

**REPORT OF PROCEEDINGS BEFORE**

**JOINT STANDING COMMITTEE ON ELECTORAL  
MATTERS**

**INQUIRY INTO 2012 LOCAL GOVERNMENT ELECTIONS**

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**At Sydney on Monday 16 September 2013**

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**The Committee met at 9.45 a.m.**

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**PRESENT**

Mr G. J. Ward (Chair)

**Legislative Council**

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

**Legislative Assembly**

Mr A. R. G. Fraser  
Mr D. W. Maguire

**CHAIR:** Good morning and thank you for attending this public hearing of the Joint Standing Committee on Electoral Matters. The Committee is holding hearings this morning in relation to the current inquiry into the 2012 local government elections. Today we will be hearing from a range of people, including the New South Wales Business Chamber. Before proceedings commence, may I remind everyone to switch off their mobile phones.

For the benefit of the gallery I note the Committee has resolved to authorise the media to broadcast sound and video excerpts of its public proceedings. Copies of the guidelines governing the coverage of proceedings are available. I now declare the hearing open. I welcome members of the New South Wales Business Chamber who are representing the chamber today and thank them for appearing before the Committee today to give evidence. As part of the formalities, it is a requirement that each witness be examined under oath or affirmation.

**LUKE AITKEN**, Senior Manager, Policy, New South Wales Business Chamber, and

**ASH SALARDINI**, Policy Adviser, New South Wales Business Chamber, affirmed and examined:

**CHAIR:** I draw your attention to the fact that your evidence is given under parliamentary privilege and you are protected from legal or administrative action that might arise as a result of or in relation to the information you provide. I also note that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act. Do you wish to make some introductory remarks?

**Mr SALARDINI:** Yes, we do. Thank you, Mr Chairman. We are here on behalf of the New South Wales Business Chamber and the Sydney Business Chamber. We are one of the largest business groups in Australia. We represent 14,500 members that are from small businesses all the way to large corporations. We do have an interest on behalf of business. One of the concerns we have with local elections is the participation rates of businesses. At an absolute level, it is quite low and over time it has been declining. As a matter of priority we think there needs to be something done to arrest this decline and encourage more businesses to vote.

**Mr DARYL MAGUIRE:** In your opening remarks you have said it is declining. What in your opinion is making it decline?

**Mr AITKEN:** There is a range of issues there in terms of the rate of decline. Going out and talking to our members about the availability of a non-resident ratepaying vote is that a lot of them are not aware that it actually exists. That is one point: the actual existence of the ability to vote and participate in local government elections is not well known by the business population. Second is the process by which you enrol yourself on the roll. I have brought along a couple of the application forms. These are forms that a non-resident ratepayer needs to fill in for each local government election. I presume within the proportion that do participate a lot come to the next election and find out that they have not enrolled and are not able to participate in that present election. I think there is a range of issues there but I think they can quite simply be eradicated by dealing with the issues around process and communicating the availability of a non-resident ratepaying vote.

**Mr ANDREW FRASER:** Who do you feel the responsibility for that should fall to—the council?

**Mr AITKEN:** Firstly, I think it falls to the Government in terms of addressing some of the legislative issues that are there. The fact that you have to re-enrol at each and every local government election I think is a problem. I think we are at a very critical point in time with a Local Government Act review and boundaries review. We are looking at the whole issue of the modernisation of local government. I think the time is ripe for the Government to take a bit of a lead. I think there also needs to be some work done with the Electoral Commission and the way they communicate things, and then obviously that all filters down to the council level.

**CHAIR:** Mr Aitken, I put it to you that at the moment if you are an elector on the general roll, you do not have to re-enrol each time. I do not have to re-enrol to vote for Kiama or for the Federal election in Gilmore, although there is an anomaly in the law where businesses need to re-enrol each time. Do you wish to make a comment about that?

**Mr AITKEN:** Yes. I just think that fundamentally once you have gone through that process, that process should stand. The suggestion we have put through in our submission is that obviously there is an issue around keeping the roll current and obviously these are non-residents. Businesses from time to time do move away. They are often ratepaying lessees so they might move premises.

