

## **INQUIRY INTO CONDUCT OF ELECTIONS IN NEW SOUTH WALES**

**Organisation:** Local Government NSW

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DRAFT SUBMISSION

# INQUIRY into the CONDUCT of ELECTIONS in NEW SOUTH WALES

JULY 2022

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

## OVERVIEW OF THE LOCAL GOVERNMENT SECTOR



Local government in NSW employs more than **55,000 people**



Local government in NSW looks after more than **\$136 billion of community assets**



Local government in NSW spends more than **\$1.9 billion each year on caring for the environment, including recycling and waste management, stormwater management and preserving and protecting native flora and fauna**



NSW has 450 council-run libraries that attract more than **34.8 million visits each year**



Local government in NSW is responsible for about **90% of the state's roads and bridges**



NSW councils manage an estimated **3.5 million tonnes of waste each year**



NSW councils own and manage more than **600 museums, galleries, theatres and art centres**

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# OPENING

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

LGNSW welcomes the opportunity to make a submission to the Inquiry into the conduct of elections in NSW.

This is a draft submission awaiting review by the LGNSW Board. Any amendments will be forwarded in due course.

## INTRODUCTION to LGNSW's POSITION

Councils and communities welcomed the opportunity to go to the polls in 2021 after significant disruptions caused by COVID-19, strengthening local democracy in the largest single local government electoral event since 2012.

However, councils have raised a number of concerns regarding the conduct of the elections, and most disappointingly the failure of three electoral contests due to iVote system issues.

As such, LGNSW greatly welcomes the establishment of this inquiry, and indeed wrote earlier to the Minister and the Chair of the Joint Standing Committee on Electoral Matters seeking that such an inquiry be held.

This submission reflects feedback from elected members received by LGNSW during the local government election period and post-election.

At the LGNSW Special Conference on 1 March 2022, councils resolved:

*17 – Northern Beaches Council – Conduct of the 2021 local government election*

*That Local Government NSW:*

1. *Formally expresses its concerns to the Minister for Local Government, the Hon. Wendy Tuckerman MP, for the way in which the 2021 NSW local government election was conducted. Specifically, but not limited to:*
  - a. *Inconsistent and incorrect information on how to vote above and below the line given by officials.*
  - b. *Inconsistent application of rules at pre poll and election day polling booths.*
  - c. *The significant changes to the electoral rules and processes and communication of these changes.*
  - d. *Lack of transparent health advice justifying the measures implemented:*
    - I. *no 'how to vote' cards handed out within 100m of a booth*
    - II. *setting up corflutes before 7am and not touching them until after 7pm.*
  - e. *iVote technical issues including its failure on election day; technical issues with the online nomination online management system (NOMS) process of nominations.*
  - f. *Consistent technical failures during pre-poll.*
  - g. *Lack of action from the Electoral Commissioner regarding complaints of breaches of the rules.*
2. *Requests the Minister conduct an urgent and independent review of the recent election to:*
  - a. *Ascertain the experiences of councils and candidates during the election, particularly their concerns around staffing, process, technology, and communication.*
  - b. *Consider the best practices of other jurisdictions in conducting elections, including during the pandemic.*
  - c. *Produce recommendations or suggestions on how to improve the election processes moving forward, including during pandemics.*
3. *Refers the resolution to the NSW Joint Standing Committee on Electoral Matters.*

LGNSW's [Position Statement on Elections and Democracy](#) is available in our Position Platform (page 23).

# RESPONSE to TERMS of REFERENCE

## TERMS OF REFERENCE

1. That a select committee be established to inquire into and report on the conduct of elections under COVID-19 conditions by the NSW Electoral Commissioner, including the local government elections held on 4 December 2021 and the four New South Wales by-elections held on 12 February 2022, with particular reference to the appropriateness of similar settings in a general election, including:
  - (a) the COVID-19 restrictions that were in place for the conduct of these elections and any implications that had for the conduct of the elections,
  - (b) the issuing of postal votes in both elections to all registered voters in the four New South Wales by-elections and the rationale for doing so, the administrative arrangements and processes employed to support this, and any implications for the conduct of the elections,
  - (c) the adequacy or otherwise of material alerting voters to the upcoming by-elections and explanatory information provided in languages other than English,
  - (d) the use of the iVote system in the local government elections, the performance of that system and its implications, and future arrangements for use of the iVote system, including the possibility of a replacement software system, and
  - (e) any other related matter.

