



PARLIAMENT OF NEW SOUTH WALES

Joint Standing Committee on Electoral Matters

REPORT 5/55 – NOVEMBER 2014

PREPARATIONS FOR THE 2015 NSW STATE ELECTION





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The motto of the coat of arms for the state of New South Wales is “Orta recens quam pura nites”. It is written in Latin and means “newly risen, how brightly you shine”.

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Membership

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Terms of Reference

INQUIRY INTO PREPARATIONS FOR THE 2015 NSW STATE ELECTION

The Joint Standing Committee on Electoral Matters is to inquire into, and report on, the electoral processes concerning the lead-up to the 2015 NSW State Election with particular reference to:

- a. The NSW Electoral Commission's preparations for the 2015 NSW State Election;
- b. The Western Australian Senate count and steps being taken to avoid similar issues with the NSW Legislative Council count; and
- c. Related matters.

Chair's Foreword

Last year significant problems occurred in the administration of the Western Australian Senate Election. We saw the first re-run of a Senate election in Australian history due to manifest incompetence that should have never occurred.

Those dramatic events delayed the final outcome of the Federal election, affected the reputation of the Australian Electoral Commission and cost the Australian taxpayer an estimated \$13 million. Worst of all, they damaged the essential public confidence which we must all have in our electoral system.

Through the excellent work of the NSW Electoral Commission, we have had a proud record of running elections in NSW; but there is no room for complacency and it is essential that any applicable lessons that came out of the Keelty inquiry are understood and appreciated by all concerned.

For this reason the Committee was pleased to undertake a review of the Commission's preparedness for the 2015 State General Election, due to take place on 28 March 2015. The evidence has shown that the preparations are going well and the NSW Electoral Commission is on track to deliver a well-run election. I take this opportunity to commend Commissioner Colin Barry and his team for their diligence and efforts in ensuring they discharge their obligations with distinction.

I have no doubt that following that election the Electoral Matters Committee will once again be asked by Parliament to consider its administration - just as this Committee reviewed the 2011 election.

As a vanguard of our State's democratic process, this committee must not only review and advise, but do its best to foresee and inquire. In this respect, the Parliament and the community can be assured that we have discharged our responsibilities to the fullest extent possible.

On behalf of the Committee I would like to extend my sincere thanks to the individuals and organisations who assisted us in the course of this inquiry; and on a personal note I want to thank my fellow committee members for the enthusiasm and the insight which they brought to this inquiry.

As this will be my last report as Committee Chair in the 55th Parliament, I would also like to take this opportunity to thank all the hard-working and dedicated members of the Legislative Assembly Committee Secretariat who assisted in the administration of this and previous inquiries. It has been a privilege and a pleasure to work with you in this important role.



Gareth Ward
Chair

List of Findings and Recommendations

RECOMMENDATION 1 _____ **10**

The Committee recommends that the requirement to initial the front of every ballot paper is reinforced during training of all SGE staff.

RECOMMENDATION 2 _____ **10**

The Committee recommends that the NSW Government gives consideration to amending the legislation to make the initialling of all ballot papers a legislative requirement.

RECOMMENDATION 3 _____ **13**

The Committee recommends that the Commissioner should include in contracts for pre-poll booths a requirement for limited storage space for the use of candidates contesting the election to store their pre-poll election material.

FINDING 1 _____ **18**

The Committee considers that based on the evidence that NSWEC are making good progress in the preparations for the SGE 2015 and there are no major concerns.

FINDING 2 _____ **18**

The Committee has found that the Commissioner is progressing well in engaging with youth voters, but should monitor social and other media to ensure this progress is maintained.

RECOMMENDATION 4 _____ **20**

The Committee recommends that the NSW Government gives consideration to amending the legislation to remove the requirement for the Electoral Commissioner to keep paper rolls

Glossary

AEC	Australian Electoral Commission
CCTV	Closed Circuit Television
DI	Declared Institutions
JSCEM	Joint Standing Committee on Electoral Matters
LA	Legislative Assembly
LC	Legislative Council
NSWEC	New South Wales Electoral Commission
OM	Office Manager
RMS	Roads and Maritime Services
RO	Returning Officer
ROSO	Returning Officer Support Officer
SEO	Senior Election Officials
SGE	State Government Election
SOA	Senior Office Assistant

Chapter One – Introduction

CONDUCT OF THE INQUIRY

- 1.1 The Joint Standing Committee on Electoral Matters (the Committee), which was initially established in 2004, was re-appointed for the 55th Parliament on 22 June 2011.
- 1.2 The inquiry was referred to the Committee by the Premier, as the responsible Minister under the parliamentary acts.¹

Terms of Reference

- 1.3 The terms of reference directed the Committee to inquire and report upon the electoral processes concerning the lead-up to the 2015 NSW State Election, with particular reference to the NSW Electoral Commission's preparations for the 2015 NSW State Election and steps being taken to prevent similar failures that had occurred in the Western Australia Senate election count.

Submissions

- 1.4 A press release calling for submissions was issued on 18 September 2014. The Committee also wrote to relevant individuals, organisations and political parties to inform them of the inquiry and invite them to make a submission.
- 1.5 In total five submissions were received from the NSW Electoral Commissioner, the Australian Electoral Commissioner, politicians, and political parties.

Public hearing

- 1.6 The Committee held one public hearing as part of the inquiry, on 24 October 2014, hearing evidence from the NSW Electoral Commissioner. A copy of the transcript from the hearing and documents provided as evidence can be found at appendix five.

¹ *Parliamentary Electorates and Elections Act 1912 and Election Funding, Expenditure and Disclosures Act 1981.*

Chapter Two – Summary of issues regarding the Western Australian Senate Election

INTRODUCTION

- 2.1 The loss of the votes and the declaration by the Court of Disputed Returns was a major electoral event that led to the resignation of the WA Electoral Commissioner Mr Ed Killestyn, an investigation by the Federal Police and an independent appointee, consideration of the issues by the Federal JSCEM, and ongoing reviews and implementations of the recommendations made in the Keelty report.
- 2.2 As part of this inquiry's terms of reference, in looking at the preparations of the NSW Electoral Commission's preparations for the 2015 elections, the Committee recognised the importance of looking at the events that occurred in Western Australia (WA) Senate Election in 2013. It is not the purpose of the Committee to re-examine the events in detail, but to flag specific issues that will benefit and inform this inquiry.
- 2.3 The preparation for an election involves detailed project and risk management and meticulous planning to ensure you have effective processes and procedures in place. There are many lessons that can be learned from the experience in WA, as many of the processes used are similar to practices followed elsewhere.²

WESTERN AUSTRALIA SENATE ELECTION

- 2.4 The re-run of the 2013 WA Senate Federal Election was a significant event and the first re-run of a Senate election in Australian history. The 2013 Federal Election saw the first Senate recount in WA since 1984, prompted by one of the closest results in recent times. There was a reputational risk to the Australian Electoral Commission (AEC) with both the wider community and the Parliament and the cost to the taxpayer, which the AEC estimated would be about \$10 million plus a further \$2-3 million in public funding.³
- 2.5 In the WA Senate election there were 62 candidates divided into 27 groups or political parties with one ungrouped candidate.⁴ After the initial count, Zhenya Dio Wang (Palmer United Party) and Louise Pratt (Australian Labor Party) were declared for the last two senate seats. With only 14 votes in the count, the result was challenged by defeated candidates Scott Ludlam (Australian Greens) and Wayne Dropulich (Australian Sports Party).⁵ Having conducted the recount, an

² Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 3

³ Federal Election 2013: issues, dynamics, outcomes, Australian Parliamentary Library Research Paper, 22 January 2014, p.30

⁴ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 2

⁵ Federal Election 2013: issues, dynamics, outcomes, Australian Parliamentary Library Research Paper, 22 January 2014, p.27

initial loss of one box of ballots containing 231 votes from the Electoral Division of Forest was discovered, followed by 1,139 ballot papers from the Electoral Division of Pearce (approximately three ballot boxes).⁶ A total of 1,255 formal above the line votes and 120 informal votes were found to be missing.⁷ The original result was declared void by the Court of Disputed Returns and a new election was held. (See Annexure 1 for a detailed timeline). The Australian Federal Police were also asked to undertake an independent inquiry, however no further action has been recommended by them.

AUSTRALIAN ELECTORAL COMMISSION INQUIRY – ‘THE KEELTY REPORT’

2.6 In November 2013 Mr Mick Keelty AO was appointed to undertake an investigation into loss of the votes. In his report *Inquiry into the 2013 WA Senate Election (the Keelty Report)*, published on 2 December 2013, he identified a range of issues contributing to the loss of the votes and made 32 recommendations (Annexure **). While the actual fate of the ballots may never be known, whether they were simply lost, deliberately destroyed or accidentally disposed of, what was very clear from the investigation was that the system of control was inadequate to prevent this from happening and then the audit trail was insufficient to enable the investigation to ascertain exactly what had happened.⁸

2.7 The inquiry concluded:

The loss of the ballots was in all probability the result of a chain of seemingly minor, but entirely and easily avoidable, errors and omissions. Each of these events on its own may or may not have been significant; but taken as a whole, they indicate a loose electoral environment in WA, in which the loss of ballots was more likely to occur and less likely to be detected.⁹

2.8 The issues fell into the following main areas:

- Staff
- Logistics
- Policies and guidelines
- Culture

Staff

2.9 There are 850 permanent staff at the AEC who are supplemented by approximately 70,000 temporary employees and volunteers for an election.¹⁰ In WA approximately 8,000 temporary workers were hired to support 60 permanent

⁶ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 8

⁷ Federal Election 2013: issues, dynamics, outcomes, Australian Parliamentary Library Research Paper, 22 January 2014, p. 28

⁸ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 22

⁹ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 23

¹⁰ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 3

employees.¹¹ The inquiry found that the high number of temporary staff presented challenges in terms of training and effective supervision of this transient and geographically dispersed workforce. The inquiry found that training in the affected divisions was not delivered to an acceptable level and the training and its delivery were not assessed to determine their effectiveness.¹² The inquiry concluded that 'the lack of appropriate training contributed to poor material management practices evident at critical points in the process'.¹³

Logistics

- 2.10 This area covers the packaging, storage and movement of the ballot boxes with the inquiry identifying poor processes across all of these areas having a significant impact on the loss of the ballots.
- 2.11 Issues ranged from those that seemed innocuous at the start of the process, such as the size of the ballot papers (over a metre long¹⁴) leading to problems later on with the size of the boxes and stacking them on pallets for redelivery to the recount centre; to the absence of any checking in processes when the boxes were returned for the recount and the lack of security at the warehouse. This ultimately led to the inquiry being unable to categorically confirm if papers were lost, removed or destroyed.

Ballot box movements

- 2.12 The Inquiry¹¹ commented that:
- 'Despite modern technology, the AEC's operations during an election remain largely labour intensive and manually performed.... All of the completed ballot papers make their way by cars, trucks and/or plane back to a central repository in each state.'¹⁵
- 2.13 The inquiry acknowledged that inherent in any election is the large number of movements of ballots and that each movement increases risk of loss or damage. In WA over 80,000 parcels were moved with ballot material regularly moved in private vehicles by people with little experience in transportation and logistics.¹⁶
- 2.14 The Inquiry noted there were a number of issues relating to the management of the contracts for the provision of transport services including, insufficient guidelines for the movement of ballot papers; the failure of the WA office to enquire as to the political neutrality of all persons responsible for the transport of the ballots and failing to check that the contract for provision of services had technically expired.

Packaging

- 2.15 The packing and marking of boxes from the Electoral Division of Pearce was identified as below standard by the inquiry, with hand written markings instead

¹¹ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 13

¹² Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 14

¹³ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 14

¹⁴ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 2

¹⁵ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 3

¹⁶ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 16

of the official labels provided by the AEC.¹⁷ When compared to operations used elsewhere in WA, the markings were hand written with a felt pen stating the origin and type of content of the boxes. Some of the boxes had writing crossed out and boxes re-used.

Warehousing

- 2.16 On 10 October 2013 the AEC Commissioner ordered a recount of the WA Senate votes. This required the ballot papers to be returned from the AEC's warehouse in Welshpool and delivered to the Northbridge premises which had been identified as the 'recount centre'.
- 2.17 The inquiry noted that 'well run warehousing is a central component in the logistics system that enables the AEC to discharge its electoral responsibilities'.¹⁸ They acknowledged that this had to be supported by effective processes; they went on to comment that these should be:
- 'based on principles of security, accountability, efficiency and reliability. Any failure to adhere to these principles can lead to significantly adverse electoral consequences.'¹⁹
- 2.18 The inquiry found that the WA warehouse operations did not appear to adhere to 'sound warehouse principles',²⁰ and there was insufficient attention to detail during the recount. Significant issues included:
- Lack of CCTV and other security (roller door left open)
 - Ballots were left open, unsecured in the custody of a security guard who had not been vetted for political neutrality
 - Inadequate control of access and egress in to the warehouse
 - Lack of systems to control access, receipt and handling of material²¹
 - No traceable and accountable inventories of moved materials (ballots, boxes and pallets)
 - Loading dock had mixed stacks of used ballots, fresh ballots and cardboard rubbish for transport to the recycling centre²²
 - Inadequate segregation of used ballots, unused ballots, non-election material and rubbish²³

¹⁷ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 8

¹⁸ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 18

¹⁹ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 18

²⁰ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 18

²¹ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 18

²² Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 8

²³ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 19

Policies and guidelines

2.19 Guidelines were provided to give direction to all staff and volunteers during the election. The inquiry noted that given the infrequency of elections, it was important that these be clear and accurate and distributed to all personnel. However the inquiry found that this did not occur in WA in number of areas, including:

- Transportation and storage of ballots in non AEC centres
- Use of transport suppliers
- Point to point metropolitan area transfers of ballot boxes
- Need for and use of consignment notes
- Accounting for goods²⁴

Culture

2.20 The inquiry found a culture of complacency had developed in that the Senate ballot papers had become to be considered less important than the House of Representative ballot papers.²⁵ The inquiry concluded that:

The fact that it had been thirty years since the last full recount of Senate ballots most likely added to the loss of care in routinely dealing with those ballots during the election.²⁶

2.21 This became more pronounced after the first scrutiny when the ballots were considered to be 'dead'. Handling procedures became less rigorous as ballots were moved to 'storage'.

2.22 The Inquiry highlighted the transport of the ballots to the AEC's Welshpool warehouse as an example of this culture. The inquiry found that unclear guidelines had led to the inappropriate use of couriers to move election materials without consignment notices. The inquiry concluded that 'the WA executive should have noted that their initial intent of the guidelines was not realised and various managers should have, but did not, take action to rectify any misunderstanding or ensure compliance.'²⁷

POST-ELECTION IMPLEMENTATION OF THE KEELTY RECOMMENDATIONS

2.23 As part of their submission to this inquiry and to the Federal Parliament's Joint Standing Committee on Electoral Matters inquiry into the 2013 federal election, the AEC outlined the work of the Keelty Implementation Team (Kit) and the

²⁴ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 5

²⁵ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 17

²⁶ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 9

²⁷ Inquiry in to the 2013 WA Senate Election, Australian Electoral Commission, December 2013, p. 18

measures trialled at the 2014 Griffith by-election and 2014 WA half-Senate election.²⁸ These measures included:

- New and revised guidelines, standards, directions and ballot paper security forms;
- Secure labels and seals for ballot paper parcels; and
- Enhanced duties and training of staff.²⁹

2.24 Overall the Griffith by-election evaluation report acknowledged that the by-election provided an opportunity for the KIT to test possible solutions to the Keelty recommendations.³⁰

2.25 In his submission to this inquiry the Acting Electoral Commissioner identified the current focus for the AEC, in addressing the issues long term and on a whole of operation basis:

- Broad-scale examination of policies and procedures to identify areas that may be vulnerable to operational strain;
- Considering advice from external logistics experts to improve transport and storage of election materials particularly of ballot papers;
- Investigate the possibility of publicising ballot paper anomalies and election incidents in the future; and
- Review polling training and implementing a new learning and development system.³¹

COMMITTEE COMMENT

2.26 The Keelty Report and its recommendations have provided the Committee with a useful insight into the lessons that were learnt after the investigation in the WA Senate recount. The issues raised will inform the Committee in its considerations of the NSW Electoral Commission's (NSWEC) preparations for the 2015 election.

