

**CORRECTED TRANSCRIPT**

**REPORT OF PROCEEDINGS BEFORE**

**JOINT STANDING COMMITTEE ON ELECTORAL  
MATTERS**

**INQUIRY INTO 2008 LOCAL GOVERNMENT ELECTIONS**

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**At Sydney on Monday 26 October 2009**

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**The Committee met at 2.00 p.m.**

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**PRESENT**

Mr R. A. Furolo (Chair)

**Legislative Council**

The Hon. J. A. Gardiner

The Hon. D. T. Harwin

Ms Lee Rhiannon

**Legislative Assembly**

Mr R. D. Coombs

**COLIN ANTHONY BARRY**, Electoral Commissioner, New South Wales Electoral Commission and Election Funding Authority, Level 25, 201 Kent Street, Sydney, and

**TREVOR ALAN FOLLETT**, Director, Finance and Administration, New South Wales Electoral Commission, Level 25, 201 Kent Street, Sydney, on former affirmation:

**BRIAN VINCENT DeCELIS**, Director, Funding and Disclosures, New South Wales Electoral Commission, Level 25, 201 Kent Street, Sydney, and

**ELIZABETH MARY COOMBS**, Leader, Performance Reporting Team, New South Wales Electoral Commission, Level 25, 201 Kent Street, Sydney, on former oath:

**CHAIR:** This is the Committee's third hearing as part of its inquiry into the 2008 local elections. In the previous two public hearings the Committee has taken evidence from representatives of 23 councils and shires, one regional organisation of councils, the Local Government and Shires Associations, a state registered political party, a political party registered to run in local government elections and a number of other stakeholders. Today is the second time the Committee will take evidence from the New South Wales Electoral Commission and the Election Funding Authority. You have all appeared before the Committee in the past, so you are still under a former oath or affirmation. Mr Barry, would you like to make an opening statement in light of the submissions to the Committee?

**Mr BARRY:** We were not planning to make any opening comments.

**CHAIR:** Have you had a chance to go through the transcripts of the evidence provided at the hearings?

**Mr BARRY:** Yes, we have.

**CHAIR:** Are there any comments you would like to make in light of those submissions?

**Mr BARRY:** The only comment I would make is that I think it is a little regrettable that you have not received much evidence on any ways forward.

**CHAIR:** A couple of questions have arisen as a result of the submissions made at the public hearings. Throughout the inquiry the Committee has heard evidence from councils calling for an alternative to the model of full Electoral Commission responsibility for elections. What is the Commission's view on councils having full control over the conduct of local government elections, and would the Commission support a system whereby independent returning officers employed by the Commission run the local operations?

**Mr BARRY:** The Commission does not have a view per se on the policy question about who should run elections. That is a matter for the Government and the Minister. In respect of the option of the Commission appointing returning officers and then handing the running of the election over to the council, I am totally opposed to that. I either want to be in the game or out of the game. I do not care which, but I do not want to be half in.

**CHAIR:** What do you see as the challenges for the Commission of the proposed model?

**Mr BARRY:** Do you mean the model where we would appoint a returning officer and the councils would run the elections?

**CHAIR:** Under the direction of the returning officer but using the council's resources.

**Mr BARRY:** There are 151 councils in New South Wales and you would have 158 variations of the election. If that is what this Committee thinks is in the public interest, that is a matter for the Committee. However, there would be 158 different service levels across the State. There would be no role for the Electoral Commissioner and the Commission other than to appoint the returning officer. There would be no accountability to this Committee or to the Minister, other than by the 151 returning officers/general managers/mayors who were running the elections.

**CHAIR:** Councils have raised concerns about their relationship with the Electoral Commission, particularly with regard to communication and the role of councils in making decisions about service delivery. If you have read the submissions and transcripts you would have seen some of the comments. The one major area of concern is that initial communication and negotiation between councils and the Commission regarding costs and the level of service occurred quite close to the election, by which time councils' budgets had already been set. It was also argued that they felt excluded from the planning process for services where they were required to fund them. At what stage in the Electoral Commission's planning for the election did officers visit each council?

**Mr BARRY:** We visited every council and we commenced that process in about September 2007.

**CHAIR:** Were any negotiations or consultations carried out with councils prior to those visits?

**Mr BARRY:** It is interesting that you use the words "consultations" and "negotiations". They are two different words embracing two different concepts. This is a fundamental issue that I think is worth exploring. I consulted with the councils on a range of matters from the returning officer, the returning officer's location, to polling places, pre-poll and newspaper advertisements. I consulted with them; I did not negotiate with them. I sought their advice. I gave them a plan on various parts of the operation and said, "Do you have any comments on this?" In some cases, there were no comments; in some cases, there were very helpful comments, which we took into account; and in some cases there were some very unhelpful comments, like councils wanting to close half the polling places.

But there was no negotiation. One council wanted the Director of Elections to go up to the Central Coast and negotiate with the councillors on where the polling places were to be. This is all foreign to what is contemplated here. I am the one who is accountable for these elections, not elected councillors. This would be like the difference between me consulting with members of Parliament on various electoral arrangements and negotiating. We are not in a negotiating environment here. We are in a consultation environment.

What has come through to me very clearly is that in a lot of these submissions the distinction is not clear in people's minds. It is an important distinction to make. I sought councils—in fact, I sought general managers' input. I did not seek the input of elected politicians, of mayors, but that is where I tended to get a lot of comments from. It is very interesting that when we got the comments from the general managers off the record, they were very supportive of what we were doing. But it is when the mayors became involved in the process, like wanting to close half the polling places of a big council up on the Central Coast, that is when we got into very messy business.