### a. COVID restrictions for the elections and their implications

*This section responds to the COVID-19 restrictions that were in place for the conduct of these elections and any implications that had for the conduct of the elections.*

Councils and councillors raised a range of concerns around the impact and administration of COVID-19 restrictions for the 2021 local government elections.



Multiple queries were sent to LGNSW, and these were (appropriately) forwarded to the NSW Electoral Commission and Office of Local Government for response.

### Uncertainty

Councillors have noted that uncertainty around whether campaigning activities would be permitted during COVID-19 restrictions impacted their ability to plan for the election. The democratic process relies in part on the ability for candidates, their volunteers and voters to engage in public places in advance of an election. There was a degree of uncertainty as to whether campaigning activities would be permitted by NSW Health, and whether candidates should expend funds on printing handouts, corflutes and posters. It was also unclear to candidates whether letterboxing of candidate information or affixing corflutes was permitted during stay at home orders, if carried out alone or in pairs.

This uncertainty and a lack of clear guidance led to inconsistent understanding of electoral provisions, breaches of provisions and an unwillingness to spend limited funds booking advertisements, postal distribution dates and printing.

### 100m restriction on handing out electoral material

In October 2021, the NSW Electoral Commissioner issued two new directions applying to the 4 December local government elections, using powers under the Local Government (General) Regulation 2021. The aim of these directions was to reduce the risk of COVID-19 transmission between electors, election officials and candidate/political party volunteers.

These directions included that:

- Campaign workers for the December 4 council elections would not be allowed to hand out how-to-vote material within 100 metres of polling booths or pre-poll centres.
- Posters would also be banned within the same distance unless they are put up before 7am and not adjusted or altered in any way until after 7pm.

Councils expressed concern that this limitation would prevent supporters of candidates from performing their campaigning function of delivering how-to-vote cards, harming the ability of electors to be properly educated and informed before casting their ballot. LGNSW received feedback that some voters had expressed to candidates that they were hoping how-to-vote posters would be hung inside the polling place. One Councillor reported that the inability to hand out how-to-vote cards disenfranchised older people and those with hearing difficulties and how she felt deeply embarrassed as a candidate that this discrimination occurred.



Some councils also pointed out that the messaging in the lead up to the elections was confusing and contradictory as, although how-to-vote cards were not allowed to be handed out, candidates and their representatives were still allowed to stand outside pre-polling and polling booths. Candidates and their representatives could also hand out how-to-vote cards at distances greater than 100 metres which also caused confusion regarding the susceptibility of virus spread at different distances. This meant that candidates reported voters and volunteers questioning whether the rules were based on health advice. Many people noted that the set-up of campaign material was occurring in the open air where it was well-known that the risk of the spread of COVID-19 is significantly less. More information about the risk assessments informing the COVID-19 rules would have helped ensure compliance and understanding.

There was also significant confusion as to whether the 100m was measured from the door of the building in which voting took place, or rather was from the gates of the grounds in which that building was located. For polling places in regional and rural areas, there was also concern that a distance of 100m from the polling place may force campaigners out onto a major road where it was not just unsafe to stand but also impractical in terms of electors driving and parking far closer than 100m to the polling place. At some polling places, such as within certain school grounds, voters were able to be handed how-to-vote material because the entrance to the school was 100m from the entrance to the polling place within the school. In other areas, they were not. This led to inconsistencies where even within the one ward, voters had different access to information and material before going into vote, depending on which polling place within the ward they attended. It is unclear how this affected the election outcomes.



**Recommendation 1:** Should circumstances require last minute changes to electoral rules, these must be communicated clearly and rapidly to ensure consistent understanding and application of the rules across NSW.



**Recommendation 2:** The strong preference from the local government sector to allow the handing out of how-to-vote cards, and the expectation of voters to have access to these, should guide the rules in future elections.

