
REPORT ON PROCEEDINGS BEFORE

**JOINT STANDING COMMITTEE ON ELECTORAL
MATTERS**

**INQUIRY INTO THE ADEQUACY OF THE FUNDING ALLOCATION
OF THE NSW ELECTORAL COMMISSION FOR THE 2023 STATE
GENERAL ELECTION**

At Jubilee Room, Parliament House, Sydney, on Friday 13 May 2022

The Committee met at 10:30

PRESENT

Mr Lee Evans (Chair)

Legislative Council

The Hon. Robert Borsak (Deputy Chair)
The Hon. Courtney Houssos
The Hon. Chris Rath

Legislative Assembly

Mr Kevin Conolly
Mr Christopher Gulaptis

PRESENT VIA VIDEOCONFERENCE

The Hon. Scott Barrett
The Hon. Peter Primrose

Mr Nathaniel Smith
Mr Paul Scully

The CHAIR: Welcome to the first hearing of the Joint Standing Committee on Electoral Matters inquiry into the adequacy of the funding allocation of the NSW Electoral Commission for the 2023 State General Election. Before we start, I would like to acknowledge the Gadigal people, who are the traditional custodians of the land. I pay respect to Elders of the Eora nation past, present and emerging, and extend that respect to other Aboriginal or Torres Strait Islander peoples who are present. We have witnesses taking part via video and attending in person in Parliament House. The hearing is being broadcast via the Parliament's website.

Ms CASSANDRA WILKINSON, Executive Director, NSW Treasury, before the Committee via videoconference, sworn and examined

Mr TONY CHAPMAN, NSW Government Chief Cyber Security Officer, NSW Department of Customer Service, affirmed and examined

Mr GREG WELLS, NSW Government Chief Information and Digital Officer, NSW Department of Customer Service, sworn and examined

Mr MARK HOWARD, Executive Director ICT Investment and Assurance, NSW Department of Customer Service, affirmed and examined

The CHAIR: Thank you to everyone for appearing before us today. We appreciate the flexibility of everyone involved, especially those attending via videoconference. Would you like to make a short opening statement before we begin questions?

GREG WELLS: Thank you for the opportunity to appear before you and to make a submission. First of all, with respect to funding for the Electoral Commission, the key role that DCS plays is with respect to building cybersecurity resilience through the Digital Restart Fund, which is the basis of our submission. On that basis, I am joined by Mr Chapman, who leads Cyber Security NSW, which sets the policy for cybersecurity across New South Wales, shares intelligence, manages incidents and runs exercises. I am also joined by Mr Howard, who runs the digital ICT assurance process, and then Vanessa does the Digital Restart Fund.

Specifically for cyber resilience, when the Digital Restart Fund was established, \$240 million was allocated for cyber resilience of clusters. Recently this year, when the DRF was further invested in, an additional \$75 million was allocated for small and independent agencies, of which the Electoral Commission is one. Through that process, \$22 million from a business case that the Electoral Commission had constructed was reserved against the Digital Restart Fund. We assured that process, and this year we funded the first \$4.9 million of that business case.

Finally, as we have discussed at estimates previously, the Department of Customer Service really does stand ready to assist the Electoral Commission in any way we can. Particularly from a cybersecurity perspective, we have worked very closely with the Commission over the past years to get ready for elections, and to be ready on the day of elections with threat monitoring and incident response and those sorts of things. Thank you again for the opportunity to appear, and we are happy to take your questions.

The CHAIR: My first question concerns the system that the Electoral Commission is working with. Is that able to be updated for cybersecurity?

GREG WELLS: Cybersecurity relates to all the systems and processes that operate within an organisation. I think that is the first thing to say. Specifically with respect to iVote, if that is what you are referring to, there are always cyber resilience measures that can be put in place for all systems. As you would be aware, the Commission has decided to not use that system now for electronic voting for March 2023. We have withdrawn that system for that process, and we have other mechanisms. In general, I would say that resilience for cybersecurity does not just cover the systems. It covers a range of—everything across the policy, pretty much, that we cover.

It might be worth passing to Mr Chapman to explain some of the detail, but there are technical controls within that policy, as well as a lot of business controls. Things like preparing, making sure that the roll is in place, staff are trained to be aware of risks, as well as being ready to respond in the instance of a cyber incident happening. But that policy covers not just systems, but the whole organisation, which is really important to recognise. We have been really conscious of making sure that we set up clusters and independent agencies to build maturity against that policy. I do not know if there was anything that you wanted to add, Mr Chapman?

TONY CHAPMAN: I would just like to add that a key part of my role is to ensure that cybersecurity is understood outside of just a technical issue. That is very much a business risk that the New South Wales

Government—all governments and industry face. I would also note the Commissioner's determination, which is available on the NSW Electoral Commission website, that the decision not to use iVote was not driven by any concerns about cybersecurity matters in previous elections. I have a key role, then, in ensuring that, looking beyond technology, we focus on people and processes. Cyber Security NSW has been working very closely with the Electoral Commission on a range of initiatives which are outlined in our submission. They focus on training, awareness and other initiatives to do with policy uplift, in addition to what Mr Wells has outlined.

The Hon. PETER PRIMROSE: Can I ask all witnesses, but particularly Ms Wilkinson, on page 23 of its submission, the NSW Electoral Commission states that they are "not currently funded to deliver the State General Election in 2023—the funding shortfall is \$51.7 million." They argue that the lack of funding has created high-level risk in resourcing issues, aging electoral systems and cybersecurity. They are right, aren't they?

CASSANDRA WILKINSON: Mr Primrose, I do not think I can comment on that. But I can draw your attention to a statement that the Government has made and tabled with the Clerk of the House, indicating that new funding arrangements will be put in place for the integrity agencies. There will be different arrangements going forward, with greater independence.

The Hon. PETER PRIMROSE: Just to clarify, is the NSW Electoral Commission included as one of the integrity agencies?

CASSANDRA WILKINSON: Yes, that is correct.

The Hon. PETER PRIMROSE: So they will no longer have imposed on them any requirement for efficiency dividends?

CASSANDRA WILKINSON: Efficiency dividends are expressly ruled out under this new approach.

The Hon. PETER PRIMROSE: Is the code or the charter of independence issued under the Treasurer's Direction publicly available?

CASSANDRA WILKINSON: That has not been drafted yet. The negotiations between DPC and agencies have got us to a point where we can put interim arrangements in place for the budget we are about to do, but we have not had sufficient time to draft a Direction yet. That will be done as soon as we can, after we get through this budget period.

The Hon. PETER PRIMROSE: I am just quoting from the Premier's statement to the House on 10 May. He stated, "... which is codified in a charter of independence issued under a Treasurer's Direction". That actually has not been issued yet. That is correct, isn't it?

CASSANDRA WILKINSON: In order to make sure that you have got exactly the correct answer, I will take that on notice. I am not aware that it has been completed yet, but I will take it on notice and get you a proper response.

The Hon. PETER PRIMROSE: Thank you. Do you expect that it would be made public once it is available?

CASSANDRA WILKINSON: I would expect so. The Treasurer's Directions are generally available.

The Hon. PETER PRIMROSE: And you believe that the NSW Electoral Commission will be covered? The Electoral Commission is included in that?

CASSANDRA WILKINSON: Yes.

The Hon. PETER PRIMROSE: I note that other members from the Department of Customer Service wish to comment on my initial question as well. Could they be given that opportunity?

GREG WELLS: Thanks, Mr Primrose. In terms of the cybersecurity resilience piece that we talked about, we can confirm that in February this year funding was approved for the Electoral Commission cybersecurity resilience program. They will be working on that over the course of this calendar year.

The Hon. PETER PRIMROSE: How much was approved?

GREG WELLS: It was \$4.9 million.

The Hon. PETER PRIMROSE: They say that the funding shortfall overall is \$51.7 million, so that takes it down to about a \$47 million shortfall. That is correct, isn't it?

GREG WELLS: I can only really comment on the cybersecurity uplift and resilience piece, but maybe Ms Wilkinson can cover some of the remainder. In terms of that cyber uplift, that is a process that we assisted the Electoral Commission with. We worked with them closely on it and had that funded this year.

The Hon. PETER PRIMROSE: Will that amount of funding be adequate to meet the request of the Electoral Commission for cybersecurity?

GREG WELLS: What the funding allows is for the Electoral Commission to build maturity against our policy. That is what they have targeted in the business case they have submitted to us, and that funding will build their resilience across those dimensions.

The Hon. PETER PRIMROSE: Was that part of their request, their ask? How much was the shortfall?

GREG WELLS: Their original business case was for \$22 million. We have talked about that in previous estimates. But we have broken that down in order for them to get access to that money faster and, as I said, that has now been approved.

The Hon. PETER PRIMROSE: So they asked for \$22 million and they got \$4 million?

GREG WELLS: As I said, they started with a business case of \$22 million. They went through an assurance process that we run in the Department of Customer Service, which is a policy that is run for all investments over \$5 million. That was a pretty rapid process when we received that business case. There were some critical recommendations that needed to be addressed, and one of our recommendations was that if you tranche it down into smaller amounts it will allow you to get going faster, which is a real benefit of the Digital Restart Fund. So, the Electoral Commission, with our assistance, was able to do that and, as I said, is now working on that program of work.

The Hon. PETER PRIMROSE: Do any high-level risks remain?

GREG WELLS: I think, in terms of cybersecurity, risks will always remain. Our job is to make sure that we do everything that we can to prepare for and respond to incidents when they do and will happen.

The Hon. PETER PRIMROSE: Yes, I imagine that would be the case when you ask for \$22 million and only get \$4 million. Ms Wilkinson, do you have any comments on that?

CASSANDRA WILKINSON: I can only comment that, as you would be aware, the advice we prepared in last year's budget was to assist the deliberations of Cabinet. I cannot discuss specifics of those decisions. But I would note that the Commission has a budget bid in currently, which will be assessed in the spirit of the new approach undertaken by the Premier.

The Hon. CHRIS RATH: I want to ask about the malicious threat actors that we have been seeing. What sort of increase in cyber attacks have we seen over the last few years, and where would they be coming from?

TONY CHAPMAN: Thank you very much for the question. For various reasons, we do not go down the path of attribution. But, as I stated earlier, the New South Wales Government, like other governments and industry, are not immune from the threats we face—whether that be from nation-state actors or cyber criminals looking to monetise their activities. I do think it is accurate to say that there has been an increase, and Cyber Security NSW continues to work very closely with our Commonwealth counterparts, namely the Australian Cyber Security Centre, which is part of the Australian Signals Directorate, to ensure timely sharing of threat intelligence. Part of our role within Cyber Security NSW is to ensure that those alerts and advisories are disseminated across the sector in a timely manner, because we know that early notification and early warning will reduce harm.

The Hon. CHRIS RATH: Have you looked at other jurisdictions around the world—or other states as well, but I assume more around the world—in terms of what best practice is and what we might be able to learn from other jurisdictions?

GREG WELLS: Yes, absolutely. It is worth pointing out that the cybersecurity policy that we have had in place for three years now, as we talked about before, from our judgement, is the best and most rigorous policy in Australia—and if not in the region. Because that policy covers 25 mandatory requirements that, as I said, are not just technical in nature. There are technical controls that form part of that policy, referred to as the Essential Eight, which is a set of technical controls that are consistent across the country. But it also includes a broad range of requirements for clusters and independent agencies to comply with. That has been in place for three years, and our role is to not only set that policy, but to mandate reporting against that policy. Each year clusters report their maturity against each of the 25 components, and each secretary from each cluster basically attests that that is their process.

That has enabled us also to make sure that we have got a really rigorous process for investment. When I talked about the \$240 million that has been reserved for cybersecurity uplift, the business cases that come from clusters have really great data - in terms of where they sit at the moment, where they want to get to, and their plans to build that resilience. In terms of best practice, we have been working on this really seriously for three years

now and I think that, while it is never perfect and never done—I think that is the other thing that is important to point out with cybersecurity, you are never done; you are constantly needing to improve—that policy does give us a great baseline and a great way to bring some data to where we need to focus.

TONY CHAPMAN: I currently also co-chair the National Cyber Security Committee meeting, with the head of the Australian Cyber Security Centre, Abigail Bradshaw. We currently have a weekly meeting cadence, and that committee considers threat intelligence, best practice, lessons learned, et cetera. We are very much sharing information intelligence across the nation.

Mr KEVIN CONOLLY: I am trying to get my head around some of the numbers I have heard quoted. I was looking at page 30 of the submission from the Electoral Commission, and they advise that in January 2021 they put in a submission seeking \$5.7 million in 2021-22, and another \$41.7 million over 10 years was their ask for cybersecurity. We have heard that \$22 million has been reserved within the fund and \$4.9 million forwarded so far. Am I to understand that the difference in practical terms in the lead-up to the election is the difference between \$5.7 million sought in that financial year and \$4.9 million granted so far, and that the real argument is about the out years?

GREG WELLS: Yes, there are a lot of numbers there. If I could again say, \$22 million was the business case we received in July of last year. That business case included a lot of components: some cybersecurity, some other components as well. Our recommendation, again, was to break that down, to address the critical recommendations, and to get started. And that is what the Digital Restart Fund enables you to do; it lets you get started a lot faster, which is what the Electoral Commission is now doing, and make progress. The thresholds and the way that the Digital Restart Fund works allows up to \$5 million to start that process, and that is what is happening now with the Electoral Commission. It is worth also adding, though, that that \$22 million reservation remains. So that reservation remains for the Electoral Commission to come back to once that business case has been updated.

Mr KEVIN CONOLLY: And the expectation is—what period of time does that \$22 million reservation apply to?

GREG WELLS: We have not end-dated that, other than that the Digital Restart Fund has three more years to run, essentially, at this point. So, other than that end of the envelope for the fund itself, there is no restriction, at this point, set on when that reservation expires.

The Hon. ROBERT BORSAK: The Commissioner, in his submission—starting on page 30—talks about the impact of the delay of cybersecurity funding. He lists a huge number of items there that are not going to be adequately covered. Can you comment on those areas that are not being covered? There is quite a lot. An enhanced internal cybersecurity team with long-term tenure—that has not been funded, according to him. It just goes on and on. How can we have any confidence at all that the election is going to be conducted in a safe and secure place?

