



**AUSTRALIAN
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The Research Director
Law, Justice and Safety Committee
Parliament House
BRISBANE QLD 4000

Dear Sir/Madam,

Re: A NEW LOCAL GOVERNMENT ELECTORAL ACT: REVIEW OF THE LOCAL GOVERNMENT ELECTORAL SYSTEM (EXCLUDING BCC).

Please treat this as a formal Submission to the Committee. My name is Richard Kidd and I am the Director/Principal of Australian Election Company. I make this Submission on behalf of Australian Election Company. Australian Election Company is an independent, professional, Ballot and Election Service Provider. I am able to be contacted through 1800 224 420, Fax (07) 3408 8722, and email address rkidd@austelect.com. I also invite you to peruse the Australian Election Company website at www.austelect.com.

Q6. Should the Electoral Commission of Queensland be responsible for the administration of the quadrennial local government elections or should this responsibility remain with Council CEOs?

My Company conducts Ballots & Elections Australia-wide and we possess in-depth appreciation and understanding of the formal requirements and resources underpinning the conduct of successful Queensland Local Government Elections. I personally contracted, funded, managed and organized the first fully out-sourced QLD Local Government Election, for Caboolture Shire Council, in March 2000.

I followed up, at the 2004 round of Quadrennial Queensland Local Government Elections, on behalf of my then employer, with the successful tendering, forms/documentation update, materials procurement, logistics, overall management and conduct of 10 major Queensland Local Government Elections, together with the Returning Officer recruitment, training, materials and equipment and distribution, supervision, control and reporting of the then 32 DATSIP Community Council Elections. So, under my control and supervision at the March 2004 Elections, 42 QLD Council Elections were successfully managed and professionally conducted.

The vast majority of materials that we utilized in the conduct of the 2000 and 2004 Elections (some 52 of them) were personal proprietary developments. During the lead up to the 2000 Caboolture Shire Elections, I had recognized a number of deficiencies in Local Government Election Procedures and in the (still existing) Local Government Election Prescribed Forms. My proprietary developments enhanced the quality, accuracy and overall accountability of QLD Local Government Election

outcomes. In short the developments make the Elections more defensible in the face of any possible Court challenges.

In 2004, the personnel that were used to conduct these Local Government Elections as Returning Officers were career experienced Returning Officers; they were not merely individuals with some ad hoc Returning Officer experience or “advanced” Polling Official capability. They were professionals. Australian Election Company has identified and maintains contact with a pool of such experienced personnel who are available to work.

Further, prior to the 2004 round of Elections, I was approached by the late Mr. Al Cormack of the Local Government Department, to prepare a re-write of the “Local Government and Planning-Returning Officer’s Manual.” Unfortunately, an internal decision was made not to proceed with the review; however I note that a small number of enhancements that I had discussed with Mr.Cormack fortunately found their way into the “2004 Manual” version.

Since commencing the operations of Australian Election Company in April 2006, and into 2007, we had successfully conducted a number of QLD Local Government By-Elections for: Gladstone City Council (2), Mount Morgan Shire, Maroochy Shire Division 8, Doomadgee Aboriginal Shire Council, Palm Island Aboriginal Shire Council (2) and Pormpuraaw Aboriginal Shire Council.

In the wake of the legislated By-Election phase, and also prior to the announcement of the 2007 Local Government Reform Commission arrangements, a number of QLD Councils had advertised Tenders seeking either Returning Officers to be appointed or indeed Election Suppliers to conduct totally outsourced Queensland Local Government Elections for the March 2008 round of Quadrennial Elections.

Australian Election Company responded to a number of these advertisements; Gold Coast City (either Returning Officer or total outsourcing); Caloundra City Council (either Returning Officer or total outsourcing), Maroochy Shire Council (total outsourcing), Ipswich City Council (Returning Officer), Beaudesert Shire Council (Assistant Returning Officer), Cooloola Shire (Returning Officer).

My understanding was that Caboolture, Pine Rivers and Mackay City Councils were also poised to advertise Tenders seeking Returning Officer Services; however these Tender processes were stalled given the announcement of Reform Commission activities. Maroochy and Caloundra aborted/suspended their processes post receipt of Tender Proposals, pending the outcome of Reform Commission recommendations.

However, as an outcome of the Tendering processes conducted prior to commencement of Reform Commission activities, Australian Election Company had “won” rights to conduct several Council Elections. And indeed it was our further and distinct expectation that, barring any imposed legislative restraints, Australian Election Company would be on target to also “win” and conduct outright a number of other Council Elections.

