

Submission	Issues Raised	Response
		<p>Policy Development Fund.</p> <p>It should also be noted that it is not unlawful for a political party to accept a political donation that exceeds the applicable cap, if the donation (or that part that exceeds the applicable cap), is to be paid into an account kept exclusively for the purposes of federal or local government election campaigns or for the administration of the party.</p> <p>The relaxing of limits for minor parties is a matter for consideration by the Committee.</p>
<p>Submission 4 - Australian Sex Party</p>	<ul style="list-style-type: none"> ▪ Party Registration Issues <p>All registered political parties should be subjected to the same registration verification procedures prior to each State election.</p>	<ul style="list-style-type: none"> ▪ Any party applying for registration is required to satisfy all the relevant aspects of the legislation including verification of membership, which involves a survey of members identified by the party on whom they rely . <p>Registered political parties engaged in the continued registration process need only make a declaration (pursuant to the <i>Oaths Act 1900</i>) as to one of the following criteria in relation to membership.</p> <p>Either</p> <ul style="list-style-type: none"> - all the members of the party on whom the party relies to continue to be eligible for registration are still members of the party; <p>Or</p> <ul style="list-style-type: none"> - the details of members of the party on whom it relies, that have taken the place of former members of the party, are shown in an attached annexure. The remainder of the members on whom the party relies are still members of the party. <p>For the purposes of continued registration any changes to the names or addresses of members of the party on whom it relies must also be supplied.</p> <p>In the case of continued registration there is no requirement for the NSWEC to survey any member of the party on whom it relies.</p> <p>Whilst the registration process may be more arduous on those parties registering immediately prior to a State election as opposed to those parties required to meet the continued registration process, this would appear to be the intended outcome of amendments to the legislation made subsequent to the 'tablecloth' ballot paper at the 1999 NSW State General Election.</p> <p>In the Second Reading speech to the Parliamentary Electorates and Elections Amendment Bill in the Legislative Assembly on 18 November 1999, it was stated that the amendments</p>

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	<ul style="list-style-type: none"> ▪ The NSWEC should allow electronic forms of communication for registration purposes. ▪ The requirement to have a registered company auditor carry out an audit of disclosures is unreasonably onerous. 	<p>were designed to prevent a recurrence of the waste of public time and money that occurred in the March 1999 Legislative Council election as a result of the abuse and manipulation of the current voting and registration system.</p> <ul style="list-style-type: none"> ▪ The registration and continued registration processes are available to political parties online to record, update and maintain the list of members relied upon. Parties are not compelled to use the online facility. <p>Other aspects of the registration and continued registration processes require the completion of forms that require signature and, in the case of surveying purported members, a signature confirming membership. The latter also involves writing to each person at their enrolled address as a means of confirmation to the NSWEC that the person and enrolled address are authentic.</p> <ul style="list-style-type: none"> ▪ The requirement for a registered company auditor to provide an audit certificate pursuant to both s65 (in respect to a claim for public funding) and s96K (in respect to a disclosure of political donations and electoral expenditure) of the Act has been raised previously with the Committee. <p>Most recently the Committee considered this matter in its report titled “Public Funding of Local Government Election Campaigns” (Report No. 4/54 – December 2010).</p> <p>Two considerations were offered to the Committee. They included, firstly, that funding be made available to candidates, groups and parties to assist with the cost of an audit and, secondly, that the Act be amended to provide that the requirement for an audit to be conducted by a registered company auditor be changed to provide that an audit be conducted by any of the following:</p> <ul style="list-style-type: none"> - a Certified Practising Accountant member of CPA Australia, New South Wales Division; - a member of the Institute of Chartered Accountants in Australia, New South Wales Region, who holds a Certificate of Public Practice issued by that Institute; or - a member of the Institute of Public Accountants who holds a Professional Practice Certificate issued by that Institute. <p>These three categories are similar to those persons who are able to be appointed as official agents under the Act without the need to successfully complete the EFA’s online training.</p>

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	<ul style="list-style-type: none"> ▪ Polling Booths & Church Interference 	<ul style="list-style-type: none"> ▪ Owners of venues should not interfere in the electoral process by demanding posters are removed. Posters may be legitimately removed if legislation is being breached, which does not appear to be the case from the submission.
	<ul style="list-style-type: none"> ▪ Residency of candidates for Legislative Assembly seats 	<ul style="list-style-type: none"> ▪ The introduction of candidates' residency requirements in Legislative Assembly electorates is a matter for consideration by the Committee.
Submission 5 - Christian Democratic Party	<p>Recommendation 1 <i>Electoral Commission employee training must focus on important issues such as voting procedures and Polling Booth workers (including Booth Managers) must complete a test that shows they understand the voting system before they can be employed.</i></p>	<p>The NSWEC regrets the error by election officials as outlined in the submission.</p> <p>Current practice is that all Polling Place Managers and Deputy Polling Place Managers undergo both on-line training, and attend a face to face training session just prior to election day run by the Returning Officer. Both of these training sessions, plus the instruction manual that they are required to read in order to complete their training, details the voting procedures and correct completion of the ballot papers in order for the elector to register a formal vote.</p> <p>As the NSWEC employs over 18,000 election officials to work on election day, it is not possible to monitor the performance of every individual. However, Polling Place Managers are instructed to periodically check throughout the day that election officials are undertaking their roles according to electoral procedures.</p>
	<p>Recommendation 2 <i>More targeted TV, Newspaper and Radio advertising needs to be developed to show people exactly how to complete voting papers.</i></p>	<p>The NSWEC does place ads to explain how to complete the ballot papers and we have a simple practice voting tool for state elections available on our website.</p>
	<p>Recommendation 3 <i>A moratorium to effect significant electoral changes should be in place one year out from a State Election to ensure that systems and procedures, including training and communication, can be implemented well in advance of the actual election.</i></p>	<p>The NSWEC does in effect commence development of systems and procedures approximately two years out from a State election. However, the timing of any legislative change that inevitably impacts on systems and procedures does have the potential to negatively impact preparations for an election.</p> <p>The timing of electoral legislation is often related to the timing of JSCEM Reports and the Government's response.</p>
	<p>Recommendation 4 <i>The EC and EFA need to implement a regime of Beta testing for significant changes rather than depending on 'in-house' system testing.</i></p>	<p>The NSWEC does not understand the comment as, to our knowledge, there were no system issues.</p>
	<p>Recommendation 5 <i>The EC needs to develop an on-line enquiry into which a street number, name and suburb can be entered and the corresponding electorate is advised.</i></p>	<p>This facility was in fact available on our website.</p>
	<p>Recommendation 6 <i>It should be an offence for any person or entity to solicit a Postal Vote application or a copy thereof to be returned to any address other than the official Electoral Commission address for Postal Vote applications.</i></p>	<p>Introducing a requirement that only the NSWEC produce postal vote applications is a matter for consideration by the Committee.</p>

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	<p><i>The disturbing trend of seeking to influence and lock in a vote through Postal Vote applications should end. Only genuine cases, strictly authenticated, of an inability to attend a polling booth should be allowed to submit a Postal Vote. There should be no issuance, collection or collation of Postal Vote forms other than by EC officers.</i></p>	
	<p>Recommendation 7 <i>Police should be given the power to conduct selected inspections with warrants upon targeted Electorate Offices during the next Election period at times during and after business hours for the purpose of discovery of illegal conduct and use of such electorate offices for Party Political purposes.</i></p>	<p>This is a matter for consideration by the Committee.</p> <p>The NSWEC's view is that the Police should have no presence during election campaigns other than at the request of the NSWEC to keep the peace at polling places.</p> <p>NSW elections should not be subject to Police intrusion into the parties and candidates' activities at the time of the election.</p>
	<p>Recommendation 8 <i>Either the 'Pre-Poll' declaration needs to be tightened to ensure true eligibility to 'Pre-Poll' or it needs to be disregarded altogether and anyone who wishes to use the facility should be allowed to do so to stop the current farcical situation where many voters who are ineligible still submit a 'Pre-Poll' vote.</i></p>	<p>The increasing trend of pre-poll voting is, in part, a reflection of the changing lifestyles of electors.</p> <p>When choosing to pre-poll, the elector makes a declaration to the fact that they are unable to attend a polling booth on election day. The maximum penalty for a false declaration is 10 penalty units (\$1100) and/or imprisonment for 6 months. It is not appropriate for election officials to gather evidence from an elector to verify their reason for pre-poll voting.</p>
	<p>Recommendation 9 <i>The EC needs to have a register of contacts for both Political Parties and Candidates that allows it to advise Polling Booth changes in an expeditious manner. This would be by SMS and Email at least but preferably with Telephone follow-up if the change is in the fortnight prior to an election. In the case of Political Parties there should be more than 1 official contact so that this advice can be acted upon urgently.</i></p>	<p>It is the NSWEC's preference to have no changes to polling venues once they have been confirmed. Any changes that occur at the eleventh hour are due to circumstances beyond the control of the NSWEC. These late changes have multiple flow on effects from both a logistics, staffing and communications perspective. The NSWEC sent Bulletins to all Registered Political Parties in the run up to and during the election. The Bulletins included, amongst other things, any changes to pre-poll and polling place locations.</p>

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	<p>Recommendations 10, 11 and 12</p> <ul style="list-style-type: none"> ▪ <i>The requirement to have disclosures audited should only be required for candidates who are entitled to electoral reimbursement. Candidates who are not entitled to claim any funding would still be required to lodge all other documents with their disclosure; bank statements, invoices, advertisement copies, receipts, etc.</i> ▪ <i>An audit fee should be reimbursable up to certain limits:</i> <p>(1) <i>Up to \$500 per individual candidate disclosure</i> (2) <i>Up to \$5,000 per Political Party disclosure.</i></p> ▪ <i>Travel expenditure should be claimable provided it can be justified by appropriate logs and receipts.</i> 	<p>Section 96K of the Act provides that the Authority may waive compliance with the requirement for an audit certificate in any of the following cases:</p> <ul style="list-style-type: none"> - where the disclosure contains a statement to the effect that no political donations were received and no electoral expenditure was incurred, - where the group, candidate or third-party campaigner to whom the disclosure relates is not eligible to receive a payment under Part 5, - where the Authority considers the cost of compliance would be unreasonable. <p>Such a waiver is at the discretion of the Authority, and may be made before or after the disclosure is made.</p> <p>In the case of eligible political parties registered for State elections (and their endorsed elected members) and independent elected members of Parliament, the cost of an audit certificate can be met from monies received through the Administration Fund.</p> <p>In the case of eligible Registered Political Parties, the cost of an audit certificate can be met from monies received through the Policy Development Fund.</p> <p>Introducing the ability to claim travel expenditure is a matter for consideration by the Committee.</p>
Submission 6 - Everyone Counts	<p>This submission provides comments on previous submissions by CORE to JSCEM hearings in other jurisdictions.</p>	<p>The NSWEC agrees with the comments made in the response from Everyone Counts.</p>
Submission 7 - Core	<p>Recommendation 1 <i>Internet voting should be offered only to those voters whose vote security, secrecy and independence it does not reduce.</i></p> <p>Recommendation 2 <i>The principles of transparency and openness to scrutiny that already apply to other forms of voting must apply just as strongly to electronic voting. Achieving the same standard of transparency as traditional voting methods requires planning and support for openness to counter the inherently non-transparent nature of IT systems.</i></p>	<ul style="list-style-type: none"> ▪ Technology should be implemented where it provides an improvement over traditional channels of voting in respect of elector enfranchisement and/or the accuracy and reliability of vote processing, and does not reduce voters' current level of secrecy and process transparency and/or security. ▪ At the 2015 State General Election the NSWEC will, after the election; <ul style="list-style-type: none"> - conduct a public presentation outlining the architecture and technical features of iVote - publish an audit report (similar to that prepared for the 2011 election) - publish the iVote Standard and Risk Register, and - publish a selection of other security and system architecture reports which the Commissioner deems appropriate.