**CHAIR:** But at the moment if you leave an area and go to another you have got to register and re-enrol. If I move to Wagga Wagga, for instance, I would need to re-enrol in Wagga Wagga.

**The Hon. TREVOR KHAN:** Is this a Dorothy Dixier exercise?

**CHAIR:** No, it is not, given the comments outside of these proceedings.

**Mr DARYL MAGUIRE:** Everyone wants to move to Wagga Wagga.

**Mr ANDREW FRASER:** I wonder if you would go for Daryl.

**CHAIR:** Always. Do you see what I am saying?

**Mr AITKEN:** Yes.

**CHAIR:** At the moment, it seems to be an inconsistency.

**Mr AITKEN:** That is exactly right and the chamber definitely notes that there is an inconsistency which should not actually be there. Our view around the process of enrolment is that you enrol once and as long as you continue to vote, you do not fall off the roll. But if you fail to vote in two consecutive elections, then you drop off the roll.

**CHAIR:** Do you think that that roll should be a compulsory requirement as part of an election process?

**Mr AITKEN:** No.

**The Hon. TREVOR KHAN:** First off, there is a difference, is there not, between a business and natural person; that is, a natural person is a living entity and a business is not, is it?

**Mr AITKEN:** Not under the law if you corporatise.

**The Hon. TREVOR KHAN:** That is a fairly relevant criterion.

**Mr AITKEN:** That is one point. I guess, under the Act there has always been this provision for non-residents to vote in elections.

**The Hon. TREVOR KHAN:** I am not doubting that, but you cannot necessarily equate a business with a natural person, can you?

**Mr AITKEN:** You can when it is a small business.

**Mr DARYL MAGUIRE:** A nominee.

**Mr AITKEN:** You can own your own business. There is no real separation between the identity of the business and the person.

**The Hon. TREVOR KHAN:** And if it is a partnership? Are you going to call that a natural person as well?

**Mr AITKEN:** It is a natural person. But I think the issue is not around whether it is a natural person. It is whether it has a real and valid interest in the election. I think when we look at the City of Sydney and when you look at the rates that the City of Sydney gets, which is about half a billion dollars with about 82 per cent I think it is—

**Mr SALARDINI:** Eighty per cent of the rates come from businesses.

**The Hon. TREVOR KHAN:** I understand that. Is that not the inducement for businesses in the City of Sydney to go out of their way to register to vote, if they are paying all this money?

**Mr AITKEN:** I think they are going out of their way and there is a manifest unfairness in making them jump through so many hoops. I am happy to share with the Committee—I am not sure whether anyone is familiar with the form.

**Mr DARYL MAGUIRE:** I am. I have to declare an interest. I am a non-residential voter.

**Mr AITKEN:** For the last local government elections, we took these forms and picked them to pieces so that we could explain to our membership what you have to provide to put in there. For many of them, particularly within strata buildings, a rate assessment number that is difficult to get from the council. That is one issue that I think councils should be looking at, making sure it is clear that a rate assessment number is something available to lessees.

**The Hon. TREVOR KHAN:** Could you tell me when referring to a lessee whether a rate assessment number is on the rate notice?

**Mr AITKEN:** Not always and it is not something that is immediately shared by councils. We did have some issues with the City of Sydney in getting that number. Obviously, from a chamber we are able to go and speak to the senior management of the council and make it clear to the front office staff that that number is available and can be provided to people who ask for it. It is not of immediate knowledge to a business oftentimes.

**The Hon. TREVOR KHAN:** You have referred in your submission to a drop-off and you have given an indication. What has changed in either the legislative framework or the procedural framework that, for instance, the City of Sydney applies which explains why there has been a drop-off?

**Mr AITKEN:** It is hard to tell why it has dropped off but I think it may be a lack of promotion around the opportunity to participate in the elections.

**The Hon. TREVOR KHAN:** I ask you, because you referred to it before: What has your organisation done to promote non-residential voting in the City of Sydney?

**Mr AITKEN:** In the last local government elections we had the chief executive of the NSW Business Chamber participate in the North Sydney election. We also had Patricia Forsythe, Chief Executive of the Sydney Business Chamber, participate for Sydney.