²⁸ Submission 2, Tom Rogers, Acting Electoral Commissioner, AEC, 7 October 2014, p.2

²⁹ Submission 2, Tom Rogers, Acting Electoral Commissioner, AEC, 7 October 2014, p.2

³⁰ Submission 20.2, JSCEM, *Evaluation of implementation of interim measures for relevant recommendations for the Griffith by-election*, 2 April 2014

http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Electoral_Matters/2013_General_Election/Submissions

³¹ Submission 2, Tom Rogers, Acting Electoral Commissioner, AEC, 7 October 2014, p.1

Chapter Three – NSW Electoral Commission Preparations

INTRODUCTION

- 3.1 As we have seen from the WA experience, poor processes, failures in procedures and guidelines and human error ultimately led to the first re-run of a Senate election in Australian history. Whilst NSWEC has a good record in the conduct of both State and local government elections the Committee welcomes the opportunity to inquire into its readiness for the 2015 election.
- 3.2 With approximately five million voters in 93 electorates, the NSWEC will be required to establish around 2,800 polling booths and train approximately 20,500 temporary staff.³² The logistics and successful delivery of this election will require meticulous planning and preparation. This chapter will consider the preparations for the election, paying particular attention to governance arrangements; ballot papers and vote counting; staff recruitment and training; adequacy of polling facilities; the use of technology and advertising.

GOVERNANCE ARRANGEMENTS

- 3.3 In their submission to the Committee the NSWEC set out the governance arrangements of the State Government Election (SGE) 2015 preparation.³³ This includes a Programme Board which meets every fortnight; chaired by the Director Elections which provides an oversight of the overall programme and budget.³⁴ After the issuing of the writ the Programme Board will be replaced by an Election Operation Group, which will have daily updates on the election roll out.³⁵
- 3.4 The SGE 2015 programme is made up of 20 projects, which NSWEC states covers the 'full election process'³⁶. The NSWEC have advised that the programme is measured (timeframe, budget and specifications)³⁷. Election Service Standards have been set out in a SGE 2015 *Service Charter*.³⁸
- 3.5 The NSWEC also has an independent Audit and Risk Committee who review the Risk Register and Issues Register for the SGE 2015. In their submission the NSWEC informed the Committee that there are currently 196 risks on the register

...which range from minor in terms of score of probability and impact, through to major and catastrophic. All risks have identified mitigation and management

³² Submission 5, NSWEC, 24 October 2014, p. 7

³³ Submission 5, NSWEC, 24 October 2014, p. 11

³⁴ Submission 5, NSWEC, 24 October 2014, p. 12

³⁵ Submission 5, NSWEC, 24 October 2014, p. 12

³⁶ Submission 5, NSWEC, 24 October 2014, p. 13

³⁷ Submission 5, NSWEC, 24 October 2014, p. 12

³⁸ Submission 5, NSWEC, 24 October 2014, p. 12

strategies which either prevent or reduce the likelihood and consequence of the risk if it eventuates.³⁹

- 3.6 Due to the presence of major and catastrophic risks on the register, the Committee requested more information from the Commissioner regarding the nature of the risks and the mitigation strategies that were in place. In his response to the Committee the Commissioner largely reiterated the Commission's risk management approach as expressed in the submission, noting that a recent sample of the Risk Register had been provided to the Committee on a confidential basis.⁴⁰

BALLOT PAPERS AND VOTE COUNTING

- 3.7 As discussed previously the biggest failure in the WA Senate election related to the logistical arrangements, including the movement, storage and security of the ballot boxes and materials. In their submission the Liberal Party identified the need to ensure

...the adequacy of the ballot boxes and arrangements for the transfer of ballots with appropriate supervision to ensure confidence by all participants in the integrity of election outcomes.⁴¹

- 3.8 In his opening statement to the Committee at the public hearing on the 24 October 2014, the Commissioner acknowledged that one of the biggest risks around the 'movement of ballot papers was the handling of live ballot papers.'

We want to minimise the movement of live ballot papers and declaration envelopes that contain live ballot papers by, where legally possible, centralising more of the processes.⁴²

- 3.9 The placement of the polling stations also plays a role in the movement of the ballot boxes. This is determined by data from previous elections (*State Government Projection Data Report*⁴³) and managed by the NSWEC Mapping and Demographic Team.

- 3.10 As indicated in their submission to the Committee the NSWEC's second highest project budget is for logistical support. This includes a number of different areas involving logistics and supply which are listed in the submission at paragraph 129.⁴⁴ There will be two distribution centres run 24 hours located in Sydney that will batch and data enter ballot papers and material. The Committee also notes the use of technology to scan and track the ballot paper boxes.

- 3.11 A quality management framework has been developed by NSWEC which the Commissioner believes will provide the following quality controls for each ballot paper:

³⁹ Submission 5, NSWEC, 24 October 2014, p. 12

⁴⁰ NSWEC, *Responses to Questions on Notice*, 31 October 2014, p. 3.

⁴¹ Submission 6, Liberal Party of Australia NSW Division, 14 October 2014, p. 3

⁴² Mr Colin Barry, Commissioner, NSWEC, *Transcript of Evidence*, 24 October 2014, p. 1

⁴³ Submission 5, NSWEC, 24 October 2014, p. 29

⁴⁴ Submission 5, NSWEC, 24 October 2014, p. 31

- Security – on site and in transportation between sites
- Accounting and reconciliation – detect and recover from errors
- Quality assurance – applied to all key ballot paper processes
- Transportation management – set of controls independent from the tracking
- Custodianship – fundamental accountability, at any one time only one custodian who has complete responsibility
- Minimise ballot paper handling – eliminate double handling.⁴⁵

3.12 In his evidence to the Committee, Mr Kwok, Elections Manager, outlined a new process to minimise the movement of the declaration vote envelopes. Votes will be removed from the envelopes centrally and for LA votes returned to the district returning officer where the ballot papers belong and for LC retained for counting centrally. This reduces the movement of the LC ballot papers.⁴⁶

Un-initialised ballot papers

3.13 The issue of the requirement to initial a ballot paper was raised by the Committee, concerned that a large number of votes could be potentially lost if papers were ruled invalid without an initial.⁴⁷

3.14 The Commissioner reassured the Committee that ballot papers that were not initialised were not ruled informal under the act as there was 'no legal basis for knocking them out'.⁴⁸

3.15 However, it was acknowledged by both the Commissioner and the Committee that it was best practice for polling officials to initial every ballot paper.

COMMITTEE COMMENT

3.16 The Committee acknowledges the Commissioner's comments but remains concerned about the lack of legislative certainty about un-initialised ballot papers. They also felt that for the SGE 2015 this best practice should be reinforced through the training of all staff working during the election.

RECOMMENDATION 1

The Committee recommends that the requirement to initial the front of every ballot paper is reinforced during training of all SGE staff.

RECOMMENDATION 2

The Committee recommends that the NSW Government gives consideration to amending the legislation to make the initialing of all ballot papers a legislative requirement.

⁴⁵ Submission 5, NSWEC, 24 October 2014, p. 32

⁴⁶ Mr Simon Kwok, Manager Elections Branch, NSWEC, *Transcript of Evidence*, 24 October 2014, p. 7

⁴⁷ Mr Andrew Fraser, *Transcript of Evidence*, 24 October 2014, p. 8

⁴⁸ Mr Colin Barry, Commissioner, NSWEC, *Transcript of Evidence*, 24 October 2014, p. 9

STAFF RECRUITMENT AND TRAINING

Recruitment

- 3.17 In their submission to the inquiry the NSWEC advised that there will be approximately 20,500 election officials, plus 4,500 Office Assistants in the RO's offices working on the SGE 2015.⁴⁹ An eligibility pool was established by the NSWEC in 2010 of individuals who had completed a merit based selection process, which included a written application, interview and training. The following roles form the pool:
- Senior Election Officials (SEO)
 - Returning Officers (RO)
 - Office Manager (OM)
 - Senior Office Assistant (SOA)
 - Returning Officer Support Officer (ROSO).⁵⁰
- 3.18 The NSWEC advised that in preparation for the SGE 2015 93 ROs, 93 OM's and 10 ROSO's have already been selected from the pool. SOA's will be selected for the management of the pre-poll venues once these have been finalised and a pool of reserves will be established in the event that any staff need to be replaced at short notice.⁵¹
- 3.19 In her evidence to the Committee Ms Franklin said of the process:
- ...by being able to draw on that pool of people consistently they get more and more experience, obviously, in managing and conducting elections. We assess their performance every time they work with us. We also criminal record check them and reference check them as well. So we are very confident that that pool of people are able to do a good job in terms of conducting elections.⁵²
- 3.20 In their submission, the Liberal Party raised a number of concerns around the recruitment and checks of temporary staff and on the 'partisan commitments which might compromise the professional conduct of their duties'.⁵³ They highlighted the need for staff recruited on a short term basis to receive adequate training to meet the needs of the Commission and for the staff to have the skills required to do the work on Election Day.
- 3.21 NSWEC advised that new applicants can apply via a web-based online application process, subject to the selection criteria and the merit based selection process. Modelling is used to determine the amount of polling station staff required. All

⁴⁹ Submission 5, NSWEC, 24 October 2014, p. 21

⁵⁰ Submission 5, NSWEC, 24 October 2014, p. 21

⁵¹ Submission 5, NSWEC, 24 October 2014, p. 21

⁵² Ms Linda Franklin, Director Elections Branch, NSWEC, *Transcript of Evidence*, 24 October 2014, p. 3

⁵³ Submission 6, Liberal Party of Australia NSW Division, 14 October 2014, p. 2

staff are required to complete a declaration of political neutrality and that they do not have a criminal record on acceptance of a position.

Training and assessment

- 3.22 The NSWEC uses an online training system which is currently being upgraded. Participants must reach a minimum pass rate for each module and the system monitors the attempts. Face to face training is also given to staff on paper allocation and reconciliation and ballot paper counting procedures. This is supported by written material, a set of Standard Operating Procedures, short videos and quick reference guides.⁵⁴
- 3.23 In their submission the NSWEC outlined the formal performance assessment processes and Ms Franklin provided additional information at the hearing. SEO's are assessed during and at the end of the election and each role is assessed by their relevant supervisor.
- 3.24 The Commissioner informed the Committee that the key risk mitigation for the SGE 2015 in relation to staffing issues will be that key decision-making during the election will be made by the professional electoral staff. During his evidence, he commented:

So our view is that temporary staff can do simple processes many times but I think complex decision-making tasks are better left in the hands of the electoral professionals or at least under their direct supervision. I know that the major political parties appreciate that approach. While no election is free from risk or service failure, I believe that the controls we have put in place for the next New South Wales State election will give the Committee every confidence that the election will be regarded by our key stakeholders as having been conducted to the highest standard of professionalism and integrity.⁵⁵

ADEQUACY OF POLLING FACILITIES

- 3.25 Having polling facilities that are accessible to everyone is important to ensure that people are not disenfranchised from the electoral process. The NSWEC was asked what provisions will be made to facilitate access to voting and polling stations to people with disabilities?
- 3.26 In his response to the Committee the Commissioner advised that because polling venues are not owned by either the AEC or the NSWEC, the NSWEC was always constrained by the availability of suitable premises that are accessible to people with disabilities.
- 3.27 Notwithstanding this, the Commission publishes on its website, the accessibility level of every polling place and:

Within each polling place, a wheelchair accessible voting screen, maxi pens and magnifiers are available for electors with a disability to assist them to vote. In addition, the NSWEC has contacted every Declared Institution on its database to discuss the most suitable method of voting for their electors, to ensure that people

⁵⁴ Submission 5, NSWEC, 24 October 2014, p. 22

⁵⁵ Mr Colin Barry, Commissioner, NSWEC, *Transcript of Evidence*, 24 October 2014, p. 2

in Declared Institutions can utilise the most accessible form of voting for them, be it via a visit from a mobile team to cast their vote in person, a postal vote or the use of the iVote system.

In addition, iVote will be offered at Sydney Town Hall for electors with disabilities.⁵⁶

3.28 The Liberal Party, in their submission requested consideration be given at the larger pre-poll centres for all parties to be given storage facilities for candidates and party workers. This was followed up by the Chair, in response, Ms Franklin commented that NSWEC were at the 'hands of the market' when negotiating short term leases of properties for pre- polling venues, which may not have secure storage and the priority would be the ability to secure the ballot papers.⁵⁷

3.29 However, the NSWEC proposed that in relation to the venue at Town Hall it would:

...provide Registered Political Parties with the option of storing election material in the Marconi Room up until the Thursday before election day, although it will need to be removed by 7:45 a.m. each voting day. After that date, the NSWEC will try and arrange a room in the entry foyer for such election material. If Sydney City Council is unable to provide a room, the NSWEC will allow the parties to store material in the foyer areas - which are separate from the polling place - and will again require the material to be removed by 7:45 a.m. every voting day.⁵⁸

COMMITTEE COMMENT

3.30 While the Committee appreciates that there are external factors when negotiating short term leases for pre-polling venues, requirements could be included into contracts to provide additional storage space for election material.

RECOMMENDATION 3

The Committee recommends that the Commissioner should include in contracts for pre-poll booths a requirement for limited storage space for the use of candidates contesting the election to store their pre-poll election material.

USE OF TECHNOLOGY

3.31 There are a number of different areas where technology impacts on the election process, whether that be before the election with the use of SmartRoll for enrolments through to iVote for assisted voting and internet voting.

Vote Counting System

3.32 The Commissioner informed the Committee of the new vote counting system that was being introduced for the SGE 2015 Legislative Assembly ballot papers count. After the initial count has been completed at their respective polling stations or centrally for postal votes, data will be entered into a vote counting system. The process will apply to:

⁵⁶ NSWEC, *Responses to Questions on Notice*, 31 October 2014, pp. 7-8.

⁵⁷ Ms Linda Franklin, Director Elections Branch, NSWEC, *Transcript of Evidence*, 24 October 2014, p. 4

⁵⁸ NSWEC, *Responses to Questions on Notice*, 31 October 2014, p. 8

- (a) Pre-poll ordinary votes;
- (b) DI ordinary votes; (DI = Declared Institution)
- (c) Postal votes; and
- (d) Declaration votes.

3.33 In their submission to the Committee the NSWEC commented that

This new process has been designed to increase quality management of the vote count and to minimise the movement of ballot papers post-election day in line with the recommendations of the Keelty Report.⁵⁹

NSWEC will centrally batch and data enter all Legislative Council ballot papers. The batching and data entry is watched by scrutineers, along with the 93 Returning Officers (RO). Once the count information is added into the vote counting system it is then transferred into the *Virtual Tally Room*⁶⁰ for public viewing. The technology also makes publically available the data on preference allocations.

3.34 The Committee asked the Commissioner if there were any potential risks with this new innovation and if so what mitigation strategies had been put in place. In his response the Commissioner advised that:

The proposed system is built on the existing computing counting platform which the NSWEC successfully delivered for the 2011 Legislative Council Election and the 2012 LGE. It is considered that any system risks are managed well within NSWEC's capabilities and resources, such that there are no real risks associated with this approach, which was used highly successfully in Returning Offices at the LGE 2012.⁶¹

3.35 NSWEC have confirmed an additional layer of scrutiny, as NSWEC input data files will be published on the website, together with the specification for the count system. Interested persons could develop their own count system and compare with the NSWEC count. It may be with the added interest in the WA Senate recount, more individuals may wish to undertake this type of check.⁶²

SmartRoll

3.36 The NSWEC's SmartRoll process is automatic enrolment by the Electoral Commissioner.⁶³ It accesses and uses data from other agencies, conducts data matching, manages electors via email or SMS, updates the system once enrolment is made and produces roll information for specific elections.⁶⁴

⁵⁹ Submission 5, NSWEC, 24 October 2014, p. 33

⁶⁰ Submission 5, NSWEC, 24 October 2014, p. 33

⁶¹ NSWEC, *Responses to Questions on Notice*, 31 October 2014, p. 9.