We had also tendered for Miriam Vale and Banana Shires and may also have conducted them (depending upon amalgamation outcomes). We also had envisaged being involved in the conduct of the Elections for the newly structured representational arrangements in the Torres Strait and also in the Aboriginal Shires, especially given our great success in conducting the “outsourced” 32 DATSIP Community Council Elections in 2004. At those Elections we recruited, trained and supervised the Returning Officers and Deputy Returning Officers and were in no doubt that the “correct” candidates

were elected; indeed we went to special pains to ensure that essentially “foolproof” accounting measures were applied to ensure accurate election outcomes.

In May 2007 I wrote to the Director-General of the DLGPSR outlining concerns regarding any potential legislation that might be introduced that would have the effect of restricting our trade capability to conduct QLD Local Government Elections. The Department responded drawing our attention to and indicating that, at the relevant time we could access and respond to the “Issues Papers”.

With Electoral Commission, Queensland (ECQ) provided the mandate to conduct the 2008 round of Elections, all our actual and potential contractual Council outsourcing arrangements dissipated. We offered our services to ECQ to assist with conduct of the Elections and ultimately I was appointed as Consultant Project Coordinator to provision, equip, train, supervise and mentor the conduct of Returning Officers and Deputy Returning Officer in our Queensland Aboriginal and Torres Strait Islander Councils. The management and conduct of those ATSI Council Elections was a significant success.

Whilst we remain something of a niche business, we were a fast growing one with a solid reputation for professionalism and total credibility in the conduct of Queensland Local Government Elections. Just as today we have Public Hospitals and Private Hospitals, Government Schools and Private Schools, Public and Private Utilities, increasingly there are also a number of Private Ballot & Election Companies/ Providers.

Private Election Companies/Providers have been at the forefront of electoral developments, operations and enhancements including the use of “state of the art” technologies. My personal background originally was in “Public” Elections, but then I diversified into Industrial and Commercial Elections.

Now having the background of the 2008 round of Elections, I venture to suggest that ECQ might acknowledge, I feel certain, that Elections for State Seats are relatively speaking, simple, discrete, small-scale single constituency Elections; with Elections for Brisbane City Council Wards being similar, very basic Elections.

On the other hand, to effectively marshal, organize, control, and conduct Elections like the Gold Coast City Council or the now amalgamated Moreton Regional Council, for instance, are large complex, logistical functions, and respectfully Electoral Commission, Queensland fundamentally can no better conduct these than we can.

And in fact, we would argue that by utilizing our very select group of highly trained, largely career experienced personnel and backed up with our preparations, training, specialty controls and documentation (these are proprietary controls and materials external of ECQ), I venture to suggest that our conduct of contracted Elections will be as professional (as ECQ conducted Elections), and perhaps even more defensible within Court challenge settings.

The management of the Queensland Local Government Elections is a very significant undertaking taking months of pre-planning, logistics and organisation. Whilst, of course, we recognize and acknowledge that ECQ is the QLD Government Electoral Authority and that potentially and intuitively, they might sit at the forefront of consideration, we make the point that there are some alternatives available and that the Australian Election Company alternative could continue to conduct these Elections to the highest standards and in the public interest. However, in the spirit of positivism, we remain hopeful that our professional capability will not be wasted and cast aside.

Rather than merely mandate that the Elections should be conducted by an already very busy ECQ, I believe a more balanced and beneficial approach would be to provide for a variety of professional Election Providers to be able to tender and compete for the professional conduct of the QLD Local Government Elections; and where Government was competing with Private Sector Providers, clear principles of competitive neutrality should be invoked and enforced.

Another approach which would also apply a greater degree of flexibility could be to apply something akin to the South Australian system where the Local Government Act (in Section 10 (3)) provides that “A council may, in connection with the operation of subsection (2), nominate a person to be deputy returning officer for its area and the Electoral Commissioner will make the appointment if satisfied – (a) that the person is an appropriate person to act as a deputy returning officer; and (b) that the person has sufficient training or experience to act as deputy returning officer; and (c) that in the circumstances it is reasonable that an appointment be made.” In South Australia, the Electoral Commissioner will be “returning officer for each area” but the Electoral Commissioner “may appoint one or more deputy returning officers for an area.”

We would also assert that CEOs should continue to be provided the formal authority to act as Returning Officer in the conduct of Council By-Elections and/or be permitted to appoint an individual or a Provider entity as Returning Officer to conduct By-Elections.

Q 26. Should the option of a postal vote be extended to all voters in every area?

Q27 Should a full postal ballot be automatic for some local government areas? If so, why and for which areas?

It is asserted that Declaration Postal Voting would represent a more cost effective option for conduct of all the Council Elections (including By-Elections). Attendance Voting is labour and resource intensive and expensive. Consideration should be given to outright conduct of Queensland Council Elections using Declaration Postal Voting.

