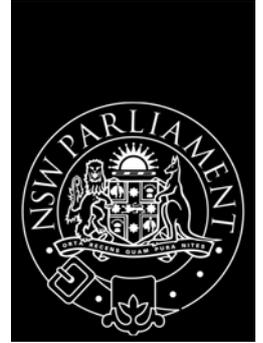


PARLIAMENT OF NEW SOUTH WALES



Joint Standing Committee on Electoral Matters

Administration of the 2007 NSW election and related matters

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Terms of reference

- (1) A Joint Standing Committee, to be known as the Joint Standing Committee on Electoral Matters, be appointed.
- (2) The Committee inquire into and report upon such matters as may be referred to it by either House of the Parliament or a Minister that relate to:
 - (a) The following electoral laws:
 - (i) *Parliamentary Electorates and Elections Act 1912* (other than Part 2);
 - (ii) *Election Funding Act 1981*; and
 - (iii) Those provisions of the *Constitution Act 1902* that relate to the procedures for, and conduct of, elections for members of the Legislative Assembly and the Legislative Council (other than sections 27, 28 and 28a);
 - (b) The administration of and practices associated with the electoral laws described at (a).
- (3) All matters that relate to (2) (a) and (b) above in respect of the 24 March 2007 state election, shall stand referred to the Committee for any inquiry the Committee may wish to make. The Committee shall report on the outcome of any such inquiry within 12 months of the date of this resolution being agreed to by both Houses.

Votes and Proceedings of the Legislative Assembly, Thursday 21 June 2007, entry no 13 (7)
Legislative Council Minutes of Proceedings, No 13, Tuesday 26 June 2007, entry no 25

Chair's foreword

The report of the Joint Standing Committee on Electoral Matters on the 2007 NSW election is the Committee's first report in the 54th Parliament.

It is pleasing to see that initiatives recommended by the previous Committee to improve voter enrolment are now being trialled by the New South Wales Electoral Commission (NSWEC), with the NSW Government having provided funding for the NSWEC to pilot a Smart Electoral Enrolment System.

The Inquiry afforded an opportunity for the Committee to review the effectiveness of the recent changes to the *Parliamentary Electorates and Elections Act 1912* (the Act). This was the first election conducted since the *Parliamentary Electorates and Elections Amendment Act 2006* came into force. This Act led to the transformation of the State Electoral Office (SEO) into the NSWEC. The legislative changes granted increased authority to the Electoral Commissioner and helped to ensure that the 2007 election ran smoothly. The Committee has concluded that the NSWEC administered the 2007 NSW election in a competent and professional manner.

Feedback from Inquiry participants and the NSWEC has indicated that there are areas in the Act that could be further refined so as to improve the administration of state elections. For example, the Committee has recommended changes to the Act to simplify the provisions governing the display of election posters. The need for laws prohibiting the use of electronic billboards or digital road signs for election material was also raised with the Committee and a recommendation has been made to this effect.

The experiences of electors with a disability in the 2007 NSW election was a significant line of inquiry. The Committee heard evidence from a roundtable of four disability groups, each of which also provided submissions to the Inquiry. These witnesses sought improved access to polling places, more voting options for electors with a disability and the trialling of initiatives such as electronic voting to enable vision impaired electors to cast a secret ballot. The Committee has made a number of recommendations in this regard, including expanding postal and pre-poll voting provisions to afford more flexible voting options to electors with a disability. The Committee has also recommended that the NSWEC improve the accessibility of polling places and further examine electronic and internet voting options for people with a disability. Electronic and other means of improving voting options could be further explored as part of a comprehensive review of the Act that has been recommended by the Committee.

The problems faced by homeless electors, and in particular women electors residing in shelters after fleeing domestic violence, were also brought to the attention of the Committee, as was the lack of information on the NSWEC's website in relation to homeless electors. The Committee has recommended changes to the criteria to qualify as a postal and pre-poll voter to give women fleeing domestic violence more voting options, and for the NSWEC to provide more information on its website in relation to homeless electors.

The Committee also heard evidence as to the potential benefit for rural and remote voters of mobile pre-poll voting and has recommended that the NSWEC trial mobile pre-poll voting, subject to whether a legislative amendment is required. The Committee has also

Chair's foreword

recommended changes to the way the votes in declared institutions are treated so that older persons are not required to sign declarations when this might be difficult for them.

The Committee thanks all those individuals and organisations that took the time to make submissions into the Inquiry and, those witnesses who gave evidence at the public hearings.

Finally, I would like to thank my Committee colleagues for their contribution to the Inquiry and the Committee secretariat staff for their work during the Inquiry.

A handwritten signature in black ink, appearing to read 'Cherie Burton', followed by a large, stylized flourish. A thin vertical red line is positioned to the right of the signature.

Cherie Burton MP
Chair

List of recommendations

RECOMMENDATION 1: That the New South Wales Electoral Commission continue to develop the Smart Electoral Enrolment System with a view to its implementation at the next New South Wales election.

RECOMMENDATION 2: That s.151B(1) of the *Parliamentary Electorates and Elections Act 1912* be amended to prohibit the display of posters within six metres of the entrance to polling places and that from the six metre mark, up to and including the outer wall, fence or other boundary, no poster can exceed 8,000 square centimetres.

RECOMMENDATION 3: That the *Parliamentary Electorates and Elections Act 1912* be amended to prohibit the display of electoral material on electronic billboards and digital road signs.

RECOMMENDATION 4: That s.114A of the *Parliamentary Electorates and Elections Act 1912* be amended so that qualification for a postal vote certificate and postal ballot paper includes: a) electors with a disability; and b) electors who fear for their personal safety.

RECOMMENDATION 5: That s.114AA of the *Parliamentary Electorates And Elections Act 1912* be amended to provide that electors with a disability qualify for registration as general postal voters.

RECOMMENDATION 6: That s.114P of the *Parliamentary Electorates and Elections Act 1912* be amended to provide that qualification for a pre-poll vote includes: a) electors with a disability; and b) electors who fear for their personal safety.

RECOMMENDATION 7: That the New South Wales Electoral Commission trial mobile pre-poll voting for rural and remote communities and that the Commission seek legal advice as to whether such trials can occur under the current provisions of the *Parliamentary Electorates and Elections Act 1912*, or whether amendments will be needed to the Act to enable such a trial. The Committee further recommends that, if the advice obtained by the New South Wales Electoral Commission suggests that under the existing provisions mobile pre-poll voting cannot be trialled, then an appropriate amendment should be brought forward to enable a trial to proceed.

RECOMMENDATION 8: That election results posted on the New South Wales Electoral Commission's website include: a) the percentage of the total formal vote received by registered political parties in the Legislative Assembly on a state-wide basis; and b) the progressive count for the Legislative Council expressed in terms of the percentage of the formal vote for registered political parties and candidates. To assist it in implementing this recommendation the New South Wales Electoral Commission should consider seeking advice from electoral commissions in other Australian jurisdictions.

RECOMMENDATION 9: That in any future review of the *Parliamentary Electorates and Elections Act 1912* an examination be undertaken into ways to prohibit intentionally false or misleading statements being made about a candidate or party, whether those statements are made by an individual or a media outlet.

RECOMMENDATION 10: That the New South Wales Electoral Commission consider developing a target of one fully wheelchair accessible polling booth for each electorate as part of its Equal Access to Democracy Plan and that the Commission endeavour to advertise fully accessible polling booths well in advance of each election.

RECOMMENDATION 11: That s.114ZR of the *Parliamentary Electorates and Elections Act 1912* in relation to the procedure for voting at declared institutions be amended to allow electors that are enrolled in the same district in which the institution is located to cast an ordinary vote.

RECOMMENDATION 12: That the New South Wales Electoral Commission provide further information for homeless electors on its website, including a link to the Australian Electoral Commission form entitled 'Electoral enrolment for persons with no fixed address in New South Wales'.

RECOMMENDATION 13: That the New South Wales Electoral Commission examine ways to allow vision impaired electors to cast a secret ballot, for example, through the use of e-voting and i-voting.

RECOMMENDATION 14: That the Committee request a reference in the life of the 54th Parliament to further, comprehensively review the *Parliamentary Electorates and Elections Act 1912*, including future options for voting using new technologies.

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 54th Parliament on 21 June 2007. The resolution appointing the Committee also contained the terms of reference for the Committee's Inquiry into the administration of the 2007 NSW election.¹
- 1.2 The terms of reference directed the Committee to inquire into and report upon the administration of the 2007 NSW election with respect to the *Parliamentary Electorates and Elections Act 1912*, the *Election Funding Act 1981*, and the relevant provisions of the *Constitution Act 1902*, other than sections 27, 28 and 28a, which relate to the distribution of electorates. The terms of reference for the Inquiry are reproduced in full on page v of this report.
- 1.3 Advertisements calling for submissions to the Inquiry appeared in the *Sydney Morning Herald* and the *Daily Telegraph* on 30 January 2008. The Committee also wrote to relevant individuals, organisations and political parties to inform them of the Inquiry and invite them to make a submission. Nineteen submissions were received from major parties, organisations and private individuals.²
- 1.4 The Committee held two public hearings as part of the Inquiry, on 11 March and 19 March 2008. Transcripts of the public hearings and documents provided in evidence to the Committee are available on the Committee's website. A roundtable session was held on 19 March with representatives of peak disability groups, who had participated in the development of the NSWEC's 2006 Equal Access to Democracy Plan. The roundtable session provided the Committee with valuable evidence on the experience of these electors during the 2007 election and on issues such as electronic voting, access to polling places and pre-poll voting for disabled electors. Further information provided by the NSWEC and the Australian Electoral Commission (AEC) following the public hearing has been published on the Committee's website and is referred to in the body of the report, where relevant.
- 1.5 The Committee wishes to express its gratitude to the roundtable session's participants, and all the groups and individuals who made a submission or gave evidence in relation to the Inquiry.

¹ Legislative Assembly Votes and Proceedings, Thursday 21 June 2007, entry no. 13 (7).

² Full lists of Inquiry submission makers and witnesses can be found at Appendices 1 and 2 of this report.

Chapter Two - Background to the Inquiry

Legislative reform

- 2.1 In the lead up to the 2007 NSW election the Council on the Cost and Quality of Government (CCQG) undertook a major review of the State Electoral Office (SEO) on the basis of which it recommended amendments to the *Parliamentary Electorates and Elections Act 1912* (the Act) to give the NSW Electoral Commissioner responsibility for overall management of election processes, direct supervision of returning officers and accountability for the accuracy of election results. The Committee's Inquiry into the administration of the 2003 election and related matters also made a number of recommendations for amendments to the Act as part of a thorough review of the Act by the Government.
- 2.2 Some key reforms proposed by the CCQG and the Committee were to:
- rename the State Electoral Office (SEO) as the New South Wales Electoral Commission (NSWEC) and to appoint the Electoral Commissioner on a fixed term basis;
 - give the Electoral Commissioner direction and control over returning officers;
 - provide for returning officers to be appointed for a specified period of election;
 - bring a number of registered general postal voter enrolment-related requirements into line with Commonwealth legislation;
 - regulate access to, and sale of, the electoral roll and introduce significant penalties for misuse of electoral information;
 - prohibit the canvassing of votes within six metres of a polling place in line with Commonwealth legislation; and
 - remove the role of the Electoral Commissioner in the conduct of all union and statutory board elections.³
- 2.3 Most of the provisions of the *Parliamentary Electorates and Elections Amendment Act 2006* commenced on 20 October 2006.⁴

Voter enrolment inquiry

- 2.4 Following a referral from the Premier, the Hon. Morris Iemma MP, in May 2006 the previous Electoral Matters Committee conducted an inquiry into the level of voter enrolment in NSW. A key recommendation made by the Committee was that the Government investigate the feasibility and requirements of a smart enrolment system that would lead to the automatic enrolment of groups such as young people, who are currently under-represented on the electoral roll. Under this system the roll would be automatically updated using information provided to government agencies such as

³ State Electoral Office (SEO), *Annual Report 2005-2006*, pp. 14-18; New South Wales Electoral Commission: *Annual Report 2006-2007*, pp. 15-16, 199-20; Joint Standing Committee on Electoral Matters, Parliament of NSW, *Inquiry into the Administration of the 2003 Election and Related Matters*, report no. 1, Sydney, September 2005, pp. xiii-xxxi.

⁴ The Act commenced on 20 October 2006, with the exception of schedules 5 [3] and 15, and amendments under schedule 19, which have yet to commence.

the Roads and Traffic Authority (RTA), thereby removing the onus on the elector to update their enrolment.⁵

- 2.5 The Government provided funding to undertake the first stage of investigating the feasibility of a smart enrolment system, which involves developing a business case and analysis of how the system might work.⁶ The smart enrolment system is discussed in Chapter Three of this report. Other strategies being considered to remove barriers to people with disabilities voting include the use of electronic voting (e-voting) for certain groups of electors, such as the vision impaired and other groups that may benefit from e-voting.⁷ The Committee's views on both e-voting and, internet voting, or i-voting, options are discussed in Chapter Six of this report.

The 2007 NSW election

- 2.6 The general consensus among stakeholders and Inquiry respondents was that the NSWEC's administration of the 2007 NSW election was competent and professional. No significant problems were raised with the Committee in relation to the conduct of the election, which overall appears to have run smoothly.
- 2.7 The NSWEC suggested that the 2006 amendments to the Act improved the administration of the 2007 NSW election in the following ways:
- Responsibility for election advertising was transferred to the Electoral Commissioner from returning officers, which ensured that there was consistency in advertising messages, that deadlines were met and that better state-wide advertising coverage was achieved.
 - Enhancing the Electoral Commissioner's powers in relation to the appointment of returning officers enabled the Commissioner to ensure that returning officers discharged their duties appropriately.
 - Registered political parties had the option of nominating all their Legislative Assembly candidates in bulk with the Electoral Commissioner and providing the nomination deposit in one payment.
 - A single ballot paper was used for both ordinary and postal voting which resulted in a significant reduction in paper, printing and handling costs for the NSWEC, and simplified the process for electors.
 - Provision was made for both the NSWEC and returning officers to receive and process applications for postal ballot papers.
 - Pre-poll electors were permitted to make an oral declaration as to their eligibility requirements, which hastened the voting process for electors and officials and cut down on paper, printing and handling costs.
 - Declared institution electors had access to a folder of candidates' registered how to vote cards. A folder of how to vote cards was provided by returning officers to election officials conducting declared institution voting.

⁵ Joint Standing Committee on Electoral Matters, Parliament of NSW, *Inquiry into Voter Enrolment*, report no. 3, Sydney, September 2006, pp. 25-30, 33-36.

⁶ Mr Colin Barry, Electoral Commissioner, NSWEC, *Transcript of evidence*, 11 March 2008, p. 17. The NSWEC is currently doing some testing with information gathered from TAFE colleges to see whether electors that the NSWEC knows should be enrolled are enrolled and how the Commission would move them into a smart enrolment process.

⁷ Joint Standing Committee on Electoral Matters, *Inquiry into Voter Enrolment*, report no. 3, pp. 53-55.

- Electoral material registered by the NSWEC was available for inspection by electors enrolled in the electoral district or scrutineers at the returning officer's office on election day.
- Consistent with provisions that apply in Federal elections, candidates and party workers were prohibited from canvassing for votes within six metres of the entrance to the polling place. The NSWEC noted that although this provision worked well on election day, there was confusion with the five metre poster rule because it was not consistent with the six metre rule for canvassing.⁸

- 2.8 In the lead up to the 2007 NSW election the NSWEC also implemented a number of initiatives to improve services to political parties, candidates and the media, for example: formulating an Equal Access to Democracy Plan, redesigning its website, establishing a website for election officials, improving recruitment and training of senior election officials, automating routine tasks through the use of computer assisted software, and giving electoral officials a digital copy of the roll (*iRoll*).⁹
- 2.9 A number of improvements were also made to the Legislative Council election arrangements, particularly the counting process.¹⁰

NSWEC website

- 2.10 The NSWEC identified its website as a 'major communications interface with the public' and completely redeveloped the website in the lead up to the 2007 NSW election.¹¹ Following an independent audit commissioned in 2006 into media use of the website, the NSWEC focussed on making its website more user friendly and ensuring easier access to information.¹²
- 2.11 However, Vision Australia submitted to the Committee that information on the NSWEC's website was not readily accessible as PDF format was used and this was not universally accessible.¹³
- 2.12 The NSWEC's Corporate Plan for 2008-2011 states that, in terms of reviewing the effectiveness of information strategies for groups including people with disabilities, the NSWEC will use 'emerging technological or preferred communications'.¹⁴ Measures to improve the accessibility and useability of its website will involve:
- developing multilingual information in relation to local government voting;
 - producing more Easy English guides on key processes for the next state election;
 - producing Easy English material on the election process in community languages for leaders and educators from ethnic groups;
 - making arrangements for the development of audio, large print and e-text files containing information relevant to local government elections;

⁸ NSWEC, *Report on the 2007 State Election*, Sydney, 2007, pp. 20-21.

⁹ *Ibid*, p. 25.

¹⁰ *Ibid*, pp. 72-73.

¹¹ *Ibid*, p. 28.

¹² *Ibid*, p. 83.

¹³ Vision Australia, *Submission no. 14*, p. 5.

¹⁴ NSWEC, *Corporate Plan, 1 January 2008-31 December 2011*, p. 10.

Background to the Inquiry

- increasing accessibility and reformatting website content that does not meet accessibility standards.¹⁵

Conclusion

- 2.13 The Committee supports the efforts of the NSWEC in redeveloping its website and endorses the Commission's plan to use the website as its primary means of communicating information to the public. The Committee notes that the NSWEC plans to make more translated, easy English and accessible material available on its website, in formats that can be utilised by groups such as people with disabilities and people from non-English speaking backgrounds.

NSWEC Report on the 2007 state election

- 2.14 The Committee's Inquiry into the administration of the 2003 election and related matters recommended: 'That the *Parliamentary Electorates and Elections Act 1912* be amended to require the Electoral Commissioner to report to Parliament as soon as practicable after the return of the writs for an election on the administration of that election' (Recommendation 28).¹⁶ While such a requirement was not included in the 2006 amendments to the Act the NSWEC nevertheless has produced a report on the 2007 NSW election. The Committee congratulates the NSWEC on its *Report on the 2007 State Election* and notes that feedback on the report from Inquiry respondents has generally been very positive. For example, the psephologist Mr Malcolm Mackerras AO made the following statement in his submission to the Inquiry:

I do admit that *Report on the 2007 State Election* is a magnificent and comprehensive document. It is by far the best collection of statistics New South Wales has ever presented.¹⁷

- 2.15 There were, however, some criticisms from respondents, including Mr Mackerras, in relation to inaccurate two-party preferred figures for Labor versus Liberal/National contests listed on pages 99 to 100 of the NSWEC's report.

Reporting on the two-party preferred count

- 2.16 One of the issues raised during the Inquiry concerned information provided in the NSWEC's report on the election in relation to the two-party preferred count. Malcolm Mackerras AO submitted to the Committee that he had found discrepancies between the figures given in the NSWEC's report in respect of the two-party preferred count. He pointed out that the figures given on pages 99-100 for the 'classic contests', that is, the 72 seats where the contests were Labor versus Liberal/National, were inconsistent with the figures listed for the individual seats on pages 143-349. The same problem did not apply to the 'non-classic' contests. Mr Mackerras cited examples in his submission.¹⁸
- 2.17 The publication of Antony Green's final election analysis provided the likely explanation for the discrepancies noted by Mr Mackerras. Mr Green explained that the discrepancies within the NSWEC's report had arisen from the inclusion of unaudited preference counts conducted on election night in the table on pages 99-

¹⁵ NSWEC, Answers to questions on notice, 11 March 2008, Questions 23 to 28, pp. 15-16.

¹⁶ Joint Standing Committee on Electoral Matters, *Inquiry into the Administration of the 2003 Election and Related Matters*, report no. 1.

¹⁷ Mr Malcolm Mackerras AO, *Submission no. 3*, p. 2.