GREG WELLS: Again, the business case that we received, assured and assisted to fund was about a once-off uplift. Some of those things that the Commissioner mentions are about ongoing funding, ongoing staff, and other things. But, as I said, the process for them has been funded and they have started. So they will build that resilience this year.

The Hon. ROBERT BORSAK: I do not understand that answer, but anyway—I do not think that is an answer, is it?

GREG WELLS: Can you say how you would like me to clarify, please?

The Hon. ROBERT BORSAK: I would like you to clarify what they are actually getting for their money, as opposed to what they thought they needed for their money.

GREG WELLS: Okay, so what they are getting for their money—

The Hon. ROBERT BORSAK: Can you tell us what they got for their money?

GREG WELLS: Yes, what they get for their money, as I talked about before, is the Electoral Commission has looked at the policy—they have looked at each dimension of the cybersecurity policy—and determined what they would like to build. So, "I am at this level of maturity and I want to build to that level of maturity; I have this current issue and I want to build resilience around that." The business case that we have and have funded against all of those dimensions—the technical controls that I have talked about, the other elements of the policy—calls out what funding they need to build that resilience. So that is what they have received money for and that is what they have commenced.

The Hon. ROBERT BORSAK: Can you identify any areas of inadequacy that you would like to have been able to provide if the funding had been greater? Is it a "belt and braces" or just a "fly by the seat of your pants" sort of exercise?

GREG WELLS: What the policy does and what the Australian Cyber Security Centre recommends—and maybe Mr Chapman can provide some more detail—is that across those dimensions you try to uplift maturity across them all. You do not pick one and get really strong at, say, multi-factor authentication, where you need two factors to log on, but do not create backups for your systems.

The Hon. ROBERT BORSAK: Are you getting involved in the area of applications security? For example, iVote has been dumped now. It is not going to be there anymore. So any work that you were doing in that area is gone now; it is not necessary.

GREG WELLS: The business case specifically calls out that it is not about iVote itself; it is about the Electoral Commission as an organisation. So it covers a number of systems that the Electoral Commission runs.

The Hon. COURTNEY HOUSSOS: So your advice that you are providing under the Digital Restart Fund for resilience—in this Committee, we have talked a lot about iVote, and an expert is coming later today who has raised significant concerns about the security of iVote with us. You are saying that it is across the board. So it is for their day-to-day operations and iVote is just one component of that? Is that correct?

GREG WELLS: That is correct. Now that iVote has been removed from that—at least for the elections for next year—the funding does cover all dimensions of what the Electoral Commission would deal with in terms of systems and security and business risk. That is correct.

The Hon. COURTNEY HOUSSOS: Does that include the electronic mark-off system for voters?

GREG WELLS: Again, that would be one of the things that the funding would be seeking to protect. That is correct, yes.

The Hon. COURTNEY HOUSSOS: One of the ways that it has been suggested to us that we could actually make the iVote system more secure is by making public the source code for the program. Has the NSW Electoral Commission ever sought your advice or the advice of Cyber Security NSW around that?

GREG WELLS: Not that I am aware of. I could take that on notice and just confirm, but not that I am aware of.

The Hon. COURTNEY HOUSSOS: Mr Chapman?

TONY CHAPMAN: We will have to take that on notice.

The Hon. COURTNEY HOUSSOS: Okay. Does your advice to them extend to overall how they can protect their systems, rather than advice on specific programs within that?

TONY CHAPMAN: Yes.

GREG WELLS: That is correct. I think in terms of operating Electoral Commission systems, the Electoral Commission is expert in those systems and accountable for those systems. The advice we provide is cybersecurity generally, and how you would protect your organisation generally across all that, not specifically on those systems. Correct.

The Hon. COURTNEY HOUSSOS: But they have a number of separate and discrete systems. Obviously they have their day-to-day operations, in the same way that any organisation does. But apart from that, they have very specialised systems. Over a long period of time, this Committee has received evidence that there are serious security concerns around those. Have they ever sought advice from you about any of those systems or sought advice about how they can make them more secure?

GREG WELLS: I might take that on notice to confirm, but I do not think so. I think our advice has been specifically on programs that they are looking to uplift specific systems on. Definitely, we have been involved in the iVote system before, in terms of assuring programs that uplift that system itself. But I might have to take on notice any of the other systems that you have mentioned.

The Hon. COURTNEY HOUSSOS: We are particularly interested in the iVote system. I accept that that will not be in operation for 2023. We will have more questions about that. But there have been significant concerns raised before this Committee, and I am interested to know if the Electoral Commission has sought advice from a specialised agency within the New South Wales Government about how it can improve that or whether it has just been left to one side to find its own advice externally, or whatever it might be. The second major one seems to be the electronic mark-off system. It has all of the details of everyone in New South Wales: where they

live, their date of birth and all kinds of highly important information that should have the highest level of security around it. So I am interested if you have provided advice, and whether there is a differentiation in the way that that data is treated—everyday emails that people within the Electoral Commission send to one another versus the protections that are provided for these kinds of operations that require a much higher level of security.

GREG WELLS: I will take that on notice. To the best of my knowledge, we have not. I think the Electoral Commission has, though, sought independent advice on a number of those systems itself. But not to my knowledge, but I will check and come back to you.

The Hon. COURTNEY HOUSSOS: Do you provide this kind of advice to anyone else within the New South Wales Government? Are you the one-stop shop that people and departments are supposed to go to when they think, "We are doing this particular project," or, "We're going to be handling information. We're going to come to you and see if you've got some advice"? Or is it normal for organisations to seek their own external advice?

GREG WELLS: There are probably two roles, and maybe we can get into each component. Cybersecurity generally we will take care of through the policy and everything that Mr Chapman has talked about. Sometimes, if it is a very high-risk, high-profile system, we may also get more closely involved with some of those things as well. The other role we play through the assurance process is, for anything that is being invested in over \$5 million, the policy is to have an assurance process over that program of work. Sometimes that will involve looking at the architecture of the system and how source code or data or anything is treated. We may have a role there. But it is more of an assurance process over the program of work not so much the detail of the system, the technicalities of the system. Clusters are the experts in those systems themselves, and may seek their own advice and assurance themselves. We are more assuring the programs of work that go in to make sure it is successful—that it is set up for success. But occasionally we do get involved as well.

The Hon. COURTNEY HOUSSOS: This might be a simple question. When was your team established? Cyber Security NSW was established three years ago.

TONY CHAPMAN: In 2019, yes.

The Hon. COURTNEY HOUSSOS: Did you do any kind of backward-looking, retrospective analysis of the programs that the Government was running, or is it purely forward facing, so if there is a new program that is being invested in?

GREG WELLS: Generally that is a point in time looking forward.

The Hon. COURTNEY HOUSSOS: I understand.

GREG WELLS: I know that, from an assurance perspective, we have assisted the Electoral Commission over a number of years. Mr Howard might like to add something to this. But we have been involved with the Electoral Commission over a number of years, for any programs that they are running, to improve systems et cetera.

TONY CHAPMAN: If I may, I might just clarify the close working relationship we have with the head of security from the Electoral Commission and, more explicitly, some of the information that they have sought our assistance on: guidance in relation to data sovereignty; assessments of external-facing vulnerabilities; password hygiene checks; identifying compromised networks and security concerns; targeted intelligence that could impact the perceived or actual integrity of elections; as well as on-day election monitoring and detection, which Mr Wells mentioned. On the earlier point in relation to the \$4.88 million business case—just to further clarify—it includes three objectives: an increase in cyber maturity against the Australian Cyber Security Centre Essential Eight—so that is eight of 37 technical controls, and that is more broad than just the systems that you have mentioned; a high level of cyber maturity against the policy; and improvements to identity and access management.

The Hon. COURTNEY HOUSSOS: I come back to the question of the source code being made public. That is something that has been consistently said to us by a number of independent experts—that that is a way that we can make the iVote system more rigorous. Is this something that you see across the rest of—you said that it is your role to provide advice to government as it is undertaking these new programs. Is there anywhere else where the source code is made public in any other government program?

GREG WELLS: I will take that on notice, but not to my knowledge. You could argue either side of that, from my perspective. I think you could argue that would build a community that could find vulnerabilities and help us protect vulnerabilities. You could also argue, on the flip side of that, that you could be exposing vulnerabilities. I think there are pros and cons to weigh up in that decision.

The Hon. COURTNEY HOUSSOS: I would be interested in your view on it, Mr Wells. Do you have a strong view? Do you think that we should or should not be doing that? The ACT does it, and the argument is that they have used this method to find vulnerabilities within their system and then correct them. Would your advice to the Electoral Commission be that this is a good idea or a bad idea?

GREG WELLS: There are a lot of other considerations in that decision too. Again, I am not an expert in the Electoral Commission's systems or what it is, but I think it is a vendor-based system. Again, you are going to have commercial considerations in how that operates as well. There are a lot of considerations that I would have to think about before giving you a simple answer, I am afraid.

The Hon. ROBERT BORSAK: You talk about vendor-based systems for the Electoral Commission, and I think that is largely true. I believe most of these systems predate the 2011 election, the real useful, chunky applications that they use on a day-to-day basis. How do they conform with the cybersecurity technical ability that you currently can offer as opposed to what was available then? In your view, are those systems secure, based on the fact that they are so old?

GREG WELLS: I might start, and then I will get your assistance, Mr Chapman. Any legacy system that is old has potentially more vulnerabilities. That is what this policy seeks to uplift. We have looked and sought, across all of the systems that the Commission has, to uplift maturity against all of those dimensions.

The Hon. ROBERT BORSAK: Following on from that, is it your view that the commission is currently compliant with the New South Wales Government's policy on cybersecurity?

GREG WELLS: I would clarify, if that is okay, that it is not so much compliance, where you get to a score and you are done. It is really important to recognise that cybersecurity threats are, as we talked about before, increasing and emerging all the time. Threats come up with new systems every day and with old systems every day. It is not a new system or old system thing. We constantly need to be vigilant against those threats and build that up.

The Hon. ROBERT BORSAK: So the answers is no, they are not compliant?

GREG WELLS: It is not so much compliance; it is build maturity and constantly trying to prevent vulnerabilities that emerge. Each of those 25 mandatory requirements that we talked about have a maturity score and, as I said, clusters in the Electoral Commission would be assessing their score against each of those 25 requirements, and trying to build resilience. As I said, the goal is to build resilience across all of those dimensions. There are a number of technical controls that we try to put in place across all of them, and they are doing that at the moment.

The Hon. ROBERT BORSAK: So you are not offering an opinion as to whether you think they are compliant or not?

GREG WELLS: Again, I do not think it is a compliance question; I think it is a build maturity question. That is what they are doing.

The Hon. COURTNEY HOUSSOS: Can you put it on a scale? I understand there is not a yes or a no—

GREG WELLS: Correct.

The Hon. COURTNEY HOUSSOS: —but are we looking at low, medium, high, very high or extremely concerning? Can you put it on a scale that we might understand?

GREG WELLS: I think, in the Commission's own submission, it has said its maturity is low and it is seeking to build maturity.

The Hon. ROBERT BORSAK: Low, you said?

GREG WELLS: That is the Commission's—

The Hon. COURTNEY HOUSSOS: But what is your opinion?

GREG WELLS: That is what they have reported against and attested to.

The Hon. COURTNEY HOUSSOS: So you would agree with that assessment from the Electoral Commissioner?

GREG WELLS: Everyone is building maturity.

The Hon. ROBERT BORSAK: Even the commissioner's own submission says that the NSW Electoral Commission is not compliant with the New South Wales Government's cybersecurity policy.

GREG WELLS: Correct. Compliance means you are using the policy, you are reporting against the policy, and you are building maturity against those dimensions that I have talked about. It is not a yes or no.

The Hon. ROBERT BORSAK: Surely, having a policy like that means more than just ticking the boxes. It means that we keep all of our electoral data safe from interference and guarantee our electoral integrity.

GREG WELLS: They are probably questions for the Electoral Commission. What I am talking about is maturity against the policy, which they are building.

The Hon. COURTNEY HOUSSOS: No. You are the government agency that is charged with cybersecurity. Surely, you have an overarching role in providing analysis on this crucial part of the New South Wales Government's information systems and whether it is meeting it or not.

GREG WELLS: They have the policy, and every agency reports against the policy. They are doing that. They have built a business case to build their maturity against those dimensions, and they are doing that at the moment.

Mr KEVIN CONOLLY: I am still interested in how this \$22 million that has been reserved is going to be accessed. What is it that the Electoral Commission has to do to be able to access that money and do the other steps that it believes it needs to do?

GREG WELLS: I might get Mr Howard to talk about the ICT investor assurance process, which is something that happens for every investment in ICT over \$5 million. At a high level, that \$22 million was reserved in the Digital Restart Fund against the original business case. The process, pretty much, is, we work through an assurance process, that Mr Howard's team runs, that assesses all the critical dimensions of what you need to do to be successful. That assessment occurred on the business case. One of the key recommendations—because there were some critical recommendations out of that process for the Electoral Commission to address—was that they break it down to be able to get started, as I have talked about. In order to come back to that reservation, what they will be doing is addressing the critical recommendations that came from the assurance process, and resubmitting a business case back to the Digital Restart Fund, essentially.

Mr KEVIN CONOLLY: Can I infer from that that there were some shortcomings in what they were asking for, you have steered them to address those shortcomings and they need to come back and respond to that?

GREG WELLS: That is correct, yes. We stand ready to assist, and are assisting, the Electoral Commission with those findings from the assurance perspective, as well as everything from a cyber perspective. We will assist them to do that.

Mr KEVIN CONOLLY: Is there some more detail on what it is that needs to be addressed?