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	<p>Recommendation 3 <i>A voting system should, as much as possible, provide evidence to voters that their votes are cast as they intended and properly included, and evidence to scrutineers and observers that all votes are properly printed or properly electronically tallied. This strong verification mechanism should be publicly explained and its limitations clearly stated.</i></p> <p>Recommendation 4 <i>Vote secrecy (privacy and anonymity) should be protected as effectively as possible and its limitations clearly stated.</i></p> <p>Recommendation 5 <i>Election IT systems must be developed using best practices for failure-critical systems rather than standard practices for commercial IT systems.</i></p> <p>Recommendation 6 <i>Election IT systems and the development processes employed must undergo rigorous, ongoing audits conducted by a range of independent experts with extensive knowledge and experience covering areas including cryptography, security, software engineering, failure-critical systems and election technology.</i></p> <p>Recommendation 7 <i>There should be a far-reaching, in depth and public review of the iVote project and the NSWEC's approach to procuring and evaluating IT systems in general.</i></p>	<ul style="list-style-type: none"> ▪ The iVote system for the State General Election in 2015 will provide voter preference verification in such a way as to not reduce secrecy of the voter's ballot. This may also be in place for any future by elections. <p>The NSWEC will consider using client side encryption of votes at the State General Election in 2015 should phone voting not be implemented at that event.</p> <ul style="list-style-type: none"> ▪ The NSWEC agrees. ▪ The NSWEC will again at the next State General Election engage suitably qualified and independent audit organisation/s that have extensive knowledge and experience in areas appropriate to the iVote project including; cryptography, security, software engineering, fault-tolerant systems. ▪ The NSWEC will again at the next State General Election engage suitably qualified and independent audit organisation/s that have extensive knowledge and experience in areas appropriate to the iVote project including; cryptography, security, software engineering, fault-tolerant systems. ▪ The NSWEC disagrees - there is no basis for this recommendation by CORE.
<p>Submission 8 - Antony Green</p>	<p>Recommendation 1 <i>Section 68 of the Parliamentary Electorates and Elections Act be amended to:</i></p> <p><i>(1) Fix the date for the issue of writs for a normal quadrennial election to be on the same day as the expiration of the Legislative Assembly</i></p> <p><i>(2) That the provisions should also fix the date for the close of nominations.</i></p> <p><i>(3) That a similar fixity in date be adopted for elections where an early dissolution occurs or where Section 24B(4) is invoked to vary the date for a quadrennial election.</i></p>	<p>The NSWEC agrees with this recommendation as we cannot publicise the date for the close of the authorised roll or close of nominations, due to the fact that these dates cannot be set until the writ is issued.</p>

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	<p>Recommendation 2 <i>That Sections 151F to 151GA of the Parliamentary Electorates and Elections Act governing registration of election material be modified to</i></p> <p><i>(1) Simplify the provisions governing what can be registered and distributed.</i></p> <p><i>(2) Specify that material can be easily accessed before the election and that voters can have access to material on polling day.</i></p>	<p>The NSWEC notes that the registration of how-to-vote cards is complex. This is as a result of the need to close loop holes.</p> <p>The NSWEC does not support the making of registered how-to-vote cards available as there has been no demand from parties or candidates for this information.</p>
	<p>Recommendation 3 <i>An alternative version of the Legislative Council ballot paper be introduced that permits party/group only voting, and would permit the ballot paper to be scanned.</i></p>	<p>The NSWEC supports consideration of this recommendation.</p> <p>The advantage for the majority of electors who choose to vote above the line on the Legislative Council ballot paper, as pointed out by Mr Green, is not having to contend with a large and unwieldy ballot paper.</p> <p>The advantages for the NSWEC would potentially be a faster Legislative Council result by using scanning technology versus data entry operators, which may in turn reduce the cost of counting the Legislative Council ballot papers.</p> <p>However, this would have to be weighed against the likely increase in the cost per ballot paper of a smaller print run of the normal Legislative Council ballot paper plus a cost of printing a reduced size group only Legislative Council ballot paper.</p> <p>The other consideration would be the costs in raising awareness and educating both electors and election officials with regards to the choice of ballot papers offered.</p>
	<p>Recommendation 4 <i>If an alternative ballot paper is introduced, the methods of identifying parties and groups on the ballot paper be re-examined.</i></p>	<p>This recommendation would need to be considered dependent upon the outcome of the Recommendation 3 above.</p>
<p>Submission 9 - Australian Centre for Disability Law</p>	<ul style="list-style-type: none"> ▪ It is our position that New South Wales has a legal duty to provide accessible voting for people with disability. ▪ Technology assisted voting – Make available on polling day and at polling booths. 	<ul style="list-style-type: none"> ▪ The NSWEC recommends iVote be extended to include other classes of declaration votes (pre-poll, postal and absent) and also be implemented for use in polling places on election day to cater for absent voters. ▪ The NSWEC is constrained by the amount of hardware required and having a reliable internet connection available in all accessible polling booths, to make this a viable and cost effective voting method. <p>The NSWEC believes there are better solutions available than computers at polling places.</p>

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	<ul style="list-style-type: none"> ▪ Accessibility - It is our position that all polling booths ought to be fully accessible. ▪ Information - Voting information in easy English should be available to people with cognitive impairment. 	<ul style="list-style-type: none"> ▪ The NSWEC does not own any venues used for polling booths and therefore the level of accessibility of a facility and its proximity to accessible public transport is not within the control of the NSWEC. <p>However the Commission attempts, wherever possible, to ensure that venues are accessible and close to public transport. Unfortunately, the NSWEC is also constrained by the buildings available for leasing/hiring at the time of the election, the period of time required for hire, and these factors often limit the choice of venues.</p> <ul style="list-style-type: none"> ▪ All NSWEC information brochures are written in plain, easy to understand English. We have brochures on "Getting on the roll – Staying on the roll"; "The three different elections in Australia and how to vote at each of them"; and instructions for voting at state and local government elections. We also have animations, with voice over, on our website showing people what happens in a polling place, how votes are counted and a simple practice voting tool for state elections. <p>Every polling place has plain, easy to understand instructions for voting available in English, large print English and 20 community languages, and large posters at the entrance to each polling place that encourage people to ask for assistance if they need it.</p> <p>Three plain English newsletters were distributed in the lead up to the election, each one customised to a different audience (People with Disabilities; Culturally and Linguistically Diverse people; Aboriginal and Torres Strait Islander people). The newsletters provided easy to understand information about enrolment; early voting and voting on election day. The Disability version also provided information about and links to our resources (AUSLAN, Braille, audio, Easy Read etc) and where to go for further assistance.</p> <p><u>Easy Read Information</u></p> <p>In addition, three Easy Read Guides were produced for the 2011 State Election, in consultation with NSW Council for Intellectual Disability (NSWCID). These guides covered:</p> <ol style="list-style-type: none"> 1. Voting at the New South Wales State Election 2. What will happen on election day? 3. How to vote at the State Election. <p>These guides were written in Easy English, with appropriate formatting, graphics and photographs. They were distributed through NSWCID in the weeks leading up to the election, as well as being available for download from our website. They were also promoted by NSWCID in their newsletter and blog. Mention and links to these guides was also featured in the Scope Communication Resource Centre's newsletter about accessible</p>

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	<ul style="list-style-type: none"> ▪ Capacity - An incorrect assessment of a person's capacity can result in the denial of a fundamental human right. ▪ Penalty Notices – Sufficient reasons amended to include people with disability who are unwell at election time preventing them from voting. 	<p>information.</p> <p>We have just completed development of Easy Read Guides for the 2012 Local Government Election. These will be reviewed by NSWCID client focus groups before being finalised and distributed in August.</p> <p><u>Information in AUSLAN</u></p> <p>Prior to the 2011 State Election, four AUSLAN clips, including captioning and voice over, were produced for NSWEC by the Deaf Society of NSW. The clips were:</p> <ol style="list-style-type: none"> 1. Getting on the roll – staying on the roll 2. The three different elections in Australia and how to vote at each of them 3. How to vote at the NSW State Election 4. iVote – telephone or internet voting for people with a disability. <p>The clips were uploaded to YouTube as well as being available on our website. They were also promoted through the Deaf Society of NSW website and offices and in our newsletters to Disability Organisations.</p> <p>We are just about to commence production of an AUSLAN clip providing information about the Local Government Elections in September, including information on how, where and when to vote.</p> <p>All these resources can be found and viewed in the Community Information Section of our website:</p> <ul style="list-style-type: none"> ▪ The NSWEC notes that an elector can only be removed from the roll on the grounds specified in section 25 if a medical practitioner provides a medical certificate to certify that the elector does not understand the nature of enrolment and voting. ▪ The NSWEC considers the discretionary provision available to the Electoral Commissioner sufficient to deal with this situation.
Submission 10 - NSW Labor	<p>Recommendation 1 Extend the iVote system to the 2012 Local Government Elections in NSW.</p>	<p>The NSWEC advises that the extension of iVote to local government elections is a matter for government.</p>

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	<p>Recommendation 2 <i>Instruct the NSW Electoral Commission to classify and count postal votes and iVotes separately.</i></p>	<p>The NSWEC recommends the legislation be changed to allow iVote results be counted separately to postal votes at next State General Election and future by-elections.</p>
	<p>Recommendation 3 <i>Request that the NSW Electoral Commission implement a clear procedure for media polling place visits consistently across NSW.</i></p>	<p>Whilst the NSWEC has documented procedures for Returning Officers and Polling Place Managers, as well as conducting online and face to face training for these election officials, it is unfortunate and regrettable that these inconsistencies occurred.</p> <p>The NSWEC will review its procedures for media access to polling places with the intent of simplifying and clarifying these.</p>
	<p>Recommendation 4</p> <ul style="list-style-type: none"> ▪ Provide the NSW Election Funding Authority with funding for customised software to facilitate the more efficient processing of claims for public funding. <p>Recommendation 5</p> <ul style="list-style-type: none"> ▪ Amend the <i>Election Funding, Expenditure and Disclosures Act 1981 (NSW)</i> to provide that claims for public funding by parties and candidates must be paid in full within 90 days. <p>Recommendation 6</p> <ul style="list-style-type: none"> ▪ Provide the NSW Election Funding Authority with sufficient funding to facilitate the processing of claims within 90 days. <p>Recommendation 7</p> <ul style="list-style-type: none"> ▪ Amend the Election Funding, Expenditure and Disclosures Act 1981 (NSW) to provide that 70% of the value of claims for public funding by candidates must be paid within 14 days. <p>Recommendation 8</p> <ul style="list-style-type: none"> ▪ Amend the Election Funding, Expenditure and Disclosures Act 1981 (NSW) to provide that parties and candidates may lodge claims and have claims paid for public funding for by-elections before the end of the financial year in which the by-election takes place. 	<ul style="list-style-type: none"> ▪ The NSWEC has been allocated \$3.590M in 2012/13 and \$1.410M in 2013/14 to facilitate the development of software to support business processes in the Funding and Disclosure Branch. ▪ There is no objection to this proposal although it needs to be determined that the period of 90 days would only commence once the requirements of the EFE&D Act are met by the claimant. In this regard, it needs to be recognised that the requirements of claimants for the payment of claims would still be subject to the (current) provisions of the EFE&D Act that require claims to be accompanied by all required supporting documentation including a valid disclosure, vouching and copies of relevant material and to be subject to a compliance audit. ▪ The significant period for processing claims for public funding from the Election Campaigns Fund is immediately following a State General Election which is held each four years. Some additional funding may be required (each four years) to engage additional resources to meet a 90 day obligation. ▪ This is a matter for consideration by the Committee. ▪ The EFE&D Act presently provides that a claim for payment from the Election Campaigns Fund must be lodged within 120 days after the date for the return of the writ for the by-election. The payment of a claim before the end of the financial year in which the by-election took place would be problematic based on how long (or little) the date of the election was to the end of the financial year. A better alternative would be (as proposed under Recommendation 5) that claims be paid in full within 90 days although this should be subject to the same conditions as mentioned in the NSWEC response to that Recommendation.