¹⁸ *Ibid.*

100. Consequently, the entries given for all 72 electorates that finished as two-party preferred contests differed from the final published distribution of preferences. Mr Green described the discrepancies as minor.¹⁹ However, as Mr Mackerras has emphasised, there should be no difference at all in the figures.²⁰

- 2.18 Mr Mackerras suggested that the Committee request the NSWEC to issue a corrigendum for the table that appears on pages 99 and 100 of the NSWEC report. He proposed that the corrigendum should follow the table published on pages 32 and 33 of Mr Green's final election analysis.²¹
- 2.19 The Committee concurs with the point made by Mr Mackerras and considers that the two-party preferred statistics for classic contest seats should be consistent in both sections of the NSWEC's report on the election, particularly as the report was compiled after the election and was not tabled in Parliament until several months later on 26 November 2007. In these circumstances, there does not appear to have been any impediment to the NSWEC including the final figures in its election report.
- 2.20 The NSWEC gave an undertaking during evidence to the Committee that it will publish on the internet a corrigendum as proposed by Mr Mackerras and, in future, will use the full distribution of preferences for the purpose of defining the two-party preferred results.²²

Reform proposals

- 2.21 In its *Report on the 2007 State Election* the NSWEC put forward proposals which, in the Commission's view, would streamline the administration of future general elections in NSW and/or improve voting options for electors but would require legislative support. These proposed changes are to:
- instigate automatic elector enrolment based on authoritative information from agencies such as the Board of Studies;
 - prohibit the use of digital road signs of the type used by the RTA or police to convey messages to drivers as they are inappropriate and cannot be authorised;
 - clarify the situation for election officials and party workers by amending s.151B(1) of the *Parliamentary Electorates and Elections Act 1912* so that no posters are allowed within six metres of the entrance to the polling place, consistent with the six metre prohibition on canvassing votes;
 - prohibit election posters that exceed 8,000 square centimetres from the six metre mark up to and including the outer wall, fence or other boundary;
 - provide mobile pre-polling;
 - mandate that electors in certain remote areas are enrolled as general postal voters;
 - offer i-voting options to both electors in rural and remote NSW and those with a disability who register with the NSWEC prior to the election;

¹⁹ Antony Green, *2007 New South Wales Election: Final Analysis*, NSW Parliamentary Library Research Service, Background paper no. 1/08, p. 33.

²⁰ Malcolm Mackerras, *Supplementary Submission no. 3a*, p. 1.

²¹ *Ibid.*

²² Mr Ian Brightwell, Director, Information Technology Branch, NSWEC, *Transcript of evidence*, 11 March 2008, p. 24.

Background to the Inquiry

- enable electors with a disability to qualify for a postal or a pre-poll vote, so that they can choose the most accessible means for them to vote;
- classify the votes of electors at declared institutions as ordinary votes, which would greatly assist those elderly residents who find it difficult to sign the declaration;
- amend provisions for overseas and interstate electors to mirror those of pre-poll votes, that is, these electors should be permitted to make an oral declaration to establish their entitlement to vote;
- allow the Electoral Commissioner to co-locate two or more returning officers in a central location, which would simplify the process of the NSWEC finding suitable accommodation and cut down on rental costs, staff and other related expenses; and
- grant the NSWEC an exemption from paying superannuation contributions or permit the NSWEC to pay superannuation contributions directly to employees, which would save on administrative costs.²³

2.22 In its report the NSWEC noted that it followed closely the e-voting trials in Victoria in 2006 and would monitor the e-voting trials at the Federal election in November 2007. The report indicates that the NSWEC is considering its position in relation to e-voting but that no trial could proceed without legislative support.²⁴

2.23 The Committee examined the reforms proposed by the NSWEC and has made a number of recommendations aimed at overcoming problems experienced in the administration of the 2007 election.

²³ See NSWEC, *Report on the 2007 State Election*, pp. 22, 28, 30, 32, 84-86

²⁴ *Ibid*, p. 83.

Chapter Three - Improving voter enrolment

Levels of voter enrolment

3.1 The percentage of eligible electors enrolled has declined from 94.1% in 1999 to 90% in 2007, with 4,374,029 people enrolled to vote in 2007 compared with 4,272,104 in 2003.²⁵ Of those electors enrolled, 92.67% cast a vote in the 2007 NSW election, compared with 93.8% in 1995, 93.12% in 1999 and 91.87% in 2003.²⁶ This means that approximately 84% of the population eligible to vote in 2007 cast a vote (4,053,314 votes from an eligible population of 4,822,193).²⁷

Recent initiatives

- 3.2 The NSWEC has recently taken steps to improve the level of enrolment among particular groups currently under-represented on the roll. In the lead up to the 2007 election the NSWEC undertook a pro-active campaign to enrol young people to vote. In October 2006, using Board of Studies data, the Electoral Commissioner wrote to all 17 and 18 year olds completing the HSC (approximately 38,000) to encourage them to enrol to vote – 11,985 enrolled (32% of those sent letters). In February 2007 the Commissioner sent a follow up letter to 22,000 students with another 7,966 enrolling (a further 21%). In total approximately 18,000 students did not respond to the two NSWEC direct mailouts aimed at enrolling 17 and 18 year olds in the lead up to the 2007 election – this is approximately 47% of the 17 and 18 year olds who were eligible to enrol.²⁸
- 3.3 It is clear, therefore, to the Committee that paper based efforts by the NSWEC to encourage young people to enrol will only have limited impacts in an era of increased mobility and where young people are much more familiar with electronic forms of communication.
- 3.4 The situation with regard to elector enrolment in Australia is unusual in that voting and enrolling to vote is compulsory. However, enrolment is left to the elector rather being state-initiated, as is the case in many other countries.²⁹ The AEC has previously proposed a similar system of automatic updating of enrolment details as occurs in Canada³⁰ and it has been argued that the AEC's proposal could readily be extended to include new citizens and young people.³¹ What is patent to the

²⁵ NSWEC, *Report on the 2007 State Election*, p. 13.

²⁶ *Ibid*, p. 12.

²⁷ *Ibid*, pp. 13,14.

²⁸ *Ibid*, p. 28.

²⁹ For example all but two European countries (France and Portugal) have state-initiated voter registration. See Peter Brent and Simon Jackman, 'A shrinking Australian electoral roll?', Democratic Audit of Australia, Discussion Paper 11/07, June 2007, p. 11.

³⁰ The National Register of Electors in Canada is updated through data exchange programs with Revenue Canada, and Citizenship and Immigration Canada. Active and informed consent is required before change of address details are passed onto Elections Canada and there is an opt-out option for drivers to prevent their details being forwarded to Elections Canada from Provincial and Territorial motor registries. Once approval is given by the elector to exchange data Elections Canada then uses their data to automatically update the National Electoral Register. Electoral Council of Australia, *Report of the Visit by the Electoral Council of Australia delegation to Elections Canada in June 1999 to study the Canadian Register of National Electors*, Report no. 152, July 1999, pp. 3, 17, 19.

³¹ Peter Brent, 'Time to introduce automatic enrolment in Australia', Democratic Audit of Australia, Discussion Paper 3/08, February 2008, pp. 3-4.

Improving voter enrolment

Committee is that the current paper based and elector-initiated enrolment system is cumbersome and fails to maximise the potential that compulsory enrolment offers in terms of having all, or almost all, eligible electors enrolled.

The Smart Electoral Enrolment System pilot (SEER)

- 3.5 During the previous Committee's inquiry into voter enrolment, the NSWEC advocated the introduction of a Smart Electoral Enrolment System as a means to improve elector enrolment, and in particular the enrolment of groups such as young people.³²
- 3.6 The Electoral Commissioner advised the Committee that the Government has provided the NSWEC with support to undertake a feasibility study of a Smart Electoral Enrolment System. He confirmed that:
- Progress is taking place on the SEER project. The Government has provided initial funding for a SEER Enrolment Validation trial to be conducted and for the preparation of a Business Case to assist with the approval of further funding in the period 2008/09 to 2010/11 for the implementation of SEER processes prior to the 2011 State General Election.
 - The SEER Enrolment Validation trial is a pilot project to be conducted in the second half of 2007/08 by the NSWEC with the involvement and cooperation of NSW Department of Education and Training - TAFE Colleges. The pilot, using electoral information provided by TAFE and held in selected campuses, will test the processes, acceptance and success rate of direct enrolment contacts via methods such as email and SMS.³³
- 3.7 The Commissioner indicated to the Committee that the Smart Electoral Enrolment System would enable progressive updating of the enrolment details of electors throughout the year, thereby minimising the difficulties associated with the close of the roll at the time of an election. The Commissioner also advised that such a system would have helped improve the percentage of the eligible population enrolled to vote in the 2007 NSW election by:
- automatically changing an elector's address through notifications to the NSWEC by certain agencies when an already enrolled elector moves from one address to another;
 - automatically enrolling young people (17-18 year olds) in secondary education in NSW without application on the basis of their details as provided to the NSWEC via the Board of Studies;
 - identifying those people who, from other trusted agencies, appear to be eligible to enrol and contacting them via SMS and email so that they can be put on the roll without application.³⁴

Conclusion

- 3.8 The Committee welcomes the fact that the NSWEC has commenced a pilot of a Smart Electoral Enrolment System and looks forward to being informed of further

³² See Joint Standing Committee on Electoral Matters, *Inquiry into Voter Enrolment*, report no. 3, pp. 25-28, 33-34.

³³ NSWEC, Answers to questions on notice, 28 March 2008, Question 2, p. 2.

³⁴ *Ibid*, Question 2, pp. 1-2.

developments in the pilot. The Committee is supportive of the actions taken by the NSWEC towards development of the Smart Electoral Enrolment System and is of the view that it would be desirable for this project to be finalised as soon as possible, preferably in advance of the next election.

RECOMMENDATION 1: That the New South Wales Electoral Commission continue to develop the Smart Electoral Enrolment System with a view to its implementation at the next New South Wales election.

Chapter Four - Conduct of the election

Introduction

- 4.1 The initial focus of this chapter is on issues raised in relation to the conduct of the 2007 NSW election. The Committee examines issues raised in relation to electoral campaigning during the 2007 election, namely the application of a new five metre provision in the *Parliamentary Electorates and Elections Act 1912* (the Act) in relation to election posters, and the use of electronic billboards and digital road signs during the election. The Committee then turns to electoral services provided by the NSWEC to electors at the 2007 election. There is a discussion of postal and pre-poll voting, which are becoming increasingly important at state elections, including changes that can be made to both types of voting to potentially improve elector participation. This is followed by a section on the Easy Voting Card trialled at the 2007 election and the election counts provided on the NSWEC's website for both the Legislative Council and the Legislative Assembly.

ELECTION CAMPAIGNING

Election posters

- 4.2 In 2006 amendments to the Act resulted in changes to the provisions concerning election posters (s.151B) and canvassing for votes at the entrance of a polling place (s.151H). These amendments appear to have had the unintended effect of creating significant confusion on election day in respect of the use of electoral posters and canvassing for votes.
- 4.3 The Electoral Commissioner explained that the effect of amendments made to the Bill during its passage through the Legislative Council '... was to permit posters (not exceeding 8,000 sq cm) to be placed within 5 metres of the entrance to the polling place and on the outer wall, fence or other boundary of the grounds (if any). However, any size poster was permitted in the space from the 5 metre mark to the outer wall, fence or other boundary'.³⁵
- 4.4 Amendments to the Act also prohibited canvassing of votes or soliciting of the votes of electors within six metres of a polling place, consistent with the relevant Commonwealth legislation.³⁶ The *Commonwealth Electoral Act 1918* provides for a limit of six metres in respect of canvassing or soliciting for votes, inducing electors not to vote, and exhibiting signs or notices, but no limits on the size of electoral posters.³⁷

Impact of legislative changes

- 4.5 The NSWEC report suggests that the different exclusion zones for electoral posters and for canvassing for votes in the *Parliamentary Electorates and Elections Amendment Act 2006* created practical difficulties for election officials on election day in 2007.

³⁵ NSWEC, *Report on the 2007 State Election*, p. 22.

³⁶ Mr Graham West MP, *Legislative Assembly Hansard*, 20 September 2006, p. 1945.

³⁷ See s. 340 of the *Commonwealth Electoral Act 1918*.

Conduct of the election

- 4.6 Evidence to the Committee showed that the amendments caused confusion for election officials and party workers alike. The Liberal Party of Australia (NSW Division) submitted that on election day in 2007 ‘... there was substantial confusion and differing interpretations and rulings both centrally and locally, about whether posters were allowed to be tied to school fences and where posters were able to be located at a polling booth.’³⁸ The Interim State Director of the Liberal Party, Mr Martin Laverty, told the Committee that volunteers handing out how to vote material at polling places on behalf of parties and candidates were confused about what material could be displayed and its location.³⁹
- 4.7 In its report on the election, the NSWEC observed that ‘it would have been desirable if the 5 metre restriction had been 6 metres to be consistent with the restriction on the canvassing of votes’.⁴⁰ The NSWEC indicated that it could see no practical reason why the six metre rule should not apply to both posters and how to vote cards, consistent with Commonwealth provisions.⁴¹ It has recommended that the Act be amended as follows:

To make the situation clearer for election officials and party workers it is recommended that section 151B(1) be amended to provide that no posters are allowed to be displayed within 6 metres of the entrance to the polling place (which the Act defines as being the building in which voting takes place), and that from the 6 metre mark, up to and including the outer wall, fence or other boundary, no poster can exceed 8,000 sq cm.⁴²

Conclusion

- 4.8 In the Committee’s view the *Parliamentary Electorates and Elections Act 1912* should be amended to avoid the potential for confusion created by the present differences between the legislative provisions that apply to electoral posters and those that provide for canvassing for votes. The recent amendments to the Act are an apparent source of confusion for electoral officials and party workers alike and, as such, hinder the smooth conduct of the election on election day. Consequently, the provision relating to the five metre limit for the posting or exhibiting of election posters should be amended for consistency to accord with the provision for canvassing of votes, to a distance of six metres.
- 4.9 The Committee supports the NSWEC suggestion that the Act be amended to prohibit both the posting of election posters and canvassing for votes within six metres of the entrance of a polling place, and that posters of 8,000 square centimetres be permitted from the six metre mark up to and including the outer wall, fence or other boundary of a polling place. In the Committee’s view this would preserve the intent of the 2006 amendment bill as originally proposed, which was to simplify the Act, and to the amendments made during the passage of the Bill in the Legislative Council, which aimed to maintain a limit on the size of election posters posted outside polling places.⁴³

³⁸ Liberal Party of Australia - NSW Division, *Submission no. 11*, p. 3.

³⁹ Mr Martin Laverty, Interim State Director, Director, Liberal Party NSW Division, *Transcript of evidence*, 11 March 2008, p. 13.

⁴⁰ NSWEC, *Report on the 2007 State Election*, p. 22.

⁴¹ NSWEC, Answers to questions on notice, 28 March 2008, pp. 10-11.

⁴² NSWEC, *Report on the 2007 State Election*, p. 85.

⁴³ See *Legislative Council Hansard*, 26 September 2006, pp. 2208-2210.

RECOMMENDATION 2: That s.151B(1) of the *Parliamentary Electorates and Elections Act 1912* be amended to prohibit the display of posters within six metres of the entrance to polling places and that from the six metre mark, up to and including the outer wall, fence or other boundary, no poster can exceed 8,000 square centimetres.

Electronic billboards and digital road signs

- 4.10 The NSWEC *Report on the 2007 State Election* raised the issue of the use, during elections, of new forms of advertising, in particular, electronic billboards and digital road signs. The NSWEC noted that digital road signs were used in the lead up to the 2007 NSW election, which it considered as inappropriate.⁴⁴
- 4.11 In evidence given to the Committee, the Electoral Commissioner elaborated on the reasons why the NSWEC believes that the use of electronic billboards or digital road signs for electoral material should be prohibited:

The Hon. JENNIFER GARDINER: You mentioned in your report about the need to clarify the definition of a "poster", and you seem to have a particular objection to digital road signs. I happened to be in Paris during the French presidential election and the electoral authorities themselves were using digital road signs to encourage people to vote. So I was struck by your problem with such signs.

Mr BARRY: The issue I have with the digital road sign—I think there was only one—was, first, they are not authorised, so people can put whatever they want on them. Secondly, the issue I have with them is, I guess from a responsible citizen's point of view, my experience of those signs is they are often used as a hazard warning for motorists. If we are to allow them to be used for election campaign purposes, I think there is a risk that they will be diminished in terms of their importance to alert people to road hazards. From an Electoral Commission's point of view, you cannot authorise them, and if they are not authorised, then I think people can start putting things on there that other parties and candidates will take objection to, but it is clearly outside the realm of the legislation. It is not contemplated.⁴⁵

- 4.12 While s.151G of the Act requires electoral material to be registered, this only applies to printed material. Thus, it would appear that the provisions of the Act, which require authorisation and registration of electoral material, do not extend to electronic billboards or digital road signs. As messages on electronic billboards and digital road signs can be changed with a touch of a button they are, by nature, momentary and cannot be authorised or registered in the way that material such as printed notices and how to vote cards can be readily authorised or registered, with copies kept for the record.

Conclusion

- 4.13 The Act currently requires electoral material to be authorised and registered. The Committee regards this provision as an important safeguard of the democratic process since it helps to protect candidates, parties and groups against false and misleading statements.
- 4.14 In the Committee's view a legislative amendment is needed specifically prohibiting the use of electronic billboards or digital road signs for electoral material, as they

⁴⁴ NSWEC, *Report on the 2007 State Election*, p. 85.

⁴⁵ Mr Colin Barry, Electoral Commissioner, *Transcript of evidence*, 11 March 2008, p. 20.

increase the scope for false or misleading information to be proffered to electors during an election. The nature of electronic billboards and digital road signs is such that they cannot be authorised or registered in the way that printed material can be authorised or registered. Consequently, electronic billboards and digital road signs offer a potential way to circumvent the legislative requirements for electoral material to be authorised and registered. Therefore, the Committee recommends that the Act be amended to prohibit the display of electoral material on electronic billboards and digital road signs.

RECOMMENDATION 3: That the *Parliamentary Electorates and Elections Act 1912* be amended to prohibit the display of electoral material on electronic billboards and digital road signs.

POSTAL VOTING

- 4.15 In order to cast a postal vote at the 2007 NSW election, electors had to complete a postal vote application form and submit it to the NSWEC by post or fax, by 6pm on 19 March 2007 in the case of interstate or overseas electors, and 21 March for electors within NSW.⁴⁶ Ballot papers were then sent to electors and had to be returned by 6pm on the Wednesday after election day (28 March 2007).⁴⁷
- 4.16 Registration as a general postal voter means that electors do not have to apply for a postal vote at each election and are automatically issued with ballot papers by the NSWEC at each election. Ballot papers are issued once the draw for the position of candidates and parties on the ballot papers has been completed and the ballot papers printed, which in turn occurs as soon as possible after the close of nominations.⁴⁸

Qualification as a postal voter

- 4.17 An important issue raised by respondents to the Inquiry is whether the criteria for qualification as a postal voter should be widened to include groups of voters that are currently not captured by the Act. The two groups brought to the attention of the Committee during the Inquiry were electors with a disability and women electors escaping domestic violence.

Electors with a disability

- 4.18 Qualification as a general postal voter for reasons of a disability is restricted to people with a physical disability that prevents them from signing their name.⁴⁹ The NSWEC has previously proposed that electors with a disability should in general be allowed to qualify for a postal vote so as to increase their voting options.⁵⁰
- 4.19 Ms Furmage, President, Physical Disability Council of NSW told the Committee that the provision for postal ballots does not extend to electors with a disability; although it does cover electors who live more than eight kilometres from the nearest polling

⁴⁶ Electors must meet certain eligibility criteria to be entitled to receive a postal vote certificate and postal ballot paper, as provided for in s.114A of the Act.

⁴⁷ NSWEC, *Report on the 2007 State Election*, pp. 31-32.

⁴⁸ *Ibid*, pp. 32-33. See s.114AA of the Act.

⁴⁹ See s.114AA of the Act.