⁶² NSWEC, *Responses to Questions on Notice*, 31 October 2014, p. 9

⁶³ Submission 5 NSWEC, 24 October 2014, p. 16

⁶⁴ Joint Committee on Electoral Matters, *Administration of the 2011 NSW Election*, p. 37

3.37 The Commissioner was questioned about SmartRoll at the public hearing, when asked if he had any concerns, he replied that he was confident that the process was working well and that it was being managed appropriately:

Since the commencement of SmartRoll we have touched over a million people. We have run quite a number of local government elections, including the 2012 general elections for councils, lots of parliamentary by-elections, lots of local government by-elections and the number of complaints are minimal.⁶⁵

3.38 The Commissioner advised the Committee that SmartRoll plays an important part in maintaining the integrity of the roll mainly from the updated data it receives from Roads and Maritime Services.⁶⁶

3.39 The Liberal Party, in their submission to the inquiry highlighted the importance of the integrity and accuracy of the electoral roll. They stated that in addition to the automatic provisions, oversight and integrity checks of the roll should be conducted by the Commission to prevent potential misuse.⁶⁷

iVote

3.40 iVote was implemented by NSWEC at the 2011 election and enables electronic voting via a telephone or by a computer linked to the internet, for eligible voters. In their submission the NSWEC informed the Committee of plans to develop iVote through a number of enhancements for the SGE 2015:

- new cryptography techniques
- human interface telephone voting
- vote verification (captured as cast)
- hosting of the Core Voting System at the NSW Government Data Centre.⁶⁸

3.41 The NSWEC has estimated that there will be a total usage of 250,000 voters using the iVote system at the SGE 2015.⁶⁹ This will be a big increase from the last election and well above the original 100,000 expected usage predicated in project planning in 2012. The NSWEC have assured the Committee that the iVote infrastructure has been designed with the capacity to handle 1M votes, with an allowance for peak rates of 1,000 concurrent web voters.⁷⁰

3.42 It will be vital that the security of the system and the integrity of the data are maintained on Election Day, with the information being backed up regularly. In response to questions regarding the security and back up of data the NSWEC responded:

⁶⁵ Mr Colin Barry, Commissioner, NSWEC, *Transcript of Evidence*, 24 October 2014, p. 2

⁶⁶ Mr Colin Barry, Commissioner, NSWEC, *Transcript of Evidence*, 24 October 2014, p. 5

⁶⁷ Submission 6, Liberal Party of Australia NSW Division, 14 October 2014, p. 1

⁶⁸ Submission 5, NSWEC, 24 October 2014, pp. 19-20

⁶⁹ Submission 5, NSWEC, 24 October 2014, p.19

⁷⁰ NSWEC, *Responses to Questions on Notice*, 31 October 2014, p. 4

iVote Core Voting System hosting will be at the two Government Data Centre [GovDC] sites at Silverwater and Unanderra. This is a state of the art hosting facility developed by a private sector operator to NSW Government requirements for reliable and secure hosting. The primary site will be Silverwater and the disaster recovery site will be at Unanderra, with near real time replication of all data over secure links.⁷¹

- 3.43 NSWEC advised that the security of the vote for the public is maintained by the overall system architecture of iVote which is underpinned by the principle of the independence of data held by and the operation of key system components. Any attempt to change a vote would require overcoming the security measures surrounding more than one system.

Even if a hacker were successful in changing a vote at the point of submission, the voter would subsequently identify that his or her vote held on the Verification Service was not recorded as cast. In this case, the voter can re-vote using a new iVote number and the old vote will be deleted.⁷²

- 3.44 The Committee were concerned about delays in the procurement of the new verification service and the potential supplier having no experience in providing this service. An update on the project was requested from NSWEC which informed the Committee that:

The Verification Service will be developed by the NSWEC, and operational management services will be procured from a third party, so as to preserve the principle of independent operation of the Verification Service. The NSWEC believes the timeline for completion is achievable.⁷³

- 3.45 The NSWEC would develop a full testing program for the Verification Service which would include:

...functional, integration, performance and security testing. The NSWEC has its own internal test team and will engage specialist third-party testers for some aspects of this testing.⁷⁴

Electronic Mark-Off

- 3.46 Electronic mark-off is one way to help prevent multiple voting. However, in his report, prepared for NSWEC, Professor Rodney Smith concluded that the introduction of an electronic system would be an expensive solution to a problem that is predominantly caused by human error.⁷⁵

- 3.47 In their submission the NSWEC briefly explained a form of electronic mark-off used at the 2012 Local Government Elections. This 'self-service computer mark-off' for the roll enabled electors to be given a docket that was then given to the Issuing Officer. The elector was given a ballot paper and voted as normal.⁷⁶

⁷¹ NSWEC, *Responses to Questions on Notice*, 31 October 2014, p. 4

⁷² NSWEC, *Responses to Questions on Notice*, 31 October 2014, p. 6

⁷³ NSWEC, *Responses to Questions on Notice*, 31 October 2014, p. 4.

⁷⁴ NSWEC, *Responses to Questions on Notice*, 31 October 2014, p. 4.

⁷⁵ Submission 5, NSWEC, 24 October 2014, p.10

⁷⁶ Submission 5, NSWEC, 24 October 2014, p. 20

- 3.48 NSWEC have agreed to undertake further reviews in the wake of the 2014 Victoria State Elections and the 2015 Queensland State Elections, where further trials are being conducted.
- 3.49 In reflecting the view of the current and former Premiers the Chair asked the Commissioner whether he would have any objection to the implementation of this technology. The Commissioner responded that he did not have any objections, but added a caveat that he did not want to put in place any onerous processes and that a form of electronic mark off was in use now for pre-poll voting.
- 3.50 In later questioning, Mr Brightwell, advised the Committee of some the practical challenges regarding the number of devices required for electronic mark-offs and issues that may occur at more remote polling stations.
- 3.51 Mr Barry concluded
- It strikes me that the 2019 election is when we could really have a good go at it, not this one.⁷⁷

ADVERTISING AND SOCIAL MEDIA

- 3.52 An important part of the preparations for the election will be communicating and engaging with the key stakeholders and the NSW electorate. NSWEC have advised the Committee that the official communication campaign will commence Sunday 22 February 2015 and run through until Friday 27 March 2014.
- 3.53 The NSWEC submission outlines the key elements of the information campaign, including the anticipated outcomes.⁷⁸ Information sessions will also be held for candidates, supported by podcasts and webinars. Briefings for registered political parties will be held in late 2014.
- 3.54 In his submission to the Committee, Mr Alex Greenwich MP raised concerns about disengagement of younger voters and the need for the SGE information campaign to seek 'to empower and engage with young people and that this be done through media that young people use.'⁷⁹ As Mr Greenwich highlighted, this is particularly important with the use of portable devices such as tablets and smart phones, which young people use to access their information.
- 3.55 Social media will play an important role in this election, Ms Franklin advised the Committee that the NSWEC have started a new campaign focused on getting youth engaged, 'talking with them about how to use social media' and making the website accessible via smart phones and tablets.⁸⁰
- 3.56 The NSWEC provided the following breakdown of costs.⁸¹

⁷⁷ Mr Colin Barry, Commissioner, NSWEC, *Transcript of Evidence*, 24 October 2014, p. 18

⁷⁸ Submission 5, NSWEC, 24 October 2014 - paragraphs 45 - 49

⁷⁹ Submission 1, Mr Alex Greenwich MP, 3 October 2015, p. 1

⁸⁰ Ms Linda Franklin, Director Elections Branch, NSWEC, *Transcript of Evidence*, 24 October 2014, p. 5

⁸¹ NSWEC, *Responses to Questions on Notice*, 31 October 2014, p. 10

Media	Amount
TV & Online Video	\$ 700,000
Radio	\$ 500,000
Print	\$ 500,000
Online	\$ 450,000
Social Media	\$ 60,000

In response to questions on notice the NSWEC confirmed that the overall budget is estimated at \$4.48 million.

- 3.57 NSWEC will evaluate the effectiveness of its communication campaign using an independent research company, with all its major stakeholders (electors, candidates, political parties and media) after the election to gain any lessons learned.

COMMITTEE COMMENT

- 3.58 The Committee considers that based on the evidence that NSWEC are making good progress in the preparations for the SGE 2015 and there are no major concerns. They have utilised the lessons from the WA election and improved its processes, particularly in reduction of movement of ballot boxes and the facility to track the movement of boxes.
- 3.59 The Committee welcomes the centralisation of decision making to the direct control of professional electoral staff. This risk mitigation strategy will relieve temporary staff of any complex decision making that they are not trained for.
- 3.60 With regard to iVote the Committee is pleased to note that a number of improvements have been made to the service since the 2011 election and that the NSWEC has confidence in the integrity of the system. The Committee notes that the Verification Service project is still ongoing and hopes that this important project is implemented in time for the election.
- 3.61 The Committee acknowledges the importance of engaging with young people and welcomed the submission from Mr Greenwich. The Committee notes the use of a targeted media campaign which includes the use of social media but in a fast moving environment, the NSWEC will need to monitor this area to make sure that the progress they have made continues.

FINDING 1

The Committee considers that based on the evidence that NSWEC are making good progress in the preparations for the SGE 2015 and there are no major concerns.

FINDING 2

The Committee has found that the Commissioner is progressing well in engaging with youth voters, but should monitor social and other media to ensure this progress is maintained.

Chapter Four – Other Matters

FRAUDULENT ENROLMENTS

- 4.1 The Liberal Party raised concerns in their submission regarding the integrity of the roll and highlighted the current investigation by the Federal Police into the Federal electorate of Indi.
- 4.2 When asked if this was a concern in NSW, the Commissioner commented from a report of Professor Rodney Smith⁸² and reassured the Committee,
- ...number one, there are not many people who are smart enough to organise the conspiracy. Number two, to actually affect the result of an election, you only know that an election is going to be close after the event.⁸³

ELIGIBILITY OF CANDIDATES

- 4.3 The Committee raised a question on notice with the NSWEC regarding the eligibility of candidates with dual citizenship. In their response they advised that
- The role of the NSWEC does not go beyond checking that a candidate is in fact enrolled; it does not extend to going 'behind' a nomination to determine whether a person is disqualified under the *Constitution Act 1902*. Such questions are to be determined by the NSW Supreme Court in its capacity as the Court of Disputed Returns, or for Parliament itself in respect of deciding whether or not a Member should be expelled for such disqualification.⁸⁴
- 4.4 The Commission also referenced Professor Anne Twomey, who in her *Constitution of New South Wales*, concludes as follows:
- While persons who hold dual Australian and foreign citizenship *may validly be elected to the New South Wales Parliament*, if any action is taken after election to acknowledge the foreign allegiance, such as the application for a foreign passport, or perhaps even the renewal of a foreign passport, then the Member may become disqualified.⁸⁵

LEGISLATIVE FRAMEWORK

- 4.5 The inquiry also received submissions from the Greens NSW and The Fishing Party which largely related to the legislative framework for conducting elections.
- 4.6 During this parliament the Committee has reviewed the administration of SGE 2011 and conducted a comprehensive review of the electoral acts considering

⁸²Professor Rodney Smith ,
http://www.elections.nsw.gov.au/_data/assets/pdf_file/0006/173373/Multiple_Voting_and_Voter_Identification.pdf

⁸³ Mr Colin Barry, Commissioner, NSWEC, *Transcript of Evidence*, 24 October 2014, p. 13

⁸⁴ NSWEC, *Responses to Questions on Notice*, 31 October 2014, p. 12

⁸⁵ A Twomey, *The Constitution of New South Wales*, (Federation Press: 2004), p 424. Emphasis added.

many of the issues which were raised in these submissions.⁸⁶ Accordingly the Committee does not wish to revisit those issues in this inquiry, which concerns the Commission's preparedness for SGE 2015.

PAPER ROLLS

- 4.7 The Chair of the Committee questioned the Commissioner on the requirement of the NSWEC to keep a copy of paper rolls after each election. The Commissioner advised the Committee that a printed copy of the roll was retained by the Commission in order for people to inspect.⁸⁷ When asked if this was an out of date practice, the Commissioner agreed that the requirement should be removed.⁸⁸

COMMITTEE COMMENT

- 4.8 The Committee has considered the requirement of the NSWEC to keep a copy of paper rolls after each election and is of the view that this practice is out-dated and in need of review.

RECOMMENDATION 4

The Committee recommends that the NSW Government gives consideration to amending the legislation to remove the requirement for the Electoral Commissioner to keep paper rolls

⁸⁶ See: Report 2/55 *Administration of the 2011 NSW Election and related matters* and Report 3/55 *Review of the Parliamentary Electorates and Elections Act 1912 and the Election Funding, Expenditure and Disclosures Act 1981*

⁸⁷ Part 4, Div. 5 Section 39 *Parliamentary Electorates & Elections Act 1912*

⁸⁸ Mr Colin Barry, Commissioner, NSWEC, *Transcript of Evidence*, 24 October 2014, p. 19

Appendix One – Timeline: Western Australia Senate Count

Date	Event
7 September 2013	Federal election held
2 October 2013	After distribution of preferences - last 2 seats went to PUP candidate Zhenya Dio Wang and ALP candidate Louise Pratt
2 October 2013	Due to only 14 votes in the count it was challenged by defeated candidates Scott Ludlam (Greens) and Wayne Dropulich (Australian Sports Party)
2 October 2013	AEC deferred formal announcement of result
3 October 2013	Scott Ludlam (Greens) and Wayne Dropulich (Australian Sports Party) requested, under section 278(1) Commonwealth Electoral Act 1918 that the Australian Electoral Officer for WA conduct a recount of the ballot papers
4 October 2013	AEC turned down appeal for a recount by Ludlam and Dropulich on the ground they did not identify specific issues that would warrant a recount
4 October 2013	Candidates appealed to the Australian Electoral Commissioner (Under S278(2) Commonwealth Electoral Act 1918)
10 October 2013	Electoral Commissioner directed a recount
10 October 2013	Recount commenced
22 October 2013	1139 ballot papers for Division of Pearce not accounted for
25 October 2013	231 ballot papers from Division of Forrest could not be located
31 October 2013	Recount concluded
4 November 2013	AEC declared the poll. Recount overturned the original result and Wayne Dropulich and Scott Ludlam were announced as the successful candidates
8 November 2013	AEC revealed 1,370 votes missing, 5 fewer than initially announced
15 November 2013	AEC lodge petition seeking an order from the court to declare the WA senate election of six senators void
18 November 2013	Court of Disputed Returns determined result be declared void

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS
TIMELINE: WESTERN AUSTRALIA SENATE COUNT

5 April 2013	Election held
29 April 2013	Result declared

Appendix Two – List of Submissions

1. Mr Alex Greenwich
2. Australian Electoral Commission
3. The Greens
4. The Fishing Party
5. NSW Electoral Commission
6. Liberal Party of Australia

Appendix Three – List of Witnesses

Friday 24 October 2014, Parkes Room, Parliament House

NSW Electoral Commission

Mr Colin Barry
Electoral Commissioner

Ms Linda Franklin
Director, Elections Branch

Mr Simon Kwok
Elections Manager, Elections Branch

Mr Ian Brightwell
Director, IT

Appendix Four – Transcript Hearing

REPORT OF PROCEEDINGS BEFORE

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

INQUIRY INTO PREPARATIONS FOR THE 2015 NSW STATE ELECTION

At Sydney on Friday 24 October 2014

The Committee met at 9.15 a.m.

PRESENT

Mr G. J. Ward (Chair)

Legislative Council

The Hon. R. Borsak
The Hon. T. Khan
The Hon. Dr P. R. Phelps
The Hon. P. T. Primrose

Legislative Assembly

Mr G. J. Aplin
Mr A. R. G. Fraser
Mr P. G. Lynch
Mr A. J. Sidoti

COLIN ANTHONY BARRY, Electoral Commissioner, Electoral Commission NSW,

LINDA FRANKLIN, Director, Elections Branch, Electoral Commission NSW, and

SIMON KWOK, Elections Manager, Elections Branch, Electoral Commission NSW, affirmed and examined:

IAN BRIGHTWELL, Director IT, Electoral Commission NSW, sworn and examined:

CHAIR: Good morning everyone. I declare this hearing open. Thank you for attending this public hearing for the Joint Standing Committee on Electoral Matters today. Today we will be taking evidence in relation to the inquiry into preparations for the 2015 New South Wales State election. Before the proceedings begin, I remind everyone to switch off their mobile phones as they can interfere with the Hansard recording equipment. For the benefit of the people in the gallery, I note that the Committee has resolved to authorise to broadcast sound and video excerpts of the public proceedings. Copies of the guidelines governing coverage of proceedings are available.

I welcome Mr Colin Barry, New South Wales Electoral Commissioner, and from the Elections Branch of the commission Ms Linda Franklin, Director, Mr Simon Kwok, Elections Manager, and Mr Ian Brightwell, Director IT. I thank you for appearing today to give evidence. Before we proceed, do you have any questions concerning the procedural information sent to you in relation to witnesses and the hearing process?

Mr BARRY: No.

Ms FRANKLIN: No.

Mr KWOK: No.

Mr BRIGHTWELL: No.