**The Hon. TREVOR KHAN:** What does that mean?

**Mr AITKEN:** She voted on behalf of the Sydney Business Chamber, since it is a ratepaying lessee in the city.

**The Hon. TREVOR KHAN:** That is one vote. What about the rest of your members?

**Mr AITKEN:** We went out to all our regional advisory councils, to inform them of it. I went through and discussed the form and pointed out how one fills it in. We promoted it through the media and we had a few stories in the *Daily Telegraph*. We did see a slight uplift and I like to take credit for all those people participating. However, the number is still shockingly low. I am not saying that stakeholders should not be promoting it as well but I think there needs to be a whole-of-government approach.

**CHAIR:** So why would we not then make it compulsory? You said earlier that there is an inconsistency—we talked about the fact that once one enrolls one does not have to re-enrol and there is an inconsistency there in re-enrolment. Why then should it not be compulsory for businesses to enrol and vote in order to lift the number of people participating?

**Mr AITKEN:** I guess it is an additional vote, but in a different local government area.

**CHAIR:** It is already the case.

**Mr AITKEN:** All people are compelled to vote because we have a system of compulsory voting across Australia. That is not true actually. Some local areas—I cannot remember which State—does not enforce compulsory voting for local government elections.

**Mr ANDREW FRASER:** South Australia.

**Mr AITKEN:** South Australia. I think the intention behind the provisions in the Act has always been that it is not compulsory. I think forcing this on businesses that may have a number of offices in different areas may be difficult. It is quite easy, with 152 councils, to be across seven or eight local government areas because you are a rate paying lessee in each of those. Are you proposing that they chase around each of those on election day, especially when a lot of those people who might be working in that business are also in that area? I think that there is too much focus on the compulsory aspect; that all our elections must be compulsory and all electors must be required to vote. I think if you make the process easier you will build up the participation without having to force people into it.

**Mr ANDREW FRASER:** You are putting forward the fact that the process is not good and I have to agree with you. But in reality, if a business has a vested interest in seeing a council that may be friendly to its needs, surely filling in a form is not going to stop them, and yet the level of non-participation in this is unbelievable.

**Mr AITKEN:** It is shocking. We have a Government that is looking for red tape reduction but this is a great example of red tape—and unnecessary red tape—foisted on the business community. I think obviously—

**The Hon. TREVOR KHAN:** How often are you saying they fill in this form—once every electoral term?

**Mr AITKEN:** Unlike every elector.

**The Hon. TREVOR KHAN:** Every other elector has a compulsory vote.

**Mr AITKEN:** Yes but every other elector, once on the roll, does not have to change that status.

**The Hon. TREVOR KHAN:** That is right.

**CHAIR:** Have you concluded your answer to Mr Khan's question?

**Mr AITKEN:** Yes.

**Mr ANDREW FRASER:** The point I was trying to make was that there must be something other than the paperwork that is holding people back from voting. I made sure I had a vote. Whilst I found the paperwork a nuisance, it did not stop my determination to vote.

**Mr DARYL MAGUIRE:** Nor mine.

**Mr AITKEN:** It may be an example of the general disengagement of people around the political process. We have seen quite a low turnout generally in local government elections, with a lot choosing to take the fine. Even though it is compulsory many failed to vote at the last local government elections. For a lot of people, even being aware of which local government area they are in can be a struggle. They often presume it is the same as a State electorate or a Federal electorate.

**CHAIR:** At the last State election we trialled iVote, which is an electronic voting system. That worked very well. If we were to go down the line of saying to business, "You only need to fill in this form once, which means that you do not need to re-enrol and re-enrol," I assume that you would be supportive of allowing iVote to be one of the mechanisms by which business could vote electronically.

**Mr AITKEN:** Definitely. In relation to other documents you have to fill in for enrolment, having something there—a live document so that you can roll a mouse or something over it and see what information is provided; some pop-up information—would be very useful. So a mechanism like iVote would be useful as well.

**CHAIR:** You also had some evidence in relation to the sorts of information you would like candidates to provide on the nomination form.