⁵⁰ NSWEC, *Report on the 2007 State Election*, p. 84.

place, electors travelling and unable to attend a polling place, electors who are seriously ill or caring for a person who is seriously ill, electors holding religious beliefs that mitigate against voting, electors at work on election day, and silent electors. She told the Committee:

People with a disability are not ill, we are not infirm, and we would like to have the same rights that everyone else has. Voting is the one thing that all Australians do. We are all required to do it; we all have that right, that privilege and that obligation.⁵¹

- 4.20 While extending the qualification criteria for postal voting would improve the voting options for electors with a disability, Ms Furmage considered that it could be somewhat counterproductive. She commented that:

... the important thing is that people with physical disability be part of the electorate and be seen to be part of the electorate to be visible on polling day. One of the reasons why so little is done to assist people with physical disability is that nobody sees them because we cannot get in. People seldom notice that you are not there if you have never been there.⁵²

- 4.21 Nevertheless the additional option of giving electors with a disability the opportunity to qualify as a general postal voter was a measure Ms Thompson, Advocacy Officer, Policy and Advocacy with Vision Australia, supported and did not want ruled out.⁵³

Women escaping domestic violence

- 4.22 Homelessness NSW/ACT's submission to the Inquiry highlighted the issue of women escaping domestic violence and the problems they face when voting:

Homelessness NSW has been informed by our members that many women escaping domestic violence are unwilling to attend polling booths and would prefer to postal vote. In regional and remote areas this is particularly an issue. In some communities there are only 1 or 2 polling places. Currently there is no capacity for people to use 'fear for physical safety' as a legitimate reason to use a postal vote. Homelessness NSW would suggest that the NSW Electoral Commission take this matter to the Electoral Council of Australia for discussion.⁵⁴

- 4.23 Mr Hughes, Policy Officer, Homelessness NSW/ACT explained that:

Mr HUGHES: The Act is wide enough for people to become a silent voter, but their names will still appear physically on an electoral roll. There can be an issue around some women escaping domestic violence—men go to extraordinary lengths to find them, unfortunately, and especially in some regional and rural areas. I was talking to one of our member organisations in Narrabri, and there are only two polling places in Narrabri, so if a person does turn up on the day it is not very difficult for the man who might be seeking the woman to guess which polling booth she will turn up at or appear at.⁵⁵

- 4.24 He proposed that women fleeing domestic violence should be able to directly apply for a postal vote rather than having to cast a postal vote as a silent elector, pursuant to s.38A(b) of the Act, and their address will not appear on the electoral roll. Under

⁵¹ Ms Ann-Mason Furmage, President, Physical Disability Council of NSW, *Transcript of evidence*, 19 March 2008, p. 12.

⁵² *Ibid*, p. 15

⁵³ Ms Susan Thompson, Advocacy Officer, Policy and Advocacy, Vision Australia, *Transcript of evidence*, 19 March 2008, p. 16.

⁵⁴ Homelessness NSW/ACT, *Submission no. 16*, p. 4.

⁵⁵ Mr Digby Hughes, Policy Officer, Homelessness NSW/ACT, *Transcript of evidence*, 19 March 2008, p. 20.

the current provisions, a person who does not want their address on the electoral roll because of the risk this poses for their personal safety or that of their family must apply to become a silent elector, which will ensure their address is removed from the electoral roll. Applying for a postal vote or to be registered as a general postal voter is an additional step. For example, a woman who is escaping domestic violence and wishes to cast a postal vote must first apply to be a silent elector and then, if this application is successful, subsequently apply for a regular postal vote or to be registered as a general postal voter.

Conclusion

- 4.25 In the Committee's opinion a general provision within the Act to make electors with a disability eligible to qualify for a postal vote would enhance their voting options. In this way electors with a disability would have an additional option to cast a vote should there be, for example, no accessible polling booths in their electorate.
- 4.26 Also, if an elector escaping domestic violence could apply directly for a postal vote, on the basis of a threat to their 'personal safety', it would make voting for electors easier in circumstances where they may have fled a violent domestic situation immediately prior to an election. This would assist women escaping domestic violence by enabling them to apply directly for a postal vote rather than having to first apply to be a silent voter and then make another application for a postal vote.
- 4.27 Consequently, the Committee proposes that the criteria for qualification as a postal voter be changed to include people with a disability and those electors fearing for their personal safety, and recommends that the Act be amended accordingly.

RECOMMENDATION 4: That s.114A of the *Parliamentary Electorates and Elections Act 1912* be amended so that qualification for a postal vote certificate and postal ballot paper includes: a) electors with a disability; and b) electors who fear for their personal safety.

RECOMMENDATION 5: That s.114AA of the *Parliamentary Electorates And Elections Act 1912* be amended to provide that electors with a disability qualify for registration as general postal voters.

Rural and remote postal voters

- 4.28 The NSWEC recognised in its report on the 2007 NSW election that postal voting in remote areas remains a concern for the community, candidates and political parties.⁵⁶ The Electoral Commissioner gave evidence that problems arise with postal voting due to the combination of a short election campaign and infrequent mail services in remote areas:

Mr BARRY: The biggest challenge in the postal voting process is in areas of regional and rural New South Wales. Some parts of the State only receive a mail delivery once a week. Consequently, bearing in mind that there is only a two-week period in which a person can get a postal vote, if a person leaves it late in making application and they miss the mail going to the returning officer, effectively they are going to miss getting their ballot papers in the end. It is a very tight window for those people.⁵⁷

⁵⁶ NSWEC, *Report on the 2007 State Election*, p. 32.

⁵⁷ Mr Colin Barry, Electoral Commissioner, *Transcript of evidence*, 11 March 2008, p.17.

- 4.29 Supplying postal vote ballot papers cannot occur until after nominations have closed and ballots are drawn and printed, which is finalised two weeks before election day. Consequently, electors who applied for a postal vote after 12 March 2007 may not have received and/or returned their vote by the statutory deadline for inclusion in the count.⁵⁸
- 4.30 Problems with postal voting were raised by The Nationals' State Director, Mr Philip Lamb, who told the Committee:
- Mr LAMB:** The Nationals are most popular in rural and regional communities. We are acutely aware of the problems of distance for our voters. It is most appropriate that this inquiry review the democratic process for people who are disadvantaged by view of distance, and quite often and in the present context, the issue of drought and travelling perhaps hundreds of kilometres to vote. There are a number of problems. The number one problem is the distribution of mail by Australia Post. If one misses the mail, which is issued perhaps once a week, then just missing that date can mean that the postal vote or applications, or the correspondence from the Electoral Commission, simply do not get there. The Nationals are most concerned that our rural voters be equally involved in the democratic process and that they have an equitable access, an equity of principles, as does their metropolitan counterparts.⁵⁹
- 4.31 The NSWEC has tried to overcome the problems that remote postal voters face as a consequence of infrequent postal deliveries by encouraging them to register as general postal voters, thereby increasing the likelihood that their vote will be received in time to be included in the count. In February 2007 a registered general postal voter enrolment form was posted to approximately 3,000 electors in remote local government areas – Balranald, Bourke, Carrathool, Central Darling, the Unincorporated Far West and Wentworth - along with a short survey of voting options. In response, the NSWEC received 578 applications for enrolment as general postal voters (approximately 19% of those electors sent enrolment forms).⁶⁰
- 4.32 In evidence to the Committee the Electoral Commissioner admitted that the response to this initiative to enfranchise remote electors was disappointing:
- Mr BARRY:** ... I was rather disappointed because I met with the Australian Electoral Commission and we agreed that in certain areas of the State where we know these people live we would write to them and encourage them to register as general postal voters. I was quite disappointed at the uptake of that. Consequently, we are back to the situation where the returning officer has to, first of all, get the application and turn them around on the same day. But with one mail delivery each way, regrettably those people miss out on a vote.⁶¹
- 4.33 One solution proposed by the NSWEC, which has the support of The Nationals,⁶² is to mandate that electors living in remote areas automatically qualify for registration as general postal voters.⁶³ This measure might also reduce demands on NSWEC

⁵⁸ NSWEC, *Report on the 2007 State Election*, p. 32. 22% of voters issued with a postal voting certificate and a postal voting ballot, and 16% of registered general postal voters, did not return their ballots for the 2007 NSW election. There were also a number of postal ballots and postal vote applications that were received after the relevant deadlines, and therefore not admitted to the count.

⁵⁹ Mr Phil Lamb, State Director, The Nationals, *Transcript of evidence*, 19 March 2008, p.2.

⁶⁰ NSWEC, *Report on the 2007 State Election*, p. 33.

⁶¹ Mr Colin Barry, Electoral Commissioner, *Transcript of evidence*, 11 March 2008, p. 18.

⁶² Mr Phil Lamb, The Nationals, *Transcript of evidence*, 19 March 2008, p. 4.

⁶³ NSWEC, *Report on the 2007 State Election*, p. 82; Mr Colin Barry, Electoral Commissioner, *Transcript of evidence*, 11 March 2008, pp. 17-18.

Conduct of the election

resources, as it would mean processing fewer applications for a postal vote certificate and a postal ballot than would otherwise be the case.⁶⁴

- 4.34 The Committee notes that the NSWEC reported that 22% of voters issued with a postal voting certificate and a postal voting ballot, and 16% of registered general postal voters, did not return their ballots for the 2007 NSW election. There were also a number of postal ballots and postal vote applications that were received after the relevant deadlines, and therefore not admitted to the count.⁶⁵

Conclusion

- 4.35 The views of both the NSWEC and The Nationals on the mandating of remote electors as registered general postal voters clearly indicate that this measure is one of a number of the measures available to improve electoral participation on the part of rural and remote electors. However, given the relatively low take-up rate by electors in remote areas when the Electoral Commissioner canvassed this option in a mail-out prior to the last NSW election, the Committee is not persuaded that mandating remote electors as registered general postal voters is the best approach. Rather, the Committee considers that the NSWEC should promote awareness among remote electors of the various voting options available to them, including registered general postal voting. Two other measures which may also improve the voting options of rural and remote electors are i-voting and mobile pre-poll voting, which are considered in detail in Chapter 6 of the Committee's report.

PRE-POLL VOTING

- 4.36 Pre-poll voting has become increasingly popular in recent years. In 2007 there were a total of 147 pre-poll voting centres operating, an increase of 54 centres when compared to 2003.⁶⁶ A total of 223,266 pre-poll votes were cast in 2007, an increase of 66% compared to the 132,465 pre-poll votes that were cast in 2003.⁶⁷ At the 2007 NSW election, as well as using all but one returning officer's offices as pre-poll centres, the NSWEC also established an additional 54 pre-poll centres, many of which were located in regional electoral districts.⁶⁸
- 4.37 Pre-poll voting operated for two weeks prior to election day from 8am to 6pm Monday to Friday, and 8am to 5pm on Saturday. In 2007 electors were permitted for the first time to make an oral declaration of their eligibility for pre-poll voting, which, according to the NSWEC, helped to speed up the voting process for electors and election officials.⁶⁹ The Nationals have indicated that they are satisfied with, and that there should be no change to the existing provisions whereby pre-poll voting takes place in the two weeks prior to election day.⁷⁰
- 4.38 The NSWEC is planning for further increases in pre-poll voting in the 2011 NSW election. It will review the location of pre-poll voting centres and consider providing

⁶⁴ NSWEC, Answers to questions on notice, 28 March 2008, Question 4, p. 4.

⁶⁵ NSWEC, *Report on the 2007 State Election*, p. 32

⁶⁶ *Ibid.*, p. 30.

⁶⁷ See *Ibid.*, p. 15.

⁶⁸ *Ibid.* In the electoral district of Blacktown a pre-poll centre was located in the same building as the returning officer's office.

⁶⁹ NSWEC, *Report on the 2007 State Election*, pp. 15, 30.

⁷⁰ The Nationals, *Submission no. 17*, p. 2.

additional pre-poll centres in regional and coastal areas; a need that The Greens identified in their submission.⁷¹

Extending qualification for a pre-poll vote

- 4.39 The NSWEC has indicated that ‘Some electors, particularly the elderly, find pre-poll voting less stressful as generally there are few queues at pre-poll voting’⁷² Electors in outer regions of regional cities increasingly find it convenient to vote in town when they do their shopping rather than to drive to a polling place on election day.
- 4.40 The NSWEC has proposed that s.114P of the Act be amended to extend the criteria for qualification to cast a pre-poll vote to include electors with a disability, thereby enabling such electors to choose the most accessible means to cast a vote: either a postal or pre-poll vote or attending a polling booth. Ms Thompson, Advocacy Officer, Vision Australia, expressed support for the NSWEC’s proposal and considered that pre-poll voting is an important option that should remain available for electors with a disability.⁷³
- 4.41 Similarly, Homelessness NSW/ACT agreed that including ‘fear for physical safety’ in the criteria for qualification as a pre-poll voter would benefit women escaping domestic violence.⁷⁴
- 4.42 The Committee can see clear benefits for utilising pre-polling to increase the voting options available to certain groups of electors, such as people with a disability and women escaping domestic violence.

Conclusion

- 4.43 Following on from its recommendations in relation to postal voting the Committee also recommends that the criteria for qualification as a pre-poll voter be extended to electors with a disability and electors who fear for their personal safety. It is the Committee’s view that if electors with a disability automatically qualified for a pre-poll vote it would increase their options for finding an accessible or suitable polling venue in proximity to their home. A fear for personal safety criterion for pre-poll voting would allow women escaping domestic violence more scope to vote at a time and place of their choosing, safe from harassment by the person who may be seeking to harm them. These women would have the opportunity to attend a pre-poll centre in an area close to where they were taking refuge, or in an area unfamiliar to, or not known to, the person who poses a threat to them.

RECOMMENDATION 6: That s.114P of the *Parliamentary Electorates and Elections Act 1912* be amended to provide that qualification for a pre-poll vote includes: a) electors with a disability; and b) electors who fear for their personal safety.

Mobile pre-poll voting for rural and remote electorates

- 4.44 The Nationals submitted to the Inquiry that with the increasing popularity of pre-poll voting ‘there are simply not enough pre-poll booths to satisfactorily service remote

⁷¹ NSWEC, Answers to questions on notice, 28 March 2008, Question 4, p. 4; The Greens, *Submission no. 18*, p. 4.

⁷² NSWEC, Answers to questions on notice, 28 March 2008, Question 4, p. 4.

⁷³ Ms Susan Thompson, Vision Australia, *Transcript of evidence*, 19 March 2008, p. 17.

⁷⁴ Mr Digby Hughes, Homelessness NSW/ACT, *Transcript of evidence*, 19 March 2008, p. 20.

NSW voters who have to travel long distances – hundreds of kilometres, to attend a pre-poll centre.⁷⁵ Consequently, they recommended that the NSWEC provide more pre-poll centres in regional and remote electorates and that pre-poll centres be located, as much as is possible, in the centre of regional towns and cities.

- 4.45 One solution to the problems associated with inadequate provision of pre-poll centres in rural and remote NSW is to trial mobile pre-poll voting. Citing the example of the AEC, the NSWEC *Report on the 2007 State Election* suggests that, along with mandating certain remote electors as registered postal voters and providing the option of i-voting, mobile pre-poll voting could provide a way of enfranchising electors in rural and remote areas.⁷⁶ However, the Electoral Commissioner gave evidence to the Committee that the short campaign period in NSW elections limited the potential effectiveness of mobile pre-polling for rural and remote electors, when compared to i-voting or mandating remote electors as registered general postal voters:

The Hon. DON HARWIN: Mr Barry, I want to clarify the matter. We have talked about three different options for remote voters. Your preference would be, one, i-voting and, two, requiring people in remote areas to register given the two-week window that we have. The third possible solution but suboptimal in the context of time frames imposed by legislation would be the mobile voting teams?

Mr BARRY: Yes.⁷⁷

- 4.46 The Nationals' Mr Lamb, echoed the Electoral Commissioner's view, indicating that mobile pre-poll voting could be used in small communities and towns as a complement to i-voting and mandating registration as a general postal voter.⁷⁸
- 4.47 There is some question as to whether the current provisions of the Act would enable the NSWEC to trial mobile pre-poll voting. A wide interpretation of s.114P of the Act would seem to allow the Electoral Commissioner to designate certain areas for mobile pre-poll voting and to publish notification of these in the *Government Gazette*, along with a timetable detailing when each mobile polling station will be open. However, the NSWEC is of the view that a specific provision in the Act is needed to enable it to provide mobile pre-poll voting, presumably necessitating an amendment along the lines of s.227 of the *Commonwealth Electoral Act 1918*.⁷⁹

Conclusion

- 4.48 In the Committee's view mobile pre-poll voting would provide a cost-effective means of reaching out to and enfranchising rural and remote electors, as it does not require the infrastructure and ongoing human resources costs associated with an established polling place or pre-poll centre. In the Committee's opinion mobile pre-poll voting would be particularly useful in areas where postal voting may not be a well utilised way of voting, for example, in remote Aboriginal communities or in areas with large numbers of seasonal workers. The Committee, therefore, supports the NSWEC conducting trials of mobile pre-poll voting.

⁷⁵ The Nationals, *Submission no. 17*, p. 2.

⁷⁶ NSWEC, *Report on the 2007 State Election*, p. 84.

⁷⁷ Mr Colin Barry, Electoral Commissioner, *Transcript of evidence*, 11 March 2008, p. 19.

⁷⁸ Mr Phil Lamb, The Nationals, *Transcript of evidence*, 19 March 2008, pp. 1-3.

⁷⁹ NSWEC, *Report on the 2007 State Election*, p. 84.

- 4.49 The main question in relation to mobile pre-poll voting is whether a specific provision is needed in the Act to enable the Electoral Commissioner to conduct trials of mobile pre-poll voting or whether the existing legislation permits such trials to be undertaken. The Committee is of the view that the NSWEC should obtain legal advice as to whether a trial of mobile pre-poll voting is possible under the current provisions of the Act or whether a legislative amendment is needed. If the advice obtained by the NSWEC suggests that there are impediments to a trial under the existing provisions then an appropriate amendment should be brought forward to enable a trial to proceed.

RECOMMENDATION 7: That the New South Wales Electoral Commission trial mobile pre-poll voting for rural and remote communities and that the Commission seek legal advice as to whether such trials can occur under the current provisions of the *Parliamentary Electorates and Elections Act 1912*, or whether amendments will be needed to the Act to enable such a trial. The Committee further recommends that, if the advice obtained by the New South Wales Electoral Commission suggests that under the existing provisions mobile pre-poll voting cannot be trialled, then an appropriate amendment should be brought forward to enable a trial to proceed.

EASY VOTING CARD

- 4.50 In the lead up to the 2007 election an Easy Voting Card was posted to electors by the NSWEC to help make the voting process faster and easier. Electoral boundaries had been redistributed in 2004 and approximately 25% of electors in NSW were voting in a new electoral district for the first time.
- 4.51 The NSWEC sent a brochure to all electors which contained information such as the electoral district they were enrolled in and a map of the district. The brochure included an Easy Voting Card with the elector's enrolment details, that is, their name, enrolled address, date of birth and electoral district. In addition, the brochure provided information such as the date of the election, information on pre-poll and postal voting, how to find out details of polling place locations, the election information centre's telephone number, the NSWEC website address, and information on how electors with disabilities and those from non-English speaking backgrounds could access information and services.⁸⁰ The cost of the Easy Voting Card brochure mailout was \$2.75 million.⁸¹
- 4.52 During the Inquiry the Easy Voting Card was raised as an issue of concern by a number of Inquiry participants and was the subject of some discussion at the Committee's public hearing. The Liberal Party was unsure as to the effectiveness of the Easy Voting Card, citing uncertainty about its purpose, the cost involved, the lack of a legislative basis for issuing the card, and whether it achieved its intended purpose.⁸²
- 4.53 Feedback to the Electoral Commissioner supported the card's usefulness. It was helpful to electors from non-English speaking backgrounds and to those electors who were voting in a new electorate as a consequence of the electoral boundary re-distributions:

⁸⁰ Ibid, p. 40.

⁸¹ NSWEC, Answers to questions on notice, 11 March 2008, Question 1, p. 1.

⁸² Mr Martin Laverty, Liberal Party – NSW Division, *Transcript of evidence*, 11 March 2008, pp. 14.

The Hon. AMANDA FAZIO: ... It is stated in your report that one of the reasons you sent out the easy voting card was because approximately 25 per cent of electors were voting in new electoral districts. Did you get feedback from people about that mail-out and the easy voting card, or did you do any research into the effectiveness of that initiative?

Mr BARRY: We did not do any particular research into the effectiveness of it. We did get anecdotal feedback from election officials and returning officers at debriefings that the card was well received, particularly in areas where the elector's first language is not English. It made voting for those people a lot easier. We also got feedback from people who said it clearly identified what electorate they were in bearing in mind that there had been a redistribution since the last election. So in that regard I think it did serve its purpose and as an aide-memoire to people that they are required to vote and as something that they can take along to assist the election officials, in that regard I think it was successful, but we did not undertake any detailed analysis of it.⁸³

- 4.54 Some concerns were expressed to the NSWEC about the printing of the date of birth and personal details of electors on the Easy Voting Card. As a consequence, the NSWEC will review whether to include in any future Easy Voting Card an elector's date of birth, particularly considering the potential risk of identity theft.⁸⁴ The NSWEC reported that it was prompted to include such information because of changes to the Act which required election officials to ask electors their date of birth to establish their entitlement to vote.⁸⁵

Conclusion

- 4.55 In the Committee's view the NSWEC's Easy Voting Card was a positive initiative which would have been of particular assistance to those electors who, as a consequence of boundary redistributions, were voting in a new electorate in the 2007 NSW election. The evidence presented to the Committee indicates that the card helped to speed up the voting process and was of particular benefit to non-English speaking background electors, who make up a substantial proportion of many electorates.
- 4.56 To protect the privacy of electors, the NSWEC should in future leave electors' date of birth details off the Easy Voting Card, or any similar initiative. This information does not need to be on an Easy Voting Card, or similar form of elector identification, as it is information asked of the elector on election day. The Committee also considers that it would be beneficial in the future for the NSWEC to formally monitor and assess the use of the Easy Voting Card, or any similar initiative.