MARK HOWARD: Mr Conolly, we convene a panel of independent expert reviewers, who are contracted through to ourselves, as the Department of Customer Service. We seek a set of documents going into a review, from the cluster or the organisation that is coming forward for a business case. We do a desktop review, and then we do a set of interviews. Off the back of those interviews, we come out with a set of recommendations, which we rate. As Mr Wells says, there were shortcomings in the \$22 million business case. Our concern was how we could help the Electoral Commission get into the next round of funding under the DRF. The best way to do that was to break it down, so we recommended that they break down their business case into tranches for the most immediate requirements. Then that business case went forward into the next intake in February and was approved. We are talking to the Electoral Commission, so the reservation, as Mr Wells says, is still there, and the Electoral Commission, as we understand, is considering coming back towards the end of this year.

Mr KEVIN CONOLLY: I was going to ask about timing. When can they access more of the \$22 million? When are they able to?

MARK HOWARD: They can bring forward a business case at any point in time, and then we will work through the process that I mentioned. We will assess the business case on its merit.

The Hon. PETER PRIMROSE: I think these questions are probably best addressed to Ms Wilkinson, and please feel free to take them on notice. I am going to ask the same questions of the Electoral Commission this afternoon. If I go to the Electoral Commission's submission at page 27 on box 7, they go through their budget submissions. There are five categories listed, specifically for financial year 2023 as well as the cost over 10 years. I was wondering if you could take it on notice and go through each of those five, which total, in terms of financial year 2023, up to \$80.5 million, and list beside those what changes have occurred, particularly in relation to the Premier's recent announcement that will affect those particular bids. These bids were formally lodged with Treasury by the Electoral Commission on 25 February, and there have been a number of changes announced subsequently. I am interested in finding out, in relation to each of those categories, which are affected by the most

recent announcements, which are affected by any other public announcements by Treasury or any other agency, and how that will affect the bid that is being put in as Treasury and other agencies assess them. Is that possible to do?

CASSANDRA WILKINSON: Broadly, of course, yes. I would just like to understand the question properly. I think what I am hearing is that you are asking, did we have a position, and did Treasury's position change after the Premier's negotiated change in arrangements with the agencies. Is that correct?

The Hon. PETER PRIMROSE: The aspects of the Electoral Commission's budget submission, totalling up to \$80.5 million for the next financial year, are detailed and listed for us on page 27 of its submission.

CASSANDRA WILKINSON: Yes.

The Hon. PETER PRIMROSE: We have been hearing that there are a number of changes, including the Premier's recent announcements, which will presumably affect those bids in the deliberations of Treasury and, ultimately, the Treasurer and Cabinet. I am interested in how those public announcements will impact on the costs that were assessed by the Electoral Commission in its bid—each of those five items that make up its bid.

CASSANDRA WILKINSON: I would not say that the new arrangements affect any particular bids. I would say that each of the bids you have seen detailed has been assessed by us, with regard to the Premier's commitments. It would not be correct to suggest that we had a view; we became aware of the Premier's position, and changed it. It is the case that we have been working collaboratively with them throughout the budget process, understanding that they were also in a process of negotiating new arrangements. We have done our best effort to make sure that this year's process aligns as closely as possible to where the intended future process will place us. I am very happy to see what additional detail I can give you in writing as an on notice, but I do not think that you will find that our advice that has been changed necessarily by the new approach.

The Hon. PETER PRIMROSE: For instance, when you are assessing any of those bids and you now find that iVoting will not apply for the next election, do you believe that that will not affect the quantum of any particular bid?

CASSANDRA WILKINSON: I do not think the new arrangements change the way the business cases are assessed. I think that is quite a different proposition than the way adequacy of funding is assessed. The question of adequacy is covered by the new arrangements. The question of appropriate technology and value for money item by item will still come under the business case policies of the Government. The ICT Assurance process will not change under these arrangements.

The Hon. PETER PRIMROSE: Just to clarify, then, when they ask for \$50.4 million in additional funding to conduct the New South Wales State election and subsequently iVoting is now not going to be included as part of that, that will not affect the bid?

CASSANDRA WILKINSON: I think you know I cannot discuss advice that is going to Cabinet to inform budget decisions, but I can certainly take it on notice and discuss with my general counsel what I can share of how this process will be run.

The Hon. PETER PRIMROSE: I understand. If I can stress, Chair, it is very difficult for us to consider the adequacy of the funding allocation of the New South Wales Electoral Commission for the 2023 State general election when we have from the Electoral Commission the bids that they formally lodged with Treasury on 25 February. Now there have been a number of changes subsequent to that, but we do not know how that affects the actual quantum that the Electoral Commission now requires. Without continuing this, I would simply ask that Treasury give us some idea of how these various changes have affected the quantum that the Electoral Commission will require. For example, if they are no longer required to fund efficiency dividends, that will clearly affect the quantum of funding that they receive. I just want to know how much they are now asking for so we can assess the adequacy of what eventually comes out in the budget process.

CASSANDRA WILKINSON: Thank you. I will take that on notice. I think you are aware, though, that Treasury's advice to the Expenditure Review Committee is Cabinet in confidence, so I will need to consult our general counsel before getting the detail for the question on notice.

The Hon. PETER PRIMROSE: Okay. As I said, it is hard for us to evaluate the funding allocation if we do not know the funding effects of decisions.

CASSANDRA WILKINSON: I appreciate it makes it difficult. I also appreciate that only DPC can make those decisions so I am somewhat constrained in what I can say today. I will do my best.

The Hon. PETER PRIMROSE: Thank you. Chair, that is why I have asked for this question to go on notice. Otherwise, I will see you in budget estimates.

The Hon. CHRIS RATH: Mr Chapman or Mr Wells, what is your policy or the Government's policy on ransom? Are there any circumstances in which there would be a chance to entertain paying such ransom or is it ruled out entirely in all circumstances?

TONY CHAPMAN: Thank you for the question. The New South Wales Government position is very much informed on advice from the Commonwealth via the Australian Cyber Security Centre. The position is not to pay ransom. However, there is a statement of intent and a decision-making process that government would take in the event of a potential ransom demand, but most certainly our position is never to pay.

The Hon. CHRIS RATH: I remember reading about 12 months ago that NSW Labor's head office was hacked—you probably read that—and their data was compromised and potentially going to go on the dark web unless they paid a ransom. I was trying to understand what circumstances would exist or what threshold would need to be reached before it would be appropriate to entertain paying that. We do not want data to go on the dark web, if possible.

GREG WELLS: As Mr Chapman said, there is a process in place, I suppose, to consider each on a case-by-case basis. But certainly if there was, for example, life being threatened, that might be a consideration that we might take into account through that process. But as Mr Chapman said, the position is not to pay ransoms.

The Hon. CHRIS RATH: Do you think that there are circumstances in which even if the payment was made that it would not be honoured, as in that you would pay the funds to protect the data, but then they would not even honour their end of the bargain anyway?

GREG WELLS: Very much. Mr Chapman might drill into this, but there is no guarantee that paying a ransom will do anything to get your data back, to release your systems. In fact, maybe it would increase the targeting of your organisation to pay that ransom. There is absolutely no guarantee. You are essentially dealing with criminals, so there is no guarantee that paying a ransom would do anything to resolve the situation.

The CHAIR: I will ask those members online if they have any questions. Mr Scully? Mr Barrett? Are there any other questions from Committee members here in the room?

Mr CHRISTOPHER GULAPTIS: Negative.

The CHAIR: In that case, I thank the witnesses for appearing before us today. We may send you further questions in writing. Your replies will form a part of the evidence that is made public. Would you be happy to provide written replies to any further questions?

GREG WELLS: Of course.

TONY CHAPMAN: Yes.

The CHAIR: Thank you so much for joining us.

(The witnesses withdrew.)

(Short adjournment)

Dr VANESSA TEAGUE, Adjunct Professor, Research School of Computer Science, Australian National University, before the Committee via videoconference, affirmed and examined

The CHAIR: Welcome, Dr Teague. You are from the Research School of Computer Science at the Australian National University and you appear, obviously, through Webex, which is cutting-edge technology. Before we start, do you have any questions about the hearing process?

VANESSA TEAGUE: No.

The CHAIR: Would you like to make a short opening statement before we begin?

VANESSA TEAGUE: Yes, thank you. Imagine that I sat here in front of you and I said, "I feel really unsafe and insecure. I need a lot of money to buy really good airbags for my car. I need much better airbags for my car than everybody else on the road because I like to get drunk. When I'm drunk, I forget to plug my seatbelt in and when I'm driving down the freeway at twice the speed limit, I'm really concerned that I'm going to have a bad crash, unless you give me lots of extra money for much better airbags than everybody else." What would you say to me in that circumstance?

The CHAIR: Hand over your car keys.

VANESSA TEAGUE: Correct. You would concentrate on constraining the irresponsible behaviour, rather than throwing money at cushioning the consequences. You have all heard from me before. I have sat here every couple of years and said the same thing—that iVote is irresponsible, that sooner or later it is going to lead to a catastrophic electoral failure, and that no amount of money poured onto the top of it for yet another makeover is going to make it safe. Last year you had a catastrophic, irrecoverable electoral failure which, through sheer good luck, occurred in the local council elections rather than in the State election. I mean, good luck for parliamentarians, not such good luck for people who were standing for local council. It is incredibly lucky that it did not happen to the State election of 2023, because that is the way you were headed, based on your continuing decision to enable the irresponsible behaviour, and it could well have ended up in the situation that nearly 40 New South Wales councils are now in, which is that we know that a number of voters were disenfranchised by iVote problems to have altered the outcome of the election, but only three of them were re-run by the Electoral Commission. Right?

That could have affected the whole Parliament, and you could have wound up in a situation in which you actually did not even really know who deserved to form government because, if 36 seats were left in doubt, that in most circumstances would be more than enough to throw doubt on the overall election result. It was mentioned this morning—and I just double-checked it just then—that the Electoral Commissioner, even in his declaration that he would not be using iVote for the 2023 State election, reiterated that it was not because he had any security concerns about anything that had happened in the past, which just goes to show a level of disregard and ignorance of the consistent, repeated evidence from myself and numerous other technical experts that this system is not adequately secured. It never was adequately secure. It never was really an independent way of voting. It never did keep the votes properly private and, most importantly, it never did allow the opportunity to verify that the numerous—the hundreds of thousands of votes that come into the count are the accurate representations of the wishes of the voters of New South Wales. iVote is one of the largest internet voting projects in the world. I think it is the second largest and I have asked around in Western Europe and North America. The Estonians run a larger fraction of votes over the internet and the Moscow internet voting system takes a larger absolute number of votes.

Mr Nathaniel Smith: That would be dodgy.

VANESSA TEAGUE: But apart from those two, I think New South Wales is the second. I beg your pardon? It is dodgy, yes, thank you. So I do not think you can have an appropriate discussion about continued funding for the NSW Electoral Commission, or increasing funding to the NSW Electoral Commission to improve their situation, unless you also have a serious discussion about curtailing their irresponsible behaviour and specifically repealing the iVote enabling legislation. It is your responsibility. You have had this warning numerous other times before. This behaviour is enabled by legislation that the Parliament has the capacity to repeal. It is not unacceptable interference with elections to repeal legislation that enables behaviour that puts the security of elections at risk.

I think if you did that, you could then seriously consider spending more money, knowing that it would be well spent on the necessary reorientation of New South Wales electoral processes around security and integrity, rather than speed and convenience. I did just want to show you—I believe it has been reproduced for you—one graph from the recent New South Wales Supreme Court judgement about iVote [paragraph 30]. I hope you have it sitting in front of you.

The CHAIR: We do.

VANESSA TEAGUE: Really, I just wanted you to look at it as an illustration of the kind of spin that you have been treated to over the years, as have all the rest of us.

The CHAIR: Indeed.

VANESSA TEAGUE: This is reproduced in the judgement from analysis by the NSW Electoral Commission and their contractors that formed the basis for their decision to re-run only three of the 39 councils for which the number of disenfranchised voters was enough to change the outcome. So if you look at the graph—I know the quality is a little bit bad and it is not immediately obvious what it is about—but along the horizontal axis you have a data type that I think is labelled something optimistic like "Additional iVotes" or "Potential additional iVotes", which sounds great until you realise that that is the terminology the Electoral Commission uses to refer to disenfranchised voters. Right? You were a "potential" voter if you did not actually get to vote.

From zero is good. That is what we normally expect in an Australian election—zero arbitrarily disenfranchised voters—and as you move across towards the right of the axis you will see larger numbers, and that is bad. Right? Larger numbers of disenfranchised voters is bad. On the vertical axis we have the probability as assessed by the NSW Electoral Commission simulations, which they have used to decide which local councils to apply to the Supreme Court to re-run. We see the probability of getting a different answer as a function of the number of disenfranchised voters. You will see when you disenfranchise zero voters, then the likelihood that that changed the outcome is obviously very low. As we gradually increase the number of disenfranchised voters, you will see it gradually rises, and that makes sense. The more people who are disenfranchised, the higher is the likelihood that that disenfranchisement caused a different outcome.

But then something rather strange happens. After we pass a certain peak, we start to see the likelihood of getting a different outcome start to go down again as the number of disenfranchised voters gets very large, and that is ridiculous. Right? Have a look at that graph. Think about what it is telling you. What it is telling you is flagrantly absurd and yet this is the statistical basis for the Electoral Commission's understanding of how many local council elections had to be re-run as a consequence of iVote's downtime. They systematically understated, whether they genuinely misunderstood or whether somebody decided to spin it this way, the magnitude of the problem they had. In fact, they seemed to have disenfranchised about 10,000 voters, even by their own count, which, to the best of my knowledge is the worst electoral failure in Australian history.

It dwarfs the 2013 Western Australian Senate ballot problem, both in terms of the number of people disenfranchised and the number of elected positions left in doubt as a result. This is a serious failure. It is not a little trip in the road. It is the serious irrecoverable electoral disaster you were warned about and you have to get out of the mindset that all you need to do is throw a little bit of money on this, pour a little bit more money on the top of this irresponsible behaviour to cushion the consequences. You have to curtail that behaviour and then start talking about how much money they need to redesign different more secure electoral processes.

The CHAIR: Thank you.