CHAIR: Would any of you like to make an opening statement?

Mr BARRY: Yes, I would. I have nine points I would like to make, very briefly. First of all, to paint a background, after the 2011 State election we reviewed all aspects of the election operation with a focus on how we can basically do things smarter. That is the way we operate after each major electoral event. We have identified major areas of risk in terms of service failure and we developed strategies on how to mitigate those risks to an acceptable level. Secondly, we have implemented or will implement all of the recommendations from the joint standing committee following your review and inquiry into the 2011 State election for which we have responsibility. There are some recommendations which were in the Government's court which we do not have responsibility for.

Our submission to this inquiry centres around two themes: first of all, our overall preparation for the election in March 2015; and, secondly, not surprisingly, any learnings that we may have taken from our Australian Electoral Commission colleagues service failure in the Senate count in Western Australia. We have put considerable effort into bolstering our

processes around the security of ballot papers from what I would call printing to the count, a bit like from cradle to grave. Simon is certainly able to talk about any aspects of that. We have identified, and that has been reinforced by Mick Keelty's report, that one of the biggest risks around the movement of ballot papers is the handling of live ballot papers. We want to minimise the movement of live ballot papers and declaration envelopes that contain live ballot papers by, where legally possible, centralising more of the processes.

Centralising the processes allows for greater quality control, consistency in decision-making and minimising human error. Our focus in 2015 will be on enhanced quality controls, a structured program of system and process testing to reduce the likelihood of errors. Nevertheless, I have to say to the Committee that, as you know, elections are large-scale operations. We employ some 20,000 temporary staff to work on election day. The staff are not election professionals. They come with good hearts but they are not professionals. And they are the ones who are prone to making errors. We want to put more of the key decision-making in the direct control of the professional electoral staff, and we want to approach this by centralising more of the processes and using the temporary staff to do less of the complex decision-making processes and more of the routine processes.

So our view is that temporary staff can do simple processes many times but I think complex decision-making tasks are better left in the hands of the electoral professionals or at least under their direct supervision. I know that the major political parties appreciate that approach. While no election is free from risk or service failure, I believe that the controls we have put in place for the next New South Wales State election will give the Committee every confidence that the election will be regarded by our key stakeholders as having been conducted to the highest standard of professionalism and integrity.

CHAIR: As you know, since we last met there have been significant changes to things like the election funding process and expenditure and disclosures. How does that ongoing process affect your planning for the 2015 State election?

Mr BARRY: Funding and disclosure is a separate branch in the commission and it has its own director and resources. It does not directly impact upon the operational matters in planning associated with the election. It would be unfair if I did not observe that it is difficult—whether it is electoral law or funding and disclosure laws—when you get them changed at the eleventh hour because there is a lot of information that now has to be put into the public domain and into the domain of our key stakeholders regarding funding and disclosure. But I do not believe that will have any significant impact on the operations.

CHAIR: You note in your foreword to the submission on page 4 that you will be seeking supplementary funding from the State Government to minimise the risk of election failure. Have you received any assurances in terms of securing that funding from the Government?

Mr BARRY: No, I have not, and in fairness I have not made any submission to the Government at this stage. One of the challenges about running these large-scale events, it is a bit like the Commonwealth Games and the Olympic Games. You do not really know. The biggest cost associated with the election is the staffing. While we have very robust planning in place, the challenge is that you do not necessarily know how much you will spend until we get into March of next year. So in fairness to the Government, they have not been given any submission just yet. But they will get something asking for some supplementary funding to give

effect to these additional security measures we want to put in place as a result of the Mick Keelty report and the learnings from the Western Australia election.

CHAIR: One of the things the Committee has not focused on in the past is SmartRoll. We have spoken about it but perhaps not in great detail. Do you have any concerns about the manner in which SmartRoll operates and any oversight when people are being placed on the roll automatically?

Mr BARRY: No. To tell you the truth I did not, and I did not ask Paul Beeren to come along. Paul is the Director of Enrolment. That process is working really well. We are changing something like 15,000 electors' enrolment every week.

CHAIR: Are you satisfied that it has been managed appropriately?

Mr BARRY: Yes I am.

CHAIR: Why?

Mr BARRY: We have a call centre of four people. We have minimal people ringing us and saying we have got something wrong. Since the commencement of SmartRoll we have touched over a million people. We have run quite a number of local government elections, including the 2012 general elections for councils, lots of parliamentary by-elections, lots of local government by-elections and the number of complaints are minimal, and I am talking count them on two hands. So we are not getting it wrong; we are getting it right.

CHAIR: Excellent. In relation to staff training and enrolment, I note in the Liberal Party submission comment was made around training and recruitment. What is the process for recruiting casual electoral staff? What training are they given prior to election day?

Mr BARRY: Can I ask Linda to comment on that?

CHAIR: Of course.

Ms FRANKLIN: Yes, we have quite a robust process in place in terms of recruitment and training of staff. For our senior election officials, they are all recruited based on a merit selection process through an application process. We do a big campaign to recruit senior election officials into what we call our eligibility pool. We have a pool of about 230 senior election officials that we draw on for various elections that occur, both the general elections and by-elections as well. But by being able to draw on that pool of people consistently they get more and more experience, obviously, in managing and conducting elections. We assess their performance every time they work with us. We also criminal record check them and reference check them as well. So we are very confident that that pool of people are able to do a good job in terms of conducting elections.

Mr ANDREW FRASER: What is your assessment process? How do you assess them?

Ms FRANKLIN: On their performance, do you mean?

Mr ANDREW FRASER: Yes?

Ms FRANKLIN: What we do is we actually inform them how we will assess them and we have a select criteria of various tasks that we are expecting them to perform at a certain level. We monitor that throughout the election process. We have a team of returning officer support officers through the election who sit with us in our office. They basically are the support group for the 93 ROs out across the State and they are continually monitoring their performance. So we are making those along the way and giving them feedback along the way with regards to the level of performance. After the election we do a complete performance assessment of those returning officers. We send that to them so that they can review it and we have a discussion with them if they disagree with any particular performance aspect. We have an appeal process in place for that. So that actually helps us understand where we might need to increase our training, whether or not somebody is suited to another role other than a senior election official. We then are able to assess whether to recruit those people again to conduct future elections for us.

CHAIR: Do those senior election officials train the polling clerks and similar positions across the State? Is that how it works?

Ms FRANKLIN: They do. We actually have a combined training program for the casual election staff, the 20,000 that work. Depending on the role that they are performing they either do both online training and a face-to-face training session and have manuals that they have to read. Through the online training program we have quizzes at the end where they actually have to undertake the quiz and we look at their scores. Again, they have to pass a certain level to get through and be recruited.

CHAIR: How do they get to that point? Can anyone apply to do that?

Ms FRANKLIN: Yes. We have what we call an expression of interest online. So people go on and apply. For those people that we have employed in the past, they will get a message to say that the EOI is open and inviting them to apply. Anybody can apply because the EOI is actually on our website.

Mr ANDREW FRASER: Do you have minimum qualifications?

Ms FRANKLIN: We do. We have a selection criteria. When they go onto the EOI it will ask them certain questions about their experience in the past, which will help us to evaluate whether or not they are suitable for the role that they are applying for.

CHAIR: Thank you very much for your answer. In relation to storage at Town Hall and other pre-poll booths—the Liberal Party noted this in its submission to the commission—you just made the point that with two weeks of pre-polling it is optimal to have some storage space rather than having volunteers pack things up every day and bring them back. Apparently Town Hall has been very difficult to deal with, in particular. Do you have any comment or can you provide any assistance in ensuring that people who are doing pre-polling have some space at polling booths to leave limited material there or is that an unreasonable request?

Ms FRANKLIN: Not at all. I might cross to Mr Brightwell to talk about Town Hall and I can talk about the other pre-polling arrangements.

Mr BRIGHTWELL: We actually ran Town Hall for the first time at the local government election but from a polling place perspective it is a similar operation for the State General

Election. You might be aware that the pre-poll we run typically out of the smaller room on the side and then in the last day or two before election day we actually move to what we call the lower Town Hall. The Town Hall itself provides, when you are in lower Town Hall, a secure room where only the commissioner has the key—they typically use it for other clients, for storing money and that sort of thing. We have a fairly high level of confidence in that security arrangement and we put all ballot boxes in that facility overnight.

As far as the open floor area in lower Town Hall, we secure the area and we have a security guard there post election night when we actually have got live ballot papers out for counting. For the Marconi Room, what we have done is used secure storage cabinets with locks on it where all the ballot boxes go in there overnight and the room itself is locked and there are the council's guards that monitor it 24/7.

CHAIR: So would candidates participating in the election be able to store material there?

Mr BRIGHTWELL: The actual canvassing? We have not had an arrangement—we have had what I might call informal arrangements. The Town Hall itself provided a room last time—I believe it was off the Marconi Room—and that was used by an arrangement with the particular parties and the council itself. That was probably not a great arrangement and it is something that we have to have a look at. We are in the midst of leasing the Town Hall again and we need to look at that again because what it means is that we have party officials accessing through polling places, areas close to polling places, and that proved unsatisfactory for some of the operational needs of the commission.

CHAIR: Do you think you could have a look at that?

Mr BRIGHTWELL: Sure.

CHAIR: I know that both sides of the major parties have elderly volunteers lugging equipment back and forth and it is very difficult.

Mr BRIGHTWELL: We certainly can. We have started a discussion about just exactly that point, those rooms, storage and security, so we will be mindful of that. If we can find an access point that is not common to the polling place, that would, I think, work quite well for all parties.

CHAIR: Ms Franklin, did you wish to add anything?

Ms FRANKLIN: For the pre-poll venues across the State, we are obviously in the hands of the market at the time because we have to short-term lease the properties for the pre-poll venues so we cannot ever guarantee that we will have a secure storage room within the facility that we can use. Obviously that is our priority; if we can find one, we will, and use that secure room with the key and the lock to secure the ballot papers. If we have not got a facility that has a secure room, what we will do is we have something called a ULD—I did not bring a picture but it is a very large, very secure box, if you like, where all the ballot papers will be stored inside and those ULDs will have security seals on them. We have a process in place for checking of those seals and so every night they will be put away and sealed and then the next morning we will check the seals, open them up again and use the ballot papers. That is the plan at the moment.

CHAIR: I have two more questions. In Alex Greenwich's submission, which is quite a good submission, he raised two points: first, that the Electoral Commission website needed to be smart phone and tablet friendly for younger people wanting to access voter information. The other issue he raised in his submission was in relation to the commission's engagement with youth. Would you, commissioner, or one of your staff, be able to comment on those two points raised in Mr Greenwich's submission?

Ms FRANKLIN: I can do that, if you like. We have actually just embarked upon a new advertising campaign for the election. The organisation that we are working with is very conscious—it has actually been part of our brief that we have to target particularly youth in the campaign, given that they are a demographic who are not so engaged with the electoral process. The campaign is very much focused around getting youth engaged. We have been looking at it and talking with them about how we use social media, particularly, to engage that particular group, and they are coming back to us with a proposal on how we will get that information out to that particular group.

CHAIR: What about young people? How is the commission looking at engaging more actively with youth voters in the run-up to the election?

Ms FRANKLIN: Through the social media engagement, through the advertising campaign in particular. I actually had a conversation this week about the smart phone and tablet so that our website is compatible with smart phones and tablets to enable young people to get the information they need.

CHAIR: If someone has a disability which would render them unable to vote, what is the process for that person being taken off the roll? I have had a situation in my electorate where somebody's daughter who has a severe disability received a fine for not voting. What is the process for having someone with a disability who should not be on the roll removed from the roll?

Mr BARRY: The challenge in all of this is that you have to treat each case on its particular circumstances. I am not particularly aware of the one in your electorate but I was aware of one on the Central Coast, or it might have been further up. Recently a member of Parliament wrote to us about a particular circumstance where a father was complaining because his son was put on the roll. I am not having a cheap go at our Australian Electoral Commission [AEC] colleagues, but they put the person on the roll. We did not put the person on the roll because we have very tight criteria around how we SmartRoll people. This particular person was not put on the roll by us; they were put on the roll by the AEC.

The matter was resolved in the end but the challenge in all of this is that we get conflicting messages. We get messages from parents of a disabled child, saying, "My son", or daughter, "does not understand and cannot vote." When we talk to the peak lobby group for disability, they say these people have rights and sometimes the parents interfere with the young person's rights, and it is easier because it is convenient for the parent, but taking them off the roll is not the right way to go. So we get a lot of pressure from the peak body that says, "Look, using heavy-handedness to take people off the roll on the basis of a parent jumping up and down is not right." I tend to agree. Under New South Wales law we can remove a person from the roll if the parent gets a medical certificate that states the person does not understand the nature of enrolment and voting. I think that is the safeguard.

CHAIR: If someone is issued with a fine and they could demonstrate that at the time, they would not be fined?

Mr BARRY: This fine business—we are not unreasonable people. All they need to do is write to us. A person with a disability might be good on one day and will be able to vote and on another day they might not be. All they need to do is write to us and tell us that.

CHAIR: That is fine. You have answered that question.

The Hon. PETER PRIMROSE: A couple of the questions that I had have already been covered. The secretariat has prepared excellent questions from your submissions.

CHAIR: I hope we have covered them.

The Hon. PETER PRIMROSE: It is still, nevertheless, worth visiting in detail. What arrangements and systems are in place to check the integrity of the electoral roll throughout the State and in each electorate? It has been raised many times. Can you run through the integrity of the roll and if there has been any enhancement since 2011?

Mr BARRY: SmartRoll brings a lot of that to the process. If I go back to the real past, the roll was maintained by doorknocking and it became stale very quickly. What we find now with SmartRoll is that people tell Roads and Maritime Services that they have changed their address. If they get pulled over by the police they want to make sure their driver's licence is right otherwise they will get a fine. Those processes actually put a lot of pressure and a lot of integrity around the information we get from Roads and Maritime Services. We get the information from there; we are told a person has moved. We contact the person and say, "We are going to do this. If this is correct, do nothing. If it is not, correct it and contact us." That process brings a lot of integrity to the roll.

We have changed one million people since SmartRoll has been going. There will be a little over five million voters at the next State election. Election day is always a major test of the roll. Whenever there is an election—whether it is a by-election or a local government election—if the roll has major problems, that is where it all surfaces. We do not have any of that. As I said, I did not bring the director of enrolments along, but perhaps we could ask him to write a paper for the Committee on how the integrity of the roll is enhanced.

CHAIR: Members would appreciate that.

Mr BARRY: The integrity of the roll is a perennial issue. We know that members of Parliament, particularly lower House members, write to constituents and we know that sometimes the data provided by their party is not necessarily the most up to date. You write to people and you get letters back saying that that person has moved. We investigate and there is always an answer.

CHAIR: Would you take that as a question on notice and provide a supplementary submission?

Mr BARRY: I will.

The Hon. PETER PRIMROSE: This is another question that I have worked out in great detail. With regard to electronic marking, your submission notes that Professor Rodney Smith has concluded that this would be expensive and would have limited impact on multiple voting. Are there any measures that you think would be effective in preventing multiple voting, or is it really going to be a case of using a sledgehammer to crack a nut? What I am really asking is how big an issue is it? We have asked about this before. Given that it has been raised before, can you comment on how big a problem you believe multiple voting is in New South Wales?

Mr BARRY: There will always be instances of multiple voting. There are greater instances of apparent multiple voting than there is actual multiple voting. We know why there is apparent multiple voting—it is typically errors on the part of clerks marking the wrong names on the roll. Rodney Smith interviewed a number of members of Parliament to try to unearth the evidence and the issues. Is it anecdotal or is there real evidence? We know why there is apparent multiple voting. Of course, we also know that there are instances of real multiple voting. They typically involve elderly people who have a postal vote and then some good neighbour has taken them to the polling place on election day and they vote again. Do I think there is any significant issue? Absolutely not. When you have a system involving five million people voting, you will get instances of multiple voting. The question that needs to be asked is how significant is it and could it affect the result of an election. Rodney Smith's report deals with that issue.

The Hon. Dr PETER PHELPS: Is Rodney's report a public document?

Mr BARRY: Yes, it is. It is on our website. I gave the Committee a copy of it.

CHAIR: Thank you.

The Hon. Dr PETER PHELPS: You mentioned centralisation of counting. When you mentioned "centralisation" I heard 93 returning officers around the State shifting uneasily in their seats. What level of centralisation are you talking about for vote counting, particularly in relation to lower House seats?