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Submission 11- NSW Nationals	<p>Recommendation 1 <i>Nominations for the Legislative Assembly and Legislative Council be closed no less than three weeks prior to polling day.</i></p>	<p>Although the NSWEC does not disagree that extending the period between close of nominations and polling day would enable a higher percentage of postal voters in remote locations to receive and return their ballot papers in time to be admitted to the count, the introduction of iVote offers a more reliable (timewise) and efficient form of voting for those electors in remote locations.</p> <p>Due consideration also needs to be given to any other election processes which may be impacted by this extended period. Under the current timeline it is not possible to close nominations three weeks before election day.</p>
	<p>Recommendation 2 <i>Electoral Commission forms not include any pre-filled area code information in phone number fields.</i></p>	<p>The NSWEC notes this recommendation and will take this into consideration when developing the fields for Postal Vote Applications for future elections.</p>
	<p>Recommendation 3 <i>The Electoral Commission ensure that all staff dealing with iVote applications are well versed in the conventions of rural property addressing.</i></p>	<p>The NSWEC will improve training of call centre staff to ensure this issue does not reoccur.</p>
	<p>Recommendation 4 <i>Eligibility for iVote be extended to electors who will be more than 20km outside their electorate on polling day for a by-election.</i></p>	<p>The NSWEC recommends the categories for eligible iVoters should be changed in section 120AB(d) of the PE&E Act for by-elections from saying “not ...be within New South Wales” to “not....be within the district” on polling day.</p>
	<p>Recommendation 5 <i>The Electoral Commission develop communications strategies to increase the number of declared institutions participating in elections.</i></p>	<p>The NSWEC contacts every Declared Institution during the pre-election planning phase to explain the voting process, and to ascertain whether they would like a visit from a mobile polling team. Following this, the Returning Officer contacts each Declared Institution within their electoral district to confirm the visit and discuss the associated logistics and procedures.</p> <p>A number of Declared Institutions advise that their residents would rather take the option of postal voting or iVoting, and consequently the number of Declared Institutions visited by a mobile team may well decline in the future. The NSWEC considers it the right of a Declared Institution to choose the most suitable method of voting for their residents, and will continue to service those Declared Institutions that wish to have a mobile team visit their facility.</p>
	<p>Recommendation 6 <i>The Electoral Commission provide more detailed explanations to institutions of the procedures for voting and electoral officials be given more training in overseeing the process at each declared institution.</i></p>	<p>Returning Officers are trained in voting procedures at Declared Institutions and they in turn train their Election Officials. The NSWEC will review the training and standard operating procedures for voting procedures at Declared Institutions to ensure greater consistency and adherence to these procedures at future elections.</p>
	<p>Recommendation 7 <i>The Electoral Commissioner, in consultation with the major political parties, conduct the notional Two Candidate Preferred count in every electorate using the two candidates considered most likely to be the last two candidates in a full distribution of preferences.</i></p>	<p>The Electoral Commissioner consulted with Antony Green and the three main parties. The selection of the two candidates is not a science and is subject to judgement.</p>

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	<p>Recommendation 8 <i>The Electoral Commission conduct a full distribution of preferences for all electorates where this has not yet been done for the 2011 state election, with priority given to the 17 electorates that do not have accurate Two Candidate Preferred counts, and full preference distributions be done as a matter of course for all electorates in future elections.</i></p>	<p>The NSWEC did conduct a full distribution of preferences for the 17 electorates listed after the election for the purpose of providing this information to the candidates and parties concerned and to political commentators.</p>
	<p>Recommendation 9 <i>In addition to a full distribution of preferences in all electorates, the Electoral Commission conduct supplementary Two-Party Preferred counts for those electorates where a third party finishes amongst the top two candidates.</i></p>	<p>The NSWEC does not consider it necessary to undertake a full distribution of preferences where a candidate has won the contest by achieving an absolute majority of votes on first preference. Should political parties or candidates wish to have such a distribution of preferences conducted, then the NSWEC would recommend that this be at the cost of the requestor, and take place after all other essential election tasks have been completed by the Returning Officer.</p> <p>The NSWEC notes that if all Legislative Assembly ballot papers were data entered into the computer count system parties could sort the results in many ways.</p>
	<p>Recommendation 10 <i>That all pre-poll locations and all polling booths that are the sole booth in a particular town offer disabled access wherever possible. Where this is not possible, polling booth staff should be aware of the need to assist less mobile voters as the need arises.</i></p>	<p>The NSWEC does not own any venues used for polling booths and therefore the level of disabled access of a facility is not within the control of the NSWEC.</p> <p>The Commission does, wherever possible, ensure that venues are hired that are accessible. Unfortunately, the commission is also constrained by which buildings are available for leasing/hiring at the time of the election, and period of time required for hire, and often the choice of venues is limited due to this timing constraint.</p> <p>Training and instructions are given to Election Officials to assist less mobile voters as the need arises. The NSWEC will review these instructions to ensure that awareness of this issue is raised.</p>
	<p>Recommendation 11 <i>The Electoral Commission review procedures for the selection and training of staff conducting candidate information sessions.</i></p>	<p>Only experienced NSWEC staff are used for the purpose of candidate information seminars and efforts are made to ensure that consistent and reliable information is presented at all seminars.</p> <p>It needs to be recognised that what might appear to attendees at more than one seminar to be inconsistent or inadequate responses to questions may be due to the vagueness of questions or lack of detail of all the circumstances associated with questions (especially hypothetical questions) resulting in the presenter answering what, in fact, appeared to the presenter to be two different questions.</p>
	<p>Recommendations 12, 13 and 14 <i>A full internal review of the Election Funding Authority's processes be undertaken to ensure better preparedness for future disclosure periods, and especially for the next state election.</i></p>	<p>The Party suggests that there has been "significant delays in receipt of audit requests and the processing of the party's returns". The party indicates that outcomes of the compliance audits by the EFA were received by the party between mid-November and mid-January.</p>

Submission	Issues Raised	Response
	<p><i>The Election Funding Authority be provided with increased resources as required.</i></p> <p><i>Improved training be provided to Election Funding Authority staff, with an emphasis on those who are engaged on a temporary basis in connection with major disclosure periods.</i></p>	<p>The disclosures for the 26 endorsed National Party candidates were lodged with the EFA on 22 September 2011 along with claims for payments in respect of the 20 eligible endorsed candidates of the Party.</p> <p>The initial audit response to 19 of the claims for these candidates was sent to the Party on 14 and 15 November 2011. The initial audit response to the 1 remaining claim for these candidates was sent to the Party on 23 January 2012.</p> <p>The disclosure and claim for payment for the National Party was received by the EFA on 30 September 2011.</p> <p>The Party was paid its preliminary payment of 70% of the estimate entitlement (as provided for by the Act) within the 14 day statutory period.</p> <p>An audit response was sent to the Party on 13 December 2011, requesting the provision of missing information required to be lodged with the disclosure (namely electronic accounting records, bank statements/records and copies of receipt books). Once this information was received and examined, the full 'initial compliance audit assessment letter' was sent out on 9 February 2012.</p> <p>The significant amendments made to the Act, restructuring the public funding regime, were assented to on 16 November 2010 and commenced on 1 January 2011. The NSW State election was held on 26 March 2011. Disclosures and claims for payment were able to be lodged on and from 1 July 2011.</p> <p>The EFA, in the time available, implemented a structure, processes and systems to deal with their obligations but acknowledge that time constraints restricted the capacity to rigidly test and assess their robustness. The EFA had no customised software to support these processes.</p> <p>Nonetheless, the EFA is of the view that the turnaround of audits and the time taken to process claims for payments has been efficient and the delays experienced by the Party (and which continue to be experienced) are directly attributable to the failure to lodge all required documentation with the disclosure and, in particular, vouching for claims for payment.</p>

Submission	Issues Raised	Response
	<p>Recommendation 15 <i>The provisions of section 95F of the Election Funding, Expenditure and Disclosures Act be retained in their current form.</i></p>	<p>This is a matter for consideration by the Committee.</p>
	<p>Recommendation 16 <i>The thresholds for eligibility for payments from the Election Campaigns Fund, and the rates of those payments, remain at the levels currently specified in sections 57-60 of the Election Funding, Expenditure and Disclosures Act.</i></p>	<p>This is a matter for consideration by the Committee.</p>
	<p>Recommendation 17 <i>The EFED Act be amended to require the Election Funding Authority, within 90 days of the receipt of a claim for payment, to either complete its assessment of a claim, or make an additional preliminary payment equal to 95% of the total amount estimated to be payable (less any previous advance payment under section 67 and the previous preliminary payment under section 69.</i></p>	<p>There is no objection to this proposal although it needs to be determined that the period of 90 days would only commence once the requirements of the EFE&D Act are met by the claimant. In this regard, it needs to be recognised that the requirements of claimants for the payment of claims would still be subject to the (current) provisions of the EFE&D Act that require claims to be accompanied by all required supporting documentation including a valid disclosure, vouching and copies of relevant material and to be subject to a compliance audit.</p>
	<p>Recommendation 18 <i>Clause 6 of the Regulations be amended to prescribe that vouching for claims for payment from the Election Campaigns Fund be done by attaching copies of the invoices or receipts for expenditure to the claim form.</i></p>	<p>A recent amendment to the EFE&D Regulation 2009 was to the effect that the prescribed manner of vouching for expenditure specified in a claim for a Part 5 payment is by the party or official agent for the party, group or candidate attaching to the claim the relevant Part 6 declaration or a copy of the declaration, or, if the claim is required to be lodged before the relevant Part 6 declaration is required to be lodged, copies of the accounts or receipts (or a mixture of both) issued in respect of the expenditure.</p>
	<p>Recommendation 19 <i>That all provisions relating to preliminary payments of funding claims under section 69 apply equally to parties and candidates.</i></p>	<p>This is a matter for consideration by the Committee.</p>
	<p>Recommendation 20 <i>Division 4A of the EFED Act be repealed.</i></p>	<p>For the purpose of clarification, this matter is making reference to Division 4A of Part 6 of the EFE&D Act. This Division, at the least, needs to be reviewed having regard to recent amendments to the Act which restricts political donations to only be received from individuals on the electoral roll.</p> <p>The broader question of the Division being repealed is a matter for consideration by the Committee.</p>
	<p>Recommendation 21 <i>On-line disclosure forms be designed to streamline the disclosure process.</i></p>	<p>Online disclosure forms have been used to some extent in the past. Consideration is being given to the practicality, cost and benefit of future online disclosure.</p>
	<p>Recommendation 22 <i>The Authority's future donor declaration forms should include an optional field for donors to indicate the purpose for which a donation was made.</i></p>	<p>It is intended to include in future disclosure forms for donors an optional field to indicate the purpose for which a donation was made.</p>
	<p>Recommendation 23 <i>That both the caps and bans on donations under the EFED Act be explicitly excluded from applying to bank accounts kept by parties</i></p>	<p>The provisions of the EFE&D Act do not capture anything done by a party exclusively in connection with a federal election.</p>