The Hon. ROBERT BORSAK: Dr Teague, I am in fierce agreement with you and have been for years in relation to iVote. It has always been a disaster as far as I am concerned. But just getting back to your graph, do you have any understanding of what assumptions were changed to suddenly go from a peak to suddenly go down?

VANESSA TEAGUE: Yes.

The Hon. ROBERT BORSAK: If the software was consistent, it would just keep on going up at that same rate, do you agree?

VANESSA TEAGUE: Yes, I do. I am so glad you asked. It is because their simulation assumes that the people they excluded were intending to vote according to the same probability distribution as the people who had already voted.

The Hon. ROBERT BORSAK: But that's nonsense.

VANESSA TEAGUE: Yes, it is absolute nonsense. It is self-serving nonsense, too, because if you exclude people who are intending to reflect exactly the same pattern as the voters you included, then it almost never makes any difference to the outcome, does it?

The Hon. ROBERT BORSAK: That is right. We might as well not have an election.

Mr CHRISTOPHER GULAPTIS: Only 10 people need to vote.

VANESSA TEAGUE: Exactly.

Mr CHRISTOPHER GULAPTIS: Everyone else will follow the same pattern.

The Hon. ROBERT BORSAK: We do not need to have an election, then. That is rubbish.

VANESSA TEAGUE: Yes, exactly. We can get one or two well-chosen individuals to represent everybody else.

The Hon. ROBERT BORSAK: Let's get the first 10 people to vote for Shooters, Fishers and Farmers and we will make government. It is simple. Use iVote. On a more serious note, Dr Teague, you say in the conclusion of your submission that we must stop using iVote—and that is taken as read; we have now seen the Commissioner walk away from that process, or that system at least, at last—and spend money on more trustworthy electoral processes instead. You do not talk about what those processes are in your paper. Do you want to elucidate on that?

VANESSA TEAGUE: Yes. I have thought about this a lot over a large number of years and I think it depends what voters you are trying to serve. Remember, a decade ago iVote was ostensibly introduced to serve the needs of voters with disabilities.

The Hon. ROBERT BORSAK: Disability voters, that is right.

VANESSA TEAGUE: Yes, people whose physical abilities did not allow them to fill in a piece of paper with a pencil. I think that group of voters still deserves an electronic-assisted option, but I think it would be a lot better for everyone if it was an electronic-assisted option in a polling place with a paper record. Remember, some of those people are unable to see, but many are able to see and able to check their own paper record. If it was printed out for them and put into an ordinary ballot box along with everybody else's, first of all, there would be much better privacy associated with their voting experience, because they would be in a controlled polling place. Secondly, there would be an opportunity for most of those voters to verify with their own eyes that the piece of paper that was printed out by the computer system accurately reflected their intentions.

The Hon. ROBERT BORSAK: Thank you. In your paper you talk about, and you just mentioned, verifiability; in other words, political parties need to be able to verify their own votes by scrutineering, for example.

VANESSA TEAGUE: Yes.

The Hon. ROBERT BORSAK: Do you think that universal postal voting is one such measure?

VANESSA TEAGUE: I think postal voting is a last resort. I think it would be better if everybody voted in a polling place. I understand that there are some situations in which that is not feasible, and there is this constant trade-off of attempting to get everybody to vote via the most secure process that is available to them versus making sure that there is some opportunity for people who cannot go to a polling place to vote. I do not think it is helpful to make postal voting the default. I think people should be encouraged to come to a polling place if they can.

I think that one thing that could be considered, particularly for people who have suddenly learned that they cannot come to a polling place—for example, by suddenly testing positive to COVID—one thing that could be considered is to deliver the candidate information electronically. Essentially, deliver a blank vote electronically and get people to print it out. If you have only found out two days before polling that you are unwell and you have not got time to apply to get the postal ballot sent out to you, you could apply to receive it electronically, fill it out on paper and then walk out into the fresh air and stick it in a postbox. I think that would be a nice trade-off. I think it would be relatively easy to implement. It has a relatively low risk compared to iVote, and it would be a relatively good way of serving at least some people who would otherwise not be able to get into a polling place.

The Hon. ROBERT BORSAK: Dr Teague, do you think 100 per cent unsolicited postal voting is actually verifiable? Especially if we were to go down the track in the 2023 election, having no iVote, suddenly we see 5.4 million unsolicited postal votes floating around the electorate.

VANESSA TEAGUE: You mean unsolicited in the sense that these parties—like, "Sign up via us for postal voting"? No, I think that is a really bad situation. I think that should not be happening. Postal voting should be a last resort for people who are not able to make it to the polling place. It should not be the default, and it should not be pushed on people who have not asked for it. Because the quality of verifiability and privacy associated with voting on paper in a polling place is much higher than postal voting. I think postal voting is a necessary evil, but it should only be for people who actually need it.

The Hon. ROBERT BORSAK: Thank you. So the unsolicited postal voting that occurred in the four local government by-elections—we talk about the problems of verifiability with iVote. Surely there are as many, if not potentially more, verifiability problems with universal postal voting in that situation?

VANESSA TEAGUE: I think it is different. I have thought about this a lot, too. I think—

The Hon. ROBERT BORSAK: I agree that it is different. But potentially it could be worse, surely, if someone else gets their hands on an unsolicited postal vote.

VANESSA TEAGUE: Yes. You probably know that in Victoria we recently had prosecution for some individuals who went around the suburbs pulling other people's postal votes out of their letterboxes and filling them in without their consent. So, yes, postal voting is not the ideal way of voting. I think it still compares favourably to internet voting for a couple of reasons. First of all, people get caught, which is actually a good thing, whereas the potential for a very small conspiracy to alter a very large number of electronic votes, potentially even without the knowledge of the people whose votes they were, is a serious concern in internet voting.

I think one person would have a very hard time altering a very large number of postal votes without detection, although I agree that altering one or two—particularly ones that had been mistakenly mailed to you or other family members or so forth—probably would not be very hard. But I think there is a difference in the scale of what is possible, and I think there is a difference in the likelihood of detection. And I also think there is a difference in whether or not you have to be physically present here in Australia. If you are physically present here in Australia, there is a serious risk you get caught. If you are in a basement on the other side of the world, then it actually does not really matter whether you get noticed breaking Australian law. For all of those reasons, although I agree that postal voting is not ideal, I think it still compares favourably to internet voting.

The Hon. ROBERT BORSAK: But the universal postal voting in the recent local government elections took the non-present voting total from something like 20 per cent to over 50 per cent, certainly in the seat of Bega. Do you agree that there is a level of confidence that it would have been done properly?

The Hon. COURTNEY HOUSSOS: Sorry, the by-elections, not the local government elections.

The Hon. ROBERT BORSAK: Sorry, I beg your pardon. I mean the by-elections.

The Hon. COURTNEY HOUSSOS: I do not think Professor Teague is aware of the universal—

VANESSA TEAGUE: Oh, sorry. You are not talking about the local council elections. You are talking about the by-elections for the Legislative Assembly.

The Hon. ROBERT BORSAK: I beg your pardon. I meant the by-elections, yes.

The Hon. COURTNEY HOUSSOS: Are you aware of the universal postal voting arrangements that were in place for those?

VANESSA TEAGUE: No, I am not, sorry.

The Hon. COURTNEY HOUSSOS: I do not think she is quite aware, so perhaps it is worth explaining.

The Hon. ROBERT BORSAK: What happened in the four by-elections was—sorry, I thought you might have been aware of it because there was a reference to the local government stuff in your paper. We had—did we have iVote for that?

Mr NATHANIEL SMITH: No, we did not have iVote.

The Hon. ROBERT BORSAK: We did not have iVote. So instead of having iVote, what the Commissioner did was issue 100 per cent unsolicited postal votes. We saw a complete change in the pattern of how voting was done. Instead of having postal votes probably around 3 per cent or 4 per cent, we saw it get up to as much as 30 per cent in those electoral processes.

VANESSA TEAGUE: I see. I am sorry, I have been misunderstanding the question. I thought you were talking about local council elections. You are saying that when iVote was discontinued, instead the Commissioner said, "Let's just have everybody vote via unsolicited postal voting."

The Hon. ROBERT BORSAK: Exactly.

VANESSA TEAGUE: And you are saying, "Isn't that just as bad?" I certainly agree that it is bad. There should not be unsolicited postal voting. There should be postal voting for people who ask for it, because it is a significant security downgrade relative to voting in person in a polling place. However, I still think it is better than internet voting, for the reasons that I outlined. It is not that it is all that much harder to manipulate one other person's vote, but is much harder to do it at scale, it is much harder to remain undetected and it is much harder to do it from outside of Australia.

The Hon. COURTNEY HOUSSOS: Dr Teague, to be clear, this was in the series of by-elections that happened in February in New South Wales—Bega, Strathfield, Willoughby and Monaro—and it was on the basis

of the COVID risk as well as lack of iVoting. There is a limited capacity to manipulate an election if you personally request a postal vote that gets sent out to you. Obviously you need to know if someone has requested it, so therefore you would have to go into their letterbox. There are levels; I appreciate what you are saying. I think what Mr Borsak is saying to you is that this level of risk dramatically, or I would say exponentially increases when you have got every single person getting a postal vote and everyone or most people are aware that those ballot papers are floating around the community and there is less rigour around the security on the ballot papers.

Mr NATHANIEL SMITH: Especially in unit blocks and things like that.

The Hon. COURTNEY HOUSSOS: Exactly; that is an excellent point.

Mr NATHANIEL SMITH: We could have 200 residents in a unit block and you have got 200 ballot papers there.

The Hon. COURTNEY HOUSSOS: Exactly.

Mr NATHANIEL SMITH: That can change an election.

The Hon. ROBERT BORSAK: If the 200 ballot papers end up in the wrong hands, they can be lodged, and how does the commissioner know that they were not lodged validly by the right people?

The Hon. COURTNEY HOUSSOS: To be clear, Dr Teague, you do not support this kind of universal postal voting system where the ballot papers are issued across the board?

VANESSA TEAGUE: Correct. I think postal voting is a necessary evil for somebody who has asked for it. I think there is a challenge for people who suddenly realise they cannot make it to a polling place. It is worth thinking hard about what that could be, but I think one thing is to look at electronically delivering that information if they suddenly find out that they are not eligible. In the United States there are a lot of other variations on this theme that I think are worth considering. For example, it is not uncommon for people to be able to drop their postal vote, their remote vote, into a locked box at some kind of secure place either at the Electoral Commission or at the city hall or whatever. So you do not necessarily need to queue up on the day; you can deliver it a little bit like a library kind of thing where you deposit it in a way that other people cannot remove it. There are a lot of other ways of mitigating the COVID risk, for most people, without necessarily sending unsolicited mail votes around.

Mr NATHANIEL SMITH: Dr Teague, through the Chair, going back to iVote in the local government elections, one of the things that I found quite alarming was when you have the draw for the ballot order, where you might have five, six or 10 candidates, and informal voters tend to sometimes do a donkey vote where they will go one to 10 or "this one up the top". With iVote, if you did not number a box, it would not be registered. So when you look at the results from last year's local government election, those who were number one up the top of the ticket got an increase of votes, especially through the iVote process, because someone who was disenfranchised could not do a donkey vote. They could not just leave the ballot blank, they had to fill in a number for iVote to work. So it actually increased the number one. If you look at the analysis—

Mr CHRISTOPHER GULAPTIS: It reduced the informals.

Mr NATHANIEL SMITH: —it reduced the informals. But whoever scored number in, say, that ward or in the mayoral vote if there was a popularly elected mayor—

Mr KEVIN CONOLLY: Got an artificial advantage.

Mr NATHANIEL SMITH: —had an advantage.

VANESSA TEAGUE: I did not know anything about that at all. Did iVote not allow people to cast a blank ballot?

Mr NATHANIEL SMITH: Correct.

VANESSA TEAGUE: I would have thought that was a—

Mr NATHANIEL SMITH: Yes, or it would not go through.

VANESSA TEAGUE: Not a warning? You are not allowed to cast a blank ballot?

Mr NATHANIEL SMITH: Yes.

VANESSA TEAGUE: Wow. I am extremely surprised by that. I would have thought it was quite a fundamental political right to be allowed to not cast a valid ballot if you did not want to. In fact, I remember this being specifically discussed during some of the Victorian electronic voting trials. They specifically and deliberately made sure that the system did allow people to cast a blank ballot if they wanted because they felt that

was a thing that some people might have wanted to intend to do. I am extremely surprised by that; that seems wrong.

Mr PAUL SCULLY: Dr Teague, for the current Federal election the AEC has a telephone voting system for those who are COVID positive and cannot leave their house? Are you familiar with how that system is going to work?

VANESSA TEAGUE: I am as familiar as anyone is. There are no details or technical information about how that system is going to work. There never is from the AEC, to be honest. The NSW Electoral Commissioner puts out a lot more detail about how its system works, which is one of the things it deserves to be applauded for. Telephone voting is really internet voting. How do people think the audio gets from the voter to the Electoral Commission? It does not go over a dedicated copper wire anymore. Telephone voting is internet voting, and it has all the same security, privacy, and verifiability problems that internet voting has. You are really trusting the system to accurately record your vote at the other end, and you do not really have any way of testing whether or not that has been properly done.

Mr PAUL SCULLY: I honestly do not know if this answer is even available, but are you aware of whether the AEC does have any sort of verifiability checks at the other end of the phone line? I believe that someone is literally reading out every name, including every name under the line on the Senate ballot paper, and marking that in accordance with the preference given by an individual, but I am not aware of a check that that has been accurately recorded.

VANESSA TEAGUE: I do not know how you could if it is by telephone. You cannot see the ballot. I do not think so.

Mr PAUL SCULLY: Arguably it is even worse than the existing system.

VANESSA TEAGUE: Certainly at least as bad.

The Hon. CHRIS RATH: Thanks for all the information so far; it has been very insightful. I will go back to what you said in your opening statement with the car example and the airbags. If we pumped a whole lot of money into the electoral system to try to make it work—a huge amount of money; say, billions of dollars—you are basically saying that no amount of money could make an iVote or some electronic voting system work or perfect in any way.