COUNTS PROVIDED ON NSWEC WEBSITE

- 4.57 Respondents to the Inquiry raised two issues concerning the election results provided on the NSWEC website in relation to the 2007 election: 1) the inclusion of the informal vote in the progressive count for the Legislative Council; and 2) the absence of a state-wide total for the percentage of the vote received by parties in the Legislative Assembly.
- 4.58 A consultancy report commissioned by the NSWEC on its communication strategy during the 2007 NSW election, tabled at the public hearing on 11 March 2008, also

⁸³ Mr Colin Barry, Electoral Commissioner, *Transcript of evidence*, 11 March 2008, p. 15.

⁸⁴ *Ibid*, p. 16.

⁸⁵ NSWEC, *Report on the 2007 State Election*, p. 50.

provided evidence of dissatisfaction from the media with the counts and other election information posted on the Commission's website. One print journalist complained:

[The] State of the House was wrong, figures didn't add up correctly. Also their information about the Speaker was wrong. That confused a lot of us. Couldn't understand why it didn't contain information on the last election, makeup, numbers and things like that.⁸⁶

The Legislative Council count

- 4.59 The Greens submitted⁸⁷ that in the weeks following the election the NSWEC's progressive count for the Legislative Council included the informal vote, which was 6.11% of the total votes cast,⁸⁸ and gave an inaccurate account of the actual vote of parties and groups. This resulted in confusion on the part of the media and public.⁸⁹ The Greens recommended that the tally for the Legislative Council should only ever be expressed in terms of the formal vote, since including the informal vote gives a misleading account of the vote for parties and candidates.⁹⁰
- 4.60 At the public hearing on 11 March 2008, it was suggested to the Electoral Commissioner that the format in which the Legislative Council count was published on the NSWEC website made it more difficult for candidates to assess their prospects for election.⁹¹
- 4.61 The NSWEC has indicated that on election night it released Legislative Council counts comprising of first preference counts and a percentage figure for each group. The percentage figures were based on the total votes in the count because the NSWEC does not identify informal ballots on election night. A progressive count was released on seven separate occasions but this count only listed the first preference vote and informal ballots for the count and did not include percentage figures. Once the count was completed a final report was released which gave the percentage of the formal vote received by each group.⁹²
- 4.62 Nevertheless, election analyst Mr Antony Green suggested that the relevance and accuracy of the Legislative Council count posted on the NSWEC's website could be improved, perhaps by adopting procedures from other states:

Mr GREEN: ... I do think they could do a better count for the upper House in New South Wales. There are other procedures to look at in other States, but it is a time-consuming and difficult task and most people who are working on the polling booths have no idea of the formality procedures so trying to ask them to judge what is formal and what is not, does not work. But I do think there are better ways to provide totals of results on the night for the upper House, and I think this will come up again at the local government election where, hopefully, they would adopt better procedures than the last local government election where again a similar procedure was adopted where they did not ask the staff to try and make any determination whether below the line votes were formal or not and therefore the totals that were sometimes released at the end of the

⁸⁶ Tabled document, Hilton and Knowlton, *Final Project Report*, 30 April 2007, p. 14.

⁸⁷ The Greens, *Submission no. 18*, p. 3.

⁸⁸ NSWEC, *Report on the 2007 Election*, p. 12.

⁸⁹ The Greens, *Submission no. 18*, p. 4.

⁹⁰ *Ibid*, p. 4.

⁹¹ The Hon. Don Harwin MLC, *Transcript of evidence*, 11 March 2008, p. 25.

⁹² NSWEC, Answers to questions on notice, 11 March 2008, Question 7, p 4.

count were not actually a very reliable estimate of what was going to be the final result.⁹³

Conclusion

- 4.63 It is the percentage of formal votes received which determines the quota achieved by a candidate in the Legislative Council, and in the Committee's opinion it is reasonable for parties and candidates to expect that the progressive count released by the NSWEC for the Legislative Council be expressed in terms of the percentage of total formal votes cast. Evidence taken by the Committee suggests that at present the provision of election results on the NSWEC website does not provide an ongoing, accurate account of the situation with regard to the Legislative Council.
- 4.64 The Committee recognises that the Legislative Council count is complex, labour-intensive, costly and takes some time to complete, which militates against providing up-to-the minute, precise counts, particularly so on election night when attention is understandably focused on completing the counting for the Legislative Assembly. Notwithstanding, the Committee has taken evidence which suggests that there should be some way around the problems associated with providing a progressive Legislative Council count that is expressed in terms of total formal votes cast, and which is therefore of greater relevance for both political parties and the media.

State-wide totals

- 4.65 The Greens submitted that the NSWEC's website did not give the political parties' state-wide vote for the Legislative Assembly in the 2007 NSW election and commented that this was 'inconvenient for political parties and the media.'⁹⁴ Similarly, The Nationals noted that although general improvements had been made to the NSWEC website, to the benefit of candidates, campaign teams and parties,⁹⁵ the reporting of election results on the website could have been more comprehensive.⁹⁶
- 4.66 The Nationals highlighted that in the aftermath of the 2007 NSW election the NSWEC only posted on its website the Legislative Assembly results for each electorate 'rather than a more comprehensive state-wide and party result reporting as on the AEC website for the Federal election.'⁹⁷ Consequently, The Nationals recommended 'that the Electoral Commission website includes state and party summaries as listed on the AEC website.'⁹⁸
- 4.67 Media stakeholders also expressed dissatisfaction with the election results posted on the NSWEC's website. One print journalist stated that they had a problem with 'access to information' and complained that: 'There is no way any punter can go to the website and see who won the election.'⁹⁹ 'There were no results by party', commented another print journalist, 'Every journo needs that, it is the most important information we need.'¹⁰⁰

⁹³ Mr Antony Green, Election Analyst, *Transcript of evidence*, 11 March 2008, p. 7.

⁹⁴ The Greens NSW, *Submission no. 18*, p. 4.

⁹⁵ The Nationals, *Submission no. 17*, p. 3.

⁹⁶ Mr Phil Lamb, The Nationals, *Transcript of evidence*, 19 March 2008, p. 5.

⁹⁷ The Nationals, *Submission no. 17*, p. 3.

⁹⁸ *Ibid.*

⁹⁹ Hilton and Knowlton, *Final Project Report*, p. 12.

¹⁰⁰ *Ibid.*, p. 14.

- 4.68 Mr Green's evidence suggests that the NSWEC should be able to provide state-wide totals for the Legislative Assembly on its website, and that this information would help to make the NSWEC website more relevant and informative:

Mr GREEN: ... But you could put a provision in [the Act] about the...two candidate preferred counts and put a provision there something like "and other counts" to determine a state-wide vote after preferences—something as general as that rather than get too specific. I think that would be worthwhile.¹⁰¹

Conclusion

- 4.69 In the Committee's view posting on the NSWEC's website a state-wide percentage total of the formal votes received by registered political parties in the Legislative Assembly would meet one of the more fundamental expectations of political parties and the media in relation to the publication of election results.
- 4.70 The provision of statistical results for voting in the Legislative Assembly and the Legislative Council is one of the important services the NSWEC provides to stakeholders. Using the AEC as a benchmark – its website lists first preference results and two-party preferred results nationally and for each state – it is apparent that there is scope for the NSWEC to improve the election results it posts on its website. Providing the more detailed counts may have significant resource and cost implications for the NSWEC; however these costs could be offset by the proposal to eliminate the Tally Room, which would save the NSWEC around \$400,000 in 2011.¹⁰² In the Committee's opinion the NSWEC should consider seeking advice from electoral commissions in other Australian jurisdictions on how it can meet the Committee's recommendations in relation to the posting of election results for the Legislative Assembly and the Legislative Council on the NSWEC website.

RECOMMENDATION 8: That election results posted on the New South Wales Electoral Commission's website include: a) the percentage of the total formal vote received by registered political parties in the Legislative Assembly on a state-wide basis; and b) the progressive count for the Legislative Council expressed in terms of the percentage of the formal vote for registered political parties and candidates. To assist it in implementing this recommendation the New South Wales Electoral Commission should consider seeking advice from electoral commissions in other Australian jurisdictions.

RECOMMENDATION 9: That in any future review of the *Parliamentary Electorates and Elections Act 1912* an examination be undertaken into ways to prohibit intentionally false or misleading statements being made about a candidate or party, whether those statements are made by an individual or a media outlet.

¹⁰¹ Mr Antony Green, Election Analyst, *Transcript of evidence*, 11 March 2008, p. 6.

¹⁰² The total costs of the tally room for the 2007 NSW election was \$391,235, see NSWEC, *Report on the 2007 State Election*, p. 63.

Chapter Five - Equity and access

In this chapter the Committee explores issues of equity and access to electoral services, which were raised during the Inquiry. The Committee examines the NSWEC's Equal Access to Democracy Plan, which was developed to improve access and participation for disabled electors. Disability access to polling booths is also examined by the Committee as an impediment to elector access. The Committee then reviews declaration voting by electors residing in declared institutions before turning to the issue of homeless electors' access to voting.

ELECTORS WITH A DISABILITY

5.1 Several Inquiry participants raised the impediments faced by disabled electors during the 2007 NSW election. Vision impaired electors' inability to cast a secret and independent vote and physically disabled electors' difficulties with accessing polling booths and election material were the key issues raised by disability advocacy groups participating in the Inquiry.

Equal Access to Democracy Plan

- 5.2 Following consultation with peak disability groups, the NSWEC developed an Equal Access to Democracy Plan (the Plan) in 2006, which is aimed at promoting and improving access for people with a disability to electoral services and the electoral process. Initiatives implemented at the 2007 NSW election included:
- disability awareness training to educate returning officers on how to recognise the needs of people with disabilities and how to assist electors with a disability ... conducted by Vision Australia for all returning officers; ...
 - a review of polling place layouts to facilitate access and egress;
 - distribution of Equal Access to Democracy newsletters through disability peak community networks;
 - provision of key election information in Braille, audio, large print and electronic formats;
 - use of Vision Australia and the Spastic Centre premises as pre-poll voting centres and polling places on election day;
 - provision of hand held magnifiers and user friendly chunky pencils at all pre-poll voting centres and polling places; ...
 - conduct of an accessibility audit to enable all pre-poll voting centres and polling places to be classified according to whether full wheelchair access was available or not ...¹⁰³
- 5.3 The implementation of the Plan was reviewed post-election in July 2007 by a reference group consisting of representatives of the groups who took part in the Plan's formulation. Issues discussed by the reference group during the debrief session included methods of advertising the accessibility of booths, e-voting and i-

¹⁰³ NSWEC, *Annual Report 2006-2007*, p. 37.

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voting and transport to polling places. The Commission intends to continue consulting with the reference group, via an email network.¹⁰⁴ The reference group is currently reviewing a draft reiteration of the Plan.¹⁰⁵

- 5.4 Disability advocacy groups participating in the Inquiry, such as People with a Disability and the NSW Disability Discrimination Legal Centre, expressed support for the initiatives introduced for the 2007 election as a result of the Plan.¹⁰⁶
- 5.5 The Committee supports the NSWEC's Equal Access to Democracy Plan and notes the improvements made for the 2007 NSW election. The Committee intends to monitor future initiatives and targets that are developed through the reiteration of the Plan, particularly in terms of disability access. The Committee will also take an interest in the work of the online reference group, which was set up to promote ongoing consultation between the peak disability groups and the NSWEC.

Accessibility of polling places

- 5.6 The NSWEC leased a total of 2,576 polling places for the 2007 NSW election. A total of 269 polling places were assessed by the NSWEC as being fully wheelchair accessible, with 76 returning officers' offices being fully accessible.¹⁰⁷ However, only 10% of polling places at the 2007 NSW election were deemed as fully accessible (269 out of 2,678 polling places).¹⁰⁸
- 5.7 Prior to the election, as part of its Equal Access to Democracy Plan, the NSWEC revised its accessibility audit criteria and adopted one 'full access' category to denote wheelchair accessibility; a measure that was supported by the disability groups participating in the Inquiry.¹⁰⁹ At the request of the peak bodies, the NSWEC published only those polling places that were fully wheelchair accessible. However, the NSWEC has recently advised the Committee that it will review this policy 'as there may be some advantage in still publishing those polling places that are wheelchair accessible but that the elector would need some assistance'.¹¹⁰
- 5.8 In terms of leasing fully accessible buildings, the NSWEC outlined that it has difficulties in sourcing venues. Apart from the logistics of leasing polling places sufficient to cater for the State's electors, it does not own any of the buildings it uses during elections and, therefore, has very limited influence over the level of accessibility of premises appointed as Returning Officers' offices, pre-poll centres and polling places.¹¹¹
- 5.9 Disability groups unanimously called for an improvement in the number of accessible polling places available to disabled electors. People with Disability and the Disability

¹⁰⁴ NSWEC, *Report on the 2007 State Election*, p 49.

¹⁰⁵ NSWEC, Answers to questions on notice, 28 March 2008, Question 9, p. 8.

¹⁰⁶ See NSW Disability Discrimination Legal Centre, *Submission no 9*, p. 3 and People with Disability, *Submission no 15*, p. 1.

¹⁰⁷ NSWEC, *Report on the 2007 State Election*, pp. 7-8.

¹⁰⁸ *Ibid*, pp. 7, 8. According to the Physical Disability Council of NSW, electors in approximately 17% of electorates did not have a fully accessible polling place, comprising nine electorates in Sydney - Cabramatta, East Hills, Maroubra, Miranda, Mount Druitt, Oatley, Penrith and Smithfield - and the remainder in country NSW - Bathurst, Charlestown, Dubbo, Goulburn, Lake Macquarie, Mulgoa, Orange and South Coast. Physical Disability Council of NSW, *Submission no. 19*, p. 7; and Ms Ann-Mason Fumage, Physical Disability Council of NSW, *Transcript of evidence*, 19 March 2008, p. 12.

¹⁰⁹ For the criteria used by the NSWEC to assess wheelchair accessibility see NSWEC, Answers to questions on notice, Tab A, Office Access Audit Form, pp. 1-4.

¹¹⁰ NSWEC, Answers to questions on notice, 28 March 2008, Question 11, p. 8.

¹¹¹ NSWEC, *Equal Access to Democracy Plan*, p. 11 (see Appendix Three).

Discrimination Legal Centre pointed to the lack of accessible polling places, while also highlighting the importance of polling places' proximity to accessible transport nodes.¹¹² People with Disability called for polling booths used by the NSWEC to be 'fully compliant with Australian Standard 1428 Part 2'.¹¹³

- 5.10 Ms Ann-Mason Furmage, President of the Physical Disability Council, told the Committee that 17 electorates in 8 metropolitan and 9 rural locations were entirely without an accessible polling booth and that 'pre-polling is not always possible because there are a number of electorates in which the pre-polling station is not accessible either'.¹¹⁴ Ms Jordana Goodman, Project Officer with the Physical Disability Council, called for better planning by the NSWEC in the lead up to elections to improve the number of accessible polling booths:

We do not understand why the Electoral Commission cannot pre-book polling booths ... I know that most polling booths are in either Department of Education facilities or local council facilities and both have legal responsibilities to increase access. I find it really hard to believe that with a bit of forethought an accessible venue cannot be found in each electorate so that 14 per cent of electorates are not without a polling booth so that all people with disabilities have every option available.¹¹⁵

- 5.11 People with Disability expressed similar views.¹¹⁶
- 5.12 Delays with the finalisation of the list of polling places also contributed to problems with the level of awareness about accessible polling booths prior to the election. A list identifying the accessibility status of polling places was to have been finalised by November 2006, with a similar list of returning officers' offices and pre-poll centres being completed by February 2007.¹¹⁷ However, the polling place locations with accessibility status were not published by the NSWEC until mid March 2007.¹¹⁸ As the Physical Disability Council pointed out, electors with a disability who then found they needed to arrange a postal vote may have run out of time to do so as postal vote applications had to be received by the NSWEC by 21 March 2007.¹¹⁹
- 5.13 Mr Barry has advised the Committee that a redistribution of electoral boundaries had required the re-allocation of some polling places to new electorates but that a new geographic allocation system would alleviate any delays in future. The Commissioner told the Committee that in future he hopes to be able to settle the polling places by December in the year preceding an election.¹²⁰

Conclusion

- 5.14 The NSWEC's consultation with peak disability groups, as part of its Equal Access to Democracy Plan, has resulted in improvements in terms of the accurate classification

¹¹² See NSW Disability Discrimination Legal Centre, *Submission no. 9*, p. 2 and People with Disability, *Submission no. 15*, p. 2.

¹¹³ See People with Disability, *Submission no. 15*, p. 2.

¹¹⁴ Ms Ann-Mason Furmage, Physical Disability Council of NSW, *Transcript of evidence*, 19 March 2008, p. 12.

¹¹⁵ Ms Jordana Goodman, Policy Officer, Physical Disability Council of NSW, *Transcript of evidence*, 19 March 2008, p. 19.

¹¹⁶ People with Disability, *Submission no. 15*, p. 5.

¹¹⁷ NSWEC, *Equal Access to Democracy Plan*, p 12 (see Appendix Three).

¹¹⁸ http://www.elections.nsw.gov.au/media/media_releases/23_march_2007_where_to_vote_tomorrow, NSWEC, '23 March 2007: Where to vote tomorrow', Media release. Advertisements were placed in *The Land* on 15 March 2007, and the *Sun Herald* and *Sunday Telegraph* on 18 March 2007

¹¹⁹ Physical Disability Council of NSW, *Submission no. 19*, p. 6.

¹²⁰ Mr Colin Barry, Electoral Commissioner, *Transcript of evidence*, 11 March 2008, p. 26.

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of accessibility access, training of polling booth staff and identification of accessible booths. The Committee notes the difficulties faced by disabled electors in terms of accessing polling booths and is of the view that the NSWEC should pursue a target of at least one fully wheelchair accessible polling booth for each electorate, particularly in light of the four year fixed term for Parliament.

- 5.15 The Committee is also of the view that accessible polling booths should be advertised well in advance of the election to allow electors with a disability to choose the most convenient voting option for their circumstances. The Committee notes the Commissioner's evidence indicating that polling booth locations are expected to be finalised well in advance of the 2011 NSW election.

RECOMMENDATION 10: That the New South Wales Electoral Commission consider developing a target of one fully wheelchair accessible polling booth for each electorate as part of its Equal Access to Democracy Plan and that the Commission endeavour to advertise fully accessible polling booths well in advance of each election.

ELECTORS IN DECLARED INSTITUTIONS

Identification of declared institutions

- 5.16 Division 11A of the *Parliamentary Electorates and Elections Act 1912* contains the provisions relating to voting in declared institutions.¹²¹ The NSWEC reported that a total of 15,970 votes were cast in 661 declared institutions around New South Wales for the 2007 NSW election.¹²² At the last NSW election in 2003, 12,816 votes were cast in 704 declared institutions.
- 5.17 Prior to the election, the NSWEC wrote to institutions that had been classed as declared institutions in previous state and federal elections. However, the NSWEC noted that the timely identification of declared institutions was difficult as no government agency collates the details of all institutions that could be classified as declared institutions.¹²³
- 5.18 At the Committee's public hearing on 11 March, the Electoral Commissioner outlined the difficulties experienced by the Commission:

Mr BARRY: I think I have mentioned to the Committee previously that there is no single point of contact to get a list of all the declared institutions. These places range from retirement villages, nursing homes, special accommodation facilities. It is very difficult and they often surface once the writ for the election has been issued and we find that there is a place in Coffs Harbour we did not even know about, so they do materialise, and with an ageing population they are increasing. They are a very challenging environment and I am particularly sensitive to the dignity of the voters. We rely on the administration of the facility to indicate first to us because the ones we know about we

¹²¹ Facilities such as nursing homes, retirement homes or hospitals are appointed as declared institutions by the Electoral Commissioner. Pre-poll voting officers attend declared institutions to take residents' votes on the Monday, Tuesday and Wednesday before election day. Residents complete a declaration envelope and fill in pre-poll ballot papers, which are sealed in the completed envelope. Pre-poll officers then record the fact that the elector has voted along with the date that the vote was cast.