Submission	Issues Raised	Response
	<i>exclusively for federal government election campaign purposes.</i>	
	Recommendation 24 <i>That the EFA disclosure website be improved to ensure the constant availability of disclosures once lodged.</i>	The EFA suffered a short term technical issue with its website that caused newly lodged disclosures to not be published to its website. This problem was rectified promptly at the time and there is no ongoing issue.
	Recommendation 25 <i>A party's entitlement to PAF funding be calculated and accrued on a quarterly basis.</i>	This is a matter for consideration by the Committee.
	Recommendation 26 <i>Payment of PAF entitlements be made to parties quarterly at the lesser of 95% of their accrued entitlement or 95% of their estimated eligible expenditure, subject to repayment provisions in the event that quarterly payments exceed the total of eligible expenditure as determined by the EFA in their assessment of parties' annual PAF returns.</i>	This is a matter for consideration by the Committee.
Submission 12 - Homelessness NSW	<ol style="list-style-type: none"> 1. The NSW Electoral Commission ensures that easily accessible information is available on their website to ensure people experiencing homelessness can locate it. 2. The NSW Electoral Commission takes the matter of 'fear for physical safety' as grounds for a postal vote to the Electoral Council of Australia for discussion. 3. The NSW Electoral Commission ensures that people applying for temporary employment are not subject to domestic violence proceeding, including an apprehended violence order. 	The NSWEC is happy to consult with the peak body to improve the information available to homeless people.
Submission 13 - Vision Australia	<ul style="list-style-type: none"> ▪ Accessible and secret voting for people who are blind, deaf/blind or have low vision. The secret vote for NSW citizens who are blind or have low vision. Universally accessible voting. Retention of telephone option of I-Vote. Awareness of I-Vote. 	<ul style="list-style-type: none"> ▪ The NSWEC will investigate the use of technology based phone voting using a voice actuated (as opposed to DTMF) interactive voice response approach for the next State General Election. <p>All by-elections between now and next state election will use a call centre based phone voting approach with a human interface keying votes into the web browser based iVote system.</p> <p>The NSWEC will conduct a survey of BLV and electors with a disability to identify whether they would be better served at the next State General Election by phone voting using a technology interface using DTMF or Voice actuation or a human interface or a combination of all of these approaches. The NSWEC will then report the findings to government with recommendations.</p> <p>The NSWEC will continue working with Vision Australia and other peak disability bodies to promote iVote at the next State General Election.</p>

Submission	Issues Raised	Response
	<ul style="list-style-type: none"> ▪ Extension of iVote to local government elections. ▪ Registering for iVote. 	<ul style="list-style-type: none"> ▪ The NSWEC advises that the use of iVote for local government elections is a matter for government. ▪ The NSWEC recommends the establishment of a permanent iVote register for electors with long term disabilities including BLV, and an iVote register for electors who will be interstate or overseas for extended periods.
	<ul style="list-style-type: none"> ▪ Accessible election information 	<p>While the NSWEC suggests to candidates and political parties that they make their campaign material available in formats accessible by all members of the community, this is ultimately a matter for the candidates and political parties.</p> <p>Whether a more stringent requirement be introduced is a matter for consideration by the Committee.</p>
	<ul style="list-style-type: none"> ▪ Enrolment process 	<p>The AEC, which manages the forms-based process for the NSWEC, have introduced changes to their on line enrolment processes. On their website it states that:</p> <p><i>The AEC website has been designed to meet accessibility guidelines as defined by the W3C Web Content Accessibility Guidelines 1.0. These guidelines explain how to make Web content accessible to people with disabilities. This website follows the Priority One guidelines and, where possible, we aim to follow Priority Two and Three Guidelines.</i></p> <p><i>In accordance with the Australian Government's Web Accessibility National Transition Strategy, the AEC website is progressively being upgraded to achieve W3C Web Content Accessibility Guidelines 2.0 compliance at the AA level. We are informed that these will be available by July 2012.</i></p>
Submission 14 - NSW Greens	<ul style="list-style-type: none"> ▪ NSW Greens suggested the use of iVote to compensate for a shorter week pre-poll period. <p>Recommendations 8 - 12</p> <ul style="list-style-type: none"> ▪ <i>Amend the election funding model so that both party and candidate funding is based on a dollar amount per vote obtained, similar to federal election funding, provided that the dollar amount is sufficient for a "no frills" comprehensive campaign to be conducted in a Legislative Assembly seat within the funding available for 4% of the vote.</i> ▪ <i>The definition of the types of "electoral expenditure" for the purpose of claiming funding, and also compliance with the expenditure cap, should be broadened to include legitimate electoral expenditure currently excluded. Alternatively the definitions of "electoral expenditure" for the two different purposes should be decoupled with the definition for the purposes of claiming electoral funding broadened to include legitimate</i> 	<ul style="list-style-type: none"> ▪ The NSWEC recommends iVote be extended to allow it to be used by eligible pre-poll voters. This should not be linked to the consideration for shorter pre-poll voting period. <p>This would be a move away from a reimbursement scheme to an entitlement scheme and therefore enable a party or candidate to make a profit from their campaign.</p>

Submission	Issues Raised	Response
	<p><i>electoral expenditure currently excluded.</i></p> <ul style="list-style-type: none"> ▪ <i>Reduce the third party election expenditure cap of \$1.1 million substantially to an amount of \$250,000.</i> ▪ <i>Individual membership fees be capped at \$250 per annum and be permitted to be deposited in a party's state election campaign account.</i> ▪ <i>The amount of public funding available for party administrative expenditure be based on the vote a party obtains in the election for either house of parliament rather than on the number of politicians from a party.</i> <p>Recommendation 13</p> <ul style="list-style-type: none"> ▪ <i>That the state government and EFA confirm and advise parties that the ban on developer, tobacco and for profit gambling and alcohol industry donations applies to political parties registered with the NSWEC and not just to particular bank accounts of such parties.</i> <p>Recommendation 14</p> <ul style="list-style-type: none"> ▪ <i>That there be an exemption from the cap on donations in respect of party donations of funds to the campaign account of a Legislative Assembly candidate endorsed by the party.</i> <p>Recommendation 15</p> <ul style="list-style-type: none"> ▪ <i>The EFA clarify for candidates and parties that election expenditure from a party branch bank account accompanied by a corresponding invoice to a candidate is a legal and appropriate financial arrangement and that if all candidate expenditure is incurred by this method then the LA candidate is not required to open a campaign bank account.</i> 	<ul style="list-style-type: none"> ▪ The provisions of the EFE&D Act do not capture anything done by a party exclusively in connection with a federal election. ▪ As a consequence of recent amendments to the EFE&D Act, donations can only be accepted from an individual on the electoral roll. A candidate is unable to accept a donation from a political party (even if that candidate is endorsed by the party). ▪ The EFA accepts that "election expenditure from a party branch bank account accompanied by a corresponding invoice to a candidate is a legal and appropriate financial arrangement" on the basis that the party branch bank account is owned by the party and operated under the control and direction of the party agent.

Submission	Issues Raised	Response
	<p>Recommendation 16</p> <ul style="list-style-type: none"> ▪ <i>That campaign office rent and wages for a campaign manager/coordinator in respect of the week following polling day be electoral expenditure for which electoral funding can be claimed.</i> <p>Recommendation 17</p> <ul style="list-style-type: none"> ▪ <i>The EFA should be comprised of the Commissioner and two completely independent members who are not appointees of the major parties.</i> <p>Recommendation 18a</p> <ul style="list-style-type: none"> ▪ <i>The EFA meet more frequently in the months following an election and particularly in the months surrounding the due date for lodging electoral and annual financial returns so that election funding payments can be approved in a timely fashion.</i> <p>Recommendation 18b</p> <ul style="list-style-type: none"> ▪ <i>The EFA as well as communicating by post about funding payments and financial compliance of electoral returns, communicate by email with the party or candidate agent about these matters to save time.</i> <p>Recommendations 19 and 20</p> <ul style="list-style-type: none"> ▪ <i>That the Act be amended to include a provision requiring the EFA to make a preliminary funding payment to candidates of 70% of the total amount the EFA estimates to be payable to the candidate if the EFA cannot finalise the claim within 14 days of it being lodged.</i> ▪ <i>That Section 93 of the Act be amended to require disclosure of party electoral communication expenditure incurred substantially for the purposes of an election in a particular electorate, detailing each electorate in respect of which such expenditure was incurred and the amount spent in relation to each electorate.</i> 	<ul style="list-style-type: none"> ▪ Section 55 of the EFE&D Act provides that for the purposes of public funding of election campaigns, eligible electoral communication expenditure must be incurred during the capped period which ends on election day. Any consideration to extend the capped period is a matter for the Parliament. ▪ This matter has been addressed in the Electoral Commissioner’s submission to the Committee. ▪ Meetings of the EFA are scheduled having regard to matters pending consideration. Meetings are held more frequently to consider funding matters. ▪ It is the general practice to forward any correspondence to party or official agents seeking additional material to facilitate funding payments through both the mail and email. Arrangements will be made for this to be a standard practice. ▪ These are matters for consideration by the Committee.
Submission 15 - Liberal Party NSW	<ul style="list-style-type: none"> ▪ SmartRoll - Reliability of Data, Accountability of automatic enrolment, State versus individual, Two Electoral Rolls in NSW, Jurisdiction of the Act. 	<ul style="list-style-type: none"> ▪ Automatic enrolment has been the most successful innovation in 100 years to assist electors to enrol and keep their address information up to date. At the time of writing approximately 400,000 electors have been assisted by the SmartRoll process.
	<p>Jurisdiction of the Act</p> <ul style="list-style-type: none"> ▪ <i>Matters regarding political donations and electoral expenditure currently addressed under Part 6 of the Act should be split into</i> 	<ul style="list-style-type: none"> ▪ The NSWEC agrees with this suggestion.

Submission	Issues Raised	Response
	<p><i>two Parts, one covering State elections and elected members of parliament and one covering local government elections and elected members of councils.</i></p>	
	<p>Greater recognition of the role of the Party</p> <ul style="list-style-type: none"> ▪ <i>If a candidate is endorsed by the Party then treat them as part of the Party i.e. no separate disclosures and expenditure caps to be inclusive.</i> 	<ul style="list-style-type: none"> ▪ The EFED Act already provides that a party may incur electoral expenditure on behalf of an endorsed candidate and invoice the candidate for such expenditure. In any such instance the party agent of the candidate is still required to lodge a disclosure in respect to the candidate. If the proposal is implemented, there would be no transparency of the itemised expenditure incurred in respect to an endorsed candidate's electoral (campaign) expenditure. However, independent candidates would still be required to lodge an itemised disclosure.
	<p>Recommendations for the Act</p> <ul style="list-style-type: none"> ▪ <i>If the Act has separate Parts for State elections versus local government elections (as recommended above) then introduce a yearly cap on donations to local government campaigns of \$2,000 per person.</i> ▪ <i>Maintain property developer prohibitions to local government campaigns.</i> 	<ul style="list-style-type: none"> ▪ These are matters for consideration by the Committee.
	<p>Conflicts in the Act</p> <ul style="list-style-type: none"> ▪ <i>The claim for public funding timeframe is less than the disclosure timeframe yet the claim must be accompanied by the disclosure.</i> ▪ <i>Disparate funding levels between candidates and the Party. Under Part 5, Division 2 of the Act public funding can be claimed for electoral communication expenditure of an endorsed candidate under either candidate or the Party claim. However, under the candidate claim the maximum rate of public funding</i> 	<ul style="list-style-type: none"> ▪ The EFE&D Act presently provides that a claim for payment from the Election Campaigns Fund must be lodged within 120 days after the date for the return of the writ for the election (or by-election). The EFE&D Regulation provides that a claim for payment must be accompanied by the relevant disclosure. <p>However, there can be a significant amount of time between the date for lodgement of the claim and the date for lodgement of the disclosure. The legislation does not allow a disclosure to be lodged early (i.e. it cannot be lodged before 30 June each year) so claimants are forced to wait until the disclosure (for the period corresponding to the claim for payment) is lodged before the EFA is able to process a claim for payment.</p> <p>Nonetheless, this matter was addressed in a recent amendment to the EFE&D Regulation (clause 6) but consideration might be given as to whether this amendment should be placed in the Act rather than the Regulation or whether the current approach is adequate. Act should be amended to remedy this situation or retain the status quo whereby the Regulation has now resolved this issue.</p> <ul style="list-style-type: none"> ▪ This matter seems to require review of the public funding models and is a matter for consideration by the Committee.