I understand that at least one government Electoral Commission may have experimented with centralized Postal Voting issue processes and that unfortunately the process may have lacked sufficient controls and allegedly some deficiencies in Ballot Paper issue etc occurred. However, the Commission and Mail House Providers have learned valuable lessons from these events and this should pave the way for an enhanced approach for the conduct of Local Government Elections, where Direct Postal Voting might be applied.

Q36. Which voting system is most appropriate for local government elections- Optional Preferential Voting, Compulsory Preferential Voting, First-Past-The-Post or Proportional Representation? Why?

As an opening observation, the Issues Paper in “**Optional Preferential voting**”, final sentence paragraph, states as follows: “Disadvantages of OPV include that it is restricted to single member division.....voting models”. I am uncertain of the real intention of this statement; however OPV is a system that is able to deal with multiple elections. Indeed, where the governance provisions so mandate, OPV is used in the election of multiple positions.

In acknowledging though that the manual count of such Elections may be painstaking and time consuming, Australian Election Company is able to apply proprietary Count Software in conjunction with either the data-keying or electronic scanning of ballot papers, to quickly and accurately facilitate the performance of such counts. The ballot papers could be electronically scanned provided they were appropriately formatted and the scanning system appropriately specified. In principal, I firmly believe that a preferential system provides the most reasonable outcome for single position Elections and furthermore, in the case of Queensland Local Government Elections, where there is typically a manageable number of Candidates, full (compulsory) numbering would be the most appropriate system.

In a like vein, the manual performance of counts involving the multiple elections of Councillors applying Proportional Representation likely would be complex, painstaking and time consuming; and indeed all too complex for the average Returning Officer. However again, by applying our proprietary Count Software in conjunction with either the data-keying or electronic scanning of ballot papers, the proportional representation system could be effectively applied. The proportional representation system is widely recognized as being the most equitable system where more than one candidate is to be elected.

Further, the manual performance of counts involving the multiple elections of Councillors applying First-Past-The Post are also laborious, painstaking and time consuming. The Count for Townsville City Council at the March 2008 Elections would represent a clear and demonstrative case in point. Instead of using large teams of casual employees for days/weeks on end, shuffling ballot papers and compiling and pouring over count frames, our small niche team of personnel batching appropriately formatted ballot papers and employing appropriately specified electronic ballot paper scanning technology, would have accurately conducted the counts (twice) in an estimated five and a half days, using just a single scanner; or proportionally less using multiple scanners. All that would need to be added to the count would be ballot papers from “admitted” declaration votes.

And in the event wholesale Postal Voting was applied in lieu of Attendance Voting, there is adequate technical history and competence to facilitate the accurate and volume processing of Postal Votes, including the use of electronic scanning equipment for the counting of Ballot Papers. (I have managed and specified the accurate scanning/counting of preferentially marked ballot papers in large-scale private sector elections, for example, for the NRMA Motoring & Services Board of Director Elections. (The scanners are quick and accurate with a throughput of about 4,200 Landscape A4 ballot papers per hour - maximum output approx 5,000 per hour).

Accordingly, whether or not the Local Government Act might be amended to permit the application of Direct Postal Voting, either in By-Elections or more generally for the conduct of the Quadrennial Elections, then the Act should be amended to clearly and unequivocally permit the application of automated systems of vote counting, including the use and application of electronic scanning technology.

Other

Sections 351, and more particularly Section 359 of the Local Government Act 1993, relate to the consideration of Postal Votes recorded prior to the close of the poll. Sections 357 and 358 both include “10 day” provisions; allowing for the consideration of postal votes received within 10 days after polling day.

It is asserted that Section 359 of the Act should be amended to mandate that the Declaration should be accepted (or rejected) for further consideration on the basis of the Postmark (date/time) endorsed on the Postal Vote Business Reply Paid Return Envelope. If the Postmark (date/time) endorsed is one after the closing time on Polling Day, the relevant Declaration would be rejected; on the other hand, any (Reply Paid) Envelope showing a Postmark prior to 6.00pm on Polling Day would be accepted for further consideration. In the event no Postmark (date/time) is endorsed on the Business Reply Paid Envelope, then the witness date endorsed on the Postal Vote Declaration, should be applied as the determining factor for further consideration or otherwise. Any Declarations bearing a witness date after Polling Day would be rejected; those bearing a witness date prior to, or on Polling Day, would be accepted for further consideration.

This amendment is sought for three (3) reasons. Firstly, the current provision basically permits every postal vote returned within 10 days, to be considered. Many such Declarations are of course likely to have been recorded, after the 6.00pm closing time on Polling Day.