Mr BARRY: Unlike our Federal colleagues, our 93 returning officers do not shift uncomfortably in their seats because their seats are not very permanent. Perhaps I could ask Simon to comment on what we are going to do.

Mr KWOK: The centralisation will be part of our initiative to minimise the movement of ballot papers, and Colin has outlined some of the reasons why we are implementing the centralisation initiative. In terms of the counting, the counting of the lower House ballot papers, the LA ballot papers, will continue to be processed at each of the 93 districts, but the centralisation we are talking about is that we want to minimise the movement of a lot of the declaration vote envelopes. Previously the returning officer would have to distribute the declaration vote envelopes, it gets sorted in the warehouse and gets distributed back to the returning officer's office, and some of them may have another electronic file but some of them may get mis-sorted. The intention in 2015 is that we will receive all declaration vote envelopes, process them and return the ballot papers to the respective returning officer's office for the final ballot count. So all the ballot papers for the lower House—for each of the districts—will be done in each of the respective districts.

The Hon. Dr PETER PHELPS: Just to clarify, there is no change in the way ordinary ballot papers for either the upper House or lower House are counted?

Mr KWOK: That is correct.

Mr BARRY: No change.

The Hon. Dr PETER PHELPS: The only difference is for declaration votes. Give me a practical example. If I make a declaration vote in Sydney for my electorate of Monaro—

Mr BARRY: I will walk you through a—

The Hon. Dr PETER PHELPS: —where does my vote go and who is touching it?

Mr BARRY: Let's start with the postal vote. Currently we mail out all the postal votes centrally. In the past they have gone back to the respective district returning officer. Now they will come back centrally to us—

The Hon. Dr PETER PHELPS: And be counted centrally?

Mr BARRY: No, they will come back to us centrally and we will mark them off the roll centrally. We will remove the ballot papers from the declaration envelopes centrally. We will return to the district returning officer those ballot papers that belong to the respective district and we will retain centrally the upper House ballot paper. The counting will take place centrally for the upper House and locally for the LA.

The Hon. Dr PETER PHELPS: That does not change the number of times things are handled; it is just handled one more time centrally and one less time locally?

Mr BARRY: What it changes is—in the case of the postal vote, it changes the movement of the LC ballot paper so it stays in the central place. Strangely enough that is the ballot paper that causes the most trouble in terms of missing. It is not the LA; it is more the LC one.

CHAIR: The LC usually causes the most trouble.

Mr BARRY: The LC is the one that causes us the most difficulty getting back.

The Hon. Dr PETER PHELPS: The difference is in New South Wales the loss of a single LA ballot paper has far greater effect than the loss of a single LC ballot paper.

Mr BARRY: We won't lose any ballot papers.

The Hon. Dr PETER PHELPS: Not every LC ballot paper counts—

Mr BARRY: Well, I can assure you—

The Hon. Dr PETER PHELPS: —as every LA ballot paper does.

Mr BARRY: One of the other challenges that went on in the past was with respect to absent votes—and that is the one that you describe. So you vote outside your district, the ballot paper is in an envelope, it goes back to the district returning officer where it was issued, they all get bundled together, they get sent to the warehouse in Sydney and then we do a great big washing machine exercise in sorting them all out. Then you get back ballot papers that are supposed to belong to your district. However, what we have found in the past are enormous amounts of mis-sorts. Those mis-sorts end up going back to the warehouse, getting resorted and getting sent out again.

Interestingly, if you follow the lifecycle of the upper House ballot paper, it went to the warehouse in its first dispatch then it went back to the Legislative Assembly returning officer and then it got sent back to the warehouse again. It visited the warehouse on one occasion in an envelope and went back to another returning officer and ended up coming back to the warehouse. We want to cut all of that out.

The Hon. Dr PETER PHELPS: What about declaration votes on the day—for example, if I have moved from East Queanbeyan to Jerrabomberra and it is not reported but I am living in Jerrabomberra and I do a declaration vote on the day. What happens to that? Does that stay in the electorate?

Mr BARRY: It will end up in the electorate where the vote belongs.

The Hon. Dr PETER PHELPS: So effectively there is no change?

Mr BARRY: No change, no. One of the greatest things about doing scrutiny centrally is the marking off and finding of people on the roll, because we can control the number of people in the central environment and have much greater supervision. As I said in my opening statement, we want to make the decision-making under the control of the electoral professionals, not devolving that decision-making to the 93 casual staff, the returning officers. They get overwhelmed with all the material they have to deal with.

The Hon. Dr PETER PHELPS: My final set of questions relates to advertising. Do you have a schedule for when you will start advertising for the election?

Ms FRANKLIN: Yes, we do. That is being worked through right now. Final dates have not yet been locked in.

The Hon. Dr PETER PHELPS: Are we talking about November, December or January?

Ms FRANKLIN: January, I believe, but I will take that on notice and check and come back to you.

The Hon. Dr PETER PHELPS: What is your likely spend at this stage?

Ms FRANKLIN: We have a range of advertising, obviously; both paid advertising, community advertising et cetera. The spend at the moment is around \$3 million.

The Hon. Dr PETER PHELPS: What proportion is TV?

Ms FRANKLIN: I might need to take that on notice.

The Hon. Dr PETER PHELPS: You can take that on notice. While you are at it, presumably your media buyer has given you an indication of the total audience rating points [TARTs] you are likely to get with that spend. Could you indicate what sort of TARTs you expect to get for the electronic media spend?

Ms FRANKLIN: Yes, could I come back to you?

The Hon. Dr PETER PHELPS: Yes, that is fine; I did not expect you to have that on hand. I must say \$3 million seems a little underweighted. Presumably you are relying on the piggyback effect of party advertising, but are you scraping the bottom of the hollow logs at the \$3 million point or is there a capacity to increase it?

Ms FRANKLIN: No, not at all actually. With the increase in the use of social media, particularly to target audiences, that is a much lower spend than in the past when we were relying on radio, TV and press.

The Hon. Dr PETER PHELPS: On that point, could I have the breakdown of TV, newspaper, radio, social media, if that is doable?

Ms FRANKLIN: Yes, certainly.

The Hon. Dr PETER PHELPS: There is one further question, but I appear to have forgotten it.

CHAIR: We can come back to you.

Mr ANDREW FRASER: Is it still a requirement for a polling official to initial the back of a ballot paper?

Mr BARRY: Not the back of it, no; the front.

Mr ANDREW FRASER: In two past elections I have expressed great concern that a large number of votes, one in Clarence and one in Dubbo, were not initialled. The then Deputy Electoral Commissioner, Mr Wasson, in both cases ruled the votes valid. In Dubbo there was a group of votes from Wellington that were mislaid, and as far as I was concerned they were tampered with. I have colleagues who disagree with me, but would not a voter identity—

The Hon. TREVOR KHAN: He is pointing at me.

Mr ANDREW FRASER: The Hon. Trevor Khan and others, I think the Hon. Paul Lynch and the Hon. Peter Primrose are the same.

The Hon. Dr PETER PHELPS: I think most people disagree.

Mr ANDREW FRASER: Even my wife. Many do not agree with having a voter identification scheme. I know of one election, I cannot remember if it was State or Federal, where everyone was sent out a letter saying that they were on the roll. There was what I would consider to be a voter identification card attached. Do you have an opinion on the use of voter identification or on uninitialled ballot papers being included in the count?

Mr BARRY: We have to go back to the Act. Ballot papers that are not initialled are not of themselves ruled informal. So there is no legal basis for knocking them out. I do not want to comment on things that go back to the time of John Watson.

Mr ANDREW FRASER: No, I was just giving that as an example.

Mr BARRY: There is no evidence of the stuffing of ballot boxes; that is the first thing to observe. Elections in this country are conducted in a very public environment. The idea of people coming into a polling place and stuffing a whole lot of ballot papers into a ballot box is not feasible—it just does not happen. On the issue of voter identification, this issue gets raised at every post-election hearing. My view has not changed, in fact if anything it has been reinforced a little by what Rodney Smith had to say—that is, if you think there is a problem, voter identification at the point of voting is an option. But you have to identify what the problem is. Before you start shoving medicine into the patient, you want to understand what the patient is suffering from.

I made the observation that, first of all, voter identification is not going to be a big issue for young people; they carry identification with them all the time. If they go to a club or a pub, they have to have it. Politicians have to think about their constituents, and some of those elderly electors who are used to being able to turn up to a polling place and saying, "My name is Mary Smith and I live at such and such address." They have been doing that for the last 40 years, and now all of a sudden they are told that they have to produce some sort of voter identification. I am not sure that that is going to be very well accepted.

CHAIR: Mr Barry, let me interrupt you there. In the Stafford by-election in Queensland, where this was trialled for the first time, the Electoral Commissioner there reported only 200 section votes, which is the way that matter was dealt with. Perhaps your fears can be allayed by the fact that in the Queensland example there were very few instances where that was an issue.

Mr BARRY: Okay, I think we need to understand that electorate. I spoke to the Electoral Commissioner in Queensland about that. His observations and comments were as you said. But he certainly has a lot of fears about what will happen when it is rolled out on a statewide basis. He explained to me that that electorate is a fairly well-heeled electorate with very well-educated constituents. He said that he thinks there will be a lot of problems when it is rolled out across the State. Ultimately it is a political decision for government.

Mr ANDREW FRASER: I have a major concern, and this goes back in history but I do need to give you the example. At the end of the second day's counting in Grafton a group of 100 ballot papers which had not been accounted for was found. Not one of those papers had been initialled. It was an election that The Nationals lost by 143 votes. I took objection to those votes on the basis that the papers were not initialled. It comes back to the training of staff. In my opinion it is a fairly simple thing. It does not matter how busy polling booths are; people are dealt with one at a time. It is a fairly simple request—for the polling officials to initial every ballot paper.

It is a fairly simple opportunity for someone to slot in 100 ballot papers, because normally they go out in groups of 10 or 100 or whatever it is, onto the table which have arrived from nowhere and are not initialled. I would suggest that it does not count in a seat that is strongly one way or the other for the major parties but it does count in marginal seats where a

busload of votes, as was once said by a Deputy Premier, decided the result in a particular seat. I have concerns about the security of the vote that I cast. If I ever get a ballot paper in any election that is not initialled I ask them to initial it.

Mr BARRY: So you should.

The Hon. TREVOR KHAN: Does voter identification make any difference to box stuffing?

Mr ANDREW FRASER: I think the example given by the chairman in relation to Queensland says that you have claimed a vote legitimately. I know at that election when we got a piece of paper I took it with me, because I had been cut off the roll under the old system of someone knocking on the door and no-one is home so therefore you are not on the roll. I was the local member and I was off the Federal roll.

The Hon. PETER PRIMROSE: I am concerned that we are conflating two things. I wonder if you would agree that maybe there are two separate issues here.

Mr BARRY: There are. As to the issue about the stuffing of ballot boxes, it just cannot happen. Because of the way ballot papers are printed somebody would have to have knowledge of the print style and the layout.

Mr ANDREW FRASER: I am not saying they were not official papers; they were official papers. My finger is probably pointing at polling officials who had access to those papers.

Mr BARRY: Marking them and stuffing them in a ballot box? At the end of the night the whole thing would not add up. If you have 200 people who have gone through the polling place and you have 300 ballot papers it does not reconcile. So right at the very instance there you know there is a problem.

Mr JOHN SIDOTI: What stops someone from going to 22 booths and voting at all of them?

Mr BARRY: Nothing stops them doing it except at the end we identify the person.

The Hon. Dr PETER PHELPS: You identify that John Sidoti has voted 22 times and he gets a nasty letter from the electoral office.

Mr JOHN SIDOTI: Do you actively go looking for that?

Mr BARRY: Yes, we do.

The Hon. PETER PRIMROSE: It may be a mischief that is not occurring but it is raised routinely that someone may go to 22 booths and vote. What stops them from doing that? Can you comment on that?

Mr BARRY: What I can tell you is that I have been doing this for 25 years, so this will be the third election in New South Wales and there have been about five in Victoria. At the end of a State election we will always get instances of somebody multiple voting in the order of four, five or six times—and it will be one instance. There is a lot of apparent voting twice and I

explained that before, but it will be one instance of multiple voting. In New South Wales there was one and I sent it off to the police and the police came back to me and said, "Colin, he's a nutter." What are you going to do with that? Prosecute? I had another instance where it was not a nutter; the person admitted that he had voted multiple times. I sent it to the Crown Solicitor. The Crown Solicitor said, "You can't prosecute this. Unless the person admits that they actually voted all you can prove at best is that they went and had their name marked off the roll."

The Hon. PETER PRIMROSE: This was one instance out of about five million?

Mr BARRY: One. I know it keeps coming up and that is why I got Rodney Smith to write this report to try to say, "Look, can we put a stake in the heart of this dragon because it just keeps coming up again and again?"

Mr JOHN SIDOTI: You have never had anything where an elector or voter has voted more than 10 or 15 times.

Mr BARRY: No, not in my time.

The Hon. TREVOR KHAN: Other than a black box.

CHAIR: That is not what is referred to in the commission.

Mr BARRY: I think we had enough trouble getting people to vote once.

Mr ANDREW FRASER: Your family is safe.

The Hon. TREVOR KHAN: The impression seems to be it is only on one side of politics that dirty politics is played. I think the one thing that we have learned in the past 12 months is that nobody's house is entirely clean.

CHAIR: As Tony Jones would say, I will take that as a comment. Commissioner, in relation to a matter I raised with you which goes to Mr Sidoti's point, if somebody was enrolling where clearly they do not live, you will recall I raised an issue in relation to a family member who had a letter turn up where someone had enrolled at their residence and they did not live there. What is the procedure when that is identified? How are you actively seeking to identify fraudulent enrolments?

Mr BARRY: I cannot remember all the circumstances about the one involving your family member, but I think we resolved it in the end to your satisfaction. I cannot remember what the outcome was.

CHAIR: We might talk about that offline.

Mr BARRY: Okay. I just do not recall. Look, there can always be fraudulent enrolment.

Mr ANDREW FRASER: Joe Moran.

Mr BARRY: There can always be fraudulent enrolment. It is a little bit harder now with the SmartRoll because we use the information from the RTA as the principal source of

authority for the information. If people want to just enrol fraudulently, they can do it. They have to go out and fill out a form and send it in. If someone is so minded to do it, they can do it.

CHAIR: Ignore the circumstances in relation to my particular instance, but if it is identified, what is the process for investigation and removing that person from that address once it is identified? What is the process when it is drawn to your attention?

Mr BARRY: If we get any complaints about a possible fraudulent enrolment or where a person does not live at the address, we make inquiries. If we have found that the person is not at the address—and I think that was the case in your family member's circumstance—we took the person off the roll. I have the power just to remove them.

CHAIR: Is the person who lives at that property where there has been a claim of fraudulent enrolment advised that a person who is alleged to be living at their residence, as per the electoral roll, has been removed?

Mr BARRY: It depends on the circumstances. In the case of your family member, yes, I think Paul Beeren actually contacted your relative to find out a bit more about the circumstances. If I remember correctly, there were two. One of them was found to be correct but had moved on and the other one was—

CHAIR: Never there before.

Mr BARRY: No, had never been there and I cannot remember what the circumstances were, either.

CHAIR: That is perfectly fine.

Mr GREG APLIN: I want to follow Mr Fraser's question. Rather than identifying ballot-box stuffing I am more concerned about the training of the officers because we had evidence at the last Federal election where upwards of 20 ballots that had been completed correctly were disregarded because they were not initialled. Therefore, that is an issue that needs to be taken on board. I do not think it needs any comment. I just need to put it into perspective of training, enforcement and supervision.

Mr ANDREW FRASER: I agree.

Mr BARRY: I agree.

Mr GREG APLIN: I will follow a previous question. Obviously commissions react to either identified or perceived failings. The matter of Indi obviously has been taken up and referred to the Australian Federal Police [AFP] in relation to enrolments, but it goes further than the Chair's question. I think clarification is required, particularly for students, in the lead-up to our election. Do you have any comments on that?

Mr BARRY: Are you referring to the fact that students may have left the family farm and gone to Sydney?

Mr GREG APLIN: Correct, and there is the opportunity to distort that—as appears to have been the case with Indi.