Submission	Issues Raised	Response
	<p><i>equates to 30 cents in the dollar whereas under the Party claim the maximum rate of public funding equates to 75 cents in the dollar. This area needs to be consistent.</i></p>	
	<p>Inadequacies in the Act</p> <ul style="list-style-type: none"> ▪ <i>The Act should follow generally accepted accounting principles and declare both income and expenditure exclusive of GST.</i> ▪ <i>There is no recognition or suggested treatment of joint donations and other payments under the Act.</i> 	<ul style="list-style-type: none"> ▪ The NSWEC agrees with this suggestion. The current legislative provisions require the disclosure of electoral expenditure to be GST inclusive and, in respect of State elections, the GST component of electoral communication expenditure is subject to the applicable expenditure caps. <p>Further, the reimbursement of electoral communication expenditure by the EFA to parties and candidates includes the GST component. It is a matter for the person receiving a reimbursement of electoral communication expenditure from the EFA to ensure that the GST component of electoral communication expenditure that is reimbursed is not also claimed as an input tax credit through the ATO.</p> <ul style="list-style-type: none"> ▪ The EFA considers donations from a joint bank account to be divided equally between the joint holders of the account.
	<p>Impracticalities of Act/EFA</p> <ul style="list-style-type: none"> ▪ <i>The degree of vouching required by the EFA is far too extensive (Part 5, Division 3 of the Act and Part 6A of the Act).</i> <p><i>The time delays in the payment of public funding are far too great.</i></p>	<ul style="list-style-type: none"> ▪ The EFE&D Regulation provides that the prescribed manner of vouching for expenditure specified in a claim for a Part 5 payment is: <p>Either by the party or official agent for the party, group or candidate attaching to the claim the relevant Part 6 declaration or a copy of the declaration or if the claim is required to be lodged before the relevant Part 6 declaration is required to be lodged, copies of the accounts or receipts (or a mixture of both) issued in respect of the expenditure.</p> <p>In those instances where the claim will be lodged with the relevant Part 6 declaration (as would be the case at a State General Election), then Clause 10 of the EFE&D Regulation provides that the prescribed manner of vouching for electoral communication expenditure is by attaching to the relevant Part 6 declaration:</p> <ul style="list-style-type: none"> (a) copies of either the accounts or receipts (or a mixture of both) issued in respect of the expenditure, and (b) copies of any advertising material to which any portion of the expenditure relates. <p>Clause 10A of the EFE&D Regulation provides that the prescribed manner of vouching for expenditure that is included as expenditure of a candidate who is the endorsed candidate of a registered party is by the candidate attaching to the relevant Part 6 declaration:</p>

Submission	Issues Raised	Response
	<ul style="list-style-type: none"> ▪ <i>Administrative public funding should be paid in advance or partly in advance.</i> <p><i>If the earlier recommendation regarding the segregation of laws regarding political donations and electoral expenditure are adopted, then consideration should be given for State election disclosure levels and donation caps to more closely reflect those applying at Federal level.</i></p> <p><i>An 8 week period for disclosure return to be lodged is too short (Part 6, Division 2 of the Act). The disclosure timeframe should match that in the Federal Act.</i></p> <ul style="list-style-type: none"> ▪ <i>Now that only donors on the electoral roll can make political donations, the prohibitions under Division 4 and Division 4A should be removed for State donations.</i> 	<ul style="list-style-type: none"> (a) copies of the relevant invoices issued by the party to the candidate for payment by the candidate, and (b) copies of the accounts or receipts issued to the party in respect of the expenditure incurred by the party for the benefit of the candidate, and (c) in the case of expenditure incurred by the party for the benefit of 2 or more candidates, evidence of the proportion of the expenditure allocated by the party to the candidate. <p>The EFA recognises that these requirements are proving difficult for claimants to comply in order to secure public funding but the Act and Regulations do not provide the EFA with any discretion in these matters.</p> <ul style="list-style-type: none"> ▪ These are matters for consideration by the Committee. <ul style="list-style-type: none"> ▪ (It is assumed this relates to Part 6, Divisions 4 and 4A). Although these are matters for consideration by the Committee, it is agreed that these provisions do need review as they presently capture corporations and other entities which are otherwise now prohibited from making donations.

SGE 2011 JSCEM Response to iVote Related submissions

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Purpose

The purpose of this document is to provide a response to submissions made to the JSCEM Inquiry “Administration of the 2011 NSW Election and Related Matters” with respect to the operation of technology assisted voting (iVote).

Executive Summary

The following table contains a list of submissions to inquiry which refer to iVote and provides a summary of the issues and recommendation in each submission and NSWEC response.

Submission	Issues Raised or Recommendation	NSWEC Response
Submission 1 - Craig Boutlis	Complaint about Election Day Hospital Voting; “I contend that a hospitalised patient confined to bed with an intention to vote who is waiting to be attended by an electoral official has exactly the same status as an able-bodied voter standing in a queue at a polling place who is waiting to be attended by an electoral official”	The NSWEC recommends iVote be extended to allow patients in hospitals and residents of other care facilities have access to an iVote and iVote replace the provide mobile voting teams used in both hospitals on polling day and declared institutions prior to polling day.
Submission 6 - Everyone Counts	Response to submissions regarding iVote made by CORE (the organisation responsible for submission 7) to JSCEM hearings for the 2010 Federal Election and the 2010 Victorian State election.	Agree with response from Everyone Counts
Submission 7 - Core Computing Research and Education Association of Australasia	Recommendation 1. Internet voting should be offered only to those voters whose vote security, secrecy and independence it does not reduce. Recommendation 2. The principles of transparency and openness to scrutiny that already apply to other forms of voting must apply just as strongly to electronic voting. Achieving the same standard of transparency as traditional voting methods requires planning and support for openness to counter the inherently non-transparent nature of IT systems. Recommendation 3. A voting system should, as much as possible, provide evidence to voters	Technology should be implemented where it provides an improvement over traditional channels of voting in respect of elector enfranchisement and/or the accuracy and reliability of vote processing and does not reduce voter’s current level of secrecy and process transparency and/or security. At the 2015 State general election the NSWEC will after the election; <ul style="list-style-type: none"> • conduct a public presentation outlining the architecture and technical features of iVote • publish an audit report (similar to that prepared for the 2011 election) • publish the iVote Standard and Risk Register, and • publish a selection of other security and system architecture reports which the Commissioner deems appropriate. The iVote system for the state general election in 2015 will provide voter preference verification in

Submission	Issues Raised or Recommendation	NSWEC Response
	<p>that their votes are cast as they intended and properly included, and evidence to scrutineers and observers that all votes are properly printed or properly electronically tallied. This strong verification mechanism should be publicly explained and its limitations clearly stated.</p> <p>Recommendation 4. Vote secrecy (privacy and anonymity) should be protected as effectively as possible and its limitations clearly stated.</p> <p>Recommendation 5. Election IT systems must be developed using best practices for failure-critical systems rather than standard practices for commercial IT systems.</p> <p>Recommendation 6. Election IT systems and the development processes employed must undergo rigorous, ongoing audits conducted by a range of independent experts with extensive knowledge and experience covering areas including cryptography, security, software engineering, failure-critical systems and election technology.</p> <p>Recommendation 7. There should be a far-reaching, in depth and public review of the iVote project and the NSWEC's approach to procuring and evaluating IT systems in general.</p>	<p>such a way as to not reduce secrecy of the voters ballot. This may also be in place for any future by elections.</p> <p>The NSWEC will consider using client side encryption of votes at the state general election in 2015 should phone voting not be implemented at that event.</p> <p>Agree – no additional action required</p> <p>The NSWEC will again at the next state general election engage suitably qualified and independent audit organisation/s that have extensive knowledge and experience in areas appropriate to the iVote project including; cryptography, security, software engineering, fault-tolerant systems.</p> <p>Disagree - there is no basis for this recommendation by CORE.</p>
Submission 9 - Australian Centre for Disability Law	<p>Technology assisted voting – Make available on polling day and at polling booths</p>	<p>The NSWEC recommends iVote be extended to include other classes of declaration votes (pre-poll, postal and absent) and also be implemented for use in polling places on election day to cater for absent voters.</p>
Submission 10 - NSW Labor	<p>Recommendation 1: Extend the iVote system to the 2012 Local Government Elections in NSW.</p> <p>Recommendation 2: Instruct the NSW Electoral Commission to classify and count postal votes and iVotes separately.</p>	<p>The NSWEC recommends iVote be extended Local Government Elections.</p> <p>The NSWEC recommends the legislation be changed to allow iVote results be counted separately to Postal Votes at next state general election and future by elections.</p>
Submission 11- NSW Nationals	<p>3. The Electoral Commission ensure that all staff dealing with iVote applications are well versed in the conventions of rural property addressing.</p> <p>4. Eligibility for iVote be extended to electors who will be more than 20km outside their electorate on polling day for a by-election.</p>	<p>The NSWEC improve training of call centre staff to ensure this issue does not reoccur.</p> <p>NSWEC recommends the categories for eligible iVoters should be changed in the Section 120AB(d) of the PE&E act¹ for by-elections from saying “not ...be within New South Wales” to “not....be within the district” on polling day.</p>
Submission 13 - Vision Australia	<p>1.2 Democratic rights of people who are blind, deaf/blind or have low vision</p> <p>2. Accessible and secret voting for people who are blind, deaf/blind or have low vision</p> <p>3. The secret vote for NSW citizens who are blind or have low vision</p> <p>4. Universally accessible voting</p>	<p>The NSWEC investigate the use of technology based phone voting using a voice actuated (as opposed to DTMF) interactive voice response approach for the next state general election.</p> <p>All by elections between now and next state election will use a call centre based phone voting approach with a human interface keying votes into the web browser based iVote system.</p>

¹ Parliamentary Electorates and Elections Act 1912 No 41, [Section 120AB\(d\)](#)

Submission	Issues Raised or Recommendation	NSWEC Response
	<p>5. Retention of telephone option of I-Vote</p> <p>6. Awareness of I-Vote</p> <p>7. Extension of I-Vote to local government elections</p> <p>10. Registering for I-Vote</p>	<p>Conduct a survey of BLV and disabled electors to identify whether they would be better served at the next state general election by phone voting using a technology interface using DTMF or Voice actuation or a human interface or a combination of all of these approaches. Report findings to government with recommendations.</p> <p>NSWEC will continue working with Vision Australia and other peak disability bodies to promote iVote at the next general election.</p> <p>NSWEC advises that the use of iVote for local government election is a matter for government.</p> <p>NSWEC recommends the establishment of a permanent iVote register for electors with long term disabilities including BLV.</p> <p>NSWEC recommends the establishment of an iVote register for electors who will be interstate or overseas for extended periods.</p>
<p>Submission 14 - NSW Greens</p>	<p>NSW Greens suggested the use of iVote to compensate for a shorter week pre-poll period.</p>	<p>The NSWEC recommends iVote be extended to allow it to be used by eligible pre-poll voters. This should not be linked to the consideration for shorter pre-poll voting period.</p>

Detailed Response

Craig Boutlis

NSWEC response to Craig Boutlis's submission.

Problems with Hospital Voting

The NSWEC acknowledges Dr Boutlis submission regarding problems with delivering voting services within hospitals on polling day with mobile voting teams and agrees that all electors have a right to vote regardless of their disability.

"I contend that a hospitalised patient confined to bed with an intention to vote who is waiting to be attended by an electoral official has exactly the same status as an able-bodied voter standing in a queue at a polling place who is waiting to be attended by an electoral official"

NSWEC apologises for not being able to service Dr Boutlis' patient's electoral needs. We would however point out that the Commission's staff have an enormous task on election day of providing voting services within hospital settings. We regret that it is not possible within current funding constraints to offer a service which will ensure the voting needs of all patients in all hospitals are attended to on polling day.

The NSWEC believes that the best way to ensure the electoral needs of patients in hospitals and other similar institutions are catered for is to allow patients in hospitals and residents of other care facilities to have access to an iVote.