**Mr AITKEN:** One of the issues we got feedback on when we discussed this issue with our members was the lack of information that was provided on candidates—finding out a little bit more about what qualifications they had for the position and providing some contact details so that they can be contacted during the election and so that people can hear back from them. We had one member who runs a local business who informed me that in his local government area he had about 30 candidates for about 12 positions but only 14 had provided information so that you could contact them. I understand that people might go on the ticket at number three or four and not expect to get on the council but that should not mean that they do not put themselves forward. If you are putting yourself forward for public office you should allow yourself to be examined—you should put yourself out there.

**Mr ANDREW FRASER:** Going back to the resistance of people to voting, and the fact that you do not believe that businesses should vote compulsorily, surely if they are on the roll and there is a pre-poll running

down at Town Hall for a couple of weeks beforehand, it should not be difficult for businesses to vote. The old adage is that bad governments are elected by good citizens who do not vote. My attitude is that if people cannot be bothered enrolling, or are given an opportunity not to vote and do not vote, they have no real right to complain about any governance that they have. So why not have a compulsory vote? Allow them to be enrolled on a four-year basis or on a continuing basis under whatever conditions and allow them also to have the compulsory vote.

**Mr AITKEN:** I think I would err on the side of maintaining the ability to self-select whether or not to go in and participate. With many small businesses being very busy—they often work six days a week—it can be quite difficult for them to find time away. If the Committee were to recommend that we should go down that path I think you would have to look at other options around how you could make it more flexible. Opportunities for electronic voting or increasing the ability to get a postal vote might be a couple of ways of getting around that. But because of the way local government is structured at the moment—a business may have offices across six local government areas—I do not think we should be forcing someone to go and participate in all those elections. I do not think that is the way to go. I think it is probably part of the broader modernisation debate. Maybe it will get a lot easier when you reduce the number of councils. That is where you might be able to deal with the issues a little more easily—there would be more coverage and businesses would not be split up over 42 councils within Sydney.

**Mr ANDREW FRASER:** That is not this Committee's call, unfortunately.

**Mr AITKEN:** No.

**The Hon. TREVOR KHAN:** In your submission you call for candidates to provide not only contact details but also party affiliations. What is the rationale for that?

**Mr AITKEN:** I think it is just making it a little bit clearer. If someone belongs to a political party he or she should be providing that information when standing up to be elected.

**The Hon. TREVOR KHAN:** Why?

**Mr AITKEN:** Although binding caucus votes have been banned in local government I think people want to see whether or not there is a relationship between councillors, and whether that is based on party lines. It increases the openness and transparency of government decision-making. Especially within local governments, where decisions can have such an impact on a business or a property owner, I think it is absolutely vital that it be as open and transparent as possible.

**The Hon. TREVOR KHAN:** If a party does not run candidates in local government elections, what is the impact of your recommendation?

**Mr AITKEN:** I think it is more to have a discussion around what information should or should not be provided. I do not think party—

**The Hon. TREVOR KHAN:** You are making the recommendation about the disclosure of party-political affiliations. We know that two parties in New South Wales run candidates in local government elections. There are more than two parties in New South Wales that are registered. It is your recommendation; explain what the effect is, not only on the two parties that are registered but also on the other parties, which are not registered.

**Mr AITKEN:** I think it just opens it up so that people understand where a person may be formulating his or her decision-making from. The whole point is that when you step into the ballot booth you are voting for someone who, when he or she makes a decision, is using a whole background level of information. I think it is just one of the things that should be in the mix in allowing people to consider a candidate—they can see what the candidate will take on board when making decisions around—

**CHAIR:** Would you extend that classification to include unions?

**Mr AITKEN:** I do not see why not. I would like to see as much disclosure as possible. If you are a member of something—

**The Hon. TREVOR KHAN:** Church groups, perhaps?

**Mr AITKEN:** I do not see why not. If you are there and you are taking on public office and this is an aspect of you—something that you might refer to in making an assessment or a decision—by all means it should be out there and open. There may be points—

**The Hon. TREVOR KHAN:** Wow!

**Mr AITKEN:** When you are a councillor you are bound by the code of conduct. There may be instances where you have to open up about something, regardless. So the fact that you did it when you were elected would probably help you out later down the track when you get a development application and you have to say, "I cannot vote on this because I am a member of X, Y or Z group or affiliation." So putting it out there so that people are aware would build trust and might motivate people a little bit more to participate in local government elections.