I just want to bring that distinction to the Committee's attention. We consulted all the way along the line on areas that were to do with the service levels. We did not negotiate.

**CHAIR:** Arising from those consultations, were there any agreements or documentations produced from those visits with the councils?

**Mr BARRY:** We met with each of the councils to give them a presentation on a raft of about 20 agenda items of service levels ranging from how things had been done in the past, the need to improve the training of returning officers, election officials, and a selection of polling places. There were about 20 items. I cannot remember whether we provided this Committee with a copy of that. We might provide you with a copy of the folder of material.

We took them through a presentation. Out of that the next step was that when we had prepared the proposed list of returning officers, where the returning officer would be located, and did they have office accommodation that would work for the returning officer. There was a lot of consultation with the councils on those issues. As for evidence of that, it would be contained in emails between the Commission and each of the councils. But it varied. Some councils provided very good information; other councils provided nothing, or did not respond at all to any of the matters that they were asked to comment on.

**CHAIR:** Are there any changes you propose for the consultations for the 2012 elections?

**Mr BARRY:** There are. There are a number of things that I think we would do. Hindsight is a wonderful thing. First of all, I would make clear, if there is no legislative change, the basis on which I was communicating to the councils—the consultation-negotiation issue. I would try to make that much clearer to them because I do not think that was clear.

The second thing is that I would not send them out a budget that was not as well constructed as it perhaps should have been. We will send out a budget in a much earlier time because we have now got much stronger information on the costs of each of the key services than we had in 2007 when I first communicated with councils about these elections.

Again, just to refresh the Committee's attention on this, after the State election, which was wound up around about April-May 2007, we prepared, based on the cost of a State election, budgets for the councils. We communicated that to them in late June, early July. We made some errors in preparing that. That was unfortunate because what it did was give councils the wrong impression of what the real cost was going to be. But it was an attempt on our part to give them a heads-up look—"This is what you need to be putting in your budget."

Next time around we will be much more circumspect in terms of giving them numbers. But we have got a much more solid footing in moving forward because we just did not have enough information that was reliable.

**CHAIR:** Would the Commission consider the establishment of a working group of councils to get together, perhaps before the consultation phase, and discuss with them what it is you will be doing to get some feedback from them about how that message can be put out to the councils? I guess I am suggesting having a working group, essentially.

**Mr BARRY:** I would not be opposed to that. I would be more than happy to do that, but not with mayors. But the issue is that councils do not speak on behalf of other councils, and therein lies the difficulty. The challenge in all of this, as I said right from the outset, is that the Commission is in an invidious position. I do not like being in the position that I am in, and I would not like to be in the position that councils are in because I, under law, have to run the elections and the councils, under law, have to pay. That is a very poisonous relationship between the Commission and the councils. No matter what you do, while that relationship exists, my approach is to be as transparent as I can possibly be.

I am pleased that this Committee has now got the auditors in our office going through the books because at the end of the day, no matter what I do or what I say, there will be some councils who want to argue the toss about various bits and pieces. Not all; some are terrific, but the time, energy and the costs associated with answering some of the minutia that came from some of the councils was just disproportionate to what we were dealing with.

**The Hon. JENNIFER GARDINER:** Mr Barry, what about the idea of perhaps having the Local Government and Shires Associations being invited to put together a working group so that the responsibility is on them to get a cross-section of councillors together, and maybe use that as dialogue?

**CHAIR:** Or even just representatives from the Local Government and Shires Associations rather than individual councils?

**Mr BARRY:** I am happy to consider that.

**CHAIR:** Are there any other questions on that issue? There being none, I will ask you this. What Commission staffing resources are dedicated to local government elections? For what period are these staff focused on local government elections? How much of their time is allocated to communicating with the councils?

**Mr BARRY:** If we are talking about the local government general election—

**CHAIR:** Yes.

**Mr BARRY:** —interestingly, we met with the auditors this morning. I explained to the auditors that the State election finished, as I said, in April-May. In round figures, there are approximately 40 permanent staff of the Commission. From May through to the conduct of the election in September 2008, there was a gradual ramp-up of staff—I am sorry, a gradual focusing of the 40 staff on local government. But if you had to pick a point in time, I would have said that from September 2007 all Commission staff were solely focused on local government elections.

I mentioned to this Committee right from the outset this event of local government elections is much bigger, much more demanding and challenging than the State election. In your question you ask me about communication with the councils. We can beef up the communication with the councils but it comes at a cost. It was interesting in the evidence of a couple of people giving evidence to the Committee, you asked them what about this and what about that as options and they said yes, that was a good idea but would you be prepared to pay for it? I think you know what the answer was. So, whilst we can do more communication, that will come at a cost.

**The Hon. DON HARWIN:** I want to go back if I can to this consultation negotiations dichotomy in connection with another issue. Of course, that is the sale of goods and services target that is in the budget paper each year and, in particular, the relevant financial year in terms of the local government election, which is largely the 2008-09 financial year. Mr Follett, I think your evidence was it was a \$2.3 million net reduction in funding from Treasury for that year, and that amount was charged to local government?

**Mr FOLLETT:** That is right.

**The Hon. DON HARWIN:** I am happy to direct the question to you, Mr Barry, but I am sure you will ask Mr Follett to follow, if that is appropriate. The \$2.3 million figure that was a net reduction for the purpose of the local government elections, was that a figure that the Commission nominated?