VANESSA TEAGUE: Correct. The thing we really do not know how to do is to allow voters to verify that their electronic vote that was sent from their device accurately reflected their intentions. We have a bunch of academic tricks. The Estonian system uses some. There are ideas but there is nothing that is usable by normal people that is effective enough and intuitive enough that I would say it adequately defends against the risk that the electronic device sends a different vote.

The Hon. CHRIS RATH: So it is not a resource constraint—

VANESSA TEAGUE: Not really, no.

The Hon. CHRIS RATH: —it is an integrity issue.

VANESSA TEAGUE: Yes.

The Hon. CHRIS RATH: Have you looked at other jurisdictions around the world? I think you mentioned Estonia and Moscow.

VANESSA TEAGUE: Yes. I haven't bothered looking very carefully at Moscow.

The Hon. CHRIS RATH: No, I wouldn't either.

VANESSA TEAGUE: I have had a lot to do with the Swiss system, which has a fair bit of code in common with the iVote system. The Swiss system uses code voting because in Switzerland you are only choosing one option. So you are not listing a lot of preferences like we do; you are choosing your favourite candidate from a fairly short list. First of all, it is not 100 per cent an internet voting system. It is a hybrid system, where people receive a piece of paper in the mail with random codes. It says, "If you want to vote for this candidate, then this is the code for that, and if you want to vote for that candidate, then this is the code for that." You cast your vote and then you see what code the voting system returns to you, and you are supposed to check that it matches your piece of paper. It is worth saying that the Swiss system has been on hold since the cryptographic errors that we discovered back in 2019. That has kicked off a huge reassessment of both the system and the regulation in Switzerland. They may go back to restarting it or they may not, I do not know. It is still very much in the process of being dramatically reassessed. But, number one, the system that they use requires a piece of paper in the first place anyway; number two, it is not clear how you would change that for preferential voting anyway; and, number

three, it is not actually clear that they are going to meet their now much more stringent security and transparency standards for the code that they have now got.

The Hon. COURTNEY HOUSSOS: Can I ask a follow-up to that? The previous witnesses and others have talked about how we have a vendor-based system in Australia. So your testimony is that there are no vendors, even internationally, that could meet those requirements?

VANESSA TEAGUE: That is exactly right. There is nothing that I think is worthwhile.

The Hon. CHRIS RATH: I know this is slightly different but it is related. Have you ever looked at an electronic roll, as in, people when they go in to vote can have their name ticked off electronically, to try to avoid people voting more than once? Do you have any views on that, rather than ticking names off manually, and then there being no coordination between different polling booths around an electorate? I think a lot of the times, potentially, it is older voters who may have done a postal vote and then forgotten that they did that postal vote and then on election day their son or daughter comes over and says, "Mum, you've forgotten to vote. You need to go in", and they go to vote and they vote a second time accidentally. But that is not the main concern. The main concern would be people deliberately voting more than once in an ability to try to change the electoral outcome, which is why, potentially, marking off names electronically is preferable to manually. Any thoughts on that?

VANESSA TEAGUE: I think it is a sensible thing to consider, yes. I think, in marked contrast to internet voting, it has this kind of inherent verifiability property about it. You are not going to get disenfranchised in a way that you cannot detect because the system malfunctioned. You are going to be kind of told to your face that they already have you marked off, and obviously there has to be some proper legislated procedure about what happens in that case. It is possible that the system will be manipulated. It has to be taken into account when you are deciding about the regulations that accompany it, and you need to be able to say something like—if somebody walks into a polling place and the electronic system says they have already been marked off, but they insist that they have not already voted, then what happens? Do they get a declaration vote? What is the process for resolving that dispute and so on?

I think it is a sensible thing to consider. I do agree that, if it functions correctly, it does solve a problem. But I think, like any piece of technology in voting, it needs to be surrounded by human processes that function properly, even under the assumption that the computer might have malfunctioned. There is a lot of stuff, some of which is actually interesting and reliable and some of which is not, about Russian manipulation of voter rolls in the 2016 United States election. One of the things that is alleged—although obviously I have not checked it directly myself—is that they removed people from the rolls, in order to stop certain groups of people voting. So you do have to worry about that kind of thing. I do not think it is a reason not to do electronic roll mark-off, but I think it is a reason to surround it with, let us say, sceptical human procedures that make sure that, if the computer says something that a person disputes, you have got a right way of recovering from that situation.

The Hon. CHRIS RATH: Two observations would be that it would have to either coexist with some form of identification or it would have to be that, if the person said that they had not voted but the system was saying that they had voted, that vote would have to be put to one side in a sort of separate batch in case that total pool of votes of people of saying that they had not yet voted could have changed the outcome in that particular electorate or council area. That is probably the only way you could do it.

The Hon. COURTNEY HOUSSOS: It is a declaration vote.

The Hon. CHRIS RATH: Basically, a declaration vote is the only way that you could do it, I would have thought—or some form of ID.

Mr KEVIN CONOLLY: Mr Rath has been taking us in a direction I wanted to go because, once we dispense with iVote, and if we put it aside at least temporarily—and I know you were recommending it to be put aside permanently—the systems that do remain and which need attention from the Electoral Commission in terms of integrity, as far as I can see, are the integrity of the roll; the integrity of the mark-off procedure, which can be done electronically; and the integrity of the tabulation, storage and communication of the results. Fortunately, most of those have a paper backup, in a sense—that, certainly in terms of the communication and tabulation, we have the original votes and we can go back if there is an argument. But I would like you to comment about the integrity of the roll itself and what threats you think there are in the case of the New South Wales and Australian rolls and whether our system at the moment is addressing them.

VANESSA TEAGUE: That is a really good question. I do not know the answer. I am sorry. It is very hard. That is the basis on which everything else rests, but it is actually a—it is not really a computer scientist's question, unfortunately, because it interfaces with complicated humans, and who is a citizen, and who just turned 18. I do not know. I definitely agree that it has to be right.

Mr KEVIN CONOLLY: In terms of that electronic mark-off, which I understand is in place in some situations, it does mirror a physical process that has always occurred—when somebody marks off on the page and there has been the capacity for human error to mark off the name next to yours rather than yours and the other person comes—

VANESSA TEAGUE: Yes—which is not all that uncommon, I gather.

Mr KEVIN CONOLLY: We have had the declaration process, but there would be a scale risk—as I think you pointed out before—for electronic stuff so that, if somebody did want to manipulate that, it would not be just the occasional error. It could be a much larger feature. Is there a way of protecting against that?

VANESSA TEAGUE: No, not really. I think that is kind of the core mindset about computers in elections: Do not think about making the computer system perfect. Do not think about making it perfectly secure and totally defended, because it is never going to be. There is going to be somebody with administrator access who can be threatened or bribed; there is going to be a bug in some underlying library that the thing depends upon that nobody has maintained since 1970. There is always going to be something imperfect about the electronic system and the way to deal with that is not to sort of buff it up—well, defending it is still good. It is still good to work on defending it, but the right way to protect against that risk is to surround it with human processes that deal with the potential for the system to be compromised. I think declaration votes for people who insist that they did not vote, paper backup—it is not ridiculous to keep printing out the paper backup of the rolls in case it completely goes down, which is not out of the question.

The Hon. COURTNEY HOUSSOS: And they did not do it the last election.

VANESSA TEAGUE: Indeed. It is different from iVote because you can see if it has gone wrong. I think this is the core distinction between when the use of computers in elections is okay and when it is not. If a human can tell that it has gone wrong, then basically I think it is okay. And then you can put into place procedures that the humans can enact that deal with the thing that has gone wrong. The problem with iVote is you cannot necessarily tell if it has gone wrong, whereas electronic mark-off—there is a potential. It is easy to tell if it has gone wrong and somebody can argue about it and deal with it.

The Hon. ROBERT BORSAK: Dr Teague, listening to your evidence today—and obviously the questioning is coming from the table here. Just thinking in terms of the 2023 election, we are heading back to a basics type of election. In other words, in terms of processes, in terms of verifiability, in terms of lodging votes et cetera—in other words, assuming iVote is dead, and I cannot see the commissioner actually resurrecting it, Lazarus-like. I do not think that is going to happen. There is not enough time to find another system to replace it. What is your view on what the 2023 election may well look like from an electoral processes point of view?

VANESSA TEAGUE: Possibly back to basics, which is not a bad thing. It is not a bad thing for people to be voting on paper. It is a good thing for people to be voting on paper. It does mean a lot more investment in infrastructure and it is going to be more expensive. One of the main motivations for iVote was that it was really cheap. You can get 600,000 votes in such a way that the marginal cost of each vote is almost zero. It is going to be expensive to do it properly. I think in the medium term, it is appropriate to think about other ways of using computers in elections, like, as I said, putting electronically assisted voting in a polling place for voters with disability, so they can print out a paper ballot. In some extreme circumstances, for example for people who have just tested positive for COVID, you could think about allowing them to download their candidate information and print it out and put it in the post. There are other things that you can think about, but I think this basic idea that a person sees a paper record of how they voted and that goes into a count that can be scrutinised should be the way that basically everybody votes.

The Hon. ROBERT BORSAK: The scrutineering process is really tied to where you vote, not just how you vote. Do you agree with that?

VANESSA TEAGUE: Yes, but, I mean, the point is that iVote basically has no scrutineering process. You can stand in the room where the computer is supposedly running but you do not actually get any evidence.

Mr KEVIN CONOLLY: You cannot see anything.

The Hon. ROBERT BORSAK: I should have been perhaps a little bit clearer. In light of the fact that iVote is dead, we agree that it is not a good idea to send out 5.4 million postal votes unsolicited. We are really pointing people back to the polling place. That is what I am saying.

VANESSA TEAGUE: Yes.

Mr KEVIN CONOLLY: The good old days.

VANESSA TEAGUE: And that is a good thing. It is a good thing for people to go to a polling place. We really do not have fancy technology for a better design than that or those people who can do that.

The Hon. COURTNEY HOUSSOS: The time has expired, Dr Teague, so I just have one final question. During budget estimates the Electoral Commissioner told us that part of the reason they were walking away from iVote was not security based but actually because the technology itself was being shelved by the—I always say the name wrong. Is it Scytl?

VANESSA TEAGUE: Scytl.

The Hon. COURTNEY HOUSSOS: Thank you. Are you aware if that is correct?

VANESSA TEAGUE: Yes. The company went into liquidation and then the Electoral Commission just decided to run the software for the local government elections anyway.

The Hon. COURTNEY HOUSSOS: Thank you very much. That is, as always, an alarming way to end our testimony, but always very insightful. Thank you so much for your testimony.

The CHAIR: Thank you very much for appearing today, Dr Teague. We may send you some further questions in writing. Your replies will be part of the evidence to be made public. Would you be happy to provide written replies to any further questions?

VANESSA TEAGUE: Yes. Further questions are always welcome.

The CHAIR: Thank you so much for joining us today and thank you for taking the time to get through our secure system.

VANESSA TEAGUE: Thank you very much.

(The witness withdrew.)

(Luncheon adjournment)

Mr JOHN CANT, Executive Director, Information Services, NSW Electoral Commission, affirmed and examined

Ms RACHEL McCALLUM, Executive Director, Funding, Disclosure and Compliance and General Counsel, NSW Electoral Commission, affirmed and examined

Mr JOHN SCHMIDT, NSW Electoral Commissioner, NSW Electoral Commission, affirmed and examined

Ms ANDREA SUMMERELL, Acting Executive Director, Elections, NSW Electoral Commission, affirmed and examined

Mr MATT PHILLIPS, Executive Director, Corporate, NSW Electoral Commission, sworn and examined

The CHAIR: Thank you very much for coming along today. Are there any opening statements?

JOHN SCHMIDT: Thank you, Chair, if I could make a few observations. First off, I would like to express my appreciation for this opportunity. I genuinely welcome the opportunity to come to this Committee—and estimates committees—to test ideas, and hear directly from members their concerns, and explore opportunities to improve our operations. I will be brief. The first thing I would like to raise is more of an offer than a statement. As we approach the State General Election, we will continue to do what we always do. We do seminars in the Parliament for funding and disclosure issues and we have seminars for candidates and political participants in the lead-up to the election. Through you, Chair, I would like to offer—if you find that your members would like to consider us holding specific seminars up here later in the year, about particular aspects of the election process, and they would like to talk to us, we would love the opportunity to do so. We are always looking for opportunities to share an understanding of the process, and try and clarify any misunderstandings about how that operates. That is a standing offer and we can liaise about that later.

The CHAIR: Thank you so much.

JOHN SCHMIDT: There are three parts to these opening comments. The second goes to the core of the meeting today, which is the adequacy of the funding for the State General Election. I note this reflects on the observations which have been made earlier. It is a bit difficult for the Committee and us to answer the question which is posed: Are there adequate funds? We have put our submissions in, and you have seen our budget submissions but, of course, the Government is yet to make its determination through the normal budget process. It may well be—and it is obviously a matter for the Committee—that you wish to reconvene at a later time once the budget has been handed down, to explore whether whatever comes out of the budget process has addressed matters which have been raised in submissions or discussed here. That is something you might like to consider.

That then leads on to a broader discussion. Again, this is for your consideration, not only yourselves, but all members of Parliament. I serve the people of New South Wales, the Parliament and its members, and the Government. That reflects my independent role. You will have seen, and you discussed again this morning, the new funding model that has been put forward. I welcome anything which improves an understanding of the challenges we face, and the identification of resources which could assist in improving our processes. In the model which has been released, there is reference to this Committee—I think it is this Committee—being given a copy of reasons or decisions or Treasury advice or the Government's decisions, ultimately, on funding proposals.

There is a debate about what role a committee like this should have in the funding process. People take different views about the Westminster system et cetera. I do not see any problem, which is ultimately a matter for yourselves, for the Committee being a bit more active in that space. Again, I think it was raised this morning that in the lead-up to each year's budget bids I would be more than happy to bring details of those bids here for you to explore them and test them in parallel with the budget process. If you want to make observations, that can only help in people's understanding of the challenges we face.