**Mr DARYL MAGUIRE:** In your submission you suggested amalgamating some council areas. Can you paint a picture for us?

**Mr AITKEN:** Of the boundaries?

**Mr DARYL MAGUIRE:** Be bold.

**Mr ANDREW FRASER:** "Be courageous," to use the *Yes Minister* vernacular.

**Mr DARYL MAGUIRE:** Be courageous!

**Mr AITKEN:** It is no secret that the New South Wales Business Chamber is quite supportive of council amalgamations. That is not the only issue around local government that is impacting on our members. Definitely within the Sydney region, we would agree with the initial findings of the local government Boundaries Commission around the need to reduce the number of councils within Sydney. We may have some differing views about where the boundaries might lie but that is a topic of conversation with others. Definitely, a reduction in the number of councils would assist in building a stronger, more relevant system of local government in this State. It would also mean that people might want to be more involved, because their council would be more empowered to make decisions that affect them. So definitely amalgamation should be part of this conversation.

**Mr DARYL MAGUIRE:** You also mentioned vacancies and reducing the need for by-elections.

**Mr AITKEN:** I know that the Committee has heard from councils on the cost of local government elections. One of the big cost impacts has been around by-elections, so we definitely support looking at proposals not to have a by-election if it is within 12 months of an election, or 18 months prior to an upcoming election. In addition, we have suggested that, if a council does not have a ward structure, a minimum number of councillors be determined to be five, so that if a councillor leaving the council does not result in the council falling below that number, no by-election is necessary. But if it falls under that number then you have to do a by-election for all vacant offices.

**Mr ANDREW FRASER:** Do you have an opinion on whether the ward structure should be compulsory?

**Mr AITKEN:** There have been challenges around different ward structures. I know there has been some discussion with the Local Government Act task force and with the boundaries task force looking at these issues. At this stage, the more appropriate way to go would be to lose a lot of the ward structures, especially with the size that councils are at the moment, it does not make much sense. Potentially, when you start to get larger councils—

**Mr ANDREW FRASER:** If.

**Mr AITKEN:** If, yes. I did say "potential". That might be something to determine or to look at differently. The utilisation of local boards, which has been used effectively in New Zealand, might be one path



to go down, where you do not have elected members but a different class of councillor who helps with out with local decisions.

**CHAIR:** Mr Aitken, I note that your written evidence refers expressly to the 41 councils in the Sydney area. You are not making any comment in relation to amalgamations in the country by any chance, are you?

**Mr AITKEN:** Our position, and we have stated it to both of the local government committees, is that while we do support amalgamations within Sydney, and quite wide-ranging ones, within regional areas we see the Regional Organisations of Councils [ROC] providing an opportunity to do away with the need for amalgamations in those areas, although there may be situations where an amalgamation is necessary in the regions.

**CHAIR:** But generally you support the Regional Organisations of Councils model?

**Mr AITKEN:** Yes, outside of Sydney.

**The Hon. TREVOR KHAN:** Do you lump together non-resident owners with occupiers and lessees in respect of your comments regarding enrolment to vote?

**Mr AITKEN:** They are all part of that. Non-resident ratepayers—if it is a business or a non-resident ratepayer who is a person, as you suggested—are all treated the same.

**The Hon. TREVOR KHAN:** I understand that; they are treated under different sections. The owner of a property is more likely to have a degree of permanence that a lessee does not, simply by their very nature: one owns property, which is a tangible thing; the other is a property rider arising under a document for either three or five years in most cases if it is a business, or perhaps it could be month to month, so that the rate of turnover of lessees, for instance, or occupiers is going to be far higher than property owners. Is there an argument that you should separate the section 299s out from the 300s and deal with them differently?