Mr BARRY: In the case of students, my view on it is—first of all, come back to the SmartRoll thing—typically, where they got their driver's licence. Is that either in their student accommodation or on the family farm? Typically, it would be the family farm. That is where we would enrol them. However, if the student says, "Well, I am actually living in Chippendale and I want to be enrolled in Chippendale", we will change their enrolment to Chippendale. We have to be flexible. It is up to individuals to declare where they actually live. If you remember, there is a case now in the Court of Appeal, *Duffy v Da Rin*, in relation to a local government election where the court is saying, by and large, this is up to the individual to declare where in fact you want to be regarded as living for the purposes of enrolment.

The Hon. Dr PETER PHELPS: That is certainly the way the ACE has interpreted it by convention over the years. Your home is where you believe your home to be.

Mr BARRY: Absolutely, that is my view too. It is not for us to be sniffing and looking around in the windows of the homes of people to see if they are living there, how many nights a week and all the rest of it.

CHAIR: That is what I thought you did in your spare time, commissioner.

Mr BARRY: With my new powers that I have.

Mr GREG APLIN: That still does not answer the question of clarification, which is clearly the issue that is being investigated by the police at the Federal level or Indi. Will there be an opportunity to clarify that pre the election?

Mr BARRY: I am not sure. I do not think I understand the question.

Mr GREG APLIN: People often leave or alter their addresses in the lead-up to an election in order to swell numbers—that is the allegation. There is a belief that that is the case. There is also then a misunderstanding as to whether that is legal. You said that you would accept. But to what point? Is it legal up to one week before and it is changed back, and another week later another address? I am just trying to get some clarification.

Mr BARRY: You have got to remember that Indi is interesting because you are looking at it in a lens looking backwards. If I have got your enrolment and you said "I have moved from address A to address B" we take it on face value and change it. Bearing in mind in New South Wales, you can actually enrol to vote on the day, but you can't federally. So whatever you tell us, you are the person who is making the declaration. You tell us. If, after the event, someone says, "Hang on. This person has just moved there for the purposes of voting and then moved back." That is looking through the lens backwards in which case we would look at the circumstances and say, "Is this true or not?"

The Hon. Dr PETER PHELPS: There is also a statutory residency requirement for enrolment anyway, is there not?

Mr BARRY: How do you mean?

The Hon. Dr PETER PHELPS: Do you have to live at a certain location for a certain period of time?

Mr BARRY: That is right so you have to declare that. We have got to remember that we are not a police force. We rely on what people tell us and if people want to manipulate the voting system then they do it at their peril.

Mr GREG APLIN: There is also some genuine misunderstanding as a result of this particular case. That is the point I was raising. Is there going to be some clarification in order to allay those concerns?

Mr BARRY: Clarification in the sense of saying "Look, it's perfectly fine. You've moved address." At a certain point in time you can change your enrolment and then if your circumstances change and you change it back, that is perfectly in order.

Mr ANDREW FRASER: How much investigation by you or by your agents would go into a well-organised group of people transferring their vote into a marginal electorate, six, seven or eight weeks before but in reality if you looked at their circumstances they were probably buying their fuel and groceries in another area?

Mr JOHN SIDOTI: That is legal, is it not?

CHAIR: We will let the Commissioner answer the question.

Mr BARRY: There is the whole conspiracy theory around a bunch of people getting together, enrolling in a particular electorate to change the result of the election. That goes back to Rodney Smith. You have got to read what Rodney Smith actually wrote about all of this and the analysis that he did on State and Federal elections. It really is a good report because he points out, number one, there are not many people who are smart enough to organise the conspiracy. Number two, to actually affect the result of an election, you only know that an election is going to be close after the event. There are the Antony Greens and the Malcolm Mackerras' who have made a living out of trying to predict what the marginal seats are going to be and what the potential margins are going to be.

CHAIR: Antony Green is probably the stronger authority there.

Mr BARRY: I was struggling. My point is you gentlemen tell me which electorates at the next State election are going to be marginal and by how many votes. How many do you think you would need to muster to defraud the election? The answer is—I am sure you would know probably what the marginal seats are—as to how many votes it is going to be, I think you would be struggling. Then to organise a conspiracy, I would say "good luck".

Mr ANDREW FRASER: I hear what you are saying, but if we go back to a by-election for Port Stephens some years ago, where people were actually charged and acquitted—not so much acquitted but let off very lightly—they went there and changed their address. My attitude is—and you may regard it as a conspiracy—if there is one there are more, and the reality is that the polling that political parties do these days is pretty accurate.

CHAIR: The iron laws of mathematics.

Mr BARRY: That is fine. I do not dispute that.

Mr ANDREW FRASER: There are cases where, if you are looking at 0.3 of 1 per cent or something, you calculate what that is and you only need 50 per cent of that to change the result of the election.

Mr BARRY: I just want to direct you back to Rodney Smith. The interesting thing about it is that one of the observations he makes in the report is that, where there are allegations of multiple voting or fraudulent voting, it is typically not in marginal seats; it is typically in safe seats, and typically safe Labor seats.

The Hon. TREVOR KHAN: Commissioner, assume—my position has been disclosed on this—that one finds that half a dozen people are, in fact, enrolled on a vacant block of land in Dubbo, so it is evident that they cannot be resident there because it is just impossible.

The Hon. Dr PETER PHELPS: They could be if they are itinerant. We actually had this case in Queanbeyan: There were two people living on a vacant block of land and it was where a couple of local truckies slept when they were not on the road.

The Hon. TREVOR KHAN: Let us assume we have a clear case. What offence would a person be charged with?

Mr BARRY: Of?

The Hon. TREVOR KHAN: They have made a false declaration of residence; it is an open-and-shut case of a false declaration of residence. What is the offence that they are charged with?

Mr BARRY: I would have to take that on notice because making a false declaration on an enrolment is an offence.

The Hon. TREVOR KHAN: I hear that, but I want to know whether it is under the electoral Act or whether it is under the—

Mr BARRY: It would be under the electoral Act. It would be a pretty low offence.

The Hon. TREVOR KHAN: I have one final question, and it is an entirely different circumstance. Taking into account that we have some very large polling booths—and we talked about Sydney—and taking into account the heightened security circumstances that exist in Australia at the present time, what is your interaction with the police or the security services? Is there any interaction?

The Hon. PETER PRIMROSE: Point of order: I do not want to be funny about this, but maybe you wish to go into camera.

CHAIR: If you are requesting that, we can do it.

Mr BARRY: I am not going to tell you anything that needs to go into camera.

CHAIR: Do you want to proceed with the question?

The Hon. TREVOR KHAN: In a general sense.

CHAIR: I ask witnesses to leave the room because we need to have a deliberative to discuss this matter.

(Short adjournment)

CHAIR: I reopen the public hearing. The question is withdrawn.

The Hon. Dr PETER PHELPS: In relation to advertising, do you do any tracking during the campaign or post campaign analysis on the effectiveness of the advertising in terms of getting enrolments during that period of time?

Ms FRANKLIN: Yes, we will be doing some analysis on that, but it is very difficult to prevent directly the advertising campaign with those numbers, the reason being that there is so much other stuff in the media with regard to the election it is hard to pin that just purely on the election advertising campaign. There is lots of reporting in the media, other advertising going on et cetera so it is difficult to make that call.

The Hon. Dr PETER PHELPS: But there would be circumstantial evidence, for example, a spike in particular forms of advertising would see a boost in enrolments—

Ms FRANKLIN: Yes.

The Hon. Dr PETER PHELPS: —at a particular period of time. Certainly, the AEC has analysis of that in their advertising. Anyway, can you take it on notice?

Ms FRANKLIN: Yes.

CHAIR: I come back to some of the questions asked earlier. Commissioner, does it concern you that in this country it is more difficult to get a video card than it is to cast a vote in the future of our community, our State or our nation?

The Hon. Dr PETER PHELPS: If we had Netflix then we would not need to get a video card.

CHAIR: That is right.

Mr BARRY: No.

The Hon. TREVOR KHAN: It is a bit of a loaded question, is it not?

CHAIR: Of course it was.

The Hon. TREVOR KHAN: It is not going to change the vote.

Mr BARRY: No, it does not concern me. I think that the process in this country of enrolling and voting, the integrity of our electoral system, notwithstanding the hiccup in

Western Australia—I mean, this is where other countries come to look at how we do things. I do not think it is a concern.

CHAIR: Former Premier O'Farrell and Premier Baird have suggested that the Government would like to proceed with electronic mark-off as a means of ensuring beyond any doubt that the outcome is as it should be. Do you have any objection so long as resources are appropriately provided?

Mr BARRY: The short answer to that is no, I do not have any objections. It will be interesting to see. Victoria is doing a further trial of electronic mark-off at their election in November. Queensland is doing a trial not whole-of-State but a trial of electronic mark-off. I think the question always comes back: What are we trying to do? This is the medicine but what is wrong with the patient? What are we trying to correct? I am not against the idea of reorganising the flow of voting in a polling place and having electronic mark-off. We actually do some stuff at the Sydney Town Hall, which is good, and at pre-poll.

CHAIR: I put to you that it is hard to diagnose when they would discuss the fact that ballot papers do not necessarily need to be signed. It is hard to diagnose when there is potentially human error. There are a number of things that do leave open questions. Is the integrity of our democratic system—

The Hon. TREVOR KHAN: How would electronic mark-off affect whether somebody is electronically marked off?

CHAIR: Sorry?

The Hon. TREVOR KHAN: How would electronically marking off affect whether a ballot paper is signed, for instance? What is the connection between the two?

CHAIR: I am talking about the integrity of the system in terms of ensuring that a person has been voting once and not more than on one occasion.

The Hon. TREVOR KHAN: That is fine if you talk about that, but if what you are putting and using as an example the failure to initial a ballot paper, you are talking about two entirely different things.

CHAIR: I withdraw the question. Given the fact that there is room for human error in some respects, as there would be in any system around the country, do you think that electronic mark-off, combined with voter ID, would put any questions that people might raise beyond doubt?

The Hon. Dr PETER PHELPS: But who is marking them off electronically? A human, so a human is just as likely to make a mistake.

CHAIR: I think we will let the commissioner answer the question.

Mr BARRY: I like the idea of using technology to minimise human error. I am not against electronic mark-off at all. I want to see what happens in Victoria and Queensland. Queensland will be very interesting because you have the whole-of-State proof of identity. Again, I said to former Premier O'Farrell, "Look, I am personally not against it at all." I think the

risk for government is that—on the one hand Peter is asking questions about advertising and wanting to get people out to vote, which is all very good. We have to be careful that we then do not put in place other processes that will mitigate against people getting out and voting. What is the purpose of it? I think that is the question you have to ask. What is the problem that we are trying to address? Is it a perceived problem of impersonation?

Mr ANDREW FRASER: It could be a perceived problem of security of your vote.

Mr BARRY: The security of the vote is a completely different thing, I think. Elections in this country are conducted in a very public environment. If you go into a polling place on election day and try to stuff a ballot box, I just think it is impossible. Impersonation of people, yes that can happen. You can go into a polling place and say, "Well, I'm Andrew Fraser" and get your name marked off the roll when you are Colin Barry. That is perfectly possible. The trouble is then when Andrew Fraser does come into the polling place and vote, they say, "Oh, you've already voted." "No." We have processes to deal with that. No-one is denied a vote, but you can get impersonation.

All of these things, I think, are at the real, real edge of the bell curve of the integrity of our system. If we are going to put in place more onerous processes for the elector to deal with these things that are right on the edge, I think we run the risk of affecting the people who are in the bulk of the bell curve. That would be my comment about it. But I am not against electronic mark-off as long as we can make it work. We sort of have forms of it now because when you get a pre-poll vote, you are electronically marked off.

CHAIR: Earlier you mentioned the printing of ballot papers. I hope no-one takes issue with this question.

The Hon. TREVOR KHAN: That's directed at me.

CHAIR: No, it was not actually. Australian Paper in the Shoalhaven produces a security paper. Is that from where you source your ballot papers?

Mr BARRY: I will ask Simon to answer that.

Mr KWOK: We engage a printer. The sourcing of the paper like that is done through the actual printer themselves. The printer is Blue Star, which is an Australian company. I am of the understanding that the paper is Australian, but I cannot be specific. I can certainly get back to you.

CHAIR: I ask you to take that on notice. This morning a constituent raised with me the problem of disability parking at polling booths. Do we not ensure at all polling booths that there is disability parking?

Mr BARRY: Wherever we can, yes.

Mr ANDREW FRASER: Within reason.

The Hon. Dr PETER PHELPS: Where is disability parking at Town Hall?

Mr BARRY: Yes.

Mr ANDREW FRASER: What is your point?

Mr BARRY: Bearing in mind we do not own the polling places, we try to use polling places where there are all these facilities for disabled people but it is just not possible in every case.

CHAIR: When you search for facilities, is that one of the key criteria?

Mr BARRY: Yes it is.

The Hon. Dr PETER PHELPS: I understand you will data entry the LA ballot papers?

Mr BARRY: Yes, I am glad you asked me about that.

The Hon. Dr PETER PHELPS: What is the point of doing that? There is only one electorate where it is likely to matter and that is Balmain. Does anyone here think Penny Sharpe is not going to win Newtown? No? One electorate in all of New South Wales where the utility of the data entry of LA ballot papers is going to matter, and that is Balmain; why is the commission spending money on that for the sake of getting a quicker result out of Balmain?

Mr BARRY: It is not about Balmain. After the election you would be surprised at the number of people who make various requests of us for information regarding the preference votes.

The Hon. Dr PETER PHELPS: I can think of one person.

Mr BARRY: There are lots of them. We have even had, not at a State election but a local government election, where a person has actually gone off to court wanting to get access to the ballot papers to do their own preference analysis. I think we were very lucky in that case because we came to an arrangement with the person but we were not confident that we would even win in the court.

The Hon. Dr PETER PHELPS: How much is it costing?

Mr BARRY: Not a lot. In actual fact it might be actually less than the manual count because often we get cases where they have done a manual count and things do not quite add up at the end.

The Hon. Dr PETER PHELPS: Are we not doing a manual count on the night?

Mr BARRY: Yes, on the night we do, but afterwards the people who do those preference allocations, we often get them doing them twice because they got it wrong the first time. It is just the inefficiency of it. The data entry—it puts the whole thing beyond doubt. "There's the result; there's the data" and the political parties, I think, will love it.

The Hon. Dr PETER PHELPS: Is it going to have the same 21 standard?

Mr BARRY: Double data entry?

The Hon. Dr PETER PHELPS: Yes, that what's its name has?

Mr BARRY: No, single data entry; you do not need to.

Mr ANDREW FRASER: I can say that in 2003 the result that is recorded in the Coffs Harbour electorate is not correct because on the night the returning officer declared one candidate, the Independent candidate, as the comparable candidate and when the check count was done, it should have been the other way around by 14 votes, so therefore the end two-party preferred vote is incorrect.

The Hon. Dr PETER PHELPS: Yes, but the problem is that the same thing will happen because the DAs only happen after the fact. If it is not costing you too much money, then I am happy to make academics happy; as long as it is not costing you too much money.

Mr BARRY: Actually, interestingly it is not so much academics, it is political parties.

Mr ANDREW FRASER: Exactly.

Mr BARRY: You use the case of Balmain. Balmain was the classic at the last election but I get these requests after every election: Can we understand the preference vote? "Why didn't you do the two-candidate preferred count for me? Why didn't you do it to me?"

The Hon. Dr PETER PHELPS: Because you are from the CEC and you are probably not likely to be helpful.

Mr BARRY: I am a little bit more diplomatic.

The Hon. PETER PRIMROSE: Just before we finish on electronic mark-offs, in relation to, say, Queensland—and I know you have mentioned Victoria is proposing to do a series of trials—what sort of time frame is required to put something like that in place by an Electoral Commission? I am thinking about the processes, the guidelines and the training?

Mr BARRY: If we are talking about rolling it out for the whole State, then there is a resourcing issue. Mr Brightwell can comment about the technology side of it.

Mr BRIGHTWELL: We are talking about electronic mark-off in 2,500 polling places. One of the challenges is not even so much setting it up and getting it going for an election; it is that you actually have to put out roughly about 10,000 devices. That is how many certified lists we have. Now 10,000 devices—if you asked me about the last election I would have said they were probably laptops. This election and forward you are probably looking at a tablet but almost certainly those devices will be, by the time of the next election—

The Hon. Dr PETER PHELPS: Obsolete.

Mr BRIGHTWELL: Obsolete.

The Hon. Dr PETER PHELPS: That is the whole problem; technology always overtakes.