Another change, perhaps, to the way you operate, which I would find particularly valuable—and this relates to the reports that you do in particular for post-general elections. At the moment we have the hearings, the report is written, and recommendations are made there. Quite often, almost inevitably, there will be recommendations for change, which have potentially significant resourcing implications for the Commission, and resourcing is time, money, people, et cetera. For example, in the report on the 2019 election, recommendation 8 dealt with a review of the electronic mark-off system, and that is a carry on from a report from four years before that in 2015. Recommendation 12 dealt with amending the Electoral Act to require party logos to be included on ballot papers. Recommendation 15 was a recommendation that the Government consider funding the Commission for the development of an online portal for submission and tracking of postal vote applications. Recommendation 30 related to the introduction of ballot scanning for the upper House.

In the response that the Government tabled, which included feedback from myself, reference was made to—I had identified that there were significant resourcing implications of implementing those recommendations, and the Government response said words to the effect that the budget matter will be considered as part of the normal budget process. I think it would be a more helpful exercise if the Committee, when preparing its report, perhaps prepared draft recommendations, and then got us back to talk through the implications of implementing them. That is particularly significant at the moment.

I will not repeat the testimony I have given here before and at estimates about the challenges we face, particularly in our aging IT systems, but there is an absolute limit on new things that could be done without endangering the whole. We have rocky foundations. You cannot keep bringing new systems on board, putting a new storey on the house, and expecting the house not to fall down. If I am given a choice about where I am going to commit resources that I am given, in the near to medium future I will be trying to fix and modernise the systems that I have already got. It is challenging to raise expectations that significant systems changes will be made, even it is forecast to happen in a few years' time, when the underlying systems that will be predicate to running those new systems have not properly been addressed.

I am hoping this new budget process with the re-baselining—at estimates I foreshadowed that if I am given a rollover of certain funds I will have off some capacity in the organisation or engage additional capacity to do a review during the course of this year; developing a business case for a significant modernisation of my systems, with the intention of bringing forward the outline of a proper business case to this Committee, and a business case to the Government, as part of next year's budget processes. That is where my focus is. But it would be a useful exercise to talk through the implications, having in mind that some of recommendations go from year to year.

Electronic mark-off has become a bit sad in some ways because this Committee—your predecessor members—has talked about rolling out electronic mark-off for some years. We were given preliminary funding after the 2015 election to develop something, but because of delays with split local government elections et cetera we sought further rollovers, and the money was taken back from us. We have never been able to develop full electronic mark-off, much as I think it would be a good idea, and now I have no capacity to do it anyway. This is yet another case where you could give me \$100 million and 100 staff to work on it, but it would not make sense to put the effort into developing electronic mark-off without fixing out the systems which run the elections more generally. I leave that thought with the Committee. I would welcome perhaps more iterative engagement with some of your processes in the future.

Very quickly at the end, I just want to touch on a couple of matters raised this morning in evidence, to clarify, noting with some of these that the new select committee has been established in the upper House about iVote and the use of postal voting and COVID measures in recent elections. That will be an appropriate forum to delve down, and we will put submissions in and work through that. But just a couple of points, if I could just put them to rest in no particular sequence. Yes, when iVote was in operation you could cast an informal vote. It would call out if you had not filled in any ballot squares to what would constitute a formal vote and warn you, "If you proceed past this point you will be casting an informal ballot." But we did find that the degree of informality was significantly less in iVote, because people were guided through the process. There was a discussion about the donkey vote. The donkey vote is not unique to iVote. It is an issue across all paper ballots. Of course, I think it is Tasmania and the ACT that have used the Robson rotation method in ballot papers to try to address that. That is not a matter for me; I will just raise that.

I will not go into any great deal about Professor Teague's evidence. The only thing I will say, because it does concern me—and it is not the first time that she has raised this before these forums—is that there was an implication that my officers, in preparing evidence for the Supreme Court, and more generally for the public, may have put a spin on what we do. I am immensely proud of my officers. They work extremely hard. The integrity of this organisation—and my integrity—are the core of what we do. I may as well go home if people think here that I am turning up and making public statements and putting spin on it to get a desired outcome. In the particular case of iVote and the local government elections, I believe in integrity so much that I self-referred myself to the Supreme Court for a decision. I did not have to do that, but I felt that the issue, having been identified—and in doing an assessment of the material or potential materiality of the impact of the iVote problems, we took a view, in good faith, as to what that might be. The court came to a different view. But there was absolutely no spin involved in that, and I resent and refute that. I can wear it, but for my staff to have to sit there and hear that commentary—and it is not the first time—is completely unacceptable.

Again, this will come up at the select committee, but full postal voting was rolled out at the by-elections earlier this year. It was not because iVote was not available; it was a COVID measure. How quickly things move on, and we lose sight of the real concerns in the community about the impact of COVID on voter turnout. We will produce stats for this, as I said, for the select committee: The turnout rate and the formality rate was higher for

those by-elections than would normally be expected. Yes, about 50 per cent of people did use it, but still people turned up. There was a question about the integrity of how the postal votes were counted. Let me assure you, we did put measures in place, and we advertised them at the time. I can tell you that at the four state by-elections the total number of people we have identified who potentially double-voted is 20. None of them involved postal; they were attendance votes. We will follow up those people as we would normally do.

With postal voting, because we had the extended return date for postal votes, the 13 days, even though election day was a physical mark-off, we were able to bring all those rolls back in, have them scanned and checked for duplicates—not many—and also to check who had voted. Before a postal vote was submitted to a count, that postal vote certificate was checked against the physical roll. If a person had been marked off as having voted physically, then their postal vote was not admitted to the count. We did take measures to try to ensure the integrity of it in those circumstances. That is enough of my general observations. The focus of this discussion primarily today, I understand, was the budget process and I welcome my questions.

The Hon. PETER PRIMROSE: Do you have an estimate about how much more expensive the running of the next State election will be without iVote?

JOHN SCHMIDT: Thank you, Mr Primrose. I note your questioning on this subject this morning. There is a figure in the \$50 million that we sought from the Government—I think it is \$4.3 million which was going to be directed towards iVote. We have asked that that be retained, because - we have not got a final estimate yet - but obviously, there will be greater turnout of people in-person voting. Based on the recent Commonwealth experience, it is reasonably expected there will be a greater amount of postal votes. We are still looking at the issue of overseas voting, and what we might be able to do there. We will be strongly guided in that respect by the Commonwealth experience but, perhaps more importantly, the Victorian experience later this year, as to what measures they are going to put in place, because they have never had iVote. At the moment we are saying to the Government, "Please let us keep that \$4.3 million, and we will allocate that to any enhanced volumes through the other channels we have to deal with."

The Hon. PETER PRIMROSE: Thank you. My second question relates to one that I asked the Treasury officials this morning. On page 27 of your submission, in box seven, you go through and detail your budget submission to various bids for the next financial year. Can you tell us any details about any further progress updates on those budget submissions?

JOHN SCHMIDT: Thank you again, Mr Primrose. My officers have had ongoing discussions with Treasury. As stated, I think, when the Premier tabled, or the Attorney General submitted, the Government's new funding model, it clearly foreshadowed that the changes set out in that, the vast majority, cannot be implemented for this budget round. We are too far into it. So we are having discussions—they have been constructive discussions—with Treasury and I welcome that. So, I do not know what the decision of the Cabinet process will be but, back to where I started from, maybe that is something that the Committee might like to revisit after those decisions are made known.

The Hon. PETER PRIMROSE: Are there any details that you would like to add with the changes that are being considered at the moment, or that the Premier has announced, which will affect your budget bid?

JOHN SCHMIDT: Not the ones which are in train at the moment, because the process is up and running, and in fact it will be coming to conclusion in the near future. Looking forward, as I have said in other forums, the proof will be in the pudding as to what changes this leads to for future budget arrangements, but I remain optimistic.

The Hon. PETER PRIMROSE: I guess we all remain optimistic, Commissioner. I will come back, if I can, Chair, with some additional questions specifically on the budget. But before letting go of this opportunity, can I simply say that I think the suggestions that were made in the Commissioner's opening address, we should allow the Committee to examine some of the budget implications going forward. I think they are excellent and we should certainly be considering those. Thank you.

JOHN SCHMIDT: Thank you, Mr Primrose.

The Hon. ROBERT BORSAK: Thanks very much, Mr Schmidt, for coming today. Just focusing on the iVote from my point of view—and you probably know my view on the system ever since I first encountered it over 10 years ago—why has the Commission continually persisted in trying to spend money on the iVote system when I actually sat in a presentation—and I do not think it was you but the previous Commissioner—where he said that this was going to be the platform upon which all of our voting would ultimately roll out.

JOHN SCHMIDT: Mr Borsak, I am glad you raised that, because I was questioning myself whether I should—I noted that in your speech in the upper House when the select committee was being set up and you said

the "Commissioner". Again I would like to record that I have never taken the position that iVote was going to replace other voting channels. So I appreciate—

The Hon. ROBERT BORSAK: No, it was definitely the previous Commissioner.

JOHN SCHMIDT: Thank you for that. But it is not a straightforward answer. It goes to overall funding. Any elections cost more, but iVote, like my other systems, has never properly been funded, so we have had to continually come back to seek more money because—and I think it is in the submission, where you will see some of the history of this, but I cannot remember the particular years—we would ask for additional money for staffing. We would not get the money for staffing, so iVote would scale up to 11 or more people for the elections, but as soon as the elections were over, we dropped right back to four. The system itself obviously evolves over time. The implication has been raised in Professor Teague's submission. It implies that massive amounts of money have been given to the Commission over the years for iVote. That is simply not true.

The Hon. ROBERT BORSAK: Well, can you take on notice how much has been given—

JOHN SCHMIDT: Sure, certainly.

The Hon. ROBERT BORSAK: —since iVote was first brought on as an application and until now when you have finally realised it should have been dumped, or has been dumped?

JOHN SCHMIDT: I am pleased to do that, and just one extra qualification too. When iVote—again, before my time—was first introduced in 2011, the world of cyber and the concerns about cyber were not nearly as great as they are now. So some of the costs—and we will have to think about how we present this in coming back to you—are the general enhancements that the organisation needs to meet the cyber challenges. Some of that is driven by iVote, for obvious reasons, but it is more generally as well. So some of those additional funding amounts we sought which had an iVote component, iVote was just a component. But we will come back with more information.

The Hon. ROBERT BORSAK: All right. We did hear in evidence in the hearing this morning from the cyber protection people that, given your other legacy systems as well, you are not able to be properly protected from a cyber point of view. Do you want to make any comments in relation to that?

JOHN SCHMIDT: Yes. Thank you for the question. I would like to record I am appreciative of the cooperation and support we are getting from the Department of Customer Service, and having in mind their cyber unit, as they said this morning, has not been in place that long. When it comes to the administration of the Digital Restart Fund [DRF], they are administering that fund according to the terms and conditions of the fund. Without a criticism of them, but a criticism of the process, the elephant in the room remains the fact that I asked for—leaving aside the prior years, which are in my submission, when I did not get any funding—I asked, back in February last year, in the lead-up to this financial year, for \$22 million for cyber because of the problems, that have been well expressed, that I face. I did not get that money as part of the budget process. Instead, I presume, it went to Cabinet, and a Cabinet decision was made to send it off to the DRF for further consideration. So 1 July comes and goes, August, September, October, November, December, January, and in February the approval was given for a part of that amount of money. March, April—at the end of April I got a million dollars for this year.

The Hon. ROBERT BORSAK: Effectively it is all too late.

JOHN SCHMIDT: It is too late. Our cybersecurity is more greatly enhanced for 2019 than it was for 2015, but I have not been able to do as much as I could have done, had I been given the money. I find it challenging that I can be told there is an earmarked amount of \$22 million somewhere in the coffers of the New South Wales Government. If that money was around, why did I not get it on 1 July for such an important issue? Not only that, one of the challenges with the Digital Restart Fund is it does not provide funding for some of the core changes. I need all the core resources. It is not there for recurrent funding: ongoing funding of staff, ongoing funding of a security operations centre. Just bear with me for a minute.

One of the crucial elements you want for cybersecurity is a security operations centre to monitor all the systems. They are an external provider. We bring them in. They check the feeds. They are aware of threats that are out there and attacks that could be made. Usually what has happened in the past in recent years is we get the funding for a very limited period of time during the election period and, as with so many other things, the funding just stops, and so you have to start from scratch. I have now got funding to keep that cyber—that security operations centre - in train for post SG 2023, but only after it concludes. Now, I will be putting in a business case. But these days that is such a core and fundamental functionality which should be funded as a matter of course, but we get haphazard, ad hoc, intermittent funding. It is just not sustainable.

The Hon. ROBERT BORSAK: I have read all of your submission. Basically I am a bit of a cynic, probably understandably, that we are potentially staring at an election where we will not be able to trust the results.

JOHN SCHMIDT: My message arising out of that is that I have to caveat this. There are a couple of caveats. One, you would be a fool to sit here, as would any organisation, and say that your cybersecurity is fantastic and there is no risk that something could go wrong if there was a dedicated state actor. So let's just put their mark in the ground. I also have to be careful that I do not talk in too great specifics about some of my systems, because I do not want to make public where, perhaps, some of the vulnerabilities are. I hope you would appreciate that. My belief, as I stated a few minutes ago, is we will be in a stronger position than we were in 2019.

If I had to decide at the moment what the greatest risk was for the election experience, it is not so much cyber as the deliverability in a more mechanistic sense, like failures of electronic mark off in pre-poll, or delays in the counting of the votes, due to problems with the old legacy systems, with the count machines et cetera. I do not think that would throw into doubt the veracity or reliability of the result. It is the way in which the result is delivered, and the voter experience can be challenging, because my systems are creaky and we are not quite sure at any particular point in time what might fail.

The Hon. ROBERT BORSAK: That is right. You are heading in the direction that my question was going to go in. Again, I do not like to dwell too much on iVote, because it has always been such a problem. You allude to the other systems. There has not been a lot of potential money spent on upgrading your other legacy systems; let us just put that aside. That is really what you are talking about. What is the 2023 election going to look like? For example, iVote is not going to be there. How are you going to cater for the functionality of the iVote system in this upcoming election that would have been there if iVote had been there?