**Mr AITKEN:** Not really. I do not own property, but I rent and I vote in the same area, so treating people the same when they do have a property interest—

**The Hon. TREVOR KHAN:** You are a natural person; you live and breathe.

**Mr AITKEN:** It comes back to my point that a business is often a natural person if you are a sole proprietor.

**The Hon. TREVOR KHAN:** They have a vote where they reside. So we are dealing with them having essentially a second vote in another place—I am going back to the question—in either a permanent location or one that moves around quite frequently. I am going to that question of the business, which is quite different from where the person lives and exercises his or her vote. You are creating a different case for them in respect of there not being compulsory voting, and I am trying to get you to flesh out how you deal with these in respect of an enrolment purpose.

**Mr AITKEN:** My position is that I am not arguing against the status quo. This is how it has been for some time in New South Wales. We accept it and I do not know how to justify the earlier decisions of the Parliament in respect of setting it up this way, but it is a fair enough process.

**The Hon. TREVOR KHAN:** Is it a fair enough process that you want to change in respect of enrolment, just not in respect of compulsory voting or non-compulsory voting.

**Mr AITKEN:** All I am changing is the process by which you enrol. The intention has always been there to allow these people to participate in local government elections where they are not resident. All we are proposing to do is simplify the process around that. We are not creating anything additional.

**Mr ANDREW FRASER:** By doing that, your opinion would be that the rate of participation would increase substantially?

**Mr AITKEN:** That is right.

**CHAIR:** Are there any other barriers to business involving itself in elections? Were there any candidates that the chamber expressly supported at the last election?

**Mr AITKEN:** No, we would not do so. Unfortunately, for a lot of businesses the less they can do with councils the better is often the opinion I get. That may be part of the issue with participation: that they are just frustrated with the local councils that they work with.

**The Hon. TREVOR KHAN:** That would encourage them to enrol to vote, would it not?

**Mr AITKEN:** It does, but for some of these businesses, going through another process that is a little too hard causes frustration and they turn around and do not do it.

**The Hon. TREVOR KHAN:** If the system for enrolment has been the same for more than a decade and there has been a drop-off in the vote over that time—I am not convinced by your argument, and this is only me—a procedure that has been constantly in place for a time is the explanation for a drop-off that seems to have been occurring over time. What is the relationship between the two?

**Mr AITKEN:** The relationship could be that there might have been a push three elections ago and, yes, we got a whole heap of people enrolled. But the next time around you lose 10 per cent, or 20 per cent forget to re-enrol. The next time a further 20 per cent forget to re-enrol.

**The Hon. TREVOR KHAN:** Do you have any evidence of that?

**Mr AITKEN:** I do not. I know the Electoral Commission was in a few days ago to speak to you about that. They may have been able to put forward a view on that. It is a broad-ranging issue. It will not simply fix the process; it is about promoting the process and engaging more. The New South Wales Business Chamber would be more than happy to promote an improved process with our members. When I spoke to our members they were gobsmacked that they could do this. A lot of businesses simply are not aware of its existence, but I would not want to speak to my members and tell them that they should participate when they are going to have to do it in another four years. If you cannot simplify something as basic as this, businesses will continually not participate in a local election.

**Mr ANDREW FRASER:** Purely because of process you are prepared to recommend to your members that they do not vote?

**The Hon. TREVOR KHAN:** That is a big call, I have to tell you.

**Mr ANDREW FRASER:** Absolutely.

**Mr AITKEN:** I am not going to recommend to them not to vote. They would be coming back to me and telling me, "I took a look at it; it is just too hard. I am not going to participate."

**Mr ANDREW FRASER:** Surely for any business person the form is a pain in the neck. The fact you have to fill it in is painful, but surely it would be in the business chamber's interests to promote—no matter what the process is—the opportunity to have a say in the local government election that will directly affect costs to a business?

**Mr AITKEN:** We definitely did. Maybe I was a little flippant in my response. In respect of what we did and the effort we made to promote it to our members, if it is frustrating for me as a policy manager to do it, it is going to be extremely frustrating for a business owner who is time poor to do it. There are a couple of simple things to make this process a lot easier. Some of the wording of the form concerning nominees, nominee's claim, corporation partnership nominations, some of that archaic language in the Local Government Act—

**CHAIR:** It is quite confusing.

**Mr AITKEN:** It is. They are not property lawyers. Some of them might not know that they are rate-paying lessees; they do not know what a rate assessment number is. It is a big failure of all government departments that do not explain these things in a simple way and it leads to a drop in the participation.