Mr BRIGHTWELL: So there is one challenge, but you then have a disposal challenge to get the economics right. Following that you also have another challenge, which is that a lot of

polling places, you would be well aware, in themselves are not particularly well set up with electricity, power cords, all the other bits involved. We can do it with portable devices but we have to do things like charging them in a corner and bringing them back—that sort of thing. We certainly cannot set up in 2,500 polling places laptops with appropriate power to all the desktops. That would be inconceivable. We are just in that cusp of a situation where we are probably viable to look at electronic devices for mark-off at an effective cost but we have got a lot of challenges—source and disposal and the economics of running it sensibly. However, it does have a lot of advantages. At the point of reconciliation on election day you will get at the end of the day in the polling place a very accurate figure.

Mr BARRY: It strikes me that the 2019 election is when we could really have a good go at it, not this one.

CHAIR: We are quickly losing the quorum. I have one question. Commissioner, does the Act still require you to keep the paper rolls at your headquarters after each election, a copy of the roll that was used on election day?

Mr BARRY: Yes, we do. We have a copy of the printed roll in the commission that people can inspect.

CHAIR: Do you think that is arcane?

Mr BARRY: Yes.

CHAIR: Should we remove that requirement?

Mr BARRY: Yes.

CHAIR: There was some information that was dealt with by the Federal Joint Standing Committee into Electoral Matters in relation to silent voters. Have you seen that information?

Mr BARRY: What aspect of it?

CHAIR: The fact that they are on those rolls at your office and if people were looking for certain people, certain addresses, they could inspect those rolls and find the silent voters.

Mr BARRY: You have asked me two questions to which I have answered "yes", particularly do I think it is arcane. I do think it is arcane. In fact, one of the provisions in the electoral bill that has been drafted that has not been introduced into Parliament is to basically remove all of that.

CHAIR: We might have a look at that as a recommendation. There are no more questions from members of the Committee. Thank you for appearing before the Committee today. The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and may be made public. Would you be happy to provide a written reply to any further questions?

Mr BARRY: Yes, we will.

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CHAIR: Would you be happy for your submission that was tabled today to form part of your evidence?

Mr BARRY: Yes.

CHAIR: Thank you very much. That concludes our evidence for today. Thank you everyone for attending.

(The witnesses withdrew)

The Committee adjourned at 10.44 a.m.

Appendix Five – Answers to Questions on Notice

General Administration of the Election

Q1. You have considerable experience of administering elections - does the 2015 election pose any distinct new challenges?

1. The NSWEC is mindful that as a result of the 2013 Redistribution of Electoral Districts, there will be a level of confusion to varying degrees for the approximately one million electors who have been affected by the redistribution. It is anticipated that this confusion will result in a longer processing time to mark these electors off the roll and issue them ballot papers due to the questions they may have regarding their electorate and enrolled address.
2. To mitigate this, the NSWEC is increasing its communications to these electors to raise awareness of the redistribution prior to election day. In addition, a greater number of election officials - in particular, enquiry officers - will be recruited at polling places most affected by the redistribution. In areas most affected, there will also be an increase in the number of multi polling places and multi pre-polls which will enable electors to issue an ordinary vote for their district even if the voting venue is in an adjoining district. This will decrease the number of absent votes, and ensure more efficient processing of these electors.

Q2. What do you see as the key recommendations from the Keelty report and how have you ensured your preparations have taken these recommendations into account?

3. The fundamental message of the Keelty report is that a system is only as good as its weakest link. Therefore:
 - when there are complex processes involving many manual/logistical tasks undertaken by a largely temporary staff, human errors should be expected;
 - such errors, however apparently small, can lead to disastrous outcomes if they occur in critical processes; and
 - the critical processes must be considered in the end-to-end context, i.e., the process only ends with the last ballot paper arriving at the warehouse and accounted for, ready for disposal.
4. This process-wide view underpins the Keelty recommendations, with a significant impact on election operations management. The NSWEC has raised benchmarks and standards applicable to all processes, people and systems, and is not simply focusing on one particular aspect or point of the process.
5. For further detail, I would refer Committee Members to pp 28 - 33 of the Commissioner's submission to the current Inquiry, which details the NSWEC

preparations that directly relate to the Keelty Report. Should further detailed information be required, the NSWEC would be happy to provide it.

Q3. In your submission you advise that your current SGE 2015 Risk Register contains 196 risks [para 37]. What risks are in the major and catastrophic range and what mitigation strategies do you have in place to reduce the likelihood of these occurring?

6. As part of its SGE 2015 Programme governance, the NSWEC maintains a Risk Register. This Register is a consolidation of all risks identified by each of the 20 projects within the Programme of work for the election. The risks are rated according to probability and impact, and a list of current controls in place determines the original risk assessment.
7. Following this, any additional proposed mitigation treatments are identified that will reduce the risk rating and a residual risk assessment score is noted. The Risk Register is reviewed by the Programme Board on a fortnightly basis, and individual project risks undergo regular monitoring by each Project Owner, and adjustments made as proposed mitigation treatments are implemented.
8. The NSWEC Audit and Risk Committee also reviews the top 20 risks on the SGE 2015 Register at each of its six meetings held throughout each year.
9. A sample of the most recent Risk Register has been provided for the confidential review of Committee Members.

iVote

Q4. What have been the main changes since the 2011 election to the provisions for iVoting?

10. Since the 2011 SGE, the NSWEC has made the following improvements to the iVote service:
 - addition of “Verification Service” to allow voters to check that their vote as cast has been captured in iVote;
 - improved assurance of the integrity of the iVote system by comparison of votes held in the Verification Service with those decrypted from the Core Voting System after close of polls;
 - immediate distribution of iVote numbers, eliminating the delay of up to one day, and allowing voters to register and vote immediately thereafter;
 - improved security of the vote by encrypting at source in the browser on the voter's PC or mobile device, preventing tampering with the vote over the internet; and
 - reduction of operator manual steps to manage the system by automation of processes.

Q5. The Committee notes that there have been delays in the procurement of the verification service and issues regarding the ability of vendors to provide the service [para 70-71]. What progress has been made with this project?

11. The Verification Service will be developed by the NSWEC, and operational management services will be procured from a third party, so as to preserve the principle of independent operation of the Verification Service. The NSWEC believes the timeline for completion is achievable.

Q6. What testing is going to be done on the verification service and how is this testing going to be completed?

12. A full testing program is being developed for the Verification Service, which will include functional, integration, performance and security testing. The NSWEC has its own internal test team and will engage specialist third-party testers for some aspects of this testing.

Q7. You have estimated that the use of iVote at the SGE 2015 will increase to 250,000 based on data from by-elections [para 66]. Given that the use at the SGE 2011 was 46,862 are you confident that this estimate is correct? Given that the original project was based on an expected usage of 100,000 electors, are the systems in place to cope with the additional capacity if the estimates prove to be accurate?

13. The 250,000 estimate was arrived at by projecting trends evidenced in recent by-elections, in which there has been significantly higher usage than at SGE 2011. The NSWEC has also allowed for additional votes anticipated from the encouragement of the use of iVote instead of postal voting where appropriate. It is important to note that the design capacity of iVote must be on the higher side to ensure the system is not underspecified.
14. Since May 2014 the system infrastructure has been planned with capacity to handle 1,000,000 votes in total, with an allowance for peak rates of 1,000 concurrent web voters; this is sufficient for the maximum potential numbers which could reasonably be expected. Performance and stress testing of the iVote system will be undertaken to determine the actual capacity limits under real voting scenarios. All system activity will be monitored in real time and 'throttling' of registrations can be used to moderate peak loads if necessary, by which is meant that the NSWEC is able to release iVote numbers gradually. In particular, at 8.00 a.m. on the opening iVoting day of Monday 16 March 2015, the potentially pent-up pool of voters will be released incrementally. Appropriate messaging to voters will be developed to handle any instances where inbound capacity is in fact exceeded.

Q8. The iVote Strategy states that on election day the iVote system will be fully backed up periodically during operation to an independent site, as well as the primary and replicated systems. Where is the independent site hosted and who is it managed by?

15. iVote Core Voting System hosting will be at the two Government Data Centre [GovDC] sites at Silverwater and Unanderra. This is a state of the art hosting facility developed by a private sector operator to NSW Government requirements for reliable and secure hosting. The primary site will be Silverwater and the disaster recovery site will be at

Unanderra, with near real time replication of all data over secure links. Both sites are managed by the GovDC operator, Metronode, and NSWEC hosting operations are provided as a managed service by a GovDC Marketplace provider, Secure Logic.

16. Periodic backups will be taken of the primary system and will be located off-site. These backups are taken more for audit purposes than data recovery, as they ensure that a point-in-time snapshot of the system is available if required for audit purposes.

Q9. Professor Rodney Smith in his 2013 'Internet Voting and Voter Interference' report for NSWEC [quoted in the iVote Strategy] stated that

'Internet voting attacks are able to target a large number of votes with a fraction of the budget....Security flaws in operating systems and applications make it easy to write a virus that would be active on election day to change the voter's vote.'
(p.31)⁸⁹

a) Given the relatively small amount of lost votes that resulted in the new election in WA, and in light of Professor Smith's comment, what assurances can the Commissioner give the Committee about the security of the iVote system

17. The security environment for the iVote system has been developed taking account of the following:
- CSC Australia was commissioned to undertake an analysis of the potential threats to iVote;
 - a security implementation plan was then developed to ensure that measures are in place to counter identified threats; and
 - the iVote system meets internationally accepted principles for online voting systems;
 - an international group of technical experts (the iVote Technical Advisory Group - TAG) reviewed iVote plans and implementation documents at a number of points in the development of the iVote project, with particular focus on aspects affecting the integrity and security of the overall iVote system;
 - the NSWEC has plans for extensive secure logging and monitoring of system activity to identify anything unexpected; and
 - the resulting security planning is being implemented in the system and hosting arrangements are being designed in association with the hosting provider.
18. The overall system architecture of iVote is underpinned by the principle of independence of data held by - and operation of - key system components. Thus, any attempt to change a vote would require overcoming the security measures surrounding more than one system. Even if a hacker were successful in changing a vote

⁸⁹ It is noted that at this point of his report, Professor Smith was quoting R Joaquim, C Ribeiro, and P Ferreira, (2010) 'Improving Remote Voting Security with CodeVoting', in D Chaum, et al (eds), *Towards Trustworthy Elections* (Heidelberg, Springer) at p 311, where the authors contrast the fact that an attack only works if it can be hidden from the voter, such that if voters somehow find out that it has occurred, they are likely to report it; whereas vote-buying and voter coercion involve social relationships in which the actors are identified to each other.

at the point of submission, the voter would subsequently identify that his or her vote held on the Verification Service was not recorded as cast. In this case, the voter can re-vote using a new iVote number and the old vote will be deleted.

b) What progress has been made in the implementation of the recommendations from the iVote threat analysis and risk assessment for SGE 2015?

19. The NSWEC is confident that the processes around the security of the iVote system outlined above fully addresses the recommendations in the CSC threat analysis.

Q10. What are the Commission's plans for expanding iVoting in future elections?

20. The NSWEC has made provisions in its contracts with suppliers for iVote to be available for use by other Electoral Commissions in Australia and New Zealand. It is expected that these other jurisdictions are waiting to see the outcome of the use of the iVote system in SGE 2015 before committing to trials.

21. Pending the successful operation of the iVote system at SGE 2015, the NSWEC is hopeful that the Committee's recommendations in relation to the LGE 2016 may result in iVote being trialled at those elections, despite the Government's response.⁹⁰ The iVote system has the potential to address the lack of absent voting at local government elections and to support attendance voting operations at larger venues.

22. Despite the Government's concerns about potential logistical issues with the conduct of elections for individual councils, the NSWEC is hopeful that all councils will be prepared to support the operation of iVote, even if they have not opted for the NSWEC to conduct their election. This approach was proven at the LGE 2012, where Sydney Town Hall operated as a State-wide polling place and took ordinary votes for those councils which did not use the NSWEC as their election manager. Moreover, the cost of operating iVote at the LGE 2016 will be competitive compared to any other approach which might be adopted to resolve the recurrent issue of electors' inability to absent vote. However, it is noted that the use of iVote for LGE 2016 will require legislative changes.

Polling places

Q11. What provisions will be made to facilitate access to voting and to polling places for people with disabilities?

23. Wherever possible, the NSWEC uses polling places previously used by the Australian Electoral Commission [AEC]. This is to reduce elector confusion, as it is known that the majority of electors, if in their own district on election day, will go to the same venue they have previously used in order to vote. Given that these venues are not owned by

⁹⁰ The Committee proposed that technology-assisted voting (or the iVote system) be available to electors at the 2016 LGE. However, the Government response noted that, considering councils need to decide on the conduct of the 2016 LGE by March 2015 at the latest, it is unlikely that the logistical questions could be settled in time for iVote to be available to councils in 2016. Nonetheless, the Government was supportive of making iVote available for use at the 2020 LGE.

either the AEC or the NSWEC, and the considerable number of polling places that are required to be used on election day, the NSWEC is always constrained by the availability of suitable premises that are accessible to people with disabilities.

24. Despite this, the NSWEC publishes on its website the accessibility level of every polling place - i.e., fully accessible, partially accessible and not accessible. If partially accessible, a description of that partial accessibility is given on the website to enable people with a disability to assess whether or not they will be able to access the venue. For example, where a polling place is itself accessible, but there is no accessible toilet, that venue will be listed as only partially accessible.
25. Within each polling place, a wheelchair accessible voting screen, maxi pens and magnifiers are available for electors with a disability to assist them to vote. In addition, the NSWEC has contacted every Declared Institution on its database to discuss the most suitable method of voting for their electors, to ensure that people in Declared Institutions can utilise the most accessible form of voting for them, be it via a visit from a mobile team to cast their vote in person, a postal vote or the use of the iVote system.
26. In addition, iVote will be offered at Sydney Town Hall for electors with disabilities.
27. Also at Town Hall, it is proposed that the NSWEC will provide Registered Political Parties with the option of storing election material in the Marconi Room up until the Thursday before election day, although it will be need to be removed by 7:45 a.m. each voting day. After that date, the NSWEC will try and arrange a room in the entry foyer for such election material. If Sydney City Council is unable to provide a room, the NSWEC will allow the parties to store material in the foyer areas - which are separate from the polling place - and will again require the material to be removed by 7:45 a.m. every voting day.

Q.12 How accessible are the polling places for the 2015 election for people who rely on public transport?

28. As noted above, the NSWEC is constrained by the availability and choice of polling places, given that none are owned by the NSWEC, but does provide significant access information on those polling places to electors. However, over half of the polling places for the 2015 SGE are located within schools, which by definition are accessible by public transport. For the remaining polling places, accessibility to public transport is part of both the AEC and NSWEC venue check list. Unfortunately, this data is not currently captured within a database. Also, it should be noted that it is likely that some polling places in rural NSW may not be well-served by public transport on a Saturday.

Q13. The Committee's review of the 2011 recommended that it be made an offence for the providers of polling places to interfere with the display of compliant electoral material. Without any change to the law as yet – is there more that your officers can do to prevent such incidents occurring at the 2015 election?

29. In the absence of any legislative authority, all a Polling Place Manager can do is to request that any interference that they have observed or that is reported to them on election day ceases immediately. Should the person interfering with the display of compliant material not desist from doing so, the next course of action would be for the Polling Place Manager to inform their Returning Officer and to call the appropriate authorities, i.e., NSW Police, to attend the polling place to deal with the matter.

Counting the votes

Q14. For the first time NSWEC will data enter information from Legislative Assembly ballot papers into a computer counting engine [para 100]. What are the potential risks with this innovation; and what mitigation strategies have you developed?

30. NSWEC has a successful track record managing system delivery. The proposed system is built on the existing computing counting platform which the NSWEC successfully delivered for the 2011 Legislative Council Election and the 2012 LGE. It is considered that any system risks are managed well within NSWEC's capabilities and resources, such that there are no real risks associated with this approach, which was used highly successfully in Returning Offices at the LGE 2012.
31. In addition to the usual quality checks associated with data entry processes - which are significantly higher than the manual count processes - the main advantage of such data entry is that the NSWEC can hone its results during recounts and checking of ballots, which will provide a greater level of certainty and accuracy than manual recounts.
32. After election day, the integrity of computer counting will be able to be confirmed by the public as the NSWEC input data files will be published on the website, together with the specification for the count system. Thus, any interested person will be able to develop his or her own count system, to compare with the NSWEC count. This approach worked well for the NSWEC at the 2011 Legislative Council count, and it is anticipated that the public interest in the WA Senate recount will mean that more individuals will undertake this type of check.
33. NSWEC will also put in place a Results Management Team to provide further oversight and assurance of results processing.