## b. Postal votes

*This section responds to the issuing of postal votes in both elections to all registered voters in the four NSW by-elections and the rationale for doing so, the administrative arrangements and processes employed to support this, and any implications for the conduct of the elections.*

While this particular point of the Committee's terms of reference relates to NSW by-elections and not the NSW local government elections, LGNSW reiterates its long-standing position in opposition to universal postal voting. This position was re-confirmed through resolution 16 of the LGNSW 2020 Annual Conference:

*16 – Georges River Council – Protecting democracy at the 2021 local government elections*

*That Local Government NSW:*

- 1. Calls for the NSW Government to protect local democracy by ensuring councils and communities retain choice in their method of voting to encourage more people to participate in the electoral process.*
- 2. Calls for the NSW Government to ensure local government elections are conducted in a manner as similar as possible to State elections to make democratic participation simple for voters and support voter turnout.*
- 3. Opposes the introduction of universal postal voting which risks disenfranchising voters through discouraging voter participation and diminishing the status of local government.*
- 4. Calls for the NSW Government to fund any increase in the costs of local government elections beyond the rate peg imposed on councils.*

Public participation and citizen engagement are a fundamental tenet of democracy and open government. In line with international best practice, citizens should be given access to a range of ways to participate in decision making in order to maximise participation and minimise marginalisation.

Voting should be convenient and easily accessible to ensure the greatest turnout possible in support of local democracy. Postal voting and online voting as options for electors alongside attendance voting encourage more people to participate in the electoral process. The Electoral Regulation Research Network commissioned a 2018 report, Implications of Changes to Voting Channels in Australia, which found that:

*Voter convenience is greatest when multiple voting channels are available to all citizens at all times and places that allow for easy access. It is smallest when there is a single voting channel for all citizens accessible at restricted times and places.* [Smith et al, Implications of Changes to Voting Channels in Australia: A research report commissioned by the Electoral Regulation Research Network, December 2018, available at: [law.unimelb.edu.au/centres/errn/research/research-projects/implications-of-changes-to-voting-in-australia-project](http://law.unimelb.edu.au/centres/errn/research/research-projects/implications-of-changes-to-voting-in-australia-project).]

In November 2020 LGNSW welcomed the NSW Government's announcement ruling out universal postal voting for council elections, in a win for grassroots democracy.

Councils are passionate about ensuring communities have every opportunity possible to take part in the democratic process, and a postal-only model would be a disadvantage to some voters.

The NSW local government sector's position has been vindicated with publication of turnout figures showing that voter participation increased for the 2021 NSW local government elections, with informal votes also falling.

### *Turnout and informal vote rates for recent local government elections in NSW*

	2016 LG elections	2017 LG elections	2021 LG elections
Turnout rate	78.55%	80.28%	83.56%
Informal votes	6.05%	6.73%	5.47%

Source: NSW Electoral Commission [Report](#) on the Conduct of the 2021 NSW Local Government elections



**Recommendation 3** Should circumstances require last minute changes to electoral rules, these must be communicated clearly and rapidly to ensure consistent understanding and application of the rules across NSW.

### c. Adequacy of materials in languages other than English

Councils support that how-to-vote material should be provided and made available to Non-English Speaking Background (NESB) communities. Consideration should be given to videos and infographics to spread election messages to those who may speak other languages or have low literacy. LGNSW acknowledges the work of the NSW Electoral Commission (NSWEC), as described in its [election report](#), in preparing materials in other languages, with voter turnout increasing since last election and with lower informal votes.



**Recommendation 4:** To ensure messaging can reach people who speak a range of languages, infographics, in addition to translations, should be used in voting information.

### d. iVote and its performance

#### iVote failure

LGNSW is supportive of the introduction of iVote as an alternative option for electors in council elections but does not support mandatory use of iVote or councils conducting elections exclusively by iVote. LGNSW's support for iVote is contingent on iVote operating reliably and resulting in reduced costs for council elections.

This position was established through a resolution of the 2019 LGNSW Annual Conference:

*113 – Lismore City Council – Online voting and e-democracy*

*That Local Government NSW requests that the NSW Government:*

- 1. Makes grant funding available for councils to trial online voting and e-democracy platforms to assist in the long-term reduction in cost per elector; and*
- 2. Urgently explores the legislative reform required to implement online voting and e-democracy initiatives in local government.*

LGNSW acknowledges that the NSWEC is on the record having made repeated requests to the NSW Government for additional funding in the lead up to the 2021 local government elections, noting that savings measures imposed on the NSWEC would entail an increased risk of failure of election events. LGNSW has previously echoed the NSWEC's requests (including in submissions to the NSW Parliament's Public Accountability Committee), calling on the NSW Government to adequately fund the NSWEC [Public Accountability Committee Inquiry into the budget process for independent oversight bodies and the Parliament of New South Wales, [Hearing Transcript](#), 12 December 2019; and NSWEC submission 18 November 2019.]

