

INQUIRY INTO LOCAL GOVERNMENT AMENDMENT (ELECTIONS) BILL 2025

Name: Warwick Senjak and William Luu

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The Hon Emily Suvaal MLC
Committee Chair
Standing Committee on State Development
6 Macquarie Street
Sydney NSW 2000

COM25/2503

By email: state.development@parliament.nsw.gov.au

Dear Chair,

Inquiry into Local Government Amendment (Elections) Bill 2025

We thank you for the opportunity to make a submission to the Standing Committee on State Development for their inquiry into a Bill for an Act to amend the *Local Government Act 1993* to provide for matters relating to the administration of elections for local councils; and to make consequential amendments to the *Local Government (General) Regulation 2021*.

We wholeheartedly support the omission of ss 296AA–296B of the *Local Government Act 1993* (NSW) (the Act) and the insertion of a new s 296 which requires elections to be administered by the NSW Electoral Commissioner.

We believe that this is the right decision that will improve accountability and push NSW in the right direction. We will even present a theoretical explanation for how this might be the more efficient option for how NSW runs its local council elections. We also ask three questions of ourselves:

- 1) Should there be a private provider?
- 2) Who is the more competent election services provider?
- 3) Should local councils have a choice in election services providers?

For the purposes of disclosure, one of us have worked for the NSW Electoral Commission as a polling assistant during a local government election.

The Electoral Services Providers

Throughout our submission, we will compare the NSW Electoral Commission and the Australian Election Company (except when we delve into the theoretical realm). This is because we currently have a duopoly for local council election services. We believe it is expedient to familiarise ourselves with the electoral services providers.

The NSW Electoral Commission is a name shared by two entities. The first is a three-person statutory body made up of a chairperson who is a former Judge, the Electoral Commissioner¹ appointed under s 11 of the *Electoral Act 2017* (NSW), and a person with financial or audit skills and qualifications. This Electoral Commission has delegated its functions to the Electoral Commissioner and others.

The second is NSW Electoral Commission, an agency headed by the Electoral Commissioner which supports the three-person Electoral Commission. This agency is staffed by people employed within the New South Wales Electoral Commission Staff Agency made under Part 3 of Schedule 1 of the *Government Sector Employment Act 2013* (NSW)². The New South Wales Electoral Commission Staff Agency is under control of the Electoral Commission.

We understand why someone may find the nature of the NSW Electoral Commission complicated. For the purposes of this submission, we are referring to the work of the NSW Electoral Commission (the agency).

The private election services provider of choice for some local councils has been the Australian Election Company, a discretionary trading trust formally named “the Trustee for Kidd Family Trust Trading as Australian Election Company” with the ABN 58635903913. The Australian Election Company is based in Queensland and not the Great State of NSW.

Accountability

Accountability is vital for the organisation conducting our elections. We need to know who they are so we can have confidence in their services.

We posit that the NSW Electoral Commission is, by the virtue of being an agency that must adhere to the *Government Sector Finance Act 2018* (NSW) as well as other legislation, more accountable to the people of the Great State of NSW than the Australian Election Company.

¹ Under s 14 of the *Electoral Act 2017* (NSW), the Electoral Commissioner is not required to vote at any State or local government election.

² The *Administrative Arrangements Order 2014* replaced the Office of the New South Wales Electoral Commission with the New South Wales Electoral Commission Staff Agency. The old Office of the New South Wales Electoral Commission commenced on 1 July 2006.

We have searched high and low for the most recent annual report from the Australian Election Company. We have scoured their [website](#) to no avail. Unless proven otherwise, we claim that you cannot access and scrutinise the annual report of the Australian Election Company.

This should not be a surprise as the Australian Election Company is not obligated to make public its annual report. However, this means we cannot adequately scrutinise the Australian Election Company and its owners.

On the other hand, you can easily find the [annual reports of the NSW Electoral Commission on their website](#), including past annual reports from when they were the State Electoral Office. We can scrutinise the structure of the NSW Electoral Commission and have confidence that its staff do not have backgrounds that create the perception of a conflict of interest. We can see the NSW Electoral Commission's strategic plan and what they are doing to improve themselves. They even have a disability inclusion action plan despite not being required to by legislation! What measures towards disability inclusion or accessibility does the Australian Election Company make?³

The NSW Electoral Commission must adhere to the *Government Information (Public Access) Act 2009* (NSW). This means members of the public, especially citizens of the Great State of NSW, can request to access records held by the NSW Electoral Commission. If you would like to access "The name of the person appointed as the registered officer and the deputy registered officer respectively for the Shoalhaven Independents Group in respect of the period between 1 July 1999 and 1 July 2004", then you can do so by writing to the [NSW Electoral Commission's Right to Information Officer](#) as we have done.

If the Australian Election Company messes up, what avenue does the public have to see it improve?

If the NSW Electoral Commission messes up, it is incumbent on the NSW Government—itself sensitive to the whims of the public—to see the NSW Electoral Commission improve. If push comes to shove, the Governor can even suspend the Electoral Commissioner under s 4 of Schedule 2 of the *Electoral Act 2017* (NSW).

³ We acknowledge Submission 20 by the Charishma Kaliyanda MP, member for Liverpool, to the Joint Standing Committee on Electoral Matters inquiry into proposals to increase voter engagement, participation and confidence. Ms Kaliyanda notes that the Australian Election Company lacked resources for culturally and linguistically diverse people in 2024. We could not find any such resources on the Australian Election Company website at the time of writing this submission.