Integrity of the electoral roll

Q15. How does the Commission ensure integrity of the electoral roll? (in evidence before the public hearing on 24 October 2014, the Commissioner offered to provide the Committee with further information from the Director of Enrolments on this subject).

34. Having regard to the strict time frame in which the Committee seeks responses to its question, the NSWEC considers that it would be of more use if a more extensive response were prepared by the Director Enrolment and made available in the near future. This will therefore be provided to the Committee at the earliest date possible after SGE 2015.

Q16. When will advertising promoting the election commence?

35. It is planned to commence State wide advertising on Sunday 22 February 2015 and run through until Friday 27 March 2014.

Q17. What proportions of advertising expenditure are spent on television advertising, newspapers, social media and other media?

36. The Budget Split allocation for the placement and buying of the advertising space is currently (as it is subject to change) at the following amounts:

Media	Amount
TV & Online Video	\$ 700,000
Radio	\$ 500,000
Print	\$ 500,000
Online	\$ 450,000

37. In addition to the above state-wide communications campaign, is the cost account management and producing the adverts of approximately \$900,000. Approximately \$60,000 will be spent on social media in addition to the on-line advertising above.

38. The NSWEC has budgeted a further \$1.369 million to produce the following:

- (i) a range of specific communications to special interest groups including electors with a disability, culturally and linguistically diverse electors and Aboriginal and Torres Strait Islander electors;
- (ii) candidate information and registered third party campaign advertising;
- (iii) information to inform electors who are eligible to use iVote services; and
- (iv) communication messages to electors impacted by redistribution.

39. This brings the total spend to an estimated \$4.48 million.

Q18. What total targeted audience rating points (TARP) does the Commission expect?

40. The estimated TARPs across TV for Brand, Prepoll, and Remember to Vote is approximately 460 state wide TARPs across the 5 week campaign period.

41. The impact of the advertising would typically be measured using pre/post campaign awareness testing. In terms of measuring success for the media component of the campaign, this can be done using standard media metrics such as Reach and

Frequency figures for TV, press and radio activity, as well as online metrics such as clicks to site and new registrations (online analysis depends on the tagging that will be implemented). These measures will allow the NSWEC to ascertain how much of the total NSW audience was exposed to the messaging and engaged with the campaign.

Q19. What analysis does the Commission undertake of the impact of its advertising?

42. The NSWEC takes the issue of evaluation very seriously, as it provides both vital information for the improvement of electoral services for future elections, and a mechanism for the Parliament to hold the NSWEC to account for the conduct of elections. This degree of accountability also engenders trust in the community that the NSW electoral system is robust and impartially administered.
43. In terms of the analysis of the impact of advertising, the NSWEC will evaluate the effectiveness of its communication campaign across all stakeholders – electors, candidates, political parties and media - as it has done for each major election event since the 2008 LGE.
44. The evaluation preparation is well advanced; the procurement process for an independent research company to undertake the evaluation is almost concluded and the design of the evaluation is scoped. The assessment of the proposed advertising communication campaign will include a comparison of electors' awareness both before and after the election. The assessment will be undertaken at the following two levels:
 - the campaign's ability to reach the target audience; and
 - the ability to achieve a response in terms of knowledge and behaviour having regard to the outcomes sought from the campaign (see paragraph 49, p 15 of the Commissioner's submission).
45. Measurement will include all elements of the communication campaign (television, social media, radio, etc.,) and address awareness of the components of compliance with the statutory requirement to vote, namely:
 - the need to check enrolment;
 - knowledge of the when and where to vote; and
 - the correct method to cast a valid vote.
46. The follow up component will assess the campaign's reach. The sample size will be sufficient to enable conclusions to be drawn reliably. In addition, the surveys of electors being undertaken at pre-poll locations, as well as the post-election phone and focus group components, will include the impact of the communication campaign. Also, iVote online advertising will be monitored and managed in real time and spend allocations will be directed to the most effective advertiser.
47. The NSWEC's planned evaluation of the 2015 SGE is described in the Commissioner's submission to the Committee's Inquiry on pp 25 – 26.

Printing

Q20. From where is the paper sourced on which the Commission prints its ballot papers?

48. Paper to be used for the SGE 2015 Ballot Papers is being procured via Australian Paper, which has developed the specifications of the paper to ensure paper stock will work effectively on its equipment. The paper mill for this product is located in Maryvale, Victoria.

Eligibility of candidates

Q21. Is a person with dual citizenship eligible to stand as a candidate for election in New South Wales?

49. The role of the NSWEC does not go beyond checking that a candidate is in fact enrolled; it does not extend to going 'behind' a nomination to determine whether a person is disqualified under the *Constitution Act 1902*. Such questions are to be determined by the NSW Supreme Court in its capacity as the Court of Disputed Returns, or for Parliament itself in respect of deciding whether or not a Member should be expelled for such disqualification.

50. However, it is noted that Professor Anne Twomey, in her *Constitution of New South Wales*, concludes as follows:

While persons who hold dual Australian and foreign citizenship *may validly be elected to the New South Wales Parliament*, if any action is taken after election to acknowledge the foreign allegiance, such as the application for a foreign passport, or perhaps even the renewal of a foreign passport, then the Member may become disqualified.⁹¹

51. These comments were made in the context of Professor Twomey's consideration of s 13A(1)(b) of the Constitution Act, which provides that a seat of a Member of the NSW Parliament becomes vacant if the Member:

... takes any oath or makes any declaration or acknowledgment of allegiance, obedience or adherence to any foreign prince or power or does or concurs in or adopts any act whereby he may become a subject or citizen of any foreign state or power or become entitled to the rights, privileges or immunities of a subject of any foreign state or power.

⁹¹ A Twomey, *The Constitution of New South Wales*, (Federation Press: 2004), p 424. Emphasis added.

Appendix Six – Extract of Minutes

MINUTES OF MEETING 32

Friday 8 August 2014

10.30am

Waratah Room, Parliament House

Members present

Mr Ward (Chair), Mr Borsak, Mr Fraser, Mr Khan, Mr Aplin, Mr Sidoti, Dr Phelps, Mr Primrose, Mr Lynch

Staff in attendance

Carly Maxwell, David Hale, Elspeth Dyer, Millie Yeoh

The Chair opened the meeting at 10:30am and welcomed Mr Aplin and Mr Sidoti to the Committee.

1. ***

2. Preparations for the 2015 NSW State Election

The Chair directed the Committee's attention to the letter from the Premier, the Hon Mike Baird MP dated 21 July 2014, referring the following inquiry to the Committee:

That the Committee inquire into, and report on, the electoral processes concerning the lead-up to the 2015 NSW State Election with particular reference to:

- a. The NSW Electoral Commission's preparations for the 2015 NSW State Election;
- b. The Western Australian Senate count and steps being taken to avoid similar issues with the NSW Legislative Council count; and
- c. Related matters.

Discussion ensued.

Resolved on the motion of Mr Fraser, seconded Mr Sidoti: That the Committee adopt the terms of reference referred in the Premier's letter dated 21 July 2014.

Mr Fraser moved, seconded Mr Aplin: That the Committee write to the Premier requesting that he consider amending his referral to include the issue of voter identification as a matter for particular reference in the Committee's inquiry.

The Committee divided.

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS
EXTRACT OF MINUTES

Ayes: Mr Sidoti, Mr Fraser, Mr Aplin, Mr Ward

Noes: Mr Borsak, Mr Primrose, Mr Lynch, Mr Khan

Abstain: Dr Phelps

Question resolved in the affirmative on the casting vote of the Chair.

The Chair reported that he would consult the Premier as resolved, and reconvene the Committee to report the Premier's response, reconsider the terms of reference if required, and identify stakeholders for the purpose of inviting submissions.

3. ***

4. ***

The meeting adjourned at 10.50am *sine die*.

MINUTES OF MEETING 33

Wednesday 17 September 2014

10.00am

Parkes Room, Parliament House

Members present

Mr Ward (Chair), Mr Borsak, Mr Fraser, Mr Khan, Mr Aplin, Mr Sidoti, Mr Primrose, Mr Lynch

Staff in attendance

Elaine Schofield, David Hale, Abegail Javier, Tanja Zech

The Chair opened the meeting at 10.03am.

1. Apologies

Ms Fazio

Resolved on the motion of Mr Lynch, seconded Mr Sidoti: That apologies be accepted.

2. Minutes

Resolved on the motion of Mr Fraser, seconded Mr Aplin: That the minutes of Meeting 32 held on 8 August 2014 be confirmed.

3. Preparations for the 2015 NSW State Election

The Chair confirmed that the terms of reference for the inquiry were those adopted by the Committee at its meeting on 8 August 2014 and would not be expanded by the Premier. The Chair distributed a list of stakeholders for the inquiry and invited members to advise the secretariat of any additions to the list.

Resolved on the motion of Mr Fraser, seconded Mr Primrose: That:

- The Chair write to the Electoral Commissioner and other stakeholders requesting that submissions on the terms of reference be submitted by Thursday 9 October 2014;
- The Committee invite public submissions on the terms of reference by placing an invitation on its website;
- The Chair issue a press release announcing the inquiry; and
- Following the Committee's review of submissions received, the Committee hold a public hearing on Friday 24 October 2014 commencing at 9.00am.

The meeting adjourned at 10.08 am.

MINUTES OF MEETING 34

Wednesday 15 October 2014

1.00pm

Waratah Room, Parliament House

Members present

Mr Borsak (Deputy Chair), Mr Aplin, Dr Phelps, Mr Primrose

Staff in attendance

Jonathan Elliott, Pauline Painter, David Hale

The Deputy Chair opened the meeting at 1.05pm.

1. Apologies

Mr Ward, Mr Sidoti, Ms Fazio

Resolved on the motion of Mr Aplin, seconded Dr Phelps: That apologies be accepted.

2. Minutes

Resolved on the motion of Mr Aplin, seconded Mr Primrose: That the minutes of Meeting 33 held on 17 September 2014 be confirmed.

3. ***

4. Preparations for the 2015 NSW State Election

Resolved on the motion of Dr Phelps, seconded Mr Aplin: That submissions 1, 2, 3 and 4 be published and uploaded to the Committee's website with signatures and direct contact details redacted.

Resolved on the motion of Dr Phelps, seconded Mr Aplin: That the Committee Chair:

- Invite the NSW Electoral Commissioner to appear at the public hearing to be held at Parliament House on Friday 24 October 2014 to give evidence in relation to the Committee's Inquiry into Preparations for the 2015 NSW State Election;
- Publish a notice of the public hearing on its website; and
- Issue a press release publicising the public hearing.

The meeting adjourned at 1.09pm.

MINUTES OF MEETING 35

Friday 24 October 2014

9.00am

Parkes Room, Parliament House

Members present

Mr Ward (Chair), Mr Borsak (Deputy Chair), Mr Aplin, Mr Sidoti, Mr Fraser, Dr Phelps, Mr Khan, Mr Lynch, Mr Primrose

Staff in attendance

Jonathan Elliott, Pauline Painter, Abegail Javier, Millie Yeoh, David Hale

The Chair opened the meeting at 9.00am.

1. Apologies

There were no apologies.

2. Minutes

Resolved on the motion of Mr Aplin, seconded Mr Sidoti: That the minutes of Meeting 34 held on Wednesday 15 October 2014 be confirmed.

3. Inquiry into Preparations for the 2015 NSW State Election

3.1 Submissions

Resolved on the motion of Mr Fraser, seconded Mr Sidoti: That submission 6 be published and uploaded to the Committee's website with signatures and direct contact details redacted.

a. Briefing from the Electoral Commissioner

Resolved on the motion of Mr Fraser, seconded Mr Aplin: That pursuant to Legislative Assembly Standing Order 295(1), the Electoral Commissioner and his staff be admitted to the deliberative meeting for the purpose of briefing Committee members prior to the commencement of the public hearing.

b. Public Hearing

3.3.1 Media Orders

Resolved on the motion of Mr Fraser, seconded Mr Sidoti: That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 24 October 2014 in accordance with the NSW Legislative Assembly's guidelines for coverage of proceedings for parliamentary committees administered by the Legislative Assembly.

3.3.2 Transcript of Evidence

Resolved on the motion of Mr Fraser, seconded Mr Sidoti: That the corrected transcript of evidence given on 24 October 2014 be authorised for publication and uploaded on the Committee's website.

3.3.3 Answers to questions on notice

Resolved on the motion of Mr Fraser, seconded Mr Sidoti: That witnesses be requested to return answers to questions taken on notice and supplementary questions within 5 days of the date on which questions are forwarded to the witness, and that once received, answers to questions on notice be published on the Committee's website.

4. Adjournment of deliberative meeting

Resolved on the motion of Mr Fraser, seconded Mr Sidoti: That the meeting be adjourned for ten minutes.

The Chair adjourned the meeting at 9.05am.

5. Resumption of deliberative meeting

The Chair resumed the meeting at 9.15am.

Mr Colin Barry, Electoral Commissioner; Ms Linda Franklin, Director Elections Branch; Mr Simon Kwok, Elections Manager; and Mr Ian Brightwell, Director IT were admitted to the meeting in accordance with the resolution of the Committee at paragraph 3.2 above.

Mr Barry tendered the Electoral Commission's submission to the Committee's Inquiry into Preparations for the 2015 NSW State Election and spoke briefly.

6. Public hearing

The Chair opened the public hearing at 9.20am. Witnesses and the public were admitted. The Chair made a brief opening statement.

The following witnesses representing the NSW Electoral Commission were affirmed and examined:

- Mr Colin Barry, Electoral Commissioner
- Ms Linda Franklin, Director Elections Branch
- Mr Simon Kwok, Elections Manager

The following witness representing the Electoral Commission was sworn and examined:

- Mr Ian Brightwell, Director IT

7. Adjournment of public hearing

Resolved on the motion of Mr Primrose, seconded Mr Khan: That the public hearing adjourn and the deliberative meeting be resumed.

Witnesses and the public withdrew.

The Chair resumed the deliberative meeting at 10.22am. A procedural question regarding *in camera* deliberations was proposed. Discussion ensued. The procedural question was withdrawn.

8. Resumption of public hearing

The Chair resumed the public hearing at 10.25am. Witnesses and the public were admitted.

The Committee recommenced examining the witnesses subject to the previously administered oath and affirmations.

The Chair confirmed with the Commissioner that his submission formed part of his affirmed evidence to the Committee.

Evidence concluded, the witnesses withdrew.

The public hearing concluded at 10.44am. Witnesses and the public withdrew.

9. Resumption of deliberative meeting

The Chair resumed the deliberative meeting at 10.45am whereupon it was resolved, on the motion of Mr Aplin, seconded Mr Lynch: That any additional questions, not put to the Commissioner at the public hearing, be sent to him that day for his response by Friday 31 October 2014.

The meeting adjourned at 10.46am.

UNCONFIRMED MINUTES OF MEETING 36

Tuesday 11 November 2014

1.00pm

Room 1153, Parliament House

Members present

Mr Borsak (Deputy Chair), Mr Aplin, Dr Phelps, Mr Khan, Mr Lynch, Mr Primrose, Ms Fazio

Staff in attendance

Jonathan Elliott, Pauline Painter, Abegail Javier, David Hale

The Deputy Chair opened the meeting at 1.05pm.

5. Apologies

Mr Ward

6. Minutes

Resolved on the motion of Dr Phelps, seconded Mr Aplin: That the minutes of Meeting 35 held on Friday 24 October 2014 be confirmed.

7. Inquiry into Preparations for the 2015 NSW State Election

3.1 Submissions

Resolved on the motion of Mr Primrose, seconded Ms Fazio: That submission 5 be published and uploaded to the Committee's website with signatures and direct contact details redacted.

a. Answers to Questions on Notice

Resolved on the motion of Dr Phelps, seconded Mr Primrose: That answers to questions on notice from the Electoral Commissioner be published and uploaded to the Committee's website with signatures and direct contact details redacted, and that the extract from the Electoral Commission's risk register be kept confidential to the Committee.

b. Consideration of Chair's Draft Report

Resolved on the motion of Dr Phelps, seconded Mr Khan: That the Committee adopt the draft report as the report of the Committee, to be signed by the Chair and presented to the House; that the Chair and the secretariat be permitted to correct stylistic, typographical and grammatical errors; and that, once tabled, the report be published on the Committee's website.

The meeting adjourned at 1.08pm *sine die*.