¹²² NSWEC, *Report on the 2007 State Election*, pp. 6-7.

¹²³ *Ibid*, p. 31.

write to well before the election, to ask them what sort of service would best suit their residents.¹²⁴

Conclusion

5.19 In relation to the NSWEC's difficulties with the identification of declared institutions, the Committee notes that the AEC conducted mobile voting in 2,107 hospitals and nursing homes around Australia in the lead up to the 2004 federal election.¹²⁵ The Committee is of the view that the NSWEC could benefit from co-operation with the AEC through information sharing, in light of the AEC's experience with identifying relevant institutions to be used as mobile voting locations at federal elections. The Committee encourages the NSWEC to pursue this issue with its federal counterpart.

Classification of votes cast in declared institution as ordinary votes

5.20 As outlined above, the provisions of the legislation require electors casting a vote in a declared institution to complete a declaration on the envelope in which their ballot is placed. The NSWEC noted that most electors residing in such institutions are voting in their electorate and that some of these electors may have difficulties with signing a declaration. The Committee heard that it would be more difficult for some of these electors to sign a declaration than to cast an ordinary vote, just as if they were voting in a polling place.¹²⁶ The NSWEC is of the view that:

Considering that many of the electors resident in declared institutions are enrolled in the district in which the declared institution is located, they could be given an ordinary vote in the same way as they would at a polling place. This would greatly assist elderly electors some of whom find it difficult to sign a declaration.¹²⁷

5.21 Ordinary votes could also be counted more quickly by the NSWEC.¹²⁸

Conclusion

5.22 The Committee notes the NSWEC's view in relation to electors in declared institutions being required to complete a declaration on a declared envelope. In the Committee's view, allowing residents of institutions such as nursing homes to cast an ordinary vote would be of benefit to elderly and infirm electors who may have difficulty with writing. The Committee also notes the Commissioner's view that declared institution votes could be counted more quickly if they were classified as ordinary votes. The Committee recommends an amendment to s.114ZR of the *Parliamentary Electorates and Elections Act 1912* to allow electors in declared institutions to cast an ordinary vote, if they are enrolled in the district in which the declared institution is located.

¹²⁴ Mr Colin Barry, Electoral Commissioner, *Transcript of evidence*, 11 March 2008, p. 22.

¹²⁵ AEC, *Behind the scenes: the 2004 election report*, Canberra, 2005, p. 16.

¹²⁶ Mr Colin Barry, Electoral Commissioner, *Transcript of evidence*, 11 March 2008, p. 22.

¹²⁷ NSWEC, *Report on the 2007 State Election*, pp. 6-7

¹²⁸ NSWEC, Answers to questions on notice, 28 March 2008, Question 5a, p 5.

RECOMMENDATION 11: That s.114ZR of the *Parliamentary Electorates and Elections Act 1912* in relation to the procedure for voting at declared institutions be amended to allow electors that are enrolled in the same district in which the institution is located to cast an ordinary vote.

HOMELESS ELECTORS

- 5.23 Section 20C of the *Parliamentary Electorates and Elections Act 1912* makes provision for a person who does not reside in any subdivision to vote, in accordance with s.96 of the *Commonwealth Electoral Act 1918*, which provides for their enrolment.
- 5.24 Homelessness NSW/ACT raised problems experienced by homeless people, people who are sleeping rough and Indigenous Australians in relation to their enrolment. However, the focus of the Committee's Inquiry was on issues arising from the 2007 NSW election rather than elector enrolment generally. While the Commonwealth and New South Wales electoral legislation makes provision for itinerant voters, the main issue raised in evidence during the Committee's Inquiry concerned the provision by the NSWEC of information on voting and enrolment processes to homeless people.

Enrolment for homeless electors

Stakeholder views

- 5.25 At the public hearing on 19 March, Homelessness NSW/ACT told the Committee that there was very little information produced for the information of homeless electors by the NSWEC, in contrast to the amount of information made available by the Australian Electoral Commission:¹²⁹

If you search the NSW Electoral Commission website for either 'homelessness' or 'homeless' you find no response. There is no information in the 'Glossary of Terms' or 'Frequently Asked Question's' on voting for people who are homeless. There is information for voters who classify themselves as itinerant. Itinerancy has a different connotation and meaning than homelessness. It is only on the Australian Electoral Commission website that any information on enabling people who are homeless to vote is found.

Homelessness NSW would recommend that the NSW Electoral Commission update their website so that specific information referring to people who are homeless is available.

As a part of an ongoing information campaign Homelessness NSW believes that the NSW Electoral Commission should work with the Australian Electoral Commission, peak bodies and providers of services to people who are homeless. Homelessness NSW have been advised by our members that they believe that the Australian Electoral

¹²⁹ In 2007, the AEC updated its forms for itinerant voters, covered by s.96 of the Act, for enrolling as a person with no fixed address. The AEC website also has a link to the form entitled 'Electoral enrolment for persons with no fixed address in New South Wales' and includes a fact sheet, entitled 'You do not need a home address to enrol and vote', with information on issues such as enrolment, penalties, and tips on completing the application form for homeless electors. Both the FAQ and Enrolling to vote sections of the website contain links to the fact sheet. See Commonwealth of Australia Gazette, No. GN 32, 15 August 2007, pp. 2202-2218; and, http://www.aec.gov.au/pdf/enrolment/forms/no_fixed_address/ER016NFAw_NSW_0208_F.pdf; and Mr Digby Hughes, Homelessness NSW/ACT, *Transcript of evidence*, 19 March 2008, p. 22.

Commission (AEC) provided more information to them during the 2007 Federal election than was provided by the NSW Electoral Commission during the State election. The NSW Election Commission should make contact with the AEC regarding this matter.¹³⁰

- 5.26 The Committee notes that the Victorian Electoral Commission's (VEC) website has information for homeless electors on no fixed address enrolment, ordinary enrolment and silent elector enrolment. Information is also available for service providers who work with homeless persons on ways to encourage enrolment. The Committee notes that the VEC provides a link on its website to the AEC's 'Application for enrolment for persons with no fixed address' form.

Conclusion

- 5.27 The Committee recommends there be better provision of information for homeless electors on the NSWEC website. In the Committee's view the NSWEC should, at a minimum, provide a link to the relevant enrolment form to improve access to enrolment and voting for homeless persons residing in New South Wales. In the Committee's view it would be a relatively simple administrative step for the NSWEC to obtain a copy of the relevant form, or provide a link to the form that is currently available on the AEC's website.

RECOMMENDATION 12: That the New South Wales Electoral Commission provide further information for homeless electors on its website, including a link to the Australian Electoral Commission form entitled 'Electoral enrolment for persons with no fixed address in New South Wales'.

- 5.28 The Committee also notes that the lack of consistency in terms of the terminology being used by the AEC and the NSWEC, that is 'itinerant' versus 'homeless', could cause confusion for homeless electors. While this reflects the relevant legislation, in the Committee's view information provided on the NSWEC website should be consistent with the information provided by the AEC. The Committee supports such information being termed as information for 'no fixed address' or 'homeless' persons, in order to make it clear that the information is relevant to homeless electors.

¹³⁰ Homelessness NSW/ACT, *Submission no. 16*, p. 3.

Equity and access

Chapter Six - Future options for voting

INTRODUCTION

- 6.1 During the course of the Inquiry the Committee took evidence from stakeholders on how voting options can be improved for electors as a means of overcoming certain difficulties experienced in the 2007 NSW election. It was suggested to the Committee that both e-voting and i-voting should be trialled to broaden voting options for electors with a disability and for rural and remote electors.

E-VOTING

- 6.2 Electronic voting or e-voting requires an elector to visit a purpose built electronic voting kiosk to cast their vote. To date in Australia it has been trialled for use with vision impaired electors in both Federal and Victorian elections. In the Australian Capital Territory (ACT) since 2001 electors have been able to cast a vote in an e-voting kiosk where such a kiosk is available at a polling place.
- 6.3 E-voting is generally envisaged in Australia as a means by which to enable electors with a disability, such as the vision impaired, to cast a secret ballot that would otherwise be denied them. Notwithstanding, overseas and in the ACT for the past two elections e-voting has been used for electors in general. The main issue in relation to e-voting is cost-effectiveness vis-à-vis the right of the vision impaired or other electors to cast a secret ballot.

E-voting trials in other jurisdictions

2007 Federal trial

- 6.4 An e-voting trial for the vision impaired was conducted by the AEC at the 2007 federal election under new legislation.¹³¹ A reference group consisting of representatives from groups such as HREOC, Vision Australia and Blind Citizens Australia provided advice to the AEC on the development of the e-voting system. The software selected by the AEC for the trial was independently assessed by an auditor to certify both the integrity of the code and the required security features, which included a barcode printout of each vote. In the lead up to the election, the AEC conducted demonstrations of e-voting, which allowed vision impaired electors to practise on the e-voting machines. Two e-voting machines were available in each of the selected 29 pre-poll centres around Australia.¹³²
- 6.5 The Committee sought information from the Australian Electoral Commission on the AEC's evaluation of the e-voting trial for vision impaired electors. The AEC indicated that a total of 169 vision impaired people voted in New South Wales¹³³ and nationally

¹³¹ The *Electoral and Referendum Legislation Amendment Act 2007* (Cth) established the framework for the trials of e-voting, with the details prescribed by regulations (Electoral and Referendum Regulations 1940, Division 2). The legislation stipulated that the e-voting method provided for in the regulations must allow for a record of who voted electronically and produce a printed record of the votes cast electronically.

Commonwealth Electoral Act 1918, ss 202AC, 202AE

¹³² http://www.aec.gov.au/pdf/publications/annual_report/2007/AEC0607annualreport.pdf, Australian Electoral Commission, *Annual Report 2006-2007*, pp 62-63.

¹³³ A breakdown of the votes is indicated in the table overleaf, reproduced from AEC response to questions, p. 1.

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a total of 850 votes were cast. In terms of the cost of the trial, the AEC estimated that the average national unit cost per vote was \$2,597.¹³⁴ In Victoria, where the same polling places were used as at the trials conducted for the state election in 2006, there was a 41% increase in elector turnout. The Australian Electoral Commissioner advised the Committee that, while it was still being assessed, feedback for the trial had been quite positive.¹³⁵

Vision impaired electors' comments

6.6 During its round table session with representatives of disability groups, the Committee heard from vision impaired electors who had voted electronically in the federal trial and were keen to share their experiences with the Committee. Darren Fittler told the Committee:

The experience I had at the 2007 Federal election was amazing. I sat there and thought, "Wow! As I look below the line, do I sit here and go through however many hundreds of people there are and order them from one to 300 just because I can? I think I might." Then my baby started crying and I did not end up doing that, but the option was there for me to do it. I could use a very simple interface to manoeuvre my way through the ballot paper, and check what I needed to check—in fact, if I made a mistake I could uncheck it. I was able to really see who the parties were, how they were structured, and get that full experience of voting: to hit a button and have a printout, then to fold it up and whack it in a box and say, "I just did that all on my own. No-one else knows how I voted."

Despite the current protections, exemptions and exceptions, and all those things that are currently sitting within the Act, there is nothing more liberating or that made me feel so much more a part of our entire democratic process than that day when I was able to do it all on my own. It was a very special moment, and I would hope that that opportunity will be able to be emulated in the State election and local government election environment.¹³⁶

6.7 Susan Thompson of Vision Australia, commented:

Firstly, we would like to caution against a conclusion of a low success in the trial of assisted voting in the 2007 Federal election based purely on numbers alone. I can personally concur with the overwhelming positive experiences of our clients who were able to take advantage of this trial. There have been few experiences in my own life—and I have been totally blind all my adult life—which have been more liberating or dignifying than being able to cast a secret, independent vote.¹³⁷

Table: Vision impaired people who voted electronically in NSW

Location	Completed votes
Albury	12
Chatswood	18
Coffs Harbour	16
Dubbo	20
Enfield	60
Parramatta	15
Wollongong	28
Total	169

¹³⁴ See *ibid.* The cost included salaries, communication with electors and stakeholders, acquisition by tender, software development, hardware, delivery and evaluation.

¹³⁵ *Ibid.*, p. 2.

¹³⁶ Mr Darren Fittler, Gilbert and Tobin Lawyers, *Transcript of evidence*, 19 March 2008, pp. 14-15.

¹³⁷ Ms Susan Thompson, Vision Australia, *Transcript of evidence*, 19 March 2008, p. 14.

2006 Victorian trial

- 6.8 The Victorian Electoral Commission (VEC) conducted a trial of e-voting for the November 2006 Victorian election. The Victorian election budget allocated \$750,000 towards the development of e-voting. The e-voting system selected by the VEC, following consultation with organisations such as Vision Australia, was chosen based on its applicability for the requirements of vision impaired electors, electors with motor impairments and electors with poor English language skills.¹³⁸
- 6.9 Non-networked e-voting kiosks were set up in six special e-centres, which were fully wheelchair accessible with disabled parking, and were open for early voting as well as on election day. The kiosks were used by a total of 199 electors with only one informal vote, 12% of votes were cast on election day and 88% prior.

Feedback and analysis

- 6.10 Feedback received by the VEC was very positive, with the majority of respondents indicating that they would use the system again. Some minor changes were suggested by users to improve the system's usability, including changes to the kiosks' layout and longer cables for head-phones.¹³⁹
- 6.11 The VEC reported that it considered the trial to have been successful. The system was judged to have delivered accurate and authentic results, with the software attracting positive feedback from electors. The VEC identified the cost of the system as being a major issue for consideration in any assessment of its feasibility. It noted that 'extending the franchise of users for e-voting could substantially reduce the cost per vote and maximise the return on the investment.'¹⁴⁰
- 6.12 In light of the trial the VEC recommended that consideration be given to expanding the e-voting franchise from the more narrow 'electors who because of a visual impairment cannot otherwise vote without assistance', to:
- people with motor impairments;
 - people with poor English-language skills, who may have difficulties understanding the instructions on a ballot paper (instructions etc can be provided in multiple languages using electronic voting software);
 - people who are illiterate in either English or their primary spoken language (instructions can be provided in audio through headphones in multiple languages); and
 - electors outside Victoria.¹⁴¹
- 6.13 According to the VEC, in the first three cases this would enable electors concerned to cast a secret ballot when they would otherwise have to rely on another person to assist them in completing their ballot papers. The use of stand-alone e-voting kiosks for electors outside Victoria would obviate the need to send large numbers of ballot papers overseas and interstate, while the electronic transfer of votes would speed up

¹³⁸ Victorian Electoral Commission, *Report to Parliament on the 2006 Victorian State Election*, Melbourne, 2007, pp 66-68.

¹³⁹ *Ibid*, pp. 73-74.

¹⁴⁰ *Ibid*, p. 75.

¹⁴¹ *Ibid*, p. 124.

Future options for voting

the count of overseas and interstate ballots by reducing the delay that currently occurs when ballot papers are transported to Victoria.¹⁴²

Stakeholder views on e-voting

The disability sector

6.14 Many Inquiry participants from the disability sector submitted that vision impaired people do not have the same access to electoral information and services as the non-vision impaired. In particular, the provisions of s.108 of the Act, which requires a vision impaired elector to vote with assistance, mean that vision impaired electors are unable to cast their vote independently and in secret. Ms Susan Thompson, Advocacy Officer with Vision Australia, told the Committee:

... citizens such as myself who are blind, have low vision or have a print disability and cannot be assisted by magnification aids, were, in the second vote in the twenty-first century, denied a secret vote. A secret vote is not having a polling official reading and writing for you; it is not having a friend reading and writing for you. It is being able to access and make your own selection from the ballot, review and verify your choices, and have no-one else privy to that vote.¹⁴³

6.15 Vision Australia pointed to the recent trials undertaken internationally and in Australia, commenting that the NSWEC could benefit from the experience of electoral commissions in jurisdictions such as the ACT, Victoria, Tasmania and the Commonwealth, where e-voting technology has been utilised.¹⁴⁴

6.16 People with Disability also called for e-voting to be made available for disabled electors:

... The NSWEC Equal Access to Democracy Plan states that it cannot trial electronic voting. We believe that this deserves particular attention especially in light of the fact that the federal government trialled electronic voting in their election held in November 2007.¹⁴⁵

6.17 The NSW Disability Discrimination Legal Centre proposed that the Act be amended to permit the NSWEC to conduct a trial of e-voting:

It is the New South Wales Disability Discrimination Legal Centre's position that amendments to the Parliamentary Electorates and Elections Act are needed to improve access to the voting procedure for people with a disability. ... we recommend an amendment that would allow for the New South Wales Electoral Commission to pilot electronically assisted voting technology, or e-voting, as occurred in the 2006 Victorian State election and the 2007 Federal election. We believe that this technology will provide a means of removing barriers to the right to secret and independent voting for many people with disability. We note that the New South Wales Electoral Commission bears minimal cost in the implementation of e-voting. We also note that this technology has been implemented in the ACT since 2001.¹⁴⁶

6.18 The Committee notes that the *Parliamentary Electorates and Elections Act 1912* would need to be amended to enable any trial or implementation of e-voting. It further

¹⁴² Ibid.

¹⁴³ Ms Susan Thompson, Vision Australia, *Transcript of evidence*, 19 March 2008, p. 13.

¹⁴⁴ Vision Australia, *Submission no 14*, p. 2.

¹⁴⁵ People with Disability, *Submission no. 15*, p. 2.

¹⁴⁶ Ms Geri Kaufman, Policy Officer, NSW Disability Discrimination Legal Centre, *Transcript of evidence*, 19 March 2008, p. 14.

notes that the NSW Electoral Commissioner expressed reservations about the cost-effectiveness of e-voting based on the recent Victorian trial.¹⁴⁷ Mr Barry submitted that: 'Establishing kiosk type voting is expensive and there is not a high degree of elector take up.'¹⁴⁸

I-VOTING

Background

6.19 Internet voting, or i-voting, enables electors, whether they be remote electors, electors with a disability or some other category of electors, to cast a secure, secret ballot online. Electors would register as an internet voter, be sent their ballot papers over the internet, log onto a secure website and do their voting online. I-voting has been suggested as a means by which to increase voting options not only for the vision impaired but also for rural and remote electors. The discussion below indicates that there are both positives and negatives to i-voting, with the disability sector cautioning against a reliance upon i-voting in place of e-voting.

I-voting trials

6.20 In its report on the November 2006 Victorian election and its assessment of the e-voting trial undertaken for vision impaired electors, the Victorian Electoral Commission (VEC) did not recommend trialling i-voting, as it did not think that sufficient practical safety measures existed at the time to ensure that voting over the internet was safe and secure, or to protect internet-based voting from interruptions to service.¹⁴⁹

6.21 Overseas trials are also illustrative of the issues that are presented by i-voting. At the May 2007 UK local authority elections 12 electronic voting pilot schemes were undertaken across 13 local government authorities, whereby electors who registered were given a unique Voter Identification Number which they used to cast a vote either by telephone or over the internet.¹⁵⁰ The UK Electoral Commission noted that the number of electors using internet or phone voting was small but that those who used these voting options found them to be easy to use and welcomed the opportunity to vote in this way. Notwithstanding, it was recommended that the Government end further piloting of modern electoral techniques such as internet and phone voting, which have been extensively tested, 'until it has published a clear strategy for modernising the electoral system and made the system more secure.'¹⁵¹ The UK i-voting pilots also 'identified a number of accessibility problems for people with disabilities in relation to both internet and telephone voting and has recommended in future that relevant groups are consulted on the design.'¹⁵²

6.22 At the November 2007 Federal election the AEC trialled i-voting, with members of the ADF voting online using the Department of Defence's secure intranet. ADF personnel

¹⁴⁷ Mr Colin Barry, Electoral Commissioner, *Transcript of evidence*, 11 March 2008, p. 20.

¹⁴⁸ NSWEC, Answers to questions on notice, 28 March 2008, Question 3a, p. 3.

¹⁴⁹ VEC, *Report to Parliament on the 2006 Victorian State Election*, pp. 65-74, 124-125.

¹⁵⁰ ACTICA Consulting, *Technical Evaluation of South Bucks District Council e-Voting Pilot 2007*, 2 August, 2007, pp. 1, 11.

¹⁵¹ <http://www.electoralcommission.org.uk/media-centre/newsreleasereviews.cfm/news/655>, 02 August 2007.