Recommendation – The NSWEC recommends iVote be extended to allow patients in hospitals and residents of other care facilities to access iVote and for iVote to replace the need for mobile voting teams in hospitals on polling day and declared institutions prior to polling day.

Everyone Counts

The NSWEC has no comment regarding the submission made by Everyone Counts aside from noting general agreement with its content.

Additionally the NSWEC would like to acknowledge the effort of Everyone Counts' staff in supporting the iVote system.

CORE

The NSWEC would like to thank the authors of the CORE submission for their enthusiasm and effort in monitoring and commenting on the iVote project. We agree with CORE that it is important to encourage a public debate about the use of remote e-voting and its place in the NSW electoral environment. Given the CORE submission represents the only critical assessment of iVote with respect to technical issues, the NSWEC has provided below a detailed response to all issues raised by CORE.

The NSWEC understands from the CORE submission that CORE acknowledges the NSWEC has responded to all their requests and questions regarding iVote in a timely manner by either providing the requested information or explaining why it could not be provided.

The sections below respond to the CORE submission in order of their recommendations. The NSWEC response firstly advises our position with respect to the recommendation then addresses the associated content of the CORE submission and finally provides the NSWEC recommendation (where appropriate) for the consideration of the committee.

Recommendation 1 – Security and Reliability

The CORE submission stated;

Internet voting should be offered only to those voters whose vote security, secrecy and independence it does not reduce.

The NSWEC does not accept the implied assertion by CORE that the current electoral system offers a lower risk of failure for a given voter than voting managed by iVote.

iVote was configured and tested to deal with the general security threats faced by a secure online system. iVote was hardened to provide defences against general hacking attacks by outsiders and insiders (possibly third parties working for the NSWEC). iVote was hosted in a secure tier 3 data centre. The NSWEC established procedures which ensured that at critical times iVote could only be accessed by the Commissioner and the iVote Manager.

As identified by CORE the PricewaterhouseCoopers audit report stated.

The Intrusion Protection System (IPS) was not implemented as per design due to time constraints on the advice of a third party. Mitigation was achieved through alternative alerting systems.

However, the iVote system was configured using the best available advice and technologies. The need to install a host independent third party Intrusion Prevention System (IPS) was considered and rejected. The reason for its rejection was in part because the project infrastructure team believed that it would generate traffic that may mask a real attack. It should also be noted that the NSWEC used proactive monitoring from a host-based IDS² as well as a number of other measurements to monitor possible intrusions.

The CORE submission also stated;

The authors are both Computer Science and Engineering researchers whose main interest is in electronic voting and security.

We would understand from the above and discussions with the authors that they have limited knowledge of how the current paper based voting environment operates and the problems experienced by stakeholders with this environment. As such we believe that the authors' comments regarding the relative risk of e-voting (which is their area of expertise) against the current electoral

² The SAMHAIN file integrity / host-based intrusion detection system, <http://la-samhna.de/samhain/>

environment risks (failure due to human error and disenfranchisement due to inability to access voting channel) are not well informed.

One of the underlying themes of CORE submissions to several parliamentary committees³, including the current review of NSW State general election 2011, is that paper-based voting approaches, as currently used in Australia, are intrinsically secret, auditable, transparent, secure and give voters an acceptable level of electoral access.

Although it is the view of the NSWEC that our current electoral approaches have served NSW well in the past, we know that the current approaches have systemic problems. In particular we are aware of problems with voting that involves the use of declaration envelopes.

As the Committee would be aware, almost a quarter of the votes taken at a state general election are declaration votes of one form or another and the majority of these votes are taken in declaration envelopes. The NSWEC has worked for many years to try and reduce the errors associated with these types of votes but we still experience some failures. For example the following points show the level of postal vote failure at the State general election 2011;

1. more than 4.4% of postal votes are rejected at scrutiny because the declaration was incomplete or unsatisfactorily completed (signature appears not to match application),
2. in addition, more than 17.7% of electors who applied for and were sent a postal vote certificate did not return their completed certificate to the NSWEC.

The above statistics support the NSWEC concern that currently electors who declaration vote using an envelope may be denied a vote either because their vote is not returned or the declaration is rejected.

The NSWEC has observed that the variances between polling place election night counts and the final first preference count are typically between 0.1% to 0.3% depending on the quality of the staff and facilities. This level of error is less than that identified by recent US research⁴. Notwithstanding

³ CORE submissions to other Joint Standing Committees

http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/elect10/subs/sub101.pdf

http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/elect10/subs/sub101.1.pdf

http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/elect10/hearings/program05.pdf

http://www.parliament.vic.gov.au/images/stories/committees/emc/2010_Election/submissions/13_VTeague EMC_Inquiry_No.6.pdf

http://www.parliament.vic.gov.au/images/stories/committees/emc/2010_Election/Corrected_Evidence_2010_Vic_State_Election_23_August.pdf

⁴ Post-Election Auditing: Effects of Procedure and Ballot Type on Manual Counting Accuracy, Efficiency, and Auditor Satisfaction and Confidence, Stephen N. Goggin, Michael D. Byrne, Juan E. Gilbert, Election Law Journal: Rules, Politics, and Policy. March 2012, 11(1): 36-51.

http://chil.rice.edu/research/pdf/GogginByrneG_12.pdf

some of the counting error can be reduced by recounting⁵, recounts are not practical for very large contests such as the Legislative Council and do not address errors in upstream processes.

It should also be noted that there are failures in the attendance voting environment, albeit these failures are lower. The NSWEC has observed that about 0.1% of attendance voters who have ordinary voted within their district at a polling place, discard or lose their ballot papers before they are placed in the ballot box.

The use of iVote has the potential to reduce the above sources of error in issuing, processing and counting of paper ballots. This is particularly true if the final count is done using a computer rather than manually.

Also, iVote provides greater access to the electoral process for several classes of elector. In particular at the last general election it was noted that there were an additional 30,000 interstate and overseas voters who voted using iVote. In past elections these electors could not vote using traditional voting channels.

The NSWEC is not proposing that iVote challenge or replace the traditional form or attendance voting. We do however see that iVote offers an important new channel for voting which will ensure that participation rates in NSW are maintained or increased, particularly for those electors who have difficulty accessing traditional voting channels.

Therefore the NSWEC make the following recommendation;

Recommendation – Technology should be implemented where it provides an improvement over traditional channels of voting in respect of elector enfranchisement and/or the accuracy and reliability of vote processing and does not reduce voters' current level of secrecy and process transparency and/or security.

Recommendation 2 – Transparency and Scrutiny

The principles of transparency and openness to scrutiny that already apply to other forms of voting must apply just as strongly to electronic voting. Achieving the same standard of transparency as traditional voting methods requires planning and support for openness to counter the inherently non-transparent nature of IT systems.

The NSWEC agrees in principle with CORE that iVote's operation should be transparent and as much as possible iVote's technical details and documentation should be made available to the general public.

It should be noted that the NSWEC provided at the 2011 state general election all documentation required under the electoral legislation regarding iVote. The questions now before the committee are;

1. What extent does the committee wish to increase the prescribed level of access the Commission should allow to software and documentation?
2. Who should access to such documentation?

⁵ Recounts do not address systemic counting errors which relate to factors intrinsically associated with the involvement of humans in the counting process

3. Should the scrutiny of iVote be the responsibility of the JSCEM?
4. Should there be a limitation to the period for which information access is allowed post-election?

This last point is related to paralleling current legislative requirements which require the disposal of election material 6 months after the election. The requirement exists to provide finality to the election.

We note that the CORE submission stated;

What is necessary is an open process that allows scrutineers, technical experts and members of the public to learn about and comment on the technical details of the system and the audit findings, well in advance of the election.

The NSWEC has had a range of communications with CORE members and its President to try and determine the specific details of their proposed audit model. We asked CORE to expand on the following points so we could understand their proposed transparency model.

1/ Define who you believe to be an independent expert and what areas of expertise are needed i.e. internet voting technology, project governance, software engineering, etc.

2/ Identify the terms of reference for the independent expert review i.e. who they will report to, scope of review, non disclosure, etc.

3/ Whether reviewers should be paid, and if so, what amount or process of payment would be appropriate.

Unfortunately at the time of preparing this document CORE has not responded to any of the above requests hence the NSWEC can only deduce from previous publications that CORE is proposing an audit model which would have the following characteristics;

- allow any person who declares themselves to be an “expert” in electronic voting to be appointed by the NSWEC as a recognised expert,
- experts should be allowed unfettered access to iVote project documentation and software,
- access to this information should be without time limitations,
- experts are not obliged or constrained to provide any comment back to the NSWEC on their findings,
- experts could, as and when they see fit, comment to any person or organisation regarding any information they know about iVote or the operation of the NSWEC or the election.

We note that CORE is suggesting the expert audit should include;

Access to documentation including minutes, certification, testing and audit reports as well as detailed system’s documentation explaining in details the operation of the system, is essential for domestic and international observers.

The NSWEC believes the implementation of the audit arrangements as outlined above would be inappropriate. In the absence of a robust process to decide who should be declared an “expert”, any person could nominate themselves as an “expert”. Therefore the NSWEC is concerned about the

time and effort which may be required by its staff and/or contractors to respond to questions as an outcome of “expert” reviews.

We also note the CORE submission asked that source code be made available on the web. However Dr Teague, one of the CORE authors, when giving testimony to the Inquiry into the conduct of the 2010 Victorian state election⁶ said;

source code, yes. This is a very vexed issue, and not just to me. This issue is being batted back and forwards throughout North America and Europe and everywhere else.....so it would be wrong to say that publishing the source code automatically makes it secure. It does not,

We note that the CORE submission also stated that;

More recently Norway implemented an Internet voting system in 2011 that provided full transparency of the system, including source code, technical documentation, project management documentation and even the tenders submitted by the vendors.

The NSWEC understands that the Norwegian e-voting project cost two to three times more than iVote and was undertaken over several years.

We note that the CORE submission also stated that;

California Secretary of State commissioned a top-to-bottom review of electronic voting machines [CSOS07]. This was a rigorous and extensive review that gave teams of recognised e-voting security experts full access to the systems. Detailed reports were published and the confidentiality agreements provided explicit protections for the experts involved.

We understand that the California Secretary of State review required the reviewers to sign an agreement with similar non-disclosure conditions to that which Everyone Counts requested CORE members to sign which they declined to do.

We note that the CORE submission stated;

Everyone Counts drew up a highly onerous non-disclosure agreement. Amongst other problems, the terms of the agreement would potentially have prevented us from writing this submission (unless we invoked parliamentary privilege), performing our regular research on e-voting

Victorian state election, the Victorian Electoral Commission established a “Technical Observer” role which allowed us to examine their polling-station electronic voting project.

We understand that Dr Teague signed “a confidentiality agreement with the VEC”⁷ in relation to her appointment as a “Technical Observer” which in part said;

⁶ Testimony - Inquiry into the conduct of the 2010 Victorian state election, Melbourne — 23 August 2011 http://www.parliament.vic.gov.au/images/stories/committees/emc/2010_Election/Corrected_Evidence_2010_Vic_State_Election_23_August.pdf

⁷ Computing Research and Education Association of Australasia. Report on the VEC-ScytI Electronic Voting System for the 2010 Victorian Election. 2010. url: <http://www.vec.vic.gov.au/files/EAV-CORE-Report.pdf>.

not expose confidential information as defined and specified in this agreement or any other sensitive information whether in written or other form observed or learned while in my appointment as Technical Observer

The NSWEC was surprised CORE members would not sign an agreement with Everyone Counts which had similar terms to the VEC's. We understand CORE members took this position due to the members desire to retain their academic freedom. Both authors are Computer Science and Engineering academics.

NSWEC can understand that it would be desirable for academics to have access to all the information technology activities of the NSWEC for research purposes. However we do not believe that self-appointed experts should have unfettered access to minutes, certification, testing and audit reports as well as detailed system's documentation explaining in details the operation of the system.