JOHN SCHMIDT: It is a good question, and it depends what number of electors are affected. If we go back to 2019, there were a couple of hundred thousand. In the local government election it was in excess of 600,000. But let us say a more realistic figure is back towards the past two State General Elections: 250,000 or 230,000. Those voters—we have to determine their impact on the other existing channels.

The Hon. ROBERT BORSAK: How are you going to cater for them?

JOHN SCHMIDT: Postal voting. It is reasonable to expect that there will be a greater number of postal votes. There is a challenge with postal voting for some of the categories of people who use iVote, like overseas and interstate voters. Postal services are a real problem for getting votes out and back; the Commonwealth is going through this, as you would have seen in some of the media in recent times. More people turning up physically—I will come back to that. With the people who could not get their credentials for iVote on election day for the local government elections, we have more recently done a bit of analysis.

Slightly more than 50 per cent of the people who applied to vote using iVote—applied on the day and did not get their credentials—did in fact cast a vote. They turned up physically and cast a vote at a polling place. It was a major problem and a major failure, but that suggests perhaps that a certain number of people use iVote at the moment because they like electronic transactions. It will not be too big a shift to go back to physical voting, but overseas voting will be a particular challenge. As I said during a discussion at estimates, blind and low-vision people feel particularly disadvantaged with the absence of iVote. Telephone voting is a halfway house, in that it is a system which gives people a secret ballot, but it does not give blind and low-vision electors the autonomy which the iVote system gave them.

The Hon. ROBERT BORSAK: Let's talk about universal postal voting, which occurred in the last lot of by-elections that we saw. From a verification point of view, I think that is a major problem, from my point of view, especially if you go from, say, 200,000-odd to 5.4 million of them being issued. Do you intend to do that again?

JOHN SCHMIDT: I have no power to do that.

The Hon. ROBERT BORSAK: It was COVID related?

JOHN SCHMIDT: It was a temporary measure put in place. I am not sure whether it was in the regulations, or the Act that was passed by the Parliament. But anyway, I do not have the capacity, and I am not asking for it. As an aside, it is interesting, in the local government space, that the legislation actually provides, for the 2024 local government elections, that individual councils, in the lead-up to that, can determine that they want to have full postal voting, which is the system used for local government elections in Victoria. I am not suggesting that we do the same. That is obviously not my call; that is a matter for the Government and the Parliament.

The Hon. ROBERT BORSAK: So can you give me a thumbnail sketch of what the electoral landscape will be in terms of how you cast a vote in 2023, especially given the fact that you are saying you are going to be \$51.2 million short?

JOHN SCHMIDT: I will perhaps refer myself to the Committee if I do not get my money, because I do not see how I could deliver the election. But let's assume that I get the money. It will be more traditional. For the

vast majority of electors, over 5.3 million or 5.4 million people, it will be, turning up to vote—either early voting or on election day—and postal voting.

The Hon. ROBERT BORSAK: Would it be better that early voting was reduced to one week, for example, rather than two?

JOHN SCHMIDT: I think that was the first recommendation in the report on the 2019 State General Election. I will raise the practical implications of that. It is a matter for the Government and the Parliament. If we compress that voting period, we will have to have more venues and bigger venues. Who knows what the COVID situation may or may not be like? Let's put that aside. It will be a significant readjustment of the logistical services which we provide to deliver early voting if the time period is compressed. Different staffing protocol—we would have to have more people for a shorter period of time. Our systems would have to be reconfigured, because one of the problems which we face with the aging systems is the data that comes through, say, in early mark off. There is a possibility that there could be load issues with that. All that would have to be tested more intensely in coming months, if that was in fact going to be proposed.

The Hon. ROBERT BORSAK: I know you are probably not getting any overt pressure, but do you get or do you feel pressure at all to produce early results on the night?

JOHN SCHMIDT: There is some pressure. For example, in the 2019 State Election one of the measures that I put in place, which made some people unhappy—and maybe it was a communication issue, partly, from the Commission as to the change. We changed the upper House count on election night, as to how many of the "above the line" votes the initial count would include. For minor parties in particular, it did not give a picture of what their likely votes were going to be. There is pressure. There are unfounded comments—but it goes with the landscape—that "You only have one thing to do every four years and you are given hundreds of millions of dollars to do it, so why can't you just get a result out?"

People forget as part of that, too, that the vast majority of people who work on the elections—the 22,000 staff—are not my staff. They are not permanent government employees. They are their friends, their parents, their brothers, and their sisters, who work for a few days or a day at an election poll, who get a limited amount of training because that is what you can do in the time, and who actually take the votes and the vote process. So, yes, there is pressure. People like to have a result. But my experience in recent times is that the political pundits, or the media commentators, call the result anyway. You rarely go to bed these days without most of the seats having been called by the pundits before you switch the lights off. So, yes, there is pressure, but it is a general thing. It is from the public and from the media and sometimes from the parties. But I can understand why; it is a tense atmosphere. We do the best that we can under the circumstances.

The Hon. ROBERT BORSAK: You talked in your opening statement about internal verifiability, as far as your organisation is concerned, in terms of the integrity. But have you given any realistic consideration to party verifiability, in other words, being able to scrutinise as new systems come on, as new processes come on and as new controls come on?

JOHN SCHMIDT: Just for clarification, are you asking the capacity of the parties to, in the lead-up to an election, see the new processes?

The Hon. ROBERT BORSAK: Yes.

JOHN SCHMIDT: Absolutely. Scrutiny is welcome, and we try to give information to scrutineers, obviously, during the election process.

The Hon. ROBERT BORSAK: Or even post-election. Once upon a time, in a silly thought, I tried to scrutineer upper House votes, for example, and found it absolutely impossible. That then projects back to a trust in your scanning and systems that will allocate the preferences properly. I am not suggesting for one moment that they do not, but that is also a legacy system that probably needs to be reviewed and updated. Do you have any comment in relation to that? That is really where I am going with my questioning.

JOHN SCHMIDT: It is a good point. Part of it goes back to my opening statements where—again, if there is a consideration of more seminars for members and others in the lead-up to the election, I am perfectly happy to consider post-election debriefs, if people would like that. The upper House count is a bit different or unusual, and it is entrenched in the Constitution. The former Chair of this Committee, Dr Peter Phelps, undertook that work which saw the weighted Gregory [WIGM] method of voting, which has now been brought in for local government elections—

The Hon. COURTNEY HOUSSOS: It was always in place for local government elections.

JOHN SCHMIDT: No, no. It was brought in specifically. Previously it used the Legislative Council count formula.

The Hon. COURTNEY HOUSSOS: Sorry, I am mistaken.

JOHN SCHMIDT: I think there was some discussion at one point as to whether that should be adopted for the Legislative Council. The history of that, partly, is that we are the last jurisdiction, because it is entrenched in Australia, which has the particular count system for the upper House, which goes back to trying to find a method in pre-computer days where you could deal with millions and millions of paper votes. As part of the count for Legislative Council's spots, there is a process where half the ballots are put aside and never looked at again. So there is a randomisation in there, which means that, when you run the Legislative Council count, according to the requirements of the Constitution, you will not necessarily get the same result if you ran it over again. The WIGM system goes a long way to overcoming that. There are issues, too, about the count formula itself—in addition to my systems, which operate it—as to whether, at some point, there might be an appetite for revisiting that as well.

The Hon. CHRIS RATH: Thank you for your evidence so far. On election day or even with pre-poll, what is the sort of cost of a single polling booth? I know you might not have that information on you. How is it determined where polling booth locations are and how many pre-poll locations there should be et cetera? I assume it is quite expensive to run a polling booth, and we have got a lot of them. Do you have that information on you?

JOHN SCHMIDT: Thank you for the question. That would be a great seminar topic, because it is not an unusual question to get. It depends from booth to booth. It depends on whether we are using, say, a state school facility, where there is a fixed fee under the Department of Education for using it; whether we are having to rent a vacant shop on the high street and, depending on what the commercial activity in that is, how much you will pay for a very short-term lease, because we do not own the properties—that would not be a feasible thing. It depends on how many voters you project you are going to take through, and that will depend on the staffing. That will influence the amount of computer equipment you have to have in it. So there are huge variables from site to site. You will not get a stock standard "if it costs X dollars in Bega, it is going to cost the same in Paddington". It just does not operate that way.

The Hon. CHRIS RATH: Is there a formula to determine how many polling locations there should be? Obviously, if it is in a densely populated electorate like Sydney or Vacluse, there will be fewer, I would assume, than in a sparsely populated electorate like in western New South Wales. Is there a formula that the commission uses? How is that determined?

JOHN SCHMIDT: There is. Again, we could take you through that. The nexus is not quite like that. We look at table loadings, wait times and, for WHS purposes for the temporary staff who come on board, what is a reasonable target for those people in a place of that size. If in a particular area you have a limited number of venues, and you have a couple of smaller venues, you might have to have more smaller venues. If you somehow can secure a larger venue, maybe you can dispense with one of the smaller ones. In remote areas in regional and rural, we have thresholds based on our past experience about how many voters turn up, and also the AEC's experience. I cannot remember exactly what the threshold is in broad terms. Ms Summerell, do you remember?

ANDREA SUMMERELL: No. I would say, as the Commissioner is saying, it is historical data. Are we getting the projected votes that would substantiate that we have a venue there? We are using AEC data, because electors see the NSW Electoral Commission alongside the AEC. We both conduct elections that are the same. We do try to have a pattern, so electors know where they are able to vote. But, for us, the factor of where we can get commercial properties, particularly in a pre-poll area—we would try to see where we can serve the electors best. But the prices vary, and also we do not want to have a volume of voters that would mean that there are large queues and our staff are overwhelmed. So it is a number of factors that we could look at.

The Hon. CHRIS RATH: I think we have seen—I assume this is a correct statement—a lot more people voting early. There has been an increase in the number of people using early voting, in particular with pre-poll. My observation is that the amount of early voting that takes place is proportionate to the amount of pre-poll locations that there are. I think there is potentially a bit of a supply creating its own demand situation where—and this is just my observation from helping at pre-poll locations—people walk past, or drive past, they see that there is a pre-poll location there and they think, "There is voting today; I might go in and vote", and they go and vote because they see it.

So the more pre-poll locations that exist, it is potentially causing a bit of a spiral: more locations, more people voting, therefore you need more pre-poll locations because more people are voting. It is creating more and more early voting. It is not like we are encouraging people to vote on election day anymore. I do not know if that is something that is of concern to the commission. It is not like we go through any particular checks to say, "Can you not make it on election day?" They see the pre-poll location and they go in and vote. It has created this

increase. It is preferable to try to have as many people vote on election day as possible, because things can change in the two or three weeks leading up to election day as well.

JOHN SCHMIDT: Those are good points. If I could unpack some of that, I think the COVID experience has distorted the market in that space, because as a COVID measure, the requirements about pre-polling were taken away for local government and the by-elections. With COVID distancing and other measures, knowing that anybody could turn up and early vote without a qualification, we have provided more polling places. Whether that will change the perception for the State General Election is hard to say. I had a lengthy discussion at a former JSCEM meeting on this very topic, about the role of the Commission. I will repeat something that I said there. There is a real tension in my role with early voting, because we do ask people, "What's your basis"—I cannot remember the exact words—"Are you qualified to early vote?" In our advertising and in our material, we tell people that there are qualifications, just like there are for postal voting and there used to be for iVote. At the same time, we are seeing this trend across Australia, where some jurisdictions have got rid of the concept of pre-poll; they have now got an election period. Even in those jurisdictions that have a pre-poll qualification, there is an increasing demand for pre-poll from people.

The quandary that puts me in is, how do I impose the qualifications? We have a soft approach: We ask people. If they make a false declaration, it is a verbal declaration, we are not asking them to—but what is the next step to ratchet that up? Do you have to have banks of election workers who—if a person turns up to pre-poll, they have to make some sort of declaration as to why they are pre-polling, and then let them vote. Then for that to be of any impact and effect, you would have to follow up each of those electors after the election and say, "Were you really out of the state on that day?" to which they might have evidence, or they might just say, "I had planned to be, but circumstances changed, and I never went." I do not know the answer to that. On the one hand, I have an absolute duty to assist as many people who are eligible to vote—and I mean in the broader sense, about being over 18 et cetera—to cast a vote, so that they can participate in the democratic process, but also, in the subset of early voting, apply the qualifications. It is an ongoing dilemma; it is not a new one.

The Hon. CHRIS RATH: The timing of elections at a state level—at least we know when they are, unlike at a federal level. But depending on how many people vote and at what time, it could obviously change the election. It is something of interest, the drastic increase in pre-poll. I remember in the first election I voted in, I had to do a pre-poll and they were probably a little bit more proactive in asking, "Are you away on election day and you cannot make it?" I feel that maybe some of that has dropped off a bit of late. I am not sure if there has been any conscious effort to do that.

JOHN SCHMIDT: I do not know if there has been a conscious effort. But bear in mind there is a series of qualifications that a person can have to pre-poll. Maybe you do hand them a card or something which says—people will still vote early because they want to vote early. What is the mechanism then for taking action? Would you want me to be out there prosecuting a person who, for whatever reason, pre-poll when perhaps they were not 100 per cent truthful in respect to the reason that they pre-poll?

Where is the balance? Where is the public interest in, on the one hand, getting a valid vote and them participating in the democratic process, or deterring them from turning up on the day? Then, of course, when we send out the apparent failure-to-vote notice, we will get a response back from them saying, "I tried to vote at Lakemba and I was turned away." Then I will get agitated representations from members of Parliament saying, "What were you doing?" We will not know the circumstances upon which—because we would not have recorded that Joe Bloggs turned up, was shown the card with qualifications, and he said, "No, I do not meet those", and he was told to go away. We would have no record of that. It is a challenge.

The Hon. CHRIS RATH: Do you know what increase in the number of pre-poll locations there has been over, say, the last three or four State elections?