¹⁵² *Ibid.*

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were forwarded, marked and returned ballot papers over the internet.¹⁵³ Feedback received from the trial was positive. While the cost per vote is still being assessed for the i-voting trial, the AEC indicated to the Committee that it believes it to be considerably less than the cost of e-voting trials carried out for blind and vision impaired electors.¹⁵⁴

Stakeholder views on i-voting

6.23 There is some divergence of views in relation to the future use of i-voting in state elections, mainly in relation to its use by electors with a disability. Whilst the NSWEC and The Nationals have given strong support to the implementation of i-voting as one of the chief electoral processes to be used in the future to record the votes of rural and remote and disabled electors, disability groups have given strong support to the trialling of e-voting rather than i-voting.

NSWEC and i-voting

6.24 In the NSWEC's view the implementation of i-voting has the potential to further enfranchise people with a disability. It is in this context that the *Report on the 2007 State Election* suggested that electors with a disability could be given the option to register as an i-voter, which, along with qualification as a postal and a pre-poll voter, would enfranchise these electors by increasing their voting options.¹⁵⁵ In addition, i-voting could be extended to rural and remote electors, which, along with the introduction of mobile pre-poll voting and mandating registration as a general postal voter, would improve voting options for rural and remote electors.¹⁵⁶

6.25 Having observed the AEC trial, the NSW Electoral Commissioner expressed the view that the trial was a success and points the way forward as the most cost-effective way of ensuring that both remote electors and electors with a disability have more options for voting.¹⁵⁷ The NSWEC advised the Committee that the AEC's i-voting pilot with the ADF 'proved to be very successful with a high degree of take-up.'¹⁵⁸

6.26 The Commissioner's view is that given the fact that e-voting via a kiosk is expensive, 'In moving forward, i-voting would be a preferable approach to providing additional services to people who live in remote parts of the State and to people with a disability.'¹⁵⁹ However, the Committee notes that legislative changes would be needed to provide the NSWEC with sufficient authority to establish i-voting for remote electors and electors with a disability.

The Nationals and i-voting

6.27 In The Nationals' submission to the Inquiry the party gave strong support to the idea of electors being given the opportunity to cast their vote online:

¹⁵³ AEC, *The Tally Board*, no. 3, April 2007, p. 2; Mr Colin Barry, Electoral Commissioner, *Transcript of evidence*, 11 March 2008, p. 20.

¹⁵⁴ AEC, Response to questions, p. 2.

¹⁵⁵ NSWEC, *Report on the 2007 State Election*, p. 84.

¹⁵⁶ Ibid.

¹⁵⁷ Mr Colin Barry, Electoral Commissioner, *Transcript of evidence*, 11 March 2008, p. 20.

¹⁵⁸ NSWEC, Answers to questions on notice, 28 March 2008, Question 3, p. 3.

¹⁵⁹ Ibid.

... The Nationals are of the view that most of the problems of access and equity for voters in regional, rural and remote communities could be solved by implementing on-line voting.¹⁶⁰

- 6.28 The Nationals see i-voting as one way of overcoming barriers to voting that the tyranny of distance and infrequent postal services pose for remote electors.¹⁶¹ In The Nationals' view the level of access to computers and the internet should be sufficient in remote areas for the introduction of i-voting to enhance the capacity of remote electors to cast a vote.¹⁶² In The Nationals' view, then, i-voting would enfranchise remote electors by giving them an additional means of voting, alongside postal voting and attending a polling place.

The disability sector and i-voting

- 6.29 Submissions to the Committee's Inquiry from the disability sector did not make any explicit references to voting over the internet. However, submissions from the NSW Disability Discrimination Legal Centre Inc. (NSWDDLC), Vision Australia, and People with Disability Australia Inc. (PWD) gave strong support for the e-voting trial undertaken by the AEC at the 2007 federal election for the vision impaired.

- 6.30 In evidence to the Committee, the NSWDDLC expressed a clear preference for e-voting over i-voting:

Ms KAUFMAN: ...The New South Wales Disability Discrimination Legal Centre is of the opinion that electronically assisted voting is preferable to i-voting. We would only support i-voting if it is not the only method of voting available for people with disability. Unfortunately, given the financial hardship experienced by many people with disability, many would be excluded from this option due to a lack of access to a computer or the Internet. I-voting as the only option also has the potential to exclude and isolate voters from polling booths, how-to-vote information, and full participation in the democratic voting process.¹⁶³

- 6.31 Other disability groups present at the Committee's public hearing did not give clear views on i-voting in relation to e-voting. There was, however, general support given in submissions and evidence to the Committee by the disability sector to providing e-voting through the use of specialised kiosks.

CONCLUSION

- 6.32 Disability groups participating in the Inquiry strongly supported e-voting for the vision impaired. The Committee notes the NSW Electoral Commissioner's view that i-voting may be a more cost-effective way of enabling vision impaired electors to cast an independent and secret ballot, in addition to providing opportunities for improved participation for rural and remote electors.
- 6.33 However, in the Committee's view, the relative benefits of e-voting and i-voting require more detailed investigation, through an inquiry that could examine in detail issues such as cost-effectiveness, security and accessibility, trials held in other jurisdictions, in addition to exploring the legislative changes that would be required to

¹⁶⁰ The Nationals, *Submission no. 17*, p. 2.

¹⁶¹ Mr Phil Lamb, The Nationals, *Transcript of evidence*, 19 March 2008, p. 2.

¹⁶² *Ibid*, p. 3.

¹⁶³ Ms Geri Kaufman, NSW Disability Discrimination Legal Centre, *Transcript of evidence*, 19 March 2008, p. 15.

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allow for the development and trial of e-voting or i-voting technology specific to the needs of New South Wales' electors. Moreover, for the Committee to be able to form a clear view on i-voting and e-voting, the views of the disability sector would need to be canvassed more widely on whether i-voting would be an effective and generally acceptable alternative to e-voting.

- 6.34 In the Committee's view, i-voting is a potential initiative which could benefit electors in rural and remote areas and people with disabilities by broadening their voting options. It is an open question whether i-voting as an alternative to e-voting is the most appropriate means of providing electors with a disability, such as the vision impaired, with a suitable option to cast a secret ballot. This is an important area that the Committee recommends the NSWEC should examine in greater detail.

RECOMMENDATION 13: That the New South Wales Electoral Commission examine ways to allow vision impaired electors to cast a secret ballot, for example, through the use of e-voting and i-voting.

RECOMMENDATION 14: That the Committee request a reference in the life of the 54th Parliament to further, comprehensively review the *Parliamentary Electorates and Elections Act 1912*, including future options for voting using new technologies.

Appendix One – Submissions

Submission	Individual/organisation
No 1	Mr Peter Brun
No 2	Ms Carol Rumble
No 3	Mr Malcolm Mackerras AO
No 3a	Mr Malcolm Mackerras AO
No 4	Mr David Borger MP
No 5	Confidential by Committee resolution
No 6	HS Chapman Society
No 7	Name suppressed
No 8	Mr Paul Parkinson
No 9	NSW Disability Discrimination Legal Centre (Inc)
No 10	Mr Antony Green (Election Analyst)
No 11	Liberal Party of Australia – NSW Division
No 12	Proportional Representation Society of Australia (NSW Branch)
No 13	Mr Stephen Lesslie
No 14	Vision Australia
No 15	People with Disability Australia Inc
No 16	Homelessness NSW/ACT
No 17	The Nationals
No 18	The Greens
No 19	Physical Disability Council of New South Wales

Appendix Two – Witnesses

Public hearing

Tuesday 11 March 2008, Parliament House

Mr Antony Green, Election Analyst

Mr Martin Laverty, Interim State Director, Liberal Party of Australia, NSW Division

Mr Colin Barry, Commissioner, NSW Electoral Commission

Mr Ian Brightwell, Director, Information Technology Branch, NSW Electoral Commission

Mr Chris Maltby, Registered Officer, The Greens

Ms Lesa De Leau, Campaign Director, The Greens

Public hearing

Wednesday 19 March 2008, Parliament House

Mr Phil Lamb, State Director, The Nationals

Ms Susan Gregory, President, Proportional Representation Society of Australia (NSW Branch)

Mr Stephen Lesslie, Proportional Representation Society of Australia (NSW Branch)

Ms Geri Kaufman, Policy Officer, NSW Disability Discrimination Legal Centre (Inc.)

Ms Joanna Shulman, Principal Solicitor

Mr Darren Fittler, Advocate

Mr Dean Price, Senior Advocate, People with Disability Australia

Ms Susan Thompson, Advocacy Officer, Policy and Advocacy, Vision Australia

Ms Yvonne Diab, Business Development Manager-Northern Region Accessible Information Services

Ms Ann-Mason Furmage, President, Physical Disability Council of New South Wales

Ms Jordana Goodman, Project Officer, Physical Disability Council of New South Wales

Mr Digby Hughes, Policy Officer, Homelessness NSW

Appendix Three – NSWEC Equal Access to Democracy Plan



EQUAL ACCESS TO DEMOCRACY PLAN

June 2006

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Electoral Commissioner's Foreword

I am pleased to present the New South Wales State Electoral Office's Equal Access to Democracy Plan for the March 2007 State General Election.

The Equal Access to Democracy Plan was developed through a series of consultations with peak disability consumer and industry organisations in New South Wales. The consultations provided the SEO with valuable comments and suggestions which were used in the development of the Plan.

The Plan identifies key issues that currently impact on access and participation in the democratic process for people with disabilities, and outlines important initiatives to provide more choices at the 2007 State General Election. The Plan is intended to be a living document and will be reviewed after the March 2007 State General Election to examine what further improvements can be made.

The Plan does not include all actions identified in the consultation process. Some of the areas identified require legislative change, whilst others are not practically possible. Those areas which have been prioritised for implementation at the March 2007 State General Election represent positive, practical solutions which enable real improvements to current arrangements.

I am looking forward to continuing the partnerships with the peak disability consumer and industry organisations, established through our consultations, as together we work to promote participation and improve access to the electoral system in New South Wales for people with disabilities.



Colin Barry
Electoral Commissioner

Why an Equal Access to Democracy Plan?

The State Electoral Office (SEO) has prepared an Equal Access to Democracy Plan for implementation at the March 2007 State General Election.

The purpose of the Plan is to improve access to electoral services for people with a disability (Appendix 1) at the election and provide more doors to the electoral process.

The Equal Access to Democracy Plan fulfils a commitment made in the SEO's Corporate Plan for 2005 to 2007 to provide election services that promote equal access and participation and addresses the priority areas identified in the NSW Disability Policy Framework.

In December 2005, the SEO prepared a discussion paper on Equal Access to Democracy and circulated the document to peak disability consumer and industry organisations (Peaks) prior to holding a series of consultation workshops in February 2006.

The aim of the consultation workshops was to ascertain from the Peaks, ideas and practical suggestions for improving access to all electoral services, including access to polling places, for the 2007 State General Election.

Following the consultations the SEO developed an Equal Access to Democracy Report to identify achievable improvements in the provision of electoral services for electors with a disability at the March 2007 State General Election. These improvements were identified through the consultation process. The Report was circulated to the participating Peaks to enable them to consult with their members and provide feedback and comments to the SEO on the Report goals and strategies before the finalisation of the Plan.

The Equal Access to Democracy Plan is intended to support the principles of the *Disability Services Act* 1993 and in particular:

- Persons with disabilities have the right to choose their own lifestyle and to have access to information, provided in a manner appropriate to their disability and cultural background, necessary to allow informed choice
- Persons with disabilities have the same right as other members of the Australian society to participate in the decisions which affect their lives
- Persons with disabilities receiving services have the same right as other members of Australian society to receive those services in a manner which results in the least restriction of their rights and opportunities.

What is the role of the SEO?

The SEO's role is to provide high quality election services that are impartial, effective, efficient and in accordance with the law.

The SEO is responsible for:

- conducting elections for the Parliament of NSW and elections for local government councils
- conducting elections for registered clubs, statutory boards and State registered industrial organisations
- working with the Australian Electoral Commission in the management of the joint electoral roll in NSW
- providing administrative support to the Election Funding Authority.

The SEO recognises the diversity of the New South Wales community and the demand for high quality electoral services to meet a wide range of needs, expectations and levels of understanding of the democratic system.

The SEO Corporate Plan for 2005 to 2007 commits to improving electoral services in New South Wales for people with a disability.

The SEO Values statement provides direction and guidance for the organisation in order to conduct its business in an ethical manner and includes:

- integrity in the way that we approach our work
- impartiality in the conduct of elections to gain and maintain the confidence of clients and the community
- respect for the needs of all in our community to ensure equal access to democracy
- professionalism in providing election services.

SEO's Electoral Environment

Elections are conducted in a high profile environment where impartiality, accuracy, reliability and efficiency are essential.

The SEO's work is undertaken within a strict legal framework. Under the *Parliamentary Electorates and Elections Act 1912* every aspect of the conduct of elections is clearly defined including the timeframe for conducting the election, entitlement to pre-poll and postal voting, the way to cast a valid vote, the format of the ballot papers and the booth arrangement within the polling place. The SEO has no discretion in the matter.

The Equal Access to Democracy Plan for the March 2007 State General Election will provide improvements to electoral services that comply with the prescriptive provisions of electoral legislation.

The Consultation Process

Representatives from 17 Peaks participated in consultations facilitated by Mr Peter Abbinga of Participation Works Group and Mr Tony Clark of Vision Australia. The agenda addressed the following issues which had been prioritised by the Peaks themselves prior to the consultations and formed the basis for discussions. The NSW Electoral Commissioner attended each workshop.

Aims of the workshop

- SEO planning process – 2007 State General Election
- Challenges and opportunities
- Legislative environment and constraints
- Practical constraints

Voting

- Casting a vote
- Alternative voting methods
- Electronic voting
- Voting screens and polling place layout

Access

- Access to SEO premises
- Access to Returning Officers' offices
- Access to pre-poll centres and polling places

Access to Information

- Communicating with the SEO
- Electoral information
- Enrolment

Promoting positive attitudes

- Promoting participation
- Training of polling officials
- On-going feedback to the SEO

Through the consultations, Peaks gained an appreciation of the highly regulated legislative environment that electoral services are delivered in, as well as many of the practical constraints that the SEO faces in providing services at the time of the General Election throughout the State.

The Peaks also identified those issues that they wished the SEO to give priority attention to, and provided very many practical achievable suggestions on how to improve access and participation and the experience of voting for the 2007 State General Election.

All suggestions were evaluated according to whether they were:

- 1) Possible under the current legislation
- 2) Able to be achieved by the 2007 State General Election
- 3) Would deliver practical improvements

It was recognised by the group as a whole that some seemingly small changes could make a big difference to the experience of people with a disability exercising their democratic right.

The Plan will address as a first step what is achievable for the March 2007 State General Election. However, those important issues which were raised in the course of the

consultations will not be ignored. The proposal to establish an Access Consultation Group, which came out of the consultations, has been accepted by the SEO. This Access Group, as a first step, will assist in evaluating the implementation of the Plan at the 2007 General Election and will provide ongoing regular advice to the SEO.

SEO's Goals

Goal one: Establish partnerships with Peaks to promote equal access and participation

Issues raised through consultation:

The consultations established that Peaks wish to work with the SEO to examine issues and solutions that promote access and participation.

Through a framework of on-going consultation, Peaks could provide direct input to the SEO on the implementation of the Equal Access to Democracy Plan at the State General Election and provide timely information on electoral access issues to their members. Working closely with Peaks would enable the SEO to access information on the latest resources and adaptive technologies. It would also enable the SEO to use the extensive community networks of Peaks to publicise electoral information and promote electoral education.

The SEO could establish a forum for ongoing consultation such as an Access Consultative Group. This would initially meet after the 2007 State General Election to evaluate the implementation of the Plan at the conclusion of the election.

Suggested strategies:

In partnership with Peaks, disseminate timely information on enrolment, the SEO's legislative and operational environment and key election messages during the election.

Establish an Access Consultative Group consisting of representatives of Peaks to provide feedback and advice to the SEO on the implementation of the Plan at the State General Election.

Develop a charter for the Access Consultative Group to outline its role in assisting the SEO in continuously exploring access improvements to electoral information and services for people with a disability.

As a first step, participants from the Equal Access to Democracy consultation process would participate in the review process of the March 2007 State General election.

Action:

Director, Corporate Communications Branch

Performance measures:

Prior to the 2007 State General Election, the SEO provides Peaks with key election information for distribution to their members.

After the March 2007 State General election, the Access Consultative Group convened to assist the SEO to review the implementation of the Equal Access to Democracy Plan.

Access Consultative Group within its charter provides feedback and advice to the SEO on accessibility and participation issues at the State General Election.

Access Consultative Group provides forum for assisting the SEO to further address access and electoral information improvements.

Goal two: Provide inclusive and accessible election information

Issues raised through consultation:

The SEO aims to provide inclusive and accessible information for the election. There are a number of challenges in providing timely election information in alternative formats, for instance, the electoral timetable and current production arrangements may not enable the supply of Braille candidate or party names in sufficient time for use before Election Day.

The SEO is keen to produce election information in alternative formats and seeks to diversify its election advertising campaign by disseminating election information through Peaks' community networks and newsletters.

Peaks requested that the SEO publicise the options available to electors to vote before Election Day.

Peaks also requested that the SEO trial an Easy Read "train the trainer" enrolment and electoral education module to promote access and participation by people with intellectual and cognitive disabilities.

Peaks were advised that the SEO website was under redevelopment. They requested that the SEO website be designed to comply with W3C standards.

Suggested strategies:

SEO to provide key election information to Peaks in electronic format.

Peaks to disseminate election information through their community networks and newsletters.

SEO's advertising brief to develop an information campaign strategy to include requirements for provision of electoral information to persons with a disability that is inclusive and provides greater information access.

SEO to provide election information in a range of alternative formats such as Easy Read, Large Print, Braille, Audio, 2RPH radio broadcasts, Open Captions, and TTY text telephone.

Review current production arrangements in conjunction with Vision Australia and other providers to explore the possibilities for key election information being provided in a timely fashion in alternative formats such as Braille, Large Print, disk, audio and Easy Read format.

SEO to publicise the options of voting before Election Day in the media and through Peaks' community networks and newsletters.

SEO to develop and pilot with one organisation an Easy Read electoral education "train the trainer" module to enable Peaks to promote access and participation at the election.

SEO to provide a "How to Vote" step by step guides in community languages for distribution within ethnic communities.

All guides to be written in plain English, especially information guides to be translated.

SEO to conduct information sessions explaining the political system, citizens' responsibilities and how to vote in an election for non English speaking backgrounds (NESB) communities.

SEO's brief to redevelop website includes requirements for web content to comply with accessibility standards.

Post the Equal Access to Democracy Plan on the SEO website in accessible format.

Action:

Director, Corporate Communications

Performance measures:

SEO provides key election information to Peaks in accessible electronic format.

Peaks provided with timely key election information to disseminate to their members through community networks and newsletters.

Alternative format electoral information developed as part of an integrated communication strategy.

Information on the options of voting before Election Day publicised in the media and through Peaks' community networks and newsletters by February 2007.

Easy Read electoral education "train the trainer" module developed and piloted with one organisation by February 2007.

"How to Vote" step by step guides in community languages distributed within ethnic communities.

All guides written in plain English, especially information guides to be translated.

Website designer contracted to deliver website content templates and navigation that comply with accessibility standards.

Equal Access to Democracy Plan posted on the SEO website in accessible format.

Goal three: Promote equal access at buildings used at elections

Issues raised through consultation:

The State General Election in March 2007 requires the SEO to lease for eight weeks approximately 100 buildings across the State for use as Returning Officers' offices and pre-poll centres. The SEO is required as well to lease for one day only some 2,500 polling places. These buildings must accommodate the needs of over 4.3 million electors. Voting is by attendance with the option for eligible electors to register as a general postal voter or to apply for a postal vote (see Goal four).

The SEO does not own any of the buildings it uses during elections and therefore has very limited influence over the level of accessibility of premises appointed as Returning Officers' offices, pre-poll centres and polling places.

Peaks requested that the SEO develop new ways to effectively audit the accessibility status of buildings used as polling places at the election and to provide accurate information on accessibility status in its election advertising and information campaigns.

Peaks advised that they would prefer fewer, but fully accessible Returning Officers' offices, pre-poll centres and polling places and were prepared to travel further for full accessibility. Peaks have requested that the longer term goal of fully accessible polling places will be addressed by the Access Consultative Group.

Peaks requested that accessibility inside buildings be improved by reviewing polling place lay-out, and the design and colour of election equipment. The lay-out of the polling place is very important for the efficient conduct of the election, and should be designed to limit congestion and ensure adequate privacy and security.

Effective lay-out principles should address issues such as appropriate lighting and ease of entry and egress. Electors with limited mobility or some forms of mental illness require a secure clear path that is free from obstacles and encumbrances. Peaks requested where possible that the wheelchair accessible entrance not be used as an exit.