The NSWEC understands the CORE authors presented⁸ a paper recently at an international conference, we understand the content of this paper was similar to the current submission to this review. Unfortunately the NSWEC is not privy to the actual content of the paper as Mr Wen (the author) was unwilling to provide a copy to the NSWEC due to non-disclosure constraints he accepted when he agreed to be a presenter at the conference.

Our final comment on transparency relates to scrutineers. The submission from CORE said that

there was no opportunity for scrutineers to conduct a meaningful examination of iVote or the processes for its development and evaluation.

As the Committee is aware, the NSWEC is required under legislation⁹ to allow a scrutineer for any candidate the ability to observe any element of the technology assisted voting process. During the course of the election the NSWEC did not receive any requests from any registered scrutineer for information about iVote. The legislation is silent on what should and can be provided to the public and self-declared "experts".

It should be noted the NSWEC did advise CORE and the authors that should they wish to scrutinise the iVote system they should establish themselves as registered scrutineers. It would appear they did not act on this advice.

The NSWEC would like the Committee to consider the following recommendation to improve transparency for iVote for the next general election.

⁸ Towards Best Practice for E-election Systems: Lessons from Trial and Error in Australian Elections
Richard Buckland and Vanessa Teague and Roland Wen, VoteID 2011 (September 28th-30th, 2011, Tallinn, Estonia),

Abstract: Research on mitigating vulnerabilities in electronic elections has focused mainly on developing cryptographic voting and counting schemes that satisfy strong mathematical requirements. However many practical problems with e-election systems in general cannot be solved by cryptography techniques. In this paper we consider some of these practical problems by examining deficiencies that are common to the many e-election systems currently used in Australia, including e-voting and e-counting systems. We identify poor practices in these systems and discuss measures that need to be taken to achieve best practice in four main areas: software engineering, risk assessment, auditing and transparency.

⁹ Parliamentary Electorates and Elections Act 1912 No 41, Section 120AE

- Recommendation – At the 2015 State general election the NSWEC will after the election;
- conduct a public presentation outlining the architecture and technical features of iVote
 - publish an audit report (similar to that prepared for the 2011 election)
 - publish the iVote Standard and Risk Register, and
 - publish a selection of other security and system architecture reports which the Commissioner deems appropriate.

Recommendation 3 – Verifiability

A voting system should, as much as possible, provide evidence to voters that their votes are cast as they intended and properly included, and evidence to scrutineers and observers that all votes are properly printed or properly electronically tallied. This strong verification mechanism should be publicly explained and its limitations clearly stated.

The NSWEC agrees with CORE's recommendation above. It is our intention to have end-to-end voter verification available in iVote for the 2015 state general election and possibly for future parliamentary by-elections.

The NSWEC does not agree with the statement made by CORE in section 2.2 of their submission which said;

we do not believe that iVote satisfied the legislative requirement to “provide for the authentication of the eligible elector’s vote”.

The NSWEC does not interpret the term “authentication” to mean to provide the elector with information to confirm voter preferences were as captured by the iVote system. We believe the iVote system did provide the voter with vote authentication by indicating that their vote was captured and processed by iVote.

We note that Dr Teague acknowledges in her submission to the Federal inquiry for the 2010 federal election¹⁰;

verifying that a vote cast from an insecure machine genuinely matches the voter’s intention remains an unsolved problem for preferential voting by Internet.....At present there is no secure and usable solution

- Recommendation – The iVote system for the state general election in 2015 will provide voter preference verification in such a way as to not reduce secrecy of the voters ballot. This may also be in place for any future by-elections.

Recommendation 4 – Secrecy

Vote secrecy (privacy and anonymity) should be protected as effectively as possible and its limitations clearly stated.

¹⁰ CORE Submission to the Inquiry into the 2010 Federal Election, p7.
http://aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=em/elect10/subs/sub101.pdf

The NSWEC agrees with the above comment and believes that iVote as implemented at the state general election 2011 was compliant.

CORE stated in section 2.4 of their submission;

Although the system used encryption to temporarily protect vote privacy over the Internet, it did not use appropriate encryption to protect vote privacy at all times, as Internet voting systems should. As a result an (internal or external) attacker who compromised the server could link every iVote vote with the voter's iVote Number.

The NSWEC used the same encryption technique as that used to manage personal banking transactions - SSL¹¹ This technique was assessed by the iVote auditor and security team to provide a suitable level of protection to the votes as cast in iVote.

The votes as cast in the iVote server were secured first by being held in a hardened server (see Recommendation 1 – Security and Reliability), also the votes while resident in the server were strongly encrypted, and finally the voter details were stored offline, away from the iVote server. Therefore even if a hacker could access the iVote server and even if they could decrypt the vote (very difficult task) they still would not have known the voter's name.

The client side encryption approach suggested by CORE was considered, however it was not possible to implement for iVote at the state general election because iVote used both web browser and phone voting. Phone voting required server side encryption hence web browser voting had to use the same approach, this point had been previously explained to CORE but was overlooked in their submission.

Recommendation – The NSWEC will consider using client side encryption of votes at the state general election in 2015 should phone voting not be implemented at that event.

Recommendation 5 – Software Development Approach

Election IT systems must be developed using best practices for failure-critical systems rather than standard practices for commercial IT systems.

- 1. The systems must have comprehensive and ongoing risk assessments.*
- 2. The development process must use rigorous, well-established software engineering practices that are specifically designed for failure-critical systems.*
- 3. The development process must produce comprehensive and objective evidence that the systems are secure and reliable.*
- 4. Electoral commissions must be given the necessary resources, support and expertise to establish, implement and manage best practice election IT systems development.*

¹¹ Secure Sockets Layer (SSL), is a cryptographic protocol that provided communication security over the Internet between the voter and the iVote server.

The NSWEC agrees with the recommendations made by CORE above, and we believe the iVote project followed the required processes. We agree that the necessary resources must be applied in the project.

The NSWEC however would like to address some of the specific comments made in the CORE submission regarding the software issues identified in the project and reported by the NSWEC and the iVote auditors.

CORE identified in section 2.1 of their submission that the iVote system;

“mishandled these votes” and

“the system simply ignored those misrecorded votes when printing”.

CORE also stated in section 2.6 of their submission;

best practices include building in graceful fallbacks in the event of failures as part of the software design. Given the absence of system reporting for the ‘N’ in the ballots problem, this does not appear to have been done for iVote

It should be noted that the iVote system did faithfully capture the keystrokes made by the voter and display these back to the voter, including the “N” character. The system also displayed the vote as cast with the “N” clearly visible prior to submission of their vote. All the voters that had “N” characters in their votes had accepted the vote as displayed with the “N”. Therefore, the system operated as designed, which was to be fail-safe and manage votes such that the keystrokes of the voter were captured even if the voter may not have expected the outcome as displayed prior to submission. The main point is that the system did what it was designed to do in terms of handling the vote and did faithfully record the voter preferences.

It also should be noted that the iVote print system was designed to faithfully print the characters the voter entered into iVote system and not interpret the ballots formality. The “N” voting anomaly was correctly identified as a result of a system control established as part of the iVote project. This control process successfully identified the anomaly after comparing the number of ballots counted as part of the printing process with the first preference count of votes from the iVote output file.

The NSWEC had in place for iVote;

- comprehensive and ongoing risk assessments.
- rigorous, well-established software engineering practices that are specifically designed for failure-critical systems;
- the ability to produce comprehensive and objective evidence that the systems are secure and reliable; and
- the necessary resources, support and expertise to establish, implement and manage best practice election IT systems development.

As such no further action is required.

Recommendation 6 – Audit and Evaluation

Election IT systems and the development processes employed must undergo rigorous, ongoing audits conducted by a range of independent experts with extensive knowledge and experience covering areas including cryptography, security, software engineering, failure-critical systems and election technology.

The iVote team had a range of skills which included cryptography, security, software engineering, failure-critical systems and importantly, knowledge of the election environment and election related-technology. The NSWEC understands that CORE is suggesting that the authors of the CORE submission would be suitable auditors for future projects. As noted the NSWEC tried to engage the authors but failed to reach a satisfactory contractual arrangement.

The NSWEC has also asked CORE if their members would be interested in undertaking code audits of the iVote system. The following text was from an email sent by the NSWEC iVote Manager to the President of CORE¹². Unfortunately no response was received to this request, nor did they take up our suggestion to address this issue in their submission to JSCEM.

As an alternative to public release [of source code] I would be interested in looking at models where code could be released to a technically informed group who would then undertake a review as they considered appropriate, and report defects or issues as they find them. The fact the group is independent should address public concerns. If you believe CORE would be interested in taking on this role then a proposal to the JSCEM of this nature would be appropriate.

The NSWEC acknowledges the 2011 iVote project operated under a challenging timeline. As with all new technologies the NSWEC is learning what it should and should not do in terms of project planning. NSWEC agrees with CORE that;

There should be ample time for all audit recommendations to be properly implemented and for the system to be re-evaluated.

Recommendation – The NSWEC will again at the next state general election engage suitably qualified and independent audit organisation/s that have extensive knowledge and experience in areas appropriate to the iVote project including; cryptography, security, software engineering, fault-tolerant systems.

Recommendation 7 – Election Review

There should be a far-reaching, in depth and public review of the iVote project and the NSWEC's approach to procuring and evaluating IT systems in general.

This review should cover:

- 1. how widely Internet voting should be offered,*

¹² Professor Tamas (Tom) D. Gedeon, College of Engineering & Computer Science, The Australian National University.

2. *the security and transparency requirements for election IT systems and how the project will satisfy them,*
3. *the governance, procurement and evaluation of IT systems,*
4. *what external oversight must be provided.*

The review recommendations must be implemented well before any future Internet voting system is used or procured.

The NSWEC does not believe the above recommendation should be accepted.

The CORE submission in section 5 stated;

iVote was supposed to provide audio instructions and recordings of candidate names. However the vendor was unable to fulfil this core requirement.

Audio instructions were provided for phone voting, but this feature was never planned to be used in the iVote web browser implementation. Given the feature was never considered for web browser voting the NSWEC does not understand how the authors formed the view they state above.

The CORE submission also stated;

there were serious shortcomings in the audit and evaluation process. There was poor planning in engaging suitably qualified experts to perform the audit, and in scheduling adequate time for the audit.

The NSWEC finds it remarkable that the authors have formed a view that PricewaterhouseCoopers is not qualified to undertake an audit of this nature.

The NSWEC also notes the following statements made by the authors in their submission;

At present we are collaborating with the Victorian Electoral Commission on its e-voting system

the Victorian Electoral Commission is currently collaborating with local and international e-voting experts to develop a supervised e-voting system. The project has commenced years before the next election is due (2014) and the system will be genuinely verifiable and have openly published source code. After careful consideration, the VEC has recognised that this is the best way to ensure the system provides strong security guarantees, is highly transparent and undergoes thorough scrutiny. Importantly, this collaboration will also help to ensure in-house expertise and understanding of the system.

The NSWEC is aware of this initiative by the VEC, in fact Mr Burton (the person who leads this initiative for the VEC) was contracted to the NSWEC for several months as the project's quality and test manager.

Notwithstanding the statements above regarding "in-house expertise", we would understand all those associated with the VEC project are contracted to the VEC for the project (including at least

one of the CORE authors). We understand that there are no permanent VEC employees directly engaged in the project.

We also note that the project is to develop a complete e-voting system, which is a very significant undertaking and we would believe a very challenging task to complete in the available time. Conversely NSWEC utilised the existing technology and expertise of Everyone Counts (a company Mr Burton founded and subsequently sold to its current owners). Everyone Counts has an established technology base developed over many years and a permanent workforce dedicated to e-voting.

The NSWEC will be tracking the VEC development very closely and would consider, for the state general election in 2015, possibly using the VEC system. However the system would have to be technically proven and functionally suitable, and at the time of the NSW election the NSWEC would have to have access to a skilled and experienced support team.