This is critical to ensuring the health of local democracy. Adequate funding to the NSWEC will also help ensure appropriate measures are in place to eliminate online voting fraud.

So, it was extremely disappointing, but unfortunately not surprising, that iVote system issues resulted in the elections for Kempsey, Singleton and Shellharbour Ward A being declared void by the Supreme Court in early 2022. Failed electoral events can result in a serious loss of public trust for local democracy. Through no fault of their own, councillors and candidates for the impacted elections are now unjustly associated with this failure and have become subjects in the Supreme Court. In one example, a Councillor has told LGNSW that due to iVote issues declaring her election to Council void, she is questioning whether she should participate in politics in future years.

LGNSW acknowledges that earlier this year the NSW Premier announced that key integrity agencies, including the NSWEC, would be exempt from efficiency dividends that are imposed on all other state government agencies. This is a welcome first step, but more is needed to ensure the NSWEC is funded and equipped to securely and reliably deliver elections.

LGNSW does welcome the NSWEC's advice that the three impacted councils will not have to fund the costs of holding new elections, as well as the announcement that the NSWEC will be contacting participants in the affected elections to invite them to apply for act of grace payments to cover the costs of incurred electoral expenditure.

LGNSW's Policy Platform makes clear that the NSW Government should ensure councils and communities retain choice in their method of voting. [[LGNSW Policy Platform](#), Position 16.5, April 2022]

It is fundamental to the health of Australian democracy that as many electors as possible are able to cast their ballot. For this reason, LGNSW does not support limiting access to voting, such as through imposing universal postal voting. As a principle, elections for local government should be conducted in a manner as similar as possible to State elections to make democratic participation similar for voters and to support voter turnout.

To this point, the NSW Government has now announced that iVote will not be available for coming local government by-elections and the coming 2023 state general election. While this is perhaps understandable given the experience of the 2021 local government elections, it is disappointing and worryingly this move may disenfranchise some voters, or deny the possibility of some voters casting a secret ballot. For example, Vision Australia has noted that:

*Blind and low vision voters will be denied the ability to vote independently, secretly and verifiably at the 2023 state election unless the NSW Government takes urgent action.*

*The NSW Electoral Commission has suspended the use of iVote until after the 2023 election, removing the only option for many people who are blind or have low vision had to cast an independent, secret and verifiable vote without the involvement of a third party.* [Vision Australia, [Media release](#): NSW must restore equal access to voting for people who are blind or have low vision, 18 March 2022.]



**Recommendation 5:** The NSW Government as a matter of urgency must ensure that the NSW Electoral Commission is adequately funded to deliver elections that are secure, reliable, and accessible to all electors, without cost shifting this responsibility onto local government.



**Recommendation 6:** The NSW Government must ensure that reliable technology-assisted voting is available for electors with additional needs to ensure they can cast their votes independently and secretly.

### Induction and training costs for councils impacted by iVote failure

Amendments to the Local Government Act 1993 in 2016 introduced for councillors a responsibility under section 232 'to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor'. Regulations now require councils to provide induction training and ongoing professional development for mayors and councillors.

As such, the three councils impacted by the voided elections will have to spend additional amounts on councillor induction and training, should differently constituted councils be elected at the new elections scheduled for 30 July 2022. It is not acceptable that these increased costs for training and inducting a new set of councillors be passed onto councils and thus ratepayers of Kempsey, Singleton and Shellharbour. Rather, the NSW Government should reimburse these councils for this additional cost.



**Recommendation 7:** The NSW Government should reimburse Kempsey, Singleton and Shellharbour for duplicated induction and training costs that have resulted from iVote system issues and the voiding of the three electoral contests.

#### e. Any other related matter

##### Cost of local government elections

In the lead up to the 2020 local government elections (before they were postponed to 2021) councils received significantly increased cost estimates from NSWEC for the cost of the elections. (Under the NSWEC's current funding model, councils are required to meet most of the costs of conducting their elections).

Compared to the 2016 and 2017 elections, councils received quotes from the NSWEC that were up to (and in some cases more than) 100% higher and that could not be explained by price inflation or population growth.

