



# Premier of New South Wales

DPC11/01801 – LB

Cr Ray Donald  
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Shires Association of NSW  
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SYDNEY NSW 2001

Local Government Association of NSW Shires Association of NSW
28 OCT 2011
SGU..... CORP.....
POLICY.....
WPLACE..... NO ACTION.....
FILE No.....

28 OCT 2011

Dear Cr Donald

I refer to your letter dated 7 September 2011 regarding the administration of the 2012 local government elections.

I note that on 9 September 2011, the Division of Local Government issued its *Guidelines for Council Administered Elections 2012* under section 23A of the *Local Government Act 1993 (the Act)*. The *Local Government (General) Amendment (Elections) Regulation 2011* was also published on 9 September 2011.

As you know, councils have until 30 November 2011 to decide whether their elections will be administered by the general manager or by the Electoral Commissioner on a cost-recovery basis.

I appreciate that councils wishing to conduct their own elections by procuring services from commercial providers may find it difficult to conclude a tender process by 30 November 2011. I am advised, however, that this deadline is necessary to give the NSW Electoral Commission (NSWEC) sufficient time to prepare for the elections that it will be responsible for conducting. The Electoral Commissioner has confirmed this advice in recent discussions with the Director General of the Department of Premier and Cabinet and the Division of Local Government.

The Government acknowledges that cost will be a significant factor for councils when determining whether their elections will be administered internally or by the Electoral Commissioner. I am advised that the NSWEC cannot provide councils with the exact costs of conducting the 2012 elections as costs will vary depending on how many elections the NSWEC conducts. The NSWEC has, however, advised councils that an indicative calculation of the likely 2012 election costs for each local council area may be obtained by using the actual costs of the 2008 election and applying specific mark-ups to reflect wage increases, inflation, increased elector numbers and reduced economies of scale.

I am also advised that the NSWEC has visited all local councils (with the exception of Bogan Shire Council) to discuss the services it will offer to councils that choose to have their elections conducted by the NSWEC. The Electoral Commissioner personally attended many of these visits and has indicated that concerns were not raised during these visits by general managers about compliance with the 30 November deadline.

I understand that you recently sought clarification from the Minister for Local Government, the Hon. Donald Page MP, concerning the provision of advice by the NSWEC on the administration of elections.

I am advised that the NSWEC responds to requests for factual information from councils, parties, candidates and members of the public. It is, however, an independent body created by statute and is therefore not in a position to provide legal or advisory services to the general public or other participants in the electoral process, including local councils. If a council is uncertain about the legal or procedural requirements that apply to the conduct of elections, it may wish to seek its own legal advice.

I note that the Division of Local Government is also available to assist councils with queries in relation to their obligations under the Act or the *Local Government (General) Regulation 2005*. In addition, the Division of Local Government's *Guidelines for Council Administered Elections 2012* contain detailed procedural advice for councils wishing to conduct their own elections. The guidelines note that the Division of Local Government intends to provide further advice to councils on how to meet the applicable statutory requirements, including 'good practice' suggestions, closer to the election date. The Election Funding Authority has also offered to send a representative to any candidate information seminars arranged by a council to provide guidance on funding and disclosure obligations under the *Election Funding, Expenditure and Disclosures Act 1981*.

I understand that you have sent a similar letter to the Minister for Local Government. I have arranged to forward a copy of this letter to the Minister for his information.

Thank you for raising this matter with me.

Yours sincerely



**Barry O'Farrell MP**  
Premier

Cc: Local Government Association of NSW