The Australian Election Company is not required to be as accountable or transparent as the NSW Electoral Commission. That is their right as a private discretionary trading trust. The NSW Electoral Commission needs the trust and confidence of the people of the Great State of NSW to do its job.

The Case for a Government-Owned Monopoly

We encourage a proper economist to confirm if our theory holds water. Our arguments are all theoretical as we do not have access to the information that would prove or disprove our hypothesis.

Should ss 296AA–296B of the Act be amended, the NSW Electoral Commission will become the monopoly provider of elections to local councils.⁴

Your first-year economics student could tell you that monopolies run inefficiently, setting high prices and not delivering enough services. A monopoly, due to the lack of competition, has no incentive to innovate and improve its services.

We believe this is not the case for the NSW Electoral Commission.

Suppose 126 of the 128 NSW local councils have contracted the Electoral Commissioner to administer their elections. A hypothetical private provider would need to bear their own temporary recruitment, IT, communications systems, transport, printing, and storing costs to administer the remaining two elections. On the other hand, the NSW Electoral Commission—serving 126 councils—benefits from economies of scale. The NSW Electoral Commission’s fixed and semi-fixed costs would be spread over a wider number of local councils. The cost of printing more ballot papers or recruiting more temporary staff should be lower than the private provider. In this scenario, the people of the Great State of NSW benefit from the efficiency from a monopoly provider.

Our scenario does not require the NSW Electoral Commission to be owned by the NSW Government. Instead, we suggest government ownership to keep the NSW Electoral Commission accountable and to promote the public interest. The current NSW Electoral Commission is not a for-profit entity and should stay that way.

Suppose we turn the duopoly into a market with the NSW Electoral Commission and five private firms.⁵ Aside from the ballooning fixed costs, we fear there would be great difficulty in the five firms managing to all

⁴ Excluding mayoral elections where mayors are elected by councillors.

⁵ We like the number 5.

establish trust with the people of the Great State of NSW to confidently run elections.

We also suggest that due to the nature of local government elections, there is a weak incentive to innovate. Local council elections have a small fixed market size⁶ and occur every four years. Neither of these factors are conducive to innovation, especially when we are in a duopoly market. When the private provider must operate entirely on short-term contracts and wait years for the next non-guaranteed local council job, there is a weak incentive to innovate for the long-term.

The monopoly provider would have the knowledge that they provide services to a future election. Since they are owned by the NSW Government, they can be encouraged to improve their services.

Election services are a specialised service that we cannot see there being a large market for. While a private provider may be quite good at what they are doing, if we are given the choice of a duopoly or a government-owned monopoly, we will take the monopoly.

Very few theoretical models survive first contact with reality, but we think there is an economic rationale for a government-owned monopoly for local council election services in the Great State of NSW.

Should there be a private provider?

We accept that this question is philosophical and not of economics. A private company should enjoy profit, especially if it can provide services in a more efficient way than its competitors.

Instead of answering the question above, we ask:

Should administering democracy in NSW be an opportunity for profit?

No.

At the end of the day, ratepayers' money is the public's money. When councils pay the NSW Electoral Commission—no matter the premium—that money remains with the public. When ratepayers' money goes to the Australian Election Company, that money lines the pockets of the Kidd Family Trust.

⁶ The number of local councils does not change frequently, nor do we expect it to continually grow.

Who is the more competent election services provider?

We will put our money with the NSW Electoral Commission for all its faults and delays. We do not deny the failure of iVote or the costs which have been adequately scorned by budget-conscious local councils.

We do not even negatively consider the lengthy delays the Hon Chris Minns MP, Premier of NSW, saw at Australian Election Company—provided services in Liverpool at the 2024 NSW local government elections. Mistakes happen, and we note councils were generally happy with the Australian Election Company. The NSW Electoral Commission is not infallible and will make mistakes in the future.

However, we still believe that the NSW Electoral Commission is in a better place to continually improve its services, invest in its systems, and conduct over 100 simultaneous local government elections at a reasonable cost.

As we mentioned previously, local council election services are such a specialised service. If you want the NSW Electoral Commission to innovate and improve, then the NSW Government should make it do so.

Should local councils have a choice in election services providers?

No.

Final Remarks

We commend this backflip by the NSW Government. Nathan Hagarty MP, member for Leppington, wrote a [petition to the Speaker and members of the NSW Legislative Assembly calling on the NSW Government to make the NSW Electoral Commission the sole provider of local government elections](#). We sincerely apologise to Mr Hagarty for not signing his petition as we were unaware of its existence until it was too late.

On 19 September 2023, the Hon Ron Hoenig MP, as Minister for Local Government, replied saying that the NSW Government wanted local councils to have access to other providers. Is the Local Government Amendment (Elections) Bill 2025 a backflip by the NSW Government? Or did Mr Hoenig wish to surprise us with a present before the next local government election?⁷ Nevertheless, we commend the NSW Government for taking on the Australian Election Company and doing what's right for the Great State of NSW.

⁷ We question if Mr Minns was convinced to make such an amendment following the delays in Liverpool at the 2024 NSW local government elections. Had those delays not happened, would Mr Minns have pushed for this change?

We thank you for the opportunity to provide a submission. If you have any questions regarding our submission, you can contact us at

I wish long life and happiness to the Chair and Committee, and are,

Your most faithful and obedient Subjects

Warwick Senjak

7 July 2025

William Luu