For example, Cobar, Leeton, Oberon and Snowy Valleys councils all received quotes that were more than double the cost of their previous election, while for Dungog, Temora and Walgett the increase was greater than 75 per cent. Meanwhile, Canterbury-Bankstown's increase was more than \$350,000 and Central Coast Council's increase is greater than \$540,000.

There were also serious equity issues with the quotes councils received, which appear to penalise ratepayers in rural and regional NSW. The increases disproportionately impacted smaller rural and regional councils and communities.

It is LGNSW's position that elections and democracy are a fundamental public good that should not be more expensive for some ratepayers than others.

Councils in NSW operate in a constrained financial environment as a result of rate-pegging, cost shifting onto local government and state and federal funding arrangements that are no longer fit for purpose. Increased costs imposed on councils and ratepayers can force councils to cut other services for the community.

The NSWEC justified the increased cost, advising that invoices to councils had risen primarily as a result of increases in:



- **Staffing costs** – through lifting the pay rates for election staff and reducing the number of ballot papers each staff member must process per day to address WHS concerns.
- **Polling venue costs** – The NSWEC had signed an MOU with the NSW Department of Education which increased the rental costs for school halls by between 80% and 330%, depending on the size of the room or hall hired.
- **Ballot paper printing** – paper costs had increased by 30% since the previous round of local government elections.
- **Call centre** – The NSWEC advises that it did not renew its lease on a Riverwood warehouse that was used as a call centre and subsidised by the NSW Government. It will need to build a new call centre for the 2020 local government elections.

It is LGNSW's view that it is particularly inappropriate for the NSW Government to impose these immense fee increases for school hall rental. Councils across NSW provide substantially discounted fees to Department of Education public schools for the use of sporting fields and parks, saving the NSW Government millions of dollars each year. The NSW Government should also recognise the importance of local democracy as a public good rather than a revenue raising opportunity, and reverse the Department of Education's massive price increases for hall hire.



**Recommendation 8:** For future local government elections the NSW Government must reverse the Department of Education's massive price increases for hall hire.

Following sustained LGNSW and council advocacy, the NSW Government (and IPART) announced a series of temporary measures to combat the soaring cost of local government elections, including:

- September 2019 – a \$19.9m grant to the NSWEC to ensure councils would only be asked to pay direct election costs
- September 2020 – IPART announced that the cost of local government elections would be included in the Local Government Cost Index for the first time, with 0.2% of the increase in the rate peg intended to cover the cost of the elections.
- November 2020 – The NSW Government announced that \$57m had been allocated to cover any additional cost to ensure the (now postponed) elections were COVID safe.

Despite these announcements, councils continue to be invoiced significant costs for their elections. As an example, Weddin Shire Council (with fewer than 3000 electors) has seen significant invoice inflation for its most recent elections.



*Weddin Shire Council – Cost of recent local government elections*

Election year	2012	2016	2021	2022 (countback election)
Total election invoice from NSW Electoral Commission	\$24,301	\$27,335	\$48,596 (with COVID subsidy) \$78,958 (if COVID subsidy had not been applied)	\$14,544 for an uncontested election (i.e. there were four candidates for four vacancies).

Weddin Shire Council is among the smallest councils in NSW, and every dollar spent on election costs is a dollar that cannot be spent on essential community services and infrastructure. The \$14,544 for the cost of the 2022 countback election is particularly difficult to understand given there were just four candidates for the four vacant positions, and the number of votes for each candidate were in the tens or hundreds.

In the long term, a more sustainable arrangement for local government election costs is needed. The NSW Government restricts council rate rises to the local government rate peg each year. In recent years this peg has been well below the price inflation evident in the NSWEC's election costs.

Indeed, at LGNSW's 2019 Annual Conference councils resolved to call on the NSW Government to ensure that the NSWEC not be permitted to increase the cost of conducting local government elections for 2020 and all future local government elections by more than the rate cap limit imposed on local government rates.



**Recommendation 9:** The NSW Government must adequately fund the NSWEC to minimise the financial burden on councils and ratepayers and ensure local government elections are conducted efficiently and cost effectively and do not result in inequities between ratepayers and communities in the price of maintaining democracy.