Peaks also identified additional options to improve access to voting such as the use of Vision Australia premises and/or the Spastic Centre as polling places for all electors.

Suggested strategies:

Adopt a more robust accessibility audit instrument to enable an accurate measurement of accessibility at polling places.

Provide training for Returning Officers, Polling Place Managers and other SEO staff on how to assess and address accessibility at Returning Officers' offices, pre-poll centres and polling places.

Review the accessibility status of all Returning Officers' offices, pre-poll centres and polling places and ensure timely publication during the election period.

Adopt only one category – "Full Access" - for defining and publishing wheelchair accessibility.

Review instructions for the lay-out of polling places and provide training to Polling Place Managers on the need for appropriate lighting, maximum accessibility for entry and exit paths and the need to facilitate flow-through of electors.

Relying on advice from Vision Australia, ensure polling place lay-out at Vision Australia premises includes the appropriate set up of Closed Circuit Television in order to ensure voters can cast a private ballot.

Review all forms and signage against accessibility criteria.

Apply luminous contrast graphic design principles to signage to improve accessibility.

Review the signage at polling places to include signage in community languages in areas with a large ethnic community.

Action:

Director, Elections Branch

Performance measures:

Returning Officers, Polling Place Managers and other SEO staff trained on how to assess accessibility at Returning Officers' offices, pre-poll centres and polling places.

List of polling place accessibility status finalised by November 2006.

List of Returning Officers' offices and pre-poll centres accessibility status finalised by February 2007.

All advertisements and brochures identify full access polling places with an explanation of what the symbol means.

Instructions on optimal polling place layout included in Returning Officer's and Polling Place Manager's Manual.

Relying on advice from Vision Australia, polling place lay-out at Vision Australia premises will include the appropriate set up of Closed Circuit Television in order to ensure voters can cast a private ballot.

Polling place lay-out at the election follows optimal accessibility principles.

Training of all Returning Officers and Polling Place Managers include optimal accessibility layout principles.

All forms and signage reviewed in accordance with accessibility criteria.

Luminous contrast graphic designs and maximum accessibility features incorporated into specifications for the election furniture order by September 2006.

How to Vote signage at polling places available in community languages in areas with a large ethnic community.

Goal four: Provide more options that promote equal access to enrolment and voting

Issues raised through consultation:

Enrolment is managed by the Australian Electoral Commission (AEC) on behalf of the SEO. Legislation does not permit electors to enrol electronically by digital signature.

Electors with a disability which prevents them from signing or completing the enrolment form may authorise another person to witness the elector marking their mark as their signature. An elector who is physically incapable of marking a mark may have another person sign on their behalf, but must provide a written certificate from a registered medical practitioner.

To cast a valid vote at the election, legislation requires that electors place numbers in squares next to candidates' names on printed ballot papers. Different rules apply for voting at the Legislative Assembly (Lower House) and Legislative Council (Upper House) elections. The large size of the Legislative Council ballot paper means that it is not possible to provide Braille alternatives for vision-impaired voters.

Electronic voting as an alternative to marking the ballot paper was raised by the Peaks as an option to be explored. This is an area which would need legislative change to implement even on a trial basis due to the prescriptive nature of the legislation. Peaks generally agreed that such fundamental change would not be possible to implement in time for the March 2007 State General Election.

As an alternative, Peaks identified the option of applying new adaptive technologies (e.g. closed circuit television for magnification) to improve access to voting. Peaks suggested the use of Vision Australia premises as polling places because of the wide range of new adaptive technologies available on the premises.

Peaks requested information that they could provide to their members on all the options for voting at the election including postal voting, pre-poll voting and assisted voting at polling places.

Under current legislation an elector with a disability may not register as a General Postal Voter. An application for a postal vote is required at each election.

Electoral law also does not permit electors to pre-poll vote by reason of disability but carers can.

Peaks also requested that the SEO review its compulsory voting follow-up procedures to ensure that access issues do not disadvantage people with disabilities who fail to vote.

Suggested strategies:

Seek the assistance of Peaks to identify low areas of enrolment and to promote enrolment to their members.

Advise the AEC of barriers to enrolment identified through the consultation process and explore with the AEC alternative formats for enrolment.

Within the constraints of legislation, improve the format and design of ballot papers to maximise accessibility.

Include Braille text on election signage and ballot boxes.

Provide large print information, user-friendly pencils and hand held magnifiers as part of standard equipment for polling places.

Review the design of table top screens and provide wheelchair accessible voting compartments.

Develop voting compartments' design specifications to take account of the needs of people who use wheelchairs.

Review signage and posters at polling places to include Large Print and pictures to make them more distinguishable.

Display Large Print sample ballot papers at polling places to assist voters.

Display sample ballot papers in plain English or translated into community languages with plain English explanation of the instruction on the ballot paper.

Provide ballot papers and instructions in audio and large print format at polling places.

Peaks to promote increased awareness of the options for voting at polling places, including assisted voting.

Provide information to Peaks to enable them to inform their members on the options available for voting at the election, including postal voting, pre-poll voting and assisted voting at polling places.

In partnership with Peaks, such as Vision Australia and the Spastic Centre, trial the use of such premises as polling places for the whole community.

SEO to review procedures for the enforcement of compulsory voting to ensure that electors with disability are treated equally.

Legislative change is required to enable people with a disability to enrol as a General Postal Voter or to cast their vote in a pre-poll centre.

Action: Director, Elections Branch

Performance measures:

Ballot papers with accessible design features used at the 2007 State General Election.

Braille text included on election signage and ballot boxes used at the election.

Large Print information, user friendly pencils and hand held magnifiers supplied and publicised at polling places.

Wheelchair accessible voting compartments receive positive feedback from people who use wheelchairs.

Wheelchair accessible voting compartments available at each voting centre.

Signage and posters at polling places enhanced to include Large Print and pictures to make them more distinguishable.

Large Print sample ballot papers displayed at all polling places.

Sample ballot papers in plain English or translated into community languages are displayed with a plain English explanation of the instruction on the ballot paper.

Ballot paper and instructions provided in audio and large print format.

Information on the options, including assisted voting, publicised at all polling places and through Peaks.

Information provided to Peaks to enable them to inform their members on the options available for voting at the election, including postal voting, pre-poll voting and assisted voting at polling places.

Adaptive technologies (such as closed circuit television) trialled at selected voting centres such as Vision Australia premises.

Procedures reviewed to ensure that access issues do not disadvantage people with disabilities who fail to vote at the State General Election.

Goal five: Enable election staff to provide assistance that promotes equal access and participation.

Issues raised through consultation:

At the March 2007 State General Election, the SEO will employ approximately 25,000 election officials to work at polling places and pre-poll centres across the State. Providing appropriate training to such a large number of casual staff employed for only a very limited time presents a considerable challenge for the SEO.

The SEO is committed to ensuring that election officials provide high quality inclusive electoral services that are sensitive to the needs and dignity of people with disabilities.

The SEO seeks to develop and deliver effective awareness training to enable Returning Officers and election officials provide appropriate assistance to people with disabilities during the election.

Peaks identified a number of useful resources available to the SEO in developing awareness guidelines and training and expressed a willingness to provide advice on content and methodology.

Peaks also requested, that wherever possible, the SEO recruit election officials who possess relevant skills to assist electors with disabilities - such as Auslan interpreters.

Suggested strategies:

Develop an awareness program for implementation of the Equal Access to Democracy Plan across all Branches of the SEO.

Include guidelines in training programs and election manuals to ensure that Returning Officers and Polling Officials are aware of appropriate ways to provide assistance to electors with a disability, including those with mental illness or disorders.

Develop recruitment criteria for election officials to include relevant skills (including awareness of and sensitivity to the needs of people with non English speaking backgrounds).

Employ and train suitably skilled Vision Australia and Spastic Centre staff to act as polling officials at the voting centres to ensure quality assistance is given to all voters, including those with a disability who choose to vote at these centres.

Implement a strategy for receiving feedback from electors regarding the quality of services provided during the State General Election (possibly have a survey at the polling places for voters to fill out with ways to improve the experience for people with a disability).

Distribute the Equal Access to Democracy Plan to Peaks and the Department of Ageing, Disability and Homecare (DADHC).

Action: Director, Elections Branch and Director, Corporate Communications

Performance measures:

All SEO staff complete an awareness program for the implementation of the Equal Access to Democracy Plan prior to the conduct of the State General Election.

Guidelines and training for promoting accessibility and for assisting people with disabilities developed and included in training programs and election manuals by September 2006.

Recruitment criteria for election officials include relevant skills, including sensitivity to the needs of people with non English speaking backgrounds.

Vision Australia and Spastic Centre staff employed to act as polling officials at the voting centres to ensure quality assistance is given to all voters, including those with a disability who choose to vote at these centres.

Electors with a disability able to provide feedback to the SEO on the quality of electoral services provided at the State General Election through the Access Consultative Group.

Equal Access to Democracy Plan provided to Peaks and the Department of Ageing, Disability and Homecare (DADHC) for publication through their own networks.

Appendix 1

What is a Disability?

The *Disability Discrimination Act* 1992 (C'th) defines disability in relation to a person as:

- total or partial loss of the person's bodily or mental functions; or
- total or partial loss of a part of the body; or
- the presence in the body of organisms causing disease or illness; or
- the malfunction, malformation or disfigurement of a part of the person's body; or
- a disorder or malfunction that results in the person learning differently from another person without that disorder or malfunction; or
- a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgement or that results in disturbed behaviour;

and includes a disability that:

- presently exists; or
- may exist in the future; or
- is imputed to a person.

Appendix 2

Consultation participants:

State Electoral Office

Colin Barry – Electoral Commissioner
Brian DeCelis – Director, Elections
Nicholle Nobel – Director, Corporate Communications
Lorraine Nurney – Team Leader, Logistics, Print and Design
Katherine Dalziel – Electoral Services Project Officer

Australian Electoral Commission

Brien Hallett

Blind Citizens of Australia

Barry Chapman

Deafness Forum Australia

Ruth Fotheringham

Disability Council of NSW

Fiona Given

Disability Discrimination Legal Centre

Ben Fogarty
Andreas Hegas

Council of Social Services of NSW

Christine Regan

Mental Health Association of NSW

Peter Trebilco

Mental Health Coordinating Council

Corinne Henderson

Multicultural Disability

Robert Gruhn

NSW Brain Injury Association

Deborah Frith

NSW Council for Intellectual Disability

Clare Murphy
Kim Walker

People With a Disability

Digby Hughes

Physical Disability Council NSW

Robyn Chapman
Ann-Mason Furmage

Self Help for Hard of Hearing People

Richard Brading

Vision Australia
Michael Simpson
Ebru Sumaktas

Those invited but unable to participate in consultations':

Aboriginal Disability Network NSW

Arthritis Foundation NSW

Deaf Blind Association NSW

Mr Darren Fittler

Consultations Facilitated by:

Participation Works Group
Peter Abbinga
Tony Clark

Appendix Four – 2007 NSW election count process¹⁶⁴NSW 2007 State General Election Count Process

<u>Timeline</u>	<u>First Preference</u>	<u>Distribution of Preferences</u>	<u>Legislative Council</u>
Election Night (Ordinary Votes – votes taken in Polling Place)	Legislative Assembly First Preference Count by Polling Place	Legislative Assembly Notional (Candidate) First Preference Count by Polling Place	Legislative Council Group First Preference Count by Polling Place
Sunday Check Count after Election Night (Ordinary Votes)	Legislative Assembly First Preference Check Count by Polling Place		Legislative Council Ordinary and Declaration vote manual sorting and data entry then full Distribution of Preference count by Polling Place
After 6pm Monday (Declaration Votes)	Legislative Assembly First Preference Count by Type	Legislative Assembly Notional (Candidate) First Preference Count by Type	
Full Distribution of Preferences (All Votes)		Legislative Assembly full Distribution of Preferences	
After Declaration of Election (All Votes)		Legislative Assembly Two Party Preferred Count for Districts where the last two candidates in count were NOT ALP or LP.	

¹⁶⁴ See pp. 23-25 of the transcript of evidence from the Committee's 11 March public hearing for a discussion of the count process for the 2007 NSW election.

Appendix Five – Minutes

Minutes of Proceedings of the Joint Standing Committee on Electoral Matters (no. 1)

4 pm Thursday 28 June 2007

Parliament House

1. Members present

Ms Burton, MP

The Hon Amanda Fazio, MLC

The Hon Don Harwin, MLC

Mr Coombs, MP

The Hon Jenny Gardiner, MLC

Mr Stewart, MP

2. Apology

An apology was received from Ms Rhiannon, MLC

3. Introduction

The Clerk of the Legislative Assembly opened the meeting and read the following extracts from the Votes and Proceedings of the Legislative Assembly —

Thursday 21 June 2007, entry no 13 (7)--

“Joint Standing Committee on Electoral Matters

Mr Aquilina moved, by leave:

That:

- (1) A Joint Standing Committee, to be known as the Joint Standing Committee on Electoral Matters, be appointed.
- (2) The committee inquire into and report upon such matters as may be referred to it by either House of the Parliament or a Minister that relate to:
 - (a) The following electoral laws:
 - (i) Parliamentary Electorates and Elections Act 1912 (other than Part 2);
 - (ii) Election Funding Act 1981; and
 - (iii) Those provisions of the Constitution Act 1902 that relate to the procedures for, and conduct of, elections for members of the Legislative Assembly and the Legislative Council (other than sections 27, 28 and 28a);
 - (b) The administration of and practices associated with the electoral laws described at (a).
- (3) All matters that relate to (2) (a) and (b) above in respect of the 24 March 2007 state election, shall stand referred to the committee for any inquiry the committee may wish to make. The committee shall report on the outcome of any such inquiry within 12 months of the date of this resolution being agreed to by both Houses.
- (4) The committee consist of seven members, as follows:
 - (a) Three members of the Legislative Assembly of whom three must be Government members, and

Appendix Five – Minutes

- (b) Four members of the Legislative Council of whom:
- (i) One must be a Government member,
 - (ii) Two must be Opposition members, and
 - (iii) One must be a cross-bench member.
- (5) Ms Beamer, Ms Burton and Mr Coombs be appointed to serve on such committee as the members of the Legislative Assembly.
- (6) Notwithstanding anything contained in the standing orders of either House, at any meeting of the committee, any four members of the committee shall constitute a quorum, provided that the committee meets as a joint committee at all times.
- (7) The committee have leave to sit during the sittings or any adjournment of either or both Houses.
- (8) The committee have leave to make visits of inspection within the state of New South Wales and other states and territories of Australia.
- (9) A message be sent acquainting the Legislative Council of the resolution and requesting the Legislative Council to appoint four of its members to serve with the members of the Legislative Assembly upon such joint standing committee, and to fix a time and place for the first meeting.”

27 June 2007, entry no 1 (5)--

“Joint Standing Committee on Electoral Matters

Mr SPEAKER

The Legislative Council desires to inform the Legislative Assembly that it has this day agreed to the following resolution:

1. That this House agrees to the resolution in the Legislative Assembly’s Message of Thursday 21 June 2007 relating to the appointment of a Joint Standing Committee on Electoral Matters.
2. That the representatives of the Legislative Council on the Joint Standing Committee be Ms Sharpe, Mr Harwin, Miss Gardiner and Ms Rhiannon.
3. That the time and place for the first meeting be Thursday 28 June 2007 at 10.30 am in Room 814.

Legislative Council
27 June 2007 am

PETER PRIMROSE
President”

27 June 2007, entry no 20 --

“Joint Standing Committee on Electoral Matters

Mr SPEAKER

The Legislative Council desires to inform the Legislative Assembly that it has this day agreed to the following resolution:

1. That Ms Sharpe be discharged from the Joint Standing Committee on Electoral Matters and that Ms Fazio be appointed as a member of the committee.
2. That, notwithstanding anything to the contrary in the resolution of the House of 27 June 2007, the Clerk of the Legislative Assembly fix the time and place for the first meeting of the committee.
3. That a message be forwarded to the Legislative Assembly conveying the terms of the resolution agreed to by the House.

Legislative Council
27 June 2007

PETER PRIMROSE
President”

Thursday 28 June 2007, entry no 7--

“Joint Standing Committee on Electoral Matters

Mr Aquilina, by leave, moved, That:

- (1) Anthony Paul Stewart be appointed to serve on the Joint Standing Committee on Electoral Matters in place of Diane Beamer, discharged; and
 - (2) A message be sent informing the Legislative Council.
4. Election of Chair and Deputy Chair
Pursuant to Standing Order 282—
Resolved, on the motion of Ms Fazio, seconded by Mr Coombs:
That Ms Burton be elected Chair of the committee.

Resolved, on the motion of Mr Stewart, seconded by Ms Burton:
That Ms Fazio be elected Deputy Chair of the committee.

The Clerk of the Legislative Assembly then introduced the committee secretariat.

5. ***

The committee adjourned at 4.10 pm until a date to be determined.

Minutes of Proceedings of the Joint Standing Committee on Electoral Matters (no. 2)

Wednesday 29 August 2007 at 10am
Waratah Room, Parliament House

1. Members present

Ms Burton (Chair), Ms Gardiner, Ms Fazio, Mr Stewart, Mr Harwin

2. Apologies

Mr Coombs
Ms Rhiannon

3. Briefing from the Electoral Commissioner, Mr Colin Barry

The Chair opened the briefing and welcomed the Electoral Commissioner, Mr Colin Barry, and Ms Marie Swain, Legal Officer, NSW Electoral Commission.

The Chair advised the Committee of a request by Dr John Kaye to attend the briefing for the purpose of observing the proceedings. Discussion ensued (Dr Kaye was not present during Committee's deliberations). The Committee agreed to authorise Dr Kaye's attendance as an observer at the briefing on this occasion only. Dr Kaye and Ms Swain were present for the Committee's deliberations and decision. Dr Kaye was admitted to the briefing.

The Chair proceeded to question Mr Barry followed by other members of the Committee. Discussion ensued.

The briefing concluded at 11.16am upon which Mr Barry and Ms Swain withdrew from proceedings. Dr Kaye also withdrew.

4. Deliberative meeting

Minutes

Resolved, on the motion of Ms Fazio, seconded by Mr Stewart that the minutes of the meeting of 28 June 2007 be confirmed and published.

Inquiry into the 2007 State Election

The Chair addressed the Committee concerning its inquiry program. Discussion ensued. The Committee agreed to defer deliberations and decision-making concerning the conduct of the inquiry until after the Federal Election by which time it would have the benefit of considering the Electoral Commissioner's report on the 2007 State Election, due to be published later in October/November 2007.

Deliberations concluded, the meeting closed at 11.20am.

Minutes of Proceedings of the Joint Standing Committee on Electoral Matters (no. 3)

Wednesday 5 December 2007 at 10am

Room 1102, Parliament House

1. Members present

Ms Burton (Chair), Ms Fazio, Ms Gardiner, Mr Harwin and Mr Stewart

2. Apologies

Mr Coombs and Ms Rhiannon

3. Adoption of Minutes

Resolved, on the motion of Mr Stewart, seconded by Mr Harwin that the minutes of the meeting of 29 August 2007 be confirmed and published.

4. Inquiry into the 2007 State Election

The Chair outlined the proposed inquiry program for the Committee. Discussion ensued and the Committee noted preferred hearing dates.

Resolved, on the motion of Mr Harwin, seconded by Ms Fazio that the circulated advertisement calling for submissions to the inquiry into the 2007 State Election be placed in the press.

Deliberations concluded, the meeting closed at 10.15am.

Minutes of Proceedings of the Joint Standing Committee on Electoral Matters (no.4)

Wednesday 5 March 2008 at 10.05am

Room 1102, Parliament House

1. Members present

Ms Burton (Chair), Ms Fazio, Ms Gardiner, Mr Coombs and Ms Rhiannon

2. Apologies

Mr Stewart and Mr Harwin

3. Minutes

Resolved, on the motion of Ms Fazio, seconded by Ms Gardiner, that the minutes of the meeting of 5 December 2007 be confirmed.

4. Inquiry into the administration of the 2007 NSW Election

Public Hearings and witnesses

The Chair outlined the proposed inquiry timetable for public hearings on 11 and 19 March 2008, and the timetabling for reporting on the inquiry. Discussion ensued.