JOHN SCHMIDT: We can take that on notice, but I just run that caveat of COVID because you will get a huge jump—

The Hon. CHRIS RATH: Of course. Just out of interest—

JOHN SCHMIDT: Sure.

The Hon. CHRIS RATH: Because I assume as more and more people vote early, you need more locations to keep up.

JOHN SCHMIDT: Is it a pull or a push factor? I am not sure.

Mr KEVIN CONOLLY: Just as an aside before my main question, I think I have observed not only an increase in pre-poll over the years but a corresponding decrease in absentee, which is probably in everybody's interest as well—if people come to be familiar with the fact that they can vote near their home on Tuesday if they

are going to be somewhere else on Saturday. There are probably some swings and roundabouts in that too. We have heard something about the granular variability in costs—more people turning up at this booth to that booth and how many tables do we need and wait times. But would not, in a macro sense, the cost of the election be a little bit more predictable in the sense that the main drivers of change are CPI, population growth, to some extent population distribution and the forms of voting? We know most of those things. It would be reasonably predictable—about what the gross cost of an election is going to be. Would that not be a fair summation?

JOHN SCHMIDT: You are absolutely right. One of the metrics, and I am not sure if we still use this in our budget bids—the cost per elector.

MATT PHILLIPS: We do not use it.

JOHN SCHMIDT: We have in the past. We are actually in discussions. One of the proposals out of the Government's new funding model is this re-baselining, which I absolutely welcome, to try and get a handle on what a healthy structure for the organisation should be going forward. We are doing some work with a consultancy firm at the moment about a formula which could be developed, perhaps, for election costs, to refine that a bit further. So that takes into account CPI, population moves, et cetera. That is work that is in train at the moment, and might form the basis more clearly in future budget bids for election costs.

Mr KEVIN CONOLLY: It certainly is true that most polling booths are in repeat locations, are they not? They are predictable for the very reason we want the community to know where they are going to be. Yes, you might vary the number of tables and staff a little bit here and there as numbers go up or down. But a lot of it is fixed, is it not?

JOHN SCHMIDT: I agree. In fact, at first blush that is absolutely right. But just how things have changed, even in the couple of elections I have been here—for example, you would think that there would be a state cost for the use of schools. But between the 2015 and 2019 State General Elections the Department of Education came out with a new costing model for community use—and we are included in that—for schools. It was some hundreds of per cent increase. So that changed.

Mr KEVIN CONOLLY: That is interesting.

JOHN SCHMIDT: We did a reassessment of the—I requested a reassessment of the money that we were actually paying to our temporary work staff. Of course, I have the power—almost like an award. I determine the cost. I found that the money we were paying was dramatically out of kilter with awards which might reflect—in the 2019 election there was a significant uplift for the wages component. Because they are every four years, there is a desire for a static, as it were, straight-line projection. Fate has not necessarily led that to be the outcome, which is not to say you should not be able to do some analysis of costs, because we can do it retrospectively—a cost per ballot. You just total up the cost of the election and the number of ballots that were received. But this is something we are looking into at the moment.

Mr KEVIN CONOLLY: The other question I wanted to ask was about the aging IT platforms that you are working with. Has there been a progressive plan over the years—planned maintenance, planned upgrades—a vision for how it should work?

JOHN SCHMIDT: If only it were so. This was one of the bids I put in in the last financial year and did not get a cent for—to try and kick off a modernisation process. We get money primarily when elections are on. It is too late, when elections are on, to try and fix systems. The Australian Electoral Commission is going through this massive project at the moment, called Project Indigo. Over five to 10 years the Commonwealth Government has agreed—because it takes that length of time—to roll out a complete modernisation of its core election systems. To do that—as you would expect, because we have to maintain our capacity to run elections—they have basically had to create a shadow IT organisation, which will plan and develop and implement, and then deal with the subject matter experts in the AEC who are running the elections and other functions that have to keep going, so that over a period of years they can do it. In my dreams! It is such an obvious thing.

Mr KEVIN CONOLLY: I was looking at the tables you provided in the submission there and obviously it is lumpy. There are election years and you see that component go up and in some years it is right down. But there is a recurrent funding base throughout.

JOHN SCHMIDT: Yes.

Mr KEVIN CONOLLY: Is it not seen as a recurrent function to manage something of that kind?

JOHN SCHMIDT: No. I will not go into who wrote it, but there was some media at the end of last year which purported that—why am I having all these problems, when I get \$140 million for everything I do. It was in

the context of the local government elections, and the councils had to pay anyway. My recurrent component of funding is about \$35 million to \$40 million. And this financial year how much money have I got?

MATT PHILLIPS: A hundred and ninety.

JOHN SCHMIDT: A hundred and ninety, and that is local government. A big component is local government. I get a significant amount of money for your funding—public funding. I do not get the administration money to administer that. That is meant to be covered by the other things. With that money we have to run investigations. We have got severe limitations about ongoing funding for our investigators. We have to employ the staff. We have to run the whole funding and disclosure operation itself. Lobbyists—we have to run the lobbying system. I do not even put in bids to fix my lobbying system any more. My lobbying system is not satisfactory. It gets information out there, but it does not get it out in an appropriate fashion. I have stopped putting in bids in for that because, one, I no longer have the capacity, and I did not have a chance anyway. When you look across the other integrity agencies, my envelope is not much different from their core functions, but I have these events, and I have the public funding, which distort the total figure, but they do not represent any—what is my minor capital works budget?

MATT PHILLIPS: One hundred.

JOHN SCHMIDT: I have a \$100,000 minor capital works budget. So there—I will fix my computers with that. I went to a meeting with senior people a while ago, and people literally laughed aloud when I said my minor capital works budget is \$100,000. Treasury at one point recommended we put in a bid to increase it to at least \$200,000. We put the bid in and it was knocked back.

Mr KEVIN CONOLLY: You mentioned a moment ago that council is required to pay for elections—

JOHN SCHMIDT: They paid for—

Mr KEVIN CONOLLY: What proportion of the true cost has that accounted for? That is where I am going.

JOHN SCHMIDT: The model has changed again because of initiatives that I took. A bit of history: with the flow-on effect of the cost escalations from the 2019 State Election, because I have to offer the same level of standard as people would expect for a local government election as for a state, there were going to be significant increases for the cost of running the local government elections. The figures have got distorted for local government because of COVID and postponement. The Government, I am pleased to say, came to a new funding arrangement, following an IPART review. Whenever I raise issues about my funding, I get an IPART review, I get an Auditor-General review, Public Accountability Committee—happy to do so. They all come back and say the same thing: things have to change. The Government now bears the core cost, like the maintenance of the systems to run the election, some of the staffing et cetera. The councils pay just a proportion. I think it is about of the—what was the total cost? Matt, you answer that.

MATT PHILLIPS: The budget for full attendance for the local government elections was \$146 million. Some \$46 million was for the Electoral Commission's direct costs for conducting those elections, and that is recoverable from local councils.

Mr KEVIN CONOLLY: You recovered \$46 million.

MATT PHILLIPS: We have not, as yet.

JOHN SCHMIDT: We are sending out invoices shortly, so in that ballpark. But the rest of the figures were borne by the Government, and a big slab of those were deferral costs, because of COVID, and then the COVID additional costs for the additional measures that had to be put in place.

Mr PAUL SCULLY: Commissioner, you suggested earlier that it was ultimately a matter for Government and the Parliament as to an unsolicited universal postal vote for the 2023 election, and that you were not a fan of that. Will you be making a recommendation to Government that that should not proceed and that there should not be an unsolicited universal postal vote?

JOHN SCHMIDT: What I will do if asked that question is point out, as a threshold, some of the logistical changes we would face, I think, to find suppliers who could provide 5.3 million, approximately, postal ballots. That might be an unsurmountable threshold in itself. As to the policy decision, that is not really appropriate for me to say. I think there would be significant hurdles, if that was the case. I have heard nothing along those lines, and I am certainly not asking for that. I only sought that for those by-elections because COVID was again rearing its head, and I was concerned about turnout, and iVote was not available at that point. iVote was not available, not because I was not going to use it again, but because it had to be reconfigured after the local

government elections. We just could not use it. That was a halfway house measure that I put up and I am happy to say that the Government adopted it. But I am not pushing for that into the future.

Mr PAUL SCULLY: I am pleased to hear that. While you have touched on the local government election, some have argued to me that there may not have been sufficient funding for the Commission to conduct that. There was not a universal postal vote done there. Are you able to confirm for us, given the COVID arrangements that were in place, how many people were issued fines for not voting?

JOHN SCHMIDT: We are in the middle of that process now. In fact, I could either take it on notice now, or I could undertake to include that information in the submission for the select committee, which has just been established. I am not sure what your timetable for that would be. On notice, I will come back to you with the number of apparent failure notices that have been issued, having in mind that it is a lengthy process. Some hundreds of thousands of people came back with reasons why there were failures. For example—and there was a question on notice in Parliament about this—there was a failure of my electronic mark off system, because of some of the ongoing problems where did people turn up and vote, and I accept they turned up to vote, but they were not recorded either physically or online as having done so. It is a process which is in train at the moment. We will give you a status report.

Mr PAUL SCULLY: To add to the context of that, given that you are taking it on notice, perhaps it would be useful to give us a sense of whether that was higher or lower than, say, the 2019 State elections. If you could provide a number by comparison and perhaps similarly the most recent local government election before that.

JOHN SCHMIDT: Certainly. My understanding is that it is in line with previous experience, but we will confirm that.

Mr PAUL SCULLY: Just reflecting on one of the comments in your opening statement, you pointed to the fact that the addition of logos on a ballot paper is not without cost. I accept that. Is that a substantial cost? What are we talking as a ballpark here? I mean, you have got to collect the logos et cetera.

JOHN SCHMIDT: It is not the cost, per se; it is the resourcing implications about what system changes would have to be made to the ballot production software and other elements. I have not done an analysis. This is yet another change on top of grappling with keeping the systems going as they are. Even though it might be small, it includes if it was to be introduced, when it was introduced and how it was going to be introduced. It comes down to: What is the best use of my resources? Where would you rather see me put my resources? Would you rather see me put my resources into trying to improve and fix the systems I have already got, to give you greater reliability on delivering an election? Or do you want me to introduce new systems - albeit they might turn out to be not significant changes, but it still requires the subject matter experts and the IT people to not be distracted—that is the wrong word—or diverted to implement a new component?

Ultimately it is a matter for the Parliament for what legislation is passed. Circling the wagons is my approach at the moment. I am circling the wagons with the systems and responsibilities that I have, to try to maintain the reliability and deliverability of my systems as best I can until some of these other processes kick in. I asked for a rollover of some funds for modernisation work. I have talked about that. There is re-baselining work, which is going to be done with us and Treasury coming forward. Those things will take a couple of years to bed down. It would be nice if we just—and this is not a criticism because no-one is responsible for this.

Historically, the Commission has had a couple of big breaks between major election events. So, you have a General Election, and two years later you have a local government election, and then a break, and then the State. Because of the split local government elections, with the amalgamation issues after the 2015 State General Election, and then with COVID and postponements, we have been in election mode since the preparations for 2015. Those down times would historically be the opportunity, assuming you were given money to do it, to try and fix your systems and develop capabilities, like broader electronic mark off and ballot scanning.

I would love to introduce ballot scanning for the Legislative Council. I think it is a fantastic idea. I think it would be efficient, and I think there are measures we can put in place to give people confidence. There would be a record of every single ballot paper which was cast. We actually went out to market, to test the market, because the Commonwealth does it for the Senate papers. I told people to stop a while ago because we cannot implement it, so there is no point pursuing it. I am not trying to be obstructionist; I am just trying to find a way of giving as much certainty and reliability—back to Mr Borsak's question at the very beginning—about the comfort to the people of New South Wales about delivering an election result which gives them comfort in the process in 2023.

The Hon. ROBERT BORSAK: Further to that, have you had any progress with the Government on your 2022-23 budget submissions?

JOHN SCHMIDT: As I said earlier in the piece, we have had, we believe, constructive engagement with Treasury officials. As to what comes out of the budget process, I cannot speculate, because I am not in the room. Again, if the budget comes down and there are gaps in what I have asked for, and the Committee seems minded to, I am happy to come back and explore those shortfalls with you.

The Hon. PETER PRIMROSE: Following on from Mr Borsak's question, I would like us to be able to go through and be very clear after the Treasurer brings down his budget on 21 June where they have given you more money or less money than you actually requested in your bids. My simple request is for you to on notice add another column titled "Comments" in relation to "Box 7. Budget submissions" on page 27 of your submission to this inquiry, so that it will be quite clear if there have been any changes as a consequence, for example, of the Premier's recent announcements of the quantum of funding that you have sought in each of those five categories that are listed. So that when I go through after and look at what the Treasurer has actually allocated, I am being fair to the Treasurer because I will know exactly the most up-to-date bid that you have put in.

JOHN SCHMIDT: Matt, did you want to say something?

MATT PHILLIPS: Can I just say, we will need to update that table while the numbers are still the same for those five projects identified. We actually put in a further two submissions based on Treasury's request, one of which is around voting centre device refresh, which is a straight conversion of approved capital funding to operational. That was for next year. It is \$4.5 million. We will give you an update on that project as well, and there is a minor project we put in around data remediation. It is just a technical issue. But we will update the table and provide you the assessment on the five plus the additional two.

The Hon. PETER PRIMROSE: Thank you, and make that box 7A.

The CHAIR: Thank you to all witnesses for appearing before us today. We may send you some further questions in writing. Your replies will form part of the evidence and be made public. Would you be happy to provide written replies to any further questions?

JOHN SCHMIDT: Certainly.

The CHAIR: Thank you so much for appearing.

JOHN SCHMIDT: Again, I genuinely want to record my appreciation for this opportunity. I genuinely believe there is an opportunity for myself as an independent agency to work much more closely with this Committee for the benefit of the Parliament and the parliamentarians about the running of elections and our other services, including funding and disclosure and the compliance side going forward. My door is open.

The CHAIR: Thank you.

(The witnesses withdrew.)

The Committee adjourned at 14:05.