**Recommendation 10:** The cost of local government elections charged to councils must not be permitted to increase by more than the rate peg imposed on local government. Any increase beyond this amount must be met by the NSW Government.

### Fine revenue from non-voting

The NSW Government collects significant fine revenue for non-voting in local government elections. LGNSW has long called for this revenue to be used to offset the costs of local government elections, rather than being returned to NSW Government consolidated revenue. Most recently, councils again resolved at LGNSW's 2019 Annual Conference to call on the NSW Government to address this matter. [LGNSW Annual Conference Resolution 114 of 2019.]

In 2014 the Joint Standing Committee on Electoral Matters also supported the concept of returning fine revenue to councils for electors that fail to vote in elections, stating:

*Councils currently use the State Debt Recovery Office for fines issued by Councils for breaches of local by-laws and receive the corresponding revenue. Given that councils are paying for the conduct of their elections, they should similarly receive any corresponding fine revenue that accrues from this exercise.* [Joint Standing Committee on Electoral Matters, Report on the 2012 Local Government Elections, March 2014 p. 27.]

While figures for the 2021 local government elections are not yet available, annual reports of the NSWEC from the last rounds of local government elections indicate that:

- In 2017-18 the NSWEC issued almost \$26 million in fines for failure to vote and received almost \$5 million in paid fines. [NSW Electoral Commission, Annual Report 2017-18, p. 105]
- In 2016-17 the NSWEC issued almost \$24 million in fines for failure to vote and received more than \$4 million in paid fines. [NSW Electoral Commission, Annual Report 2016-17, p. 89]

While the NSWEC annual reports do not elaborate on which elections resulted in these fines, given there were no State Government general elections during this period, it is reasonable to assume that the bulk of this revenue was generated from the 2016 and 2017 local government elections.

Even noting that a substantial proportion of fines appear to remain unpaid, paid fine revenue for the 2016 and 2017 local government elections appears to amount to \$9 million, which would represent a substantial proportion of the cost of local government elections.



**Recommendation 11:** Significant fine revenue from non-voting at local government elections must be used to offset the costs of local government elections, rather than returned to NSW Government consolidated revenue.

### Pre-polling

At the LGNSW 2018 Annual Conference, councils made the following resolution:

#### *84– Gunnedah Shire Council – Duration of pre-polling*

*That Local Government NSW petitions the NSW Government to change the Local Government (General) Regulation 2005 to shorten the pre-poll voting period to the period including the Saturday to Friday of the week before Election Day.*

Members have recently reiterated to LGNSW that the length of time available for pre poll is unnecessary. Unlike, State and Federal candidates who are

renumerated on a full-time basis, council candidates take time off work and do not typically have the resources to be able to operate two pre-poll booths for two weeks.

Councils have also found the number of pre-poll locations to be unnecessary. A suggestion has been that pre-poll booths should be reduced to one booth per ward to more easily allow councillor candidates to be present.

As mentioned earlier in this submission, the 2021 elections had a new rule that “posters would also be banned within 100m of a polling place unless they are put up before 7am and not adjusted or altered in any way until after 7pm”. This created strain on candidates and volunteers during the long pre-poll period. One Council explained that for those pre-polling over a two week period, this rule about setting up and collecting corflutes/posters placed a great strain on campaign volunteers, particularly if the location was situated at a great distance from the volunteer’s home. In practical terms the rule meant that campaign volunteers were required to work longer hours than previously to collect, remove and pack the corflutes up and transport them away from the pre-poll premises. Due to the difficulties posed by these rules, it has been reported that some pre-polling places relaxed the rules which was seen as helpful for particular candidates and volunteers, but unfair for others. This suggested the rules were not fit for purpose. Realistic, consistent and easy to follow rules should be applied.



**Recommendation 12:** The pre-poll voting period should be shortened to the period including the Saturday to Friday of the week before Election Day.

### Disability accessibility

As mentioned earlier in this submission, inability to hand out how to vote cards caused difficulties for people who are less technologically savvy and to those with hearing difficulties. Additionally, Tweed Shire Council has identified issues with physical access and egress at polling places. At the February Council meeting, Tweed Shire Council resolved:

*“that Council requests that the NSW and Australian Electoral Commission does a visual audit of all venues listed as accessible to determine if they are in fact accessible for wheelchairs, scooters, double prams etc. This is pertinent due to several issues identified at the December Local Government Election venues.”*

Tweed Shire Council is seeking to confirm that polling venues meet the Disability (Access to Premises-Buildings) Standards 2010 (Premises Standards). The Disability (Access to Premises - Buildings) Standards 2010 (Premises Standards) stipulate that buildings must comply with regulations under the Building Code of Australia.