**Mr FOLLETT:** Yes, it is. But it is based on the level of business activity going on with our commercial elections in the prior year. In the prior year I think we earned \$760,000 from commercial elections and we said we had an expectation of \$830,000, so we boosted up our expectations from commercial elections, and that left \$2.3 million.

**The Hon. DON HARWIN:** Was the \$3.149 million figure for the whole year a figure that you negotiated, was that a figure you were consulted about, was that a figure that you were told this is what the reduction is going to be, you work it out? Just explain the \$3.149 million figure and the process that resulted in that figure ending up in the budget papers?

**Mr FOLLETT:** Sure. We do communicate with Treasury each year about what our forward plan is for the next four years, and that forward plan has both local government and the local government year and then commercial elections and other years plus some by-elections. Each of those has an administration fee component to it as a recovery of the effort put in by the permanent staff. So, each year we talk with Treasury about what our expectation is that it will be. Likewise, from four years out, if you look at what that is, it has another blip in it for the 2012 election.

**The Hon. DON HARWIN:** Was the \$3.149 million figure the figure the Commission nominated to Treasury as the appropriate figure for that financial year?

**Mr FOLLETT:** It was the figure Treasury had in its numbers, and we agreed with the figure that was there. It is a joint—

**The Hon. DON HARWIN:** Indeed, and the budget papers are the budget papers of the Government, so at the end of the day it is the Government's figure?

**Mr FOLLETT:** Yes.

**The Hon. DON HARWIN:** But in terms of you agreeing, as you said, to the \$3.149 million figure what calculations did you do internally to conclude it was a figure that the Commission thought was appropriate?

**Mr FOLLETT:** We had the hourly rate calculated through a report that Walter Turnbull did, and that was \$195 an hour. That was the charging rate we had been using since 2006 for by-elections and for commercial elections, and then from that we have to come up with a quantity of hours of what we believe is a reasonable charge to councils for the administration input. The way that report is structured is based on the front-line staff. So, we said out of the 40 permanent staff we would charge 18 of those staff and we would change them for a period of 19 weeks. I have to say, the 19 weeks is a very conservative estimate. That is an average estimate because the staff do not all start on the same day working towards that election. So, in reality, that would be at the lower end of the effort by the administration staff of the Commission.

**The Hon. DON HARWIN:** So, the Turnbull report basically provided you with a framework, if you like, a financial framework, in which to analyse what the net sale of goods and services budget for that year would be based on the commercial charge out of \$195?

**Mr FOLLETT:** Yes.

**The Hon. DON HARWIN:** So, that was the financial side of it, and your internal calculation as to whatever would be required from the Commission was 18 staff and 19 weeks that you nominated?

**Mr FOLLETT:** Correct, and we charged that across a full-time week, a 35 hour week.

**The Hon. DON HARWIN:** If I can ask a cheeky chicken versus the egg question, does the assessment of the Commission's needs come first or did the figure nominated by Treasury as to reduction come first? Which was the chicken and which was the egg?

**Mr FOLLETT:** We have very few places that we receive revenue from. It is the local government for by-elections or the statewide election or it is commercial elections, and we run very few commercial elections. The figures that go into the forward estimates of Treasury can be up to three or four years ahead at that time and we confirm those numbers. So, yes, the number that we came up with dovetailed into the figure that we had in our forward estimates numbers for Treasury.

**The Hon. DON HARWIN:** So they had been there in the forward estimates for a couple of years? When did that number first appear in the forward estimates?

**Mr FOLLETT:** That line has always been in the forward estimates as a line item for revenue.

**The Hon. DON HARWIN:** I am sorry, had the \$3.149 million figure being consistently there in the forward estimates?

**Mr FOLLETT:** No, I expect at least two years before the number was there.

**The Hon. DON HARWIN:** And prior to it going into the forward estimates for the first time, had the Walter Turnbull report being prepared prior to it going into the forward estimates the first time?

**Mr FOLLETT:** The Walter Turnbull report was done early in 2006 and it was based on us having commercial activities plus local government revenue, the local government elections of 2008, and we kept that result of the Walter Turnbull report through that period.

**The Hon. DON HARWIN:** So your evidence is that the Walter Turnbull report informed the target that first went into the forward estimates?

**Mr FOLLETT:** There has always been a number in the forward estimates from revenue. The Walter Turnbull report gave us a basis for calculating that. Prior to the Walter Turnbull report the charge out rate was \$50 an hour.

**The Hon. DON HARWIN:** I am sorry I do not have my copy of the Walter Turnbull report with me. That was 2006?

**Mr FOLLETT:** Yes.

**The Hon. DON HARWIN:** And the first time the figure appeared in the forward estimates, what budget paper was that?

**Mr FOLLETT:** It was always a figure in the forward estimates.

**The Hon. DON HARWIN:** And it always said \$3.124 million for 2008-09?

**Mr FOLLETT:** Certainly for the two years preceding it was around that. Before my time I know we did charge an administration fee for local government for the statewide election. We always have done. I think that figure was considerably less at the 2004 election, the administration fee.

**CHAIR:** Perhaps we can get some information provided to you addressing those issues.

**The Hon. DON HARWIN:** Thank you. Rather than me detaining other members, if you could just give me a chronology that would assist. It may help to clear up some of the apprehension that there is in the sector about the way the figure was arrived at.

**Mr FOLLETT:** Happy to go back in four years history on that.

**CHAIR:** Mr Barry, the submissions during the public hearing of a number of councils about the regional returning officer model did not provide a lot of positive feedback. A couple of issues were raised. In particular, some councils were concerned about the fact that the costs were high, that service levels were lower and that voters and candidates had insufficient access to the returning officer. Are any changes proposed in light of the experience of the 2008 elections and the feedback from the councils?