**CHAIR:** Thank you, Mr Aitken. The Committee may wish to send you some supplementary questions in writing, the reply to which may form part of the evidence and may be public. Do you have any objections if that occurred?

**Mr AITKEN:** Not at all.

**CHAIR:** That concludes our questions today. Thank you for appearing before the Committee.

**(The witnesses withdrew)**

**(Short adjournment)**

**EDWARD HENRY MANDLA**, Councillor, City of Sydney,

**CLOVER MOORE**, Lord Mayor, City of Sydney,

**CHRISTINE FORSTER**, Councillor, City of Sydney, and

**ANGELA VITHOULKAS**, Councillor, City of Sydney, sworn and examined, and

**JOHN HEYWOOD MANT**, Councillor, City of Sydney, affirmed and examined:

**CHAIR:** I welcome our second group of witnesses here today and I thank you for appearing before the Committee. I draw your attention to the fact that your evidence is given under parliamentary privilege and that you are protected from any legal or administrative action that might otherwise result in action in relation to the information you provide. I also indicate to you that any deliberate misleading of the committee may constitute contempt of the Parliament and an offence under the Parliamentary Evidence Act. Before we commence questions I will ask each of you if you wish to make a brief statement, starting with the Lord Mayor.

**Ms MOORE:** I am here with the chief executive officer, our chief financial officer and our manager of governance if they need to give us advice. As part of my presentation I have a letter for you, which I will distribute and I will speak to that.

**Document tabled.**

The Committee has indicated that it is particularly interested in hearing about enrolment criteria for voting in elections for the City of Sydney, administered by the NSW Electoral Commissioner, together with issues concerning the non-residential roll. The conduct of the elections within the City of Sydney has experienced many and frequent changes since the council was first constituted in 1842. Some of these changes have increased democracy and transparency; others have been politically motivated and designed to benefit vested interests at the expense of the community.

Under the City of Sydney Act, the Electoral Commissioner is required to prepare the non-residential roll and does so with the agreement of council. I support continuing these arrangements for future elections because it ensures the elections are transparent and independent. The City of Sydney Act 1988 sets out the steps for the Electoral Commissioner to take to inform potential non-residential voters of their eligibility to vote. In 2012 the city requested the Electoral Commissioner to go beyond these basic requirements and undertake a comprehensive information campaign directed at these potential voters, which the city paid for. My letter sets out the details and outcomes of this campaign on page 2.

I am aware that some non-residential voters report difficulties enrolling chiefly because of the Electoral Commission's requirement that people supply a relevant rate assessment number with their enrolment form. There were three complainants and they made seven complaints. This issue is discussed in my letter on page 3. Essentially, the Electoral Commission maintained that this was the best way of confirming a potential voter's eligibility. In the case of occupiers or business tenants, the Electoral Commission assumed that the tenant's landlord or agent would provide this information. Where this did not happen the occupier asked the city. Our staff helped where they could but there were cases where the occupier was not able to provide details of the address attached to the rate assessment number.

If this requirement is retained, the city has suggested that non-residential voters could enrol in the same way as residential voters, namely, complete a claim form on which they state they are eligible. The enrolment claim form is effectively a statutory declaration, with severe penalties for falsifying enrolment information. The Electoral Commission could do a random audit of the non-residential roll before the election takes place, with the authority to require voters to provide evidence of their eligibility. When people enrol they will also be informed that they may need to provide proof of their eligibility. This should make it easier for non-residents to enrol and to ensure that the roll is accurate and up to date.

I would like to also refer to the issue of lapsing of the non-residential roll, and I refer to that on page four. I strongly support this approach rather than an ongoing non-residential roll which creates a risk of being rorted or out of date. Prior to 1995, elections for the City of Sydney council used an ongoing roll. By 1995 there were concerns that the roll had become inaccurate, with the real risk that the result of any election held could

cause the roll to be open to legal challenge. This led to the New South Wales Crown Solicitor advising that it was "unsafe to hold an election for the City of Sydney in such a state of uncertainty". I refer to that on page 4.