The Committee deliberated over the witnesses for the hearings and agreed to extend the hearings for an additional hour, until 1.00pm on both days, in order to take evidence from the following individuals and organisations:

1. Mr Antony Green
2. Representatives of the Australian Labor Party (NSW Branch)
3. Representatives of the Liberal Party of Australia, NSW Division
4. Mr Colin Barry, the NSW Electoral Commissioner
5. Representatives of the Greens
6. Representatives of the National Party of Australia (NSW Branch)
7. Ms Susan Gregory and Mr Stephen Lesslie, Proportional Representation Society of Australia (NSW Branch)
8. Representatives of Vision Australia
9. Representatives of People with a Disability Inc.
10. Representatives of NSW Disability Discrimination Legal Centre (Inc.)
11. Representatives of Homelessness NSW
12. Representatives of the Australian Electoral Commission (AEC)
13. Representatives of the Victorian Electoral Commission (VEC)

The Committee agreed to take evidence from the representatives of Vision Australia, People with a Disability Inc., and the NSW Disability Discrimination Legal Centre (Inc.), who have raised similar issues concerning voter access and participation, in a roundtable session during the public hearing on 19 March 2008.

The Committee also agreed to invite representatives of the Australian Electoral Commission and the Victorian Electoral Commission to give evidence on the subject of e-voting and other matters relevant to the Committee's inquiry.

The Committee further agreed to prepare indicative questions for the Australian Electoral Commission on the commonalities between Commonwealth and NSW electoral legislation. The Committee agreed to investigate the possibility of sending a delegation from the Committee to observe the Australian Capital Territory's Legislative Assembly elections to be held on 18 October 2008, focussing particularly on e-voting arrangements for the election.

5. Submissions

Resolved, on the motion of Ms Fazio, seconded Mr Coombs, that submissions 1-18 be published, with the exception of submission number 5, which should be treated confidentially.

Resolved, on the motion of Ms Fazio, seconded Ms Gardiner, that the identity of the author of submission number 7 be suppressed.

Resolved, on the motion of Ms Fazio, seconded Mr Coombs, to ensure that the NSW Electoral Commissioner has access to all submissions made public by the Committee and to draw his attention to the particular issues raised by Mr Malcolm Mackerras in submission number 3 around two-party preferred statistics for 'classic contests', on which the Committee would appreciate a response.

Resolved, on the motion of Ms Gardiner, seconded Ms Fazio, to provide the Electoral Commissioner, in advance of the hearing on 11 March 2008, with the list of indicative questions previously circulated identifying possible areas of interest to the Committee.

The Committee discussed the submission made by the Liberal Party of Australia – NSW Division and agreed that the Chair should write to the State Director noting those matters raised in the submission concerning election funding and suggesting that, in circumstances where a select committee of the Legislative Council is inquiring into electoral and political party funding, he may wish to raise the relevant parts of the submission with the select committee.

5. General Business

The Committee discussed a regular meeting time. Resolved, on the motion of Mr Coombs, seconded Ms Fazio, that the Committee meet on Wednesday at 10.00am in the second consecutive sitting week, if there is business to discuss.

The Chair advised the Committee of the provision in the Legislative Assembly on Friday sittings at 1.00pm for a take-note debate of committee reports.

Deliberations concluded, the meeting closed at 10.24am.

Minutes of Proceedings of the Joint Standing Committee on Electoral Matters (no.5)

Tuesday 11 March 2008 at 9.45am

Room 814-15, Parliament House

1. Members present

Ms Burton (Chair), Mr Coombs, Ms Fazio, Ms Gardiner, Mr Harwin and Ms Rhiannon

In attendance: Helen Minnican, Jasen Burgess, Dora Oravec, Millie Yeoh

2. Apologies

Mr Stewart

3. Inquiry into the administration of the 2007 NSW Election and related matters – Public Hearing

The press and the public were admitted. The Chair opened the public hearing and gave a short, opening address.

Mr Antony Green, election analyst, affirmed and examined. Mr Green indicated that he wished to have his submission included as part of his sworn evidence.

Evidence concluded, the witness withdrew.

Mr Martin Laverty, Interim State Director, Liberal Party of Australia, NSW Division, sworn and examined. Mr Laverty indicated that he wished to have his submission included as part of his sworn evidence.

Evidence concluded, the witness withdrew.

Mr Colin Barry, Electoral Commissioner of NSW, affirmed; Mr Ian Brightwell, Director, Information Technology branch, NSW Electoral Commission, affirmed; all examined. Mr Barry indicated that he wished to have the NSW Electoral Commission's submission (comprising the NSWEC's report on the election) included as part of his sworn evidence. Mr Colin Barry, Electoral Commissioner of NSW, affirmed; Mr Ian Brightwell, Director, Information Technology branch, NSW Electoral Commission, affirmed; all examined. Mr Barry indicated that he wished to have the NSW Electoral Commission's submission (comprising the NSWEC's report on the election) included as part of his sworn evidence. Mr Barry tabled the following documents:

- Final Project Report by Hill and Knowlton, dated 30 April 2007;
- 2007 NSW General Election, registered Political Party Feedback on Performance of the NSWEC, prepared by The Research Forum, dated June 2007;
- Voter Information Campaign for the 2007 NSW General Election, Campaign Awareness Research Report, Prepared by The Research Forum, dated 4 April 2007

Evidence concluded, the witnesses withdrew.

Mr Chris Maltby, Registered Officer, the Greens, affirmed; Ms Lesa De Leau, Campaign Director, the Greens, affirmed; all examined.

Evidence concluded, the witnesses withdrew and the public hearing concluded at 12.30pm.

4. Deliberative Meeting

The Committee commenced in deliberative session at 12.31pm.

5. Minutes

The Chair spoke to the minutes of the previous meeting.

Resolved, on the motion of Ms Fazio, seconded by Mr Coombs, that the minutes of the meeting of 5 March 2008 be confirmed.

6. Inquiry into the 2007 NSW Election

The Committee discussed the issue of poster sizes that are permitted within the boundaries of polling places and suggestions from the NSW Electoral Commission and respondents to the inquiry to simplify legislative provisions current arrangements in relation to election posters. Discussion ensued.

Submissions

Resolved, on the motion of Ms Fazio, seconded Mr Coombs, to publish the supplementary submission 3a of Mr Malcolm Mackerras and the late submission no. 19 made by the Physical Disability Council.

Public Hearing 19 March

The Chair addressed the Committee on the availability of witnesses for the public hearing on 19 March 2008.

The Chair advised the Committee that the Victorian Electoral Commission (VEC) was not available for the public hearing on 19 March 2008 and had referred the Committee to the VEC report on the 2006 Victorian State election, which provides a comprehensive overview of e-voting undertaken for this election.

The Chair further advised the Committee that the Secretariat had not as yet received advice from the Australian Electoral Commission (AEC) as to whether it was available to give evidence at the next hearing. The Committee agreed to write to the AEC raising the issues on which it would appreciate advice.

Resolved, on the motion of Ms Rhiannon, seconded Ms Fazio, to publish the corrected transcript of day's proceedings.

The Committee agreed therefore to amend to the notice of public hearing to remove the VEC and the AEC as witnesses. The Committee agreed to amend the public hearing timetable to commence at 9.30am and conclude at 12pm as follows:

Wednesday, 19 March 2008

Room 814/815, Parliament House, Sydney

Time

Witness

9.30 am

National Party of Australia (NSW)
Phil Lamb, State Director

10.15 am

Proportional Representation Society of Australia (NSW Branch)

Susan Gregory, President
Stephen Lesslie, Member

10.45 am

Vision Australia (TBC)
Susan Thompson, Advocacy Officer

People with Disability Australia
Dean Price, Senior Advocate

NSW Disability Discrimination Legal Centre Inc
Geri Kaufman, Policy Officer

Physical Disability Council of New South Wales
Ann-Mason Furmage, President
Jordana Goodman, Project Officer

11.30 am

Homelessness NSW/ACT
Digby Hughes, Policy Officer

12.00 pm

Finish

7. General Business

The Committee discussed possible meeting times to deliberate upon the draft report. The Committee agreed on 9, 12 and 16 May 2008 as possible dates for deliberative meetings, with 12 May being the optimal date. The Secretariat was to check member availability for the dates nominated.

Deliberations concluded, the meeting closed at 12.43pm.

Minutes of Proceedings of the Joint Standing Committee on Electoral Matters (no.6)

Wednesday 19 March 2008 at 9.30am

Room 814-15, Parliament House

1. Members present

Ms Fazio (Deputy Chair), Mr Coombs, Ms Gardiner, Mr Harwin and Ms Rhiannon and Mr Stewart

In attendance: Leslie Gönye, Jasen Burgess, Dora Oravec, Millie Yeoh

2. Apologies

Ms Burton

3. Inquiry into the administration of the 2007 NSW Election and related matters – Public Hearing

The press and the public were admitted. The Deputy Chair, in the absence of the Chair, opened the public hearing and gave a short, opening address.

Mr Phillip Lamb, State Director, The Nationals of Australia, sworn and examined. Mr Lamb indicated that he wished to have his submission included as part of his sworn evidence. Members of the Committee questioned the witness.

Evidence concluded, the witness withdrew.

Ms Susan Gregory, President, Proportional Representation Society of Australia (NSW Branch), and Mr Stephan Lesslie, member, Proportional Representation Society of Australia (NSW Branch), both affirmed and examined. Both indicated that they wished to have their submissions be included as part of their sworn evidence. Members of the Committee questioned the witnesses.

Evidence concluded, the witnesses withdrew.

Ms Susan Thompson, Advocacy Officer, Policy and Advocacy, Vision Australia, sworn; Ms Yvonne Diab, Business Development Manager, Vision Australia, sworn; Mr Dean Price, Senior Advocate, People with Disability Australia, affirmed; Ms Joanna Shulman, Principal Solicitor, NSW Disability Discrimination Legal Centre Inc., affirmed; Ms Gerie Kaufman, Policy Officer, NSW Disability Discrimination Legal Centre Inc., affirmed; Mr Darren Fittler, Advocate, NSW Disability Discrimination Legal Centre Inc., sworn; Ms Ann-Mason Furmage, President, Physical Disability Council of NSW, affirmed; and, Ms Jordana Goodman, Policy Officer, Physical Disability Council of NSW, affirmed; and all examined. All indicated that they wished to have their submissions be included as part of their sworn evidence.

The Deputy Chair welcomed the witnesses and gave a short address. Members of the Committee questioned the witnesses.

Evidence concluded, the witnesses withdrew.

Mr Digby Hughes, Policy Officer, Homelessness NSW/ACT, affirmed and examined. Members of the Committee questioned the witness.

Evidence concluded, the witnesses withdrew and the public hearing concluded at 12.01pm.

4. Deliberation

The Committee commenced in deliberative session at 12.02pm.

5. Minutes

Resolved, on the motion of Ms Rhiannon, seconded by Mr Coombs, that the minutes of the meeting of 11 March 2008 be confirmed.

6. Inquiry into the 2007 NSW Election

Transcripts

Resolved, on the motion of Ms Rhiannon, seconded Mr Coombs, to publish the corrected transcript of the day's proceedings.

Correspondence

The Committee noted the proposed outgoing correspondence to the Australian Electoral Commission in relation to e-voting and I-voting trials conducted at the 2007 federal election.

Further Questions to the Electoral Commissioner

The Deputy Chair commented on the need for further questions to the Electoral Commissioner following up on his evidence on 11 March 2008 to assist in the preparation of the draft report.

Resolved, on the motion of Ms Gardiner, seconded Ms Rhiannon, that the secretariat prepare further questions to be transmitted to the Electoral Commissioner for answer.

7. General Business

The Deputy Chair advised the Committee of the need for an alternate date for the committee to meet to deliberate upon the draft report. The secretariat was to further canvass member availability for an alternate date.

Deliberations concluded, the meeting closed at 12.05pm.

Draft Minutes of Proceedings of the Joint Standing Committee on Electoral Matters (no.7)

Wednesday 14 May 2008 at 1.08pm

Waratah Room, Parliament House

1. Members present

Ms Burton (Chair), Ms Fazio, Mr Coombs, Ms Gardiner, Mr Harwin and Ms Rhiannon and Ms Beamer

In attendance: Helen Minnican, Jasen Burgess, Dora Oravec, Millie Yeoh

2. Minutes

Resolved, on the motion of Mr Coombs, seconded by Ms Beamer, that the minutes of the public hearing and deliberative meeting held on 19 March 2008 be confirmed, subject to an amendment to remove from item 6 the reference to Ms Fazio as having seconded the motion, and to insert Mr Coombs as the seconder instead.

Resolved, on the motion of Ms Fazio, seconded by Mr Coombs, that the minutes of the public hearing and deliberative meeting on 11 March 2008 be amended to insert that the NSW Electoral Commissioner tabled the following three documents during the course of giving evidence to the Committee:

- i. NSWEC - Final Project Report by Hill and Knowlton, dated 30 April 2007;
- ii. NSWEC – 2007 NSW General Election, registered Political Party Feedback on Performance of the NSWEC, prepared by The Research Forum, dated June 2007;
- iii. Voter Information Campaign for the 2007 NSW General Election, Campaign Awareness Research Report, Prepared by The Research Forum, dated 4 April 2007.

3. Correspondence

The Committee noted correspondence from the NSW Disability Discrimination Legal Centre, dated 5 May 2008, in relation to the ADT's decision in the matter of *Fittler v NSWEC and anor* (No 2) [2008] NSW ADT 116.

4. Change in Committee membership

The Committee noted the appointment of Diane Beamer, in place of Tony Stewart, to the Committee.

5. Inquiry into the administration of the 2007 NSW election - Consideration of Chair's draft report

The Chair addressed the Committee on the draft report and spoke to the recommendations. The Committee deliberated on the **List of recommendations**. Discussion ensued.

The Committee discussed the proposed amendment to Recommendation 12, to omit the words “to allow secret voting” and insert instead “to allow vision-impaired electors to cast a secret ballot”, as previously circulated. Recommendation 12, as amended, put and agreed to.

Moved Ms Gardiner, seconded Ms Fazio, that an additional recommendation be inserted in the report as follows:

Recommendation 13: That the Committee request a reference in the life of the 54th Parliament to further, comprehensively review the Parliamentary Electorates and Elections Act 1912, including future options for voting using new technologies.

Discussion ensued. Recommendation 13 put and agreed to.

The Committee considered further proposed amendments to the recommendations contained in the draft report.

Ms Rhiannon moved to insert a recommendation as follows:

Proposed recommendation: That future inquiries into electoral matters include in the Committee's terms of reference provision to consider the type of electoral system and to examine the impact of single member electorates for NSW Legislative Assembly elections.

Discussion ensued. Question put that the recommendation be agreed to –

The Committee divided.

Ayes: Ms Rhiannon

Noes: Ms Burton, Ms Fazio, Mr Coombs, Ms Gardiner, Mr Harwin and Ms Beamer

Question resolved in the negative.

Ms Rhiannon moved to insert a recommendation as follows:

Proposed recommendation: That the NSW Government direct its departments to ensure that State public servants are not required to take leave or leave without pay when running as a candidate.

Discussion ensued. Question put that the recommendation be agreed to –

The Committee divided.

Ayes: Ms Rhiannon

Noes: Ms Burton, Ms Fazio, Mr Coombs, Ms Gardiner, Mr Harwin and Ms Beamer

Question resolved in the negative.

Ms Rhiannon moved to insert a recommendation as follows:

Proposed recommendation: That a person who has been on the electoral roll and can produce on election day evidence of their current residential address, such as a driver's licence, or other suitable identification detailing an address to the satisfaction of the electoral official at a polling booth, be allowed to have their vote accepted and included in the count.

Discussion ensued. Question put that the recommendation be agreed to –

The Committee divided.

Ayes: Ms Rhiannon

Noes: Ms Burton, Ms Fazio, Mr Coombs, Ms Gardiner, Mr Harwin and Ms Beamer

Question resolved in the negative.

The Committee agreed to the **List of recommendations**, as amended.

The Committee proceeded to deliberate on the body of the report, chapter by chapter.

Discussion ensued.

Resolved on the motion of Ms Fazio, seconded Ms Beamer, that **Chapter 1** be agreed to.

The Committee proceeded to consider **Chapter 2**.

Resolved on the motion of Ms Gardiner, seconded Ms Beamer, that the words "as part of" be omitted from paragraph 2.1 and the words "which contributed to" inserted instead.

Mr Harwin moved that the two dot points concluding paragraph 2.7 be omitted. The Chair noted that an amendment had been circulated previously proposing that the words "NSWEC noted that the" be inserted after the word "The" in the first sentence of the paragraph, upon which Mr Harwin proposed that the word "noted" in the proposed amendment, as previously circulated, be omitted and the word "suggested" be inserted instead.

Discussion ensued.

Resolved on the motion of Mr Harwin, seconded Ms Fazio, that paragraph 2.7 be amended by the insertion of the words "NSWEC suggested that the" after the word "The" in the first sentence.

The Committee agreed that the word "stakeholders" in paragraph 2.13 be omitted and the words "the public" inserted instead.

Resolved on the motion of Ms Fazio, seconded Ms Beamer, that Chapter 2 as amended be agreed to.

The Committee proceeded to consider **Chapter 3**.

Mr Harwin moved that the heading “The Smart Electoral Enrolment System pilot” be amended to include the abbreviation “(SEER)”. Amendment agreed to.

Mr Harwin moved that the word “fully” be omitted from paragraph 3.8. Amendment agreed to.

Ms Gardiner moved that the word “possible” be omitted from Recommendation 1 and a consequential amendment be made to the List of Recommendations. Amendments agreed to.

Resolved on the motion of Mr Coombs, seconded Ms Beamer, that **Chapter 3** as amended be agreed to.

The Committee proceeded to consider **Chapter 4**.

The Committee agreed to omit the heading after para 4.1, “Electoral campaigning” and insert instead “Election campaigning”. The Committee also agreed to omit the subsequent subheading “Electoral posters” and insert instead “Election posters”.

Stylistic changes to paras 4.21, 4.24 (to insert the words “and their address will not appear on the electoral roll” after the word “Act”) and 4.30 were agreed to.

Ms Rhiannon moved to insert a recommendation as follows:

Proposed recommendation: That it be made illegal for parties and candidates to encourage voters to send a completed postal vote application to anyone other than the District Returning Officer.

Discussion ensued. Question put that the recommendation be agreed to –

The Committee divided.

Ayes: Ms Rhiannon

Noes: Ms Burton, Ms Fazio, Mr Coombs, Ms Gardiner, Mr Harwin and Ms Beamer

Question resolved in the negative.

Ms Gardiner moved that a paragraph be inserted after paragraph 4.33 to include the advice provided by the NSWEC on the number of postal votes declined and the number of postal vote applications that were received late, as follows:

The Committee notes that the NSWEC reported that 22% of voters issued with a postal voting certificate and a postal voting ballot, and 16% of registered general postal voters, did not return their ballots for the 2007 NSW election. There were also a number of postal ballots and postal vote applications that were received after the relevant deadlines, and therefore not admitted to the count. (footnote: NSWEC, Report on the 2007 State Election, p. 32)

Amendment agreed to.

Mr Harwin moved that the word “registered” be insert in paragraph 4.34 between the words “including” and “general” in the second last sentence. Amendment agreed to.

Ms Rhiannon moved to insert a recommendation (after recommendation 8) as follows:

Proposed recommendation: That in any future review of the Parliamentary Electorates and Elections Act 1912 an examination be undertaken into ways to prohibit intentionally false or misleading statements being made about a candidate or party, whether those statements are made by an individual or a media outlet.

Discussion ensued. Question put that the recommendation be agreed to –

Question resolved in the affirmative.

Resolved on the motion of Ms Beamer, seconded Mr Coombs, that **Chapter 4** as amended be agreed to.

Resolved on the motion of Mr Harwin, seconded Ms Beamer, that **Chapter 5** as amended be agreed to.

Resolved on the motion of Ms Gardiner, seconded Mr Coombs, that **Chapter 6** as amended be agreed to.

Adoption of the report

Resolved on the motion of Ms Fazio, seconded Mr Coombs, that the draft report as amended, including the schedule of amendments previously circulated, be the report of the Committee and that it be signed by the Chair and presented to the House.

Resolved on the motion of Ms Fazio, seconded Ms Beamer, that that the Chair, the Committee Manager and the Senior Committee Officer be permitted to correct stylistic, typographical and grammatical errors.

6. Publication of documents

Resolved, on the motion of Ms Fazio, seconded Ms Beamer, to publish the following documents:

- i. Three feedback reports tabled by the NSW Electoral Commissioner at the Committee’s hearing on 11 March.
- ii. Answers to questions on notice from the NSW Electoral Commission;
- iii. Answers to questions on notice from the Australian Electoral Commission.

Deliberations concluded, the meeting closed at 2.08pm.