The NSWEC also noted the CORE comments below.

Many other problems can be attributed to shortcomings in the governance of the iVote project. The NSW Parliament initially legislated for a modest Internet voting project with a small number of eligible users, mostly vision impaired. Late in the project, the scope was enormously expanded to include anyone absent from NSW on polling day. There was inadequate planning to establish and enforce strong security, reliability and transparency requirements, in line with international standards.

It would appear from the above statement that CORE believes that iVote was legislated to exclude interstate and overseas voters. This is not the case. iVote legislation, as passed, included these electors. It is not the case that the Commissioner or his project staff added electors outside NSW. The decision to include these electors was as an outcome of Parliamentary debate and in the legislation as passed.

In addition to the above comments by CORE, there were a number of poorly supported statements made in section 5 of their submission. In particular these statements related to the iVote project's management and the management of information technology projects within the NSWEC. Below is a selection of these statements.

Much of the legislation attempting to establish these things is either vague or misguided.

Many of the shortcomings of iVote that we have described are likely due to problems with the governance of the iVote project. There were failings in the project management, the decision making process, ensuring accountability and understanding the risks.

The iVote project did not establish and enforce the necessary requirements for an Internet voting system. Well-known issues with security, transparency, scrutiny and evaluation were not addressed, despite the recommendations in the iVote feasibility study [NSWEC10] and independent report [NB09] commissioned by the NSWEC, as well as international standards and guidelines [COE10a; COE10b; USEAC05].

The governance problems in NSW are not isolated to iVote but appear to extend to other IT projects for elections. In the 2003 NSW State Election the NSWEC's counting software suffered from catastrophic failures.

The NSWEC contends that the above comments and similar broad allegations made by CORE about the NSWEC's management of iVote and the management of information technology projects within the NSWEC more generally and even the formulation of legislation in NSW are not founded on sound evidence and/or reasoning.

The NSWEC also notes that CORE has quoted from the "*independent report [NB09]*". This report was commissioned by the NSWEC as an internal feasibility briefing paper and was intended only to provide NSWEC management with an indication of implementation issues facing a project like iVote. NSWEC understands that that a CORE member has obtained the document indirectly and without the approval of the Commissioner.

The NSWEC believes CORE Recommendation 7 should not be accepted. The NSWEC contends that the implementation of this recommendation would result in a waste of government resources and provide no discernible benefit to the people of NSW.

Australian Centre for Disability Law

NSWEC response to Australian Centre for Disability Law's submission follows the order of the submission.

Technology assisted voting

The NSWEC notes that Australian Centre for Disability Law's position regarding the use of iVote is;

Although, this was a positive step, it is arguable that it continues to breach of s. 24 (b) of the DDA, given the fact that although people with disability are able to cast a secret vote through technology assisted voting, this is still on different grounds to everybody else. People using technology assisted voting were required to vote prior to polling day and the system was not available at polling booths.

Recommendation – The NSWEC recommends iVote be extended to include other classes of declaration votes (pre-poll, postal and absent) and also be implemented for use in polling places on election day to cater for absent voters.

NSW Labor

NSWEC response to NSW Labor's submission follows the order of the submission.

Extend iVote to Local Government Election

The NSWEC agrees with NSW Labor's position regarding the use of iVote for Local Government elections;

Recommendation 1: Extend the iVote system to the 2012 Local Government Elections in NSW.

NSWEC supports the use of iVote at Local Government Elections.

Recommendation – The NSWEC recommends iVote be extended to future Local Government General Elections and by-elections.

Count iVote Results Separately

The NSWEC agrees with NSW Labor's recommendation regarding counting of iVote results is;

Recommendation 2: Instruct the NSW Electoral Commission to classify and count postal votes and iVotes separately.

Recommendation – The NSWEC recommends the legislation be changed to allow iVote results be counted separately to Postal Votes at next state general election and future by elections.

NSW Nationals

NSWEC response to NSW Nationals submission follows the order of the submission.

Rural Addressing

The NSWEC notes that NSW Nationals' position regarding rural addressing issues experienced at the last state general election;

The Electoral Commission ensure that all staff dealing with iVote applications are well versed in the conventions of rural property addressing.

Recommendation – The NSWEC improve training of call centre staff to ensure this issue does not re-occur.

iVote at by-elections

The NSWEC agrees with NSW Nationals' position regarding the use of iVote at state by-elections;

Eligibility for iVote be extended to electors who will be more than 20km outside their electorate on polling day for a by-election.

Recommendation – NSWEC recommends the categories for eligible iVoters should be changed in the Section 120AB(d) of the PE&E act for by-elections from saying "not ...be within New South Wales" to "not...be within the district" on polling day.

Vision Australia

NSWEC response to Vision Australia's submission follows the order of the submission.

Phone Voting - Technology vs Human Interface

The NSWEC notes that Vision Australia's position regarding voting is;

*For a person who is blind or has low vision, in order to cast a truly secret vote, they must be able to complete the ballot **independently**, and be able to **independently** verify their choices.*

The NSWEC also notes that Vision Australia believed the iVote system addressed the above position and surpassed approaches taken by other electoral jurisdictions in Australia.

The highly flexible solution offered to NSW people with disability in 2011, deploying the flexibility of either a telephone interface using a remote interactive voice response system; or remote internet access (enabling a voter who is blind or has low vision and able to use the internet, to vote using their chosen computer access technology from the convenience of home;

Vision Australia congratulates the New South Wales Electoral Commission and all associated professionals, on the outstanding independent voting solutions provided to people who are blind or have low vision.

NSWEC agrees with Vision Australia that the iVote project was well received by the blind and low vision (BLV) community. We would like to clarify the above statement by advising that although the iVote system did offer “a remote interactive voice response system”, the iVote system only offered this by way of [DTMF](#) keypad inputs. It did not allow the voter to interact with the system using their voice.

We do not agree with the following statement made by Vision Australia.

The most unsatisfactory least secret approach in the form of a call centre based live (albeit anonymous) phone representative recording a voter’s choices with a second person backing this up.

The NSWEC has now used both remote interactive voice response (IVR) system using [DTMF](#) keypad inputs and phone voting with a human interface for BLV phone voters. The experience of these two approaches now allows NSWEC to compare voter acceptance. The following is the salient information from the recent experience of the NSWEC;

1. The NSWEC did not receive any complaints from electors after the Clarence by election about the reduction in voter **independence** through the use of phone voting with a human interface.
2. The time taken to phone vote at the state general election was about 8 minutes using DTMF tone technology based phone voting, while a vote made using a web browser took about 4 minutes.
3. The NSWEC observed that of the 376 BLV electors who registered for iVote via an operator at the iVote call centre at the 2011 state general election, only 218 actually voted using the technology based phone voting approach. This meant some 158 BLV electors either voted using a web browser or did not vote using iVote. This also indicated to the NSWEC that many BLV electors avoided using the phone with [DTMF](#) keypad inputs after registering for iVote.

iVote BLV electors at SGE 2011	Call Centre	Web Browser
Registered	376	413
Voted	218	450

4. The NSWEC noted that there was a 386% increase¹³ in BLV voter registrations at the Clarence by election relative to the state general election. NSWEC believe this increase was at least in part due to the BLV communities' preference to deal with a human interface rather than a technology interface when phone voting. It should be noted that many of the electors at the Clarence by election were elderly and may have had only a limited capability to use technology based phone voting or web browser to vote, hence a human operator was their only viable way of voting.

	Distance to PP	Other Disability	Outside NSW	Reading Disability	Total
SGE 2011	31	17	520	7	575
Clarence by election	236	80	992	27	1,335
% Increase	761%	471%	191%	386%	232%

5. It should also be noted that at the Clarence by election one of the 137 phone voters had a speech disability which made using phone voting with a human operator problematic.

The Committee should also note that that phone voting using a technology interface has the following issues to consider from a project implementation perspective;

- more expensive to setup than human interface voting but has a lower operating cost per voter once implemented,
- relatively high risk of errors due to complexities associated with testing the system's programming and configuration,
- much higher cost per voter than web based voting, and
- almost impossible to configure for election events with a large number of contests e.g. local government general election has some 350 contests and over 4,500 candidates.

Based on the take-up of phone voting at the Clarence by election the NSWEC is of the view that it is likely that some 2,000 to 5,000 BLV and disabled electors may choose to phone vote if a human interface option were available. It is possible this number would be lower if only a technology based interface were available.

Given the above, the NSWEC makes the following recommendations.

Recommendation – The NSWEC investigate the use of technology based phone voting using a voice actuated (as opposed to DTMF) interactive voice response approach for the next state general election.

Recommendation – All by elections between now and next state election will use a call centre based phone voting approach with a human interface keying votes into a web browser based iVote system.

¹³ BLV voters who used iVote increased from 7 at SGE 2011 to 27 at Clarence by election.

Recommendation – Conduct a survey of BLV and disabled electors to identify whether they would be better served at the next state general election by phone voting using a technology interface using DTMF or Voice actuation or a human interface or a combination of all of these approaches. Report findings to government with recommendations.

Awareness

The NSWEC worked extensively with Vision Australia at the last election to promote iVote for the BLV community. A number of advertising and promotion campaigns specifically focused at the BLV community were undertaken. We note Vision Australia's comment below which refers to a contract NSWEC had with Vision Australia to outbound call campaign all its members.

This direct contact with many of our clients resulted in raising the number of registrations for I-Vote from people who are blind or have low vision.

Although the NSWEC believes the use of iVote will grow with successive elections, we do not believe there is significant evidence showing that increased expenditure will vastly improve the take up of iVote by the BLV community. Hence we do not plan to increase the promotion budget for future elections. Our experience with the Clarence by election is that we can expect over 2500 BLV electors (a 386% increase) to vote at next general election with current promotional approach if human operator voting is offered in addition to DTFM touch tone voting.

Recommendation – NSWEC will continue working with Vision Australia and other peak disability bodies to promote iVote at the next general election.

Extension of I-Vote to local government elections

NSWEC noted the following recommendation from Vision Australia

Vision Australia has always considered that accessible voting initiatives would be more cost-effective and thus more likely to be continued by extending them to a broader population base. We believe that I-Vote has borne this out.

Vision Australia is of the view that the I-Vote system (including the telephone access options) should be further extended to include by-elections and local government elections.

The NSWEC advises that the use of iVote for local government elections is a matter for government.

Registering for I-Vote

NSWEC noted the following recommendation from Vision Australia

Vision Australia would be keen to see a process established whereby people who are blind or have low vision could register on an ongoing basis for I-Vote, to avoid needing to do it for every election. We would see this as similar to the process of registering as a permanent postal voter.

NSWEC supports Vision Australia's recommendation to establish a permanent iVote register for BLV electors.

Recommendation – The NSWEC recommends the establishment of a permanent iVote register for electors with long term disabilities including BLV.

Recommendation – The NSWEC also recommends the establishment of an iVote register for electors who will be interstate or overseas for extended periods.

NSW Greens

NSWEC response to NSW Greens' submission.

Shorten Pre-poll Voting Period

The NSWEC agrees with NSW Greens submission regarding the use of iVote for pre-poll voters;

Recommendation 6: That pre-poll voting commence on the Friday, that is, eight days before polling day.

NSWEC notes the NSW Greens suggested the use of iVote to compensate for a shorter pre-poll period;

The vast bulk of pre-poll votes are cast in the second week. If pre-poll voting were instead commenced on the Friday, eight days before polling day, it would still allow those voters going away for that weekend

Those small number of voters who would have otherwise voted on those days can either vote on the Friday, lodge an iVote, or avail themselves of the opportunity to cast a postal vote.

NSWEC agrees with NSW Green's suggestion above.

Recommendation – The NSWEC recommends iVote be extended to allow it to be used by eligible pre-poll voters. This should not be linked to the consideration for a shorter pre-poll voting period.