**Mr BARRY:** No, not at all. In fact, the regional returning officer concept saved council enormous amounts of money. This idea that when you read the evidence it cost us more, there is no evidence. This is the whole thing. We have tried to get all of this—the report that we gave this Committee was evidence based. The submissions that you have received are emotionally based; they are not evidence based at all. It is very difficult for me to come along here and respond to that sort of question because the truth of the matter is that the evidence in the report that we gave you suggests that by and large there was support for the regional returning officer concept. But there will always be some people who are not happy, and they are the people who are coming along and telling you that it did not work. Seventy-eight per cent of councils—

**Dr COOMBS:** —who had a regional returning officer would do a regional returning officer again in 2012. That is from the survey that we undertook.

**Mr BARRY:** You have to look at the evidence, that is evidence based, not what people come along and say that is without any substantiation. There is two ways we can go here. We can scrap the regional returning officer concept completely. The challenges will be finding suitable returning officers in those areas and the overhead that will come with providing a returning officer, of which the individual councils will have to pay. The regional returning officer concept saves the councils money and saves us the effort of having to recruit and find people across—how many councils were involved in the regions?

**Dr COOMBS:** Good question. It was under 83.

**Mr BARRY:** That would be an enormous overhead in the total cost of running these elections. It is regrettable that not more of the people who were happy made submissions.

**Dr COOMBS:** We had 81 councils, of which 23 regions were formed from those 81 councils, and that represented 55 per cent of the total number of councils with elections.

**Mr ROBERT COOMBS:** Basically, there were three issues that a continuous number of council representatives complained about. They complained about the higher costs, the inability to elect their own returning officer and the time it took for the results of the election to come forward. In relation to the cost question, they said that invariably—again, it might just be a small sample; it might not be that other group who are happy enough. Usually you get the complaint side of the equation here and not the people who have some satisfaction with the whole process. Basically, they said on every occasion they went back to the authority saying that the costs or the estimates were too high they got a regraded figure that was lower. They basically said that with the returning officer it would be no different to a lot of things they do. They could still retain that position but they would have to sign up to a charter or something like that to ensure that the basic provisions and all those things were followed.

Some of us, in having a bit of a discussion about the whole thing, recognised that councils probably were not being charged the proper costs for some of these services, that there has now been a recalculation or recalibration. So I suppose the question I am trying to ask is this. I would think that you are having a look at all these complaints that were made. In your consideration is there some sort of mid-ground? It might go back to

that consultation versus negotiation process that was there. Has there been any attempt to try to answer to the satisfaction of these councils those three main issues that were consistently raised in the activity and discussion that we sought with them and that took place with them?

**Mr BARRY:** I think you have identified the three areas. Each of them has their own response. On the cost issue, we have the auditors looking again at our costs, and I am confident that they will come back telling this Committee that the Commission's costs are appropriate. In fact, I think you will find they will come back and reinforce the comments that I have made that the councils are not paying for quite a number of services. On the issue about who is running the election, when you talk about the returning officer this all comes back to who is running the election. I have said to this Committee on the record and I will repeat it: When I have been around and sat down across the table with the general manager, the general manager, with the exception of half a dozen, says, "Colin, I do not want to go anywhere near this. I do not want to have a bar of it." Who are you getting submissions from? I put this to you: Who are you getting submissions from who say they think their council can run the election? You know who you are getting them from.

I am sure, if you think about it, what you have to address here, in my view, and I submit to you, is who is appropriate to ensure the integrity of these elections. Remember, if you recommend that these elections be run by local government councils' general managers, you need to understand that what you are saying is you want the mayor to run the election because from my experience that is exactly what will happen. In all my meetings with councils—personally I went to 13 of them; I did not go to all of them—there would be only half a dozen general managers who would stand up to the mayor and say, "No, that's not right. You can't do that." In fact, I gave you examples. I can give you evidence of mayors interfering in the process and wanting to close 50 per cent of the polling places. I can give you evidence of where a mayor made very strong submissions to Mr DeCecelis to close two large polling places on the Central Coast because it would be cheaper to use a scout hall. I personally drove up there one Sunday to look at this and I was appalled. How could you close two schools and put 5,000, 7,000 voters through a scout hall that was no bigger than this room?

In my view this Committee has to deal with the question of integrity and who it is appropriate to give the citizens of this State the confidence that these elections will be run with absolute integrity and impartiality. The third part of the question dealing with the results, the results thing is an issue and we think we can do better communication with councils on that. The results overall were achieved sooner than what we told councils, but I think we can do a much better job in terms of telling them and keeping them informed on that. The website in the future would be able to give more up-to-date information on the status of where the counts are.

**CHAIR:** Is it proposed to continue with centralised counting? What is the barrier to allowing counting to occur more locally?

**Mr BARRY:** The technology; the system did not allow that to happen last time. We were using the same system that we used to count the Legislative Council count, which is a centralised count. We could not roll that system out across a number of councils. The Government has funded the Commission to redevelop the Legislative Council counting system, which we are in the process of doing. That system is being built with local government elections in mind so that there would be the possibility of local data entry.

What we would achieve there is being able to do the count at perhaps a regional centre, rather than an actual local centre, but the trade-off is the cost; it is going to increase the cost. Again I come back to you and ask you to reflect: when you asked a number of people giving evidence, one of the questions, I think, was to somebody who was wanting absentee voting and you asked the question: are you prepared to pay for the cost and the answer was an absolute no. If we go for a decentralised regional counting data entry compared to the Sydney model, there is the risk that that will increase the cost but it would give them the count locally.

