's intention that the Department amend the model code as a pre-requisite for any council proceeding.

Our review of ICAC's recommendations numbered 20, 21 and 22 supports the view of some councils that they are directed at the Department of Local Government and that following the Department's review and amendment of the model code, councils would then be required to comply with these amendments. In our view it is reasonable for councils to conclude that the Department's review is a pre-requisite for their own reviews, but we are unaware that a council is precluded from making its own review and amendments so long as the resultant amendments comply in principle with the model code. It is our view that councillors and staff should be made aware of all information which can assist them understand and implement their obligations under their codes of conduct, and many councils publicised ICAC's position paper as did the Associations.

Some remote rural councils advised that donations to candidates for election to council were so small and infrequent, or even non-existent, that in their view ICAC's recommendations had limited relevance to their codes.

The Associations have participated in the Department's review of the model code. The most recent draft code produced by the Department's review available to the Associations is dated July 2007 and ICAC's recommendations were released in September 2007. We have expected the completion of the Department's review for some months and you may wish to seek the Department's advice regarding the timing of its review and how it has addressed ICAC's recommendations.

Thank you again for extending the opportunity to give evidence to your inquiry. Please contact us if we can provide you with further information.

Yours sincerely



Cr Genia McCaffery
President
Local Government Association of NSW



Cr Bruce Miller
President
Shires Association of NSW