Secondly, by tightening and clearly defining the permitted options, by means of the proposed amendment, Returning Officers will be provided a clearer path for making Declaration acceptance or rejection decisions.

Thirdly, and perhaps most importantly, in the context of Direct Postal Voting Shires (usually where there are relatively small numbers of electors), there would be reduced opportunity for Scrutineers or Candidates to monitor who has not yet returned a Postal Vote. In the smaller communities it would be possible for the Result of an Election to be manipulated in the 10 days following Polling Day, because Candidates or Scrutineers, or their representatives, might visit or intimidate any “outstanding” Postal Voters; seeking to influence their vote for a particular Candidate or Candidates.

This is perceived to be a very serious weakness in process, and the implementation of the amendment, as described, would assist in alleviating the current potential and propensity for influencing the Election outcome.

Electronic Voting

Turning now more to consideration of the future, as a provider of Internet Voting, Australian Election Company perceives the application of Internet Voting (initially) as a supplement to existing systems, and having the capacity to positively enhance the election process; by making voting more accessible, more inclusive, more secure (by reducing the opportunities for multiple voting), and by providing quicker and more accurate Election results.

The electronic Ballots/Elections that we typically conduct are by Internet, by Telephone (using IVR technology), or by a combination of approaches, Internet and Telephone, or Internet and Postal Ballot.

I have been Returning Officer/Project Operations Manager now for a number of electronic-based elections/ballots, since July 2000. The events conducted using Internet Voting mainly have been for Boards of Directors, for Universities/University Unions and for Internet and/or Telephone Voting-based Enterprise Agreement Employee Ballots.

The largest Elections conducted have been (Postal and Internet - based Elections) for the National Roads and Motorists' Association (NRMA) (in 2001, 2003 and 2005) and involving some two million members.

It is notable that the various Internet-based Elections conducted also have involved a variety of vote counting systems; indeed, in addition to "First-Past-the-Post" Election counts, a number of preference-based Internet Elections including quota-preferential Elections have been undertaken utilizing our proprietary Count Software. I am not aware of any problems experienced by voters in applying preferential voting, and using the Internet.

Electronic Ballots/Elections are also counted automatically and the results are available without delay. Accordingly, there is no waiting for conclusion of a preliminary examination of the Postal Votes, there is no opening of declaration or other envelopes, no removal of signature slips (in the case of declaration-based postal voting), and no slow (and sometimes inaccurate) counting of ballot papers.

Although we are unable to report any sustained, demonstrable increases in voter turnout associated with the use of Internet (or Telephone Voting), there is absolutely no doubt that those technologies provide enhanced accessibility for the voters participating in any electronic-based Ballot/Election. Most households or businesses in this country have access to an Internet - enabled computer or a "touch-tone" Telephone.


An eligible voter using the Internet Voting system can vote from any Internet - enabled computer; at home, at work, in a library, in an internet café, on a cruise ship; the list goes on and on. The increased elector accessibility provided through Internet Voting represents a tremendous "plus" for the technology. Being able to visualize (and print record) each voting process step also represents a great "positive" for Internet Voting.

In any Internet (and Telephone) Ballots/Elections we conduct, in addition to any mandated governance requirements, we always go that one step further so as to ensure the integrity of the Ballot or Election and the accuracy of operational systems and results outputs.

On the basis of experience, we have applied and then further reviewed and developed internal operating systems and procedures that enhance the robustness of processes and ultimate outcomes. We acknowledge that many of our essential processes and procedures have been honed and developed from base-line principles which are either enshrined in the relevant Statutes or which have evolved through continuous improvement processes of Government Electoral Commissions, both in Parliamentary and Industrial Election contexts. We have also applied international experiences and knowledge gained from the conduct of commercial and union elections overseas. We have then, based on our experiences in conducting Ballots and Elections applying the new technologies, considered and evaluated how we could further improve procedures and processes. We have then introduced and further tested and evaluated the refinements or enhancements. Where consequential improvements have been required, then they have been researched, developed and tested again until we have been satisfied with the product/outcomes.

It is envisaged that Governments also would undertake a similar intense round of testing and processing and re-testing before Internet (or Telephone) Voting might be made available to the public (election) market. However please note that the use of Telephone Voting in the general election realm is not recommended; it is considered that the application of Telephone Voting most appropriately should be limited to uncomplicated plebiscite situations, in the interests of voter usage.

On the basis of our now quite broad experiences – and we have been working with and refining the application of the technology and operational processes since 2000 - we believe the time is ripe to assist and facilitate Governments in the introduction of these technology initiatives.



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