**CHAIR:** Could you explain how the cost would be increased and what will be the factors that will lead to that increase?

**Mr BARRY:** I am only giving you top-of-the-head-impressions based on things. We have 250 to 300 data entry operators at the central counting centre at Riverwood running over two shifts. What you will end up with is we would have to transport infrastructure to a regional centre; we would have to set up computers, ballot papers. You would still have to go through the same process.

**CHAIR:** Could you explain the process and the infrastructure?



**Mr BARRY:** The infrastructure is a server and a number of terminals to be able to data enter the ballot papers. Every ballot paper has to be double data entered. They are pre-sorted into batches so that when they are data entered we know that there are 50 ballot papers in a batch, each batch is numbered and then they are data entered into the system. All of that is done in a central location at the moment on a large scale so there is the economy of scale. When you take that process and decentralise it across the State—I cannot remember off the top of my head how many individual councils' ballot papers came to Sydney—

**Mr ROBERT COOMBS:** There are 151, are there not?

**Mr DeCELIS:** Roughly half.

**Mr BARRY:** Half, so there are 70-odd councils. If you decentralise that to 70 locations, you are going to increase the cost. Admittedly you would not do that in the Sydney area, that is true, but in the case of regional centres, we have built the system so that in the future we can set up regional counting centres. We can give councils the choice: "If you want to have it conducted locally, that is the cost. If you want the ballot papers sent to Sydney, that is the cost."

**Mr ROBERT COOMBS:** If you go to this other model that seems to be getting a bit of enthusiasm, a postal voting system, would that end up in a cost reduction?

**Mr BARRY:** Postal voting per se?

**Mr ROBERT COOMBS:** I note your comments on having a pure computer ballot—and I think I concur with your comments there—but in response to questions on notice I gained the impression that you wanted to progress, for want of a better word, the postal voting model.

**Mr BARRY:** I am not championing the cause of universal postal voting and I will give you an example. I found out on Friday that we have a by-election for Central Darling. You do not have to be a mathematician to work out that that is going to cost that council a bomb. If we had the opportunity to run that election as a universal postal ballot, there would be considerable savings. I think I said to you in our question, based on my experience in Victoria and talking to my colleagues down in Victoria, you would be looking at something like a 15 to 20 per cent cost saving.

**The Hon. DON HARWIN:** And presumably higher in places like Central Darling?

**Mr BARRY:** It would be higher. Another option for Central Darling is that we could have the returning officer in Sydney in our office and mail everything out from Sydney. It does not need to be anything local. It is a phone, an email, a fax. You do not need to have somebody local for an election like that under a new arrangement but universal postal voting would save that council an enormous amount of money.

**CHAIR:** Should that be an option available for by-elections perhaps?

**Mr BARRY:** I think it is something that this Committee should seriously consider. My personal view is that I am not in the business of mandating; I like to see people having options and choice. Councils could have a choice: "If you want to run a by-election as a universal postal vote, here is the cost. If you want to run it as an attendance election, here is the cost." At the moment there is no choice.

**The Hon. DON HARWIN:** Mr Barry, I noticed that you brought up absentee voting in one of your responses when I was asking Councillor Aitken of Penrith council a few questions on that matter. You cannot do absentee voting for council elections and obviously at every election we get complaints about that, but that is the system we have. I wonder if on election day you were able to go to the returning officers' office and they had a number of ballots for other elections, whether that would impose a major additional cost on councils conducting a local government election. As well as the cost issue, do you think from a logistical point of view that also would be achievable?

**Mr BARRY:** Logistically—again I want to remind you that there are 300 elections and each of the returning officers' offices would have to have the ballot material for 300 elections.

**The Hon. DON HARWIN:** But even now in some State and Federal elections you have handwritten ballot papers—and you can do this on election day; I am not telling you anything you do not know—and there

are plenty of Federal Divisional Returning Officers [DRO]. If you go and vote on election day at the DROs office, they will not have an actual ballot paper; they will have to handwrite one for you. So at each DRO's office there could be a file copy that could be either photocopied or certified. Yes, I appreciate the large number of ballots in each ward, in each council, but how costly would that be and do you think that would be logistically achievable?

**Mr BARRY:** I think we would have to take that on notice and have a close look at it. The challenge would be the cost compared to the benefit or the demand. Bearing in mind that many of these people who are voting outside their area are typically voting outside their ward more so than voting outside their council area. The office of the returning officer in local government elections is generally not set up on election day for transacting voting so there would have to be some sort of rethinking of how those officers would be configured.

**The Hon. DON HARWIN:** But you can pre-poll vote?

**Mr BARRY:** It would be like a pre-poll vote for another but you can only pre-poll vote at the moment in the council area from which the returning officer is servicing. I can answer one of the questions that you asked and that is, would there be additional costs? The answer is "yes, there would". How much would it be? I am not sure.

**CHAIR:** I imagine once the candidates have been chosen and the order in which they have been drawn has been determined that the Commission sends the information to the printer and they send it back in a PDF for you to double-check to make sure it is all correct before it goes off to be printed. Could the returning officers have the PDFs of the ballot papers, print-out as required, for anywhere in the State? They could be on the server?