New buildings or those undergoing significant refurbishment or alteration must be made accessible, unless giving access would impose an unjustifiable hardship. Building designers, builders, owners, lessees and users of premises also have responsibilities and rights under the Disability Discrimination Act 1992.

With the failure of iVote, this placed a strain on less mobile members of the public who then needed to make the effort to attend a polling booth in person.



**Recommendation 13:** That the electoral rules and decisions about polling venues cater as much as possible to people with disability.

### Postponements

There were reports of Councillor fatigue with the postponement of the elections due to COVID-19 and frustration that the duty of service of Councillors was extended. One suggestion was that elections should only be postponed by six months. Some councillors with self-funded campaigns noted that the NSW Electoral Commission did not adjust the campaign expenditure cap, either in recognition of the very late postponement of the elections (many had already spent money on our campaigns for 4 September) and/or the additional costs incurred because of the COVID rules.



**Recommendation 14:** When decisions are made about whether to postpone elections, the financial and mental toll to candidates should be taken into account and minimised in the decision.

## CONCLUSION

The December 2021 local government elections were the result of two postponements due, unfortunately, to the COVID-19 pandemic. With the extra time for regulators to prepare, councils generally would have liked to see more preparation for the use of iVote, more evidence for social distancing measures and clearer messaging to the candidates and the voters. This submission reiterates that with more evidence, clearer rules, increased communication and adequate funding, some of the democratic inadequacies of the election may not have occurred. Ultimately, the financial costs of elections need to be reviewed so that hall hire is affordable, elections are conducted in a cost-effective manner, fine revenue for non-voting offsets the costs of elections and so that the costs of elections to councils do not increase more than the rate peg imposed on councils. LGNSW acknowledges that NSWEC has been severely underfunded, and this must also be rectified for future elections.

# RECOMMENDATIONS



**Recommendation 1:** Should circumstances require last minute changes to electoral rules, these must be communicated clearly and rapidly to ensure consistent understanding and application of the rules across NSW.



**Recommendation 2:** The strong preference from the local government sector to allow the handing out of how-to-vote cards, and the expectation of voters to have access to these, should guide the rules in future elections.



**Recommendation 3:** The NSW Government should not harm voter participation by imposing universal postal voting on communities.



**Recommendation 4:** To ensure messaging can reach people who speak a range of languages infographics, in addition to translations, should be used in voting information.



**Recommendation 5:** The NSW Government as a matter of urgency must ensure that the NSW Electoral Commission is adequately funded to deliver elections that are secure, reliable and accessible to all electors, without cost shifting this responsibility onto local government.



**Recommendation 6:** The NSW Government must ensure that reliable technology-assisted voting is available for electors with additional needs to ensure they can cast their votes independently and secretly.



**Recommendation 7:** The NSW Government should reimburse Kempsey, Singleton and Shellharbour for duplicated induction and training costs that have resulted from iVote system issues and the voiding of the three electoral contests.



**Recommendation 8:** For future local government elections the NSW Government must reverse the Department of Education's massive price increases for hall hire.



**Recommendation 9:** The NSW Government must adequately fund the NSWEC to minimise the financial burden on councils

and ratepayers and ensure local government elections are conducted efficiently and cost effectively and do not result in inequities between ratepayers and communities in the price of maintaining democracy.



**Recommendation 10:** The cost of local government elections charged to councils must not be permitted to increase by more than the rate peg imposed on local government. Any increase beyond this amount must be met by the NSW Government.



**Recommendation 11:** Significant fine revenue from non-voting at local government elections must be used to offset the costs of local government elections, rather than returned to NSW Government consolidated revenue.



**Recommendation 12:** The pre-poll voting period should be shortened to the period including the Saturday to Friday of the week before Election Day.



**Recommendation 13:** That the electoral rules and decisions about polling venues cater as much as possible to people with disability.



**Recommendation 14:** When decisions are made about whether to postpone elections, the financial and mental toll to candidates should be taken into account and minimised in the decision.