**Mr BARRY:** They are very sensible questions, and they are the questions that I have asked the staff of the Commission. It is only when you see the 300 ballot papers—remember some of these council ballot papers are nearly as big as those for the Legislative Council—you cannot print them locally. In theory, is this possible? Yes, it is in theory possible but practically is it possible, you run into these challenges. You are quite right, for a Federal election, if you have a division with 12 candidates, that is a lot of candidates. We have 90 in some wards at some of these elections. To have a local government election with 20 or 30 candidates is not unusual. When you see these ballot papers laid out, and the different configuration of them—some are above the line, some are below the line. You are quite right, at a Federal election you can hand-write. You cannot hand-write some of these ballot papers.

Picking up on what Robert is saying, you could have PDFs but the returning officers do not have the infrastructure to printout these large-scale ballot papers. That raises then the question, are you enfranchising some people and disenfranchising other people because you cannot produce the ballot papers? Over all across the State introducing absentee voting at local government elections, I think from memory, New South Wales would be broaching new ground. I am not against doing that sort of thing as long as it is safe and that we are not picking and choosing which people are going to be enfranchised and which people are going to be disenfranchised because we cannot provide the ballot papers.

**CHAIR:** In submissions and hearings the issue of non-resident roll was raised. Does the Commission support legislative changes transferring responsibility for the maintenance of the non-residential roll from general managers of councils to the Commission?

**Mr BARRY:** It is an interesting conundrum. On the one hand you have councils making submission to you saying they want to run the elections and on the other hand the thing that they have responsibility for they want to hand it to me! Of course, I am happy to do it; it makes sense but I just put it to you, how does all this balance up in your deliberations when the very fundamental thing—where they actually have the information which I do not have about who are the ratepayers and the absentee ratepayers in their area—they want you to say "Well, maybe Colin should run all this for us". My expertise, they want to take over the running of the election. Yes, we can do it. In fact, they were honest they would be telling you that, in fact, we did most of it for them because they did not know how to put the stuff together. We did it for them. We set up a website for them so that they could go on and check. We are happy to do that. I thought your question was going to be about the poor numbers which I think is a bigger issue.

**CHAIR:** People on the non-residential roll have to apply to be put on the roll?

**Mr BARRY:** Yes, they do.

**CHAIR:** How many of them know they have that right?

**Mr BARRY:** Very few. For example, when I first came here and was running these elections I discovered that at a by-election where the general manager had responsibility for placing the advertisements to tell the absentee owners that they were entitled to be put on the roll, have a guess where they put the ads? In their local council newspaper. That is very helpful if the council in Albury is telling absentee owners in Dubbo "You are entitled, if you own property in Albury, to vote" and you put the advertisement in the Albury newspaper.

**The Hon. DON HARWIN:** Are there any other reasons why such a poor number of people are enrolled?

**Mr BARRY:** I think there are two reasons. One is where these notices are placed. Second, there is probably an element of apathy amongst absentee owners in terms of wanting to vote for a council area where they might just have a holiday home or they might have some commercial property.

**CHAIR:** Local government elections occur in the year after State Government elections. Does the Commission have enough time between the State Government and local government elections to prepare and sort out everything—consultations with councils, planning and preparation?

**Dr COOMBS:** It is about right now, yes. The State election in the March and the local government elections 18 months later in the September, that is about right.

**CHAIR:** Is there an advantage from the point of view of the Commission to have the local government elections a full two years or two and a half years apart?

**Mr BARRY:** There would be. It is not such a bad idea having them the way they are with the March for the State and the September for the local government because we keep the staff through the process whereas if you went into the next March it would be a little bit harder to keep them. What typically happens is we bring in a number of contract staff, temporary people to do things for the State election, they build up a level of expertise and we roll them over into the local government elections. The timeframe is about right.

**CHAIR:** In your mind is there value in staggering the local government elections throughout those four years so they do not all occur on the same day?

**Mr BARRY:** No, I don't think so. I want to make an observation. We put in a considerable effort into lifting the high jump bar with respect to the last round of local government elections. We know there are some areas that we did not do as well as what we would have liked to have done, and we have identified those in the report. The biggest challenge for us is how do we deal with local government councils' expectations?

You mentioned before whether we would prefer to work with a group of councils, whether we would be prepared to work with the Local Government and Shires Associations [LGSA]. The difficulty in all of this is that the LGSA is one part of the organisation but it is the individual councils who are our real clients, so to speak, in this. We want to build good relationships with each of those councils—as we do in by-elections now; we make sure we go out and meet face to face with the general manager. My view of this is that, once this Committee has finished its deliberations and reports—and I feel very confident that you will have evidence that certainly some of the wild and woolly allegations that have been put at my door are totally, absolutely baseless—once those things are dealt with, I think the councils will start to see, "The Government is not entertaining this idea of us running the elections; let's just move on." I know the issue of the cost—in the general managers I have met with—has been not so much the issue of the dollar amount but the timing of when it all happened. Now that they know what the cost is, they will roll those amounts of money into their forward estimates, and they will not be seeing the sort of big jump that happened last time.

**Ms LEE RHIANNON:** You made the point earlier—I think you might have even said it is an invidious model—that on the one hand the councillors of the councils pay, and you make the decisions. When you made that comment you just made, are you saying that you are anticipating that things will settle down and that they will just get used to this as the way it is done and may be happy about it? The message I gain when I

listen to you is that there is this antagonism and it is going to be hard to get it to work. Do you think it can settle down?

**Mr BARRY:** I have to say, there is little antagonism between the Commission and the general managers of the councils. The antagonism is at a political level.

**Ms LEE RHIANNON:** I have heard you say that a number of times. Do you think that is going to reduce? Mayors change—and mayors are mayors?

**Mr BARRY:** I am going to work damned hard to try to reduce it. But the problem is, we have two arguments running here. One is at the political level, which I am not prepared to get into. For the general managers, I think it is perfectly manageable. And that has been my experience. In coming from Victoria to here, I was quite surprised in this local government environment. I have said to people in the Commission that whenever I went around and spoke to councils in Victoria and had dealings and correspondence, it was from the general manager. I think I could count on one hand the times I ever had any submissions or comments from mayors.

**Ms LEE RHIANNON:** A different State, a different culture?

**Mr BARRY:** A different State, a different culture. And one of the challenges is that I do not want to get into a political argument with the politicians and the elected executive of the LGSA. I have had meetings with them in my office and they have said to me, "Look, this is not about you, Colin, this is about who should be paying for the elections, and we think the Government should be paying for them." But I am being used as a means of pushing that particular argument. I do not care who pays for the elections. I do not care if the Government pays for them—someone has to pay for them.

**CHAIR:** In response to questions on notice the Election Funding Authority states that it provides extensions for lodging a disclosure to candidates, groups, parties and official agents if they have had difficulty locating a registered company auditor. What is the Election Funding Authority's response in cases where the difficulty experienced by these groups relates to the cost and their inability to pay for the auditor? The Committee has heard evidence that the cost of registered company auditors can be prohibitive for independents and small groups. Is there a view about how the high cost of auditors could be addressed?

**Mr BARRY:** That is an interesting question, one that we were discussing recently.

**Mr DeCELIS:** It is a requirement of the Act, so we have no discretion that they are required to use registered company auditors. The submission back to the Committee suggests that we have no objection to moving away from registered company auditors to moving to people like certified practising accountants and the like. The submission mentions that as an agent you are not required to do the training if you are a certified practising accountant or a member of the National Institute of Accountants, or the like. We mention in the submission that a move to those types of people, day-to-day accountants—I do not believe that would cause us any grief or concern; they are more freely available and, I would have to think, perhaps more available in terms of cost. I do not recall receiving a single—

**CHAIR:** You do not think it would affect the integrity of the audit if it were done by a certified practising accountant?

**Mr DeCELIS:** I do not work in the accounting industry. I do not know what a registered company auditor brings that is more valuable in terms of these types of audits compared with a certified practising accountant or a member of the National Institute of Accountants. We suggest that, as long as they are working in a regime where they are required to be registered, that brings with it enough satisfaction for us that we are using creditable people to do these audits. I think that is all that is needed in this environment.

I was about to go on to say that I do not recall one single instance where somebody was given approval to lodge late on the basis purely of cost. We did receive a number of complaints based on cost. There were a number of extensions on the basis of locating and accessing. Whilst they could identify and locate, sometimes they had to wait on the end of the queue to access them. So there were quite a number of extensions based on access. Whilst there were some complaints based on cost, I have no instance where anyone is still required to lodge on the basis that they refused to pay the costs. But I do accept that quite a few of them did have to pay quite significant costs.

**The Hon. JENNIFER GARDINER:** Mr Barry, you say that you are still in favour of having electronic voting as a backup in some remote areas. Apart from the Committee recommending that, is there anything we can do to progress that sort of concept?

**Mr BARRY:** You are aware that the Commonwealth has a green paper No. 2 on electoral matters. There is an issue in there. The electronic voting solution was one that we discussed apropos of assisting people with vision impairment, intellectual impairment or physical impairment, and in broadening it to people who live in remote parts of the State. I think my response to the questions around that was: If you are going to have some form of electronic voting, we need to have it in a form that can deal with all of those groups of people, not just the single ones. Victoria has tried something with a stand-alone, kiosk-type voting system. The Commonwealth has recently tried something—although the Commonwealth joint standing committee has recommended that they discontinue that for vision-impaired people. My approach was that I think all of that stand-alone stuff is very expensive, that if we are going to have something, it would be much better to have some sort of Internet-type voting arrangement. I think we are too late now for the State election, in terms of any of that sort of solution.

**The Hon. JENNIFER GARDINER:** Mr Barry, you mentioned the problems that you have picked up with existing legislation, particularly with respect to disclosure and so on, and the matters of concern being brought to the attention of the Department of Premier and Cabinet. Has there been any progress on where that might end up? Can we expect legislation reasonably soon?

**Mr BARRY:** I do not know. We have informed the department of our concerns. I am not aware of where it is at. They may very well be waiting for a report from this Committee.

**Ms LEE RHIANNON:** Referring to disclosure, as raised by Ms Jenny Gardiner, considering everything indicates we will have the same disclosure system coming into the next local government election, can you comment on this continuing pattern where we are seeing local candidates, local councillors, stating in their disclosure "Nil disclosure", while at the same time a number of donors state in their disclosure that they did give money to certain candidates and will specify those candidates? When you see those contradictory disclosures, how do you respond? How do you follow through with the two parties?

**Mr DeCELIS:** We reconcile both ways, Lee. First, we examine the disclosures from candidates, groups or parties as to whom they have disclosed as being donors to them. We check that we have a disclosure from each of those donors. Conversely, we examine all the disclosures we receive from donors to make sure that all the items that they have declared that they have donated to any candidate, group or party reconciles with the disclosure from the particular candidate, group or party. When we do not have those disclosures, we pursue to the point that there is reconciliation that the disclosures agree.

**Ms LEE RHIANNON:** Can you expand on that: that you pursue to point that there is reconciliation?

**Mr DeCELIS:** Yes. If we receive a disclosure from a candidate, group or party saying that they received a donation from a particular donor, and we do not have a disclosure form from that donor, we would write to that donor outlining that we have received a disclosure from the candidate, group or party identifying them as a donor and we do not have a disclosure form from them, or if we do have a disclosure form from them they have not itemised that particular donation. Conversely, if we have a disclosure from a donor identifying that they donated money to a candidate, group or party and that is not identified under the candidate, group's or party's disclosure we will write to the candidate, group or party outlining that this donor has identified them as having received a donation, but they have not disclosed it on their form. We will continue with that correspondence until we seek reconciliation.

**Ms LEE RHIANNON:** That statement, as you said you would "pursue to the point of reconciliation", suggests that you do reconcile them. Is that the case? You reconcile all those?

**Mr DeCELIS:** I was being a bit vague because it is not always the case that they will agree that there was a donation, or the amount of the donation. Sometimes it is a case of the candidate, group or party has identified the wrong donor, an incorrect donor, and we need to identify who the correct donor was. Sometimes they can differ in the value of the donation, so it can be a little bit of negotiation. Eventually we will put the two in contact with each other and say that they need to sort it between themselves, to the point where we either receive a disclosure from someone that reconciles the matter, or sometimes it may be that we receive a

disclosure and the other half of the matter is an amendment to a particular disclosure. There is no one particular outcome, it can be any number of different types of outcomes. But we pursue them all to some reconciliation.

**Ms LEE RHIANNON:** So, considering—

**Mr DeCELIS:** Sorry, Lee. At the end of the day that may well lead to a non-disclosure that can ultimately lead to prosecution. That is where, if there is no reconciliation, it can be pursued.

**Ms LEE RHIANNON:** How many prosecutions have been initiated or are in process?

**Mr DeCELIS:** That would have to be clarified to the point for which disclosure period, because there was a transitional one and there was the December one.

**Ms LEE RHIANNON:** Fair enough. It was an open-ended question, I apologise. Just take the last six monthly period, or, if you do not have that information, for the previous six monthly period.

**Mr DeCELIS:** Would you mind if I—

**Ms LEE RHIANNON:** Take it on notice? Yes, I am happy for you to. I was interested in your comment that you put the two parties in touch with each other to reconcile it. I was surprised at that, considering that on the one hand—and we are seeing this trend increasingly—the party, candidate or councillor states that they did not receive any donations and we see a corporation often saying that they have made a donation. Do you put them in touch with each other to work that out?

**Mr DeCELIS:** We have to identify whom the other party to it is, to help them to identify who is indicating that they received a donation from. We have to understand that many donors, being an individual or a company, donate to more than one candidate, group or party. So, yes, we identify who is claiming that they received a donation from or conversely identifying who claims they made a donation to you; or else it is difficult for them to understand which donations have been received. In some instances we need to recognise many of the ones we deal with, people do not even understand that in the money that they paid they were in fact making a donation. You would probably all appreciate that, particularly with fundraising ventures.

**Ms LEE RHIANNON:** Very much so.

**Mr DeCELIS:** They do not appreciate that when they go to fundraising ventures that they are in fact making a donation. Yes, we identify. We do not identify the amount of money.

**Ms LEE RHIANNON:** It is just so they can sort it out?

**Mr DeCELIS:** Yes.

**Ms LEE RHIANNON:** Thank you for explaining that.

**Mr BARRY:** Mr Chair, I did not want to make an opening statement, but I would like to make a concluding statement if you are at the end of questions.

**CHAIR:** Yes, indeed, by all means.

**Mr BARRY:** I want to reassure this Committee that we are committed to building very good relations with each of these 151 councils. Brian DeCelis has been to Broken Hill, they have an election there in December. I have been to Broken Hill. We like to sit down with each of the general managers and discuss the election arrangements. I want to reassure you that notwithstanding what I said before about the distinction between consultation and negotiation, we do sit down with each of these councils and sensibly have outcome-focused meetings. Where it gets extremely challenging is when the mayors want to interfere in the process. That is what really creates a lot of trouble for me in terms of protecting the integrity.

I know that you have read in submissions to this Committee a lot of criticism. You have heard people who have come along here and complained. It is only the fact that you have my independence that you can have comfort that these elections will continue to run with integrity. I can withstand all of their criticism, some of which is fair, I accept that, but a lot of it is totally unfounded. Any suggestion that councils can run these

elections better, whatever that might mean in your mind, I think you want to weigh up, and I submit to you that you weigh up very carefully, who is best placed to ensure that it is the voting public that is given the opportunity to express their wishes through the ballot box. That is the important question.

The second question is: Has the Commission been transparent in its dealings with the councils in terms of the cost? I submit to you that when you receive your auditor's report you will be comforted by the fact that we have been transparent in terms of our dealings with the councils on cost. Could we do it better? Sure. Can we improve the communication? Absolutely. Have we ripped the councils off and paid for State election infrastructure through councils' funds? Of course not. We do value our integrity. We do not do that sort of stuff.

Are councils getting a fair deal overall? They do not pay for the roll, which costs the Government \$3.8 million a year. They contribute nothing to that. They do not pay for the infrastructure in terms of the computerisation. There are lots of things that the Commission has in terms of its intellectual capital that do not exist out there in 151 councils. The Commission does value its integrity and we have done a workmanlike job on these local government elections. We will do better next time.

**CHAIR:** Thank you very much, Mr Barry. On behalf of the Committee I thank you again for coming here today and giving evidence and also for your cooperation and assistance with the independent audit, which is underway. That has been very useful and we appreciate your support for that process. I would also like to thank the Hansard staff for their hard work throughout the hearings and the Committee staff for their help and support to our Committee.

**(The witnesses withdrew)**

**(The Committee adjourned at 3.22 p.m.)**