Since 1995 a new non-residential roll has been created for every City of Sydney election, as is the case for every other council in New South Wales. My letter sets out the background to these arrangements along with the serious problems in maintaining a non-residential roll. In this regard I draw the committee's attention to the quotes from the submission by the city's acting general manager in 1995 in the Fisher inquiry into the Sydney City Council elections. I would like to refer to that briefly where the general manager said that maintaining the continuous roll:

is extremely resource-intensive and therefore expensive to attempt to keep track of occupancy changes and update the List of Eligible Electors.

In an attempt to achieve this, the regular surveys of occupancies within the boundaries of the City of Sydney were conducted. However, the information gathered was often out of date by the time a survey had been completed. Moreover, the information gathered during the survey was often incomplete or inaccurate as the Council officers doing the survey frequently were not able to speak to the owner, rate paying lessee or occupier and had to rely on information provided to them by such people as a sales assistant or reception staff. For these reasons, ongoing surveys are not currently being carried out.

He suggested that "legislative provision could be made requiring eligible non-resident electors to enrol prior to a four yearly Council election or prior to a by-election whose date is known well in advance". Following the inquiry, the City of Sydney Act was amended to transfer responsibility for preparing the non-residential electoral roll to the NSW Electoral Commissioner.

In 2002 the City of Sydney Act was further amended to clarify the procedure to be used by the New South Wales Electoral Commission in preparing the non-residential roll and to clarify that the non-residential roll would lapse after every election, as is the case for all other local government elections in New South Wales. The Opposition did not oppose those amendments as they seemed such a good idea. In conclusion, business makes a significant contribution to the City of Sydney and the city's income. However changes to the city's boundaries and an expansion of other sources of income has meant that this has changed over time. In 2012-13 business rates provided only 31.5 per cent of total income from continuing operations. Almost 70 per cent of our income is derived from residential rates and other sources such as grants, investments, and fees and charges for services and programs. Given this, I believe that the balance of the electoral franchise is about right.

The business franchise is more generous within the City of Sydney than anywhere else in New South Wales. To qualify as occupiers under the City of Sydney Act, businesspeople need only be operating in the city for three months—everywhere else they need to be operating for three years. Voting is not the only way that businesses can participate in the city's decision-making processes. We run extensive consultations on major new policies and projects and we encourage businesses to take part. Business groups have helped us develop our "OPEN Sydney: Future Directions for Sydney at Night, Strategy and Action Plan 2013-2030" and we are working with business to develop our economic development strategy. We are working with our retail sector on our retail panel. We have an important partnership, called the Better Buildings Partnership, with the owners of 60 per cent of the commercial property in the CBD. They are committed to achieving the sustainability goal of our Sustainable Sydney 2030 strategy, which is to reduce our emissions by 70 per cent by 2030.

**CHAIR:** Councillor Mandla, I invite you to make a brief opening statement.

**Mr MANDLA:** I do have an opening statement, and I am also going to do something which has not been done this morning—that is, I am going to step you through the process of enrolling to vote because I think that needs to be made quite clear. No taxation without representation was one of the major causes of the American revolution. The catchphrase "taxation without representation is tyranny" became the basic patriot position. Fast forward to 2012 and we find that in one of the most important cities in the world—the City of Sydney—77 per cent of rate revenues came from business and yet they were effectively denied a vote, denied a voice and denied representation. The denial of the vote has been so cleverly crafted that the word "business" is not even used—businesses are reduced to being called "non-residential voters", a term cleverly devised by legal minds to deny business a vote and to tax without representation. While the result of the electoral system in the City of Sydney—and in other cities like Parramatta, Wollongong and Newcastle—has not quite led to tyranny, it has certainly led to distortion and a horrific misuse of business taxes.

There is no better example of the misuse of business taxes than the current City of Sydney Council under the control of Lord Mayor Clover Moore. The city cannot spend the business rates haul fast enough, resulting in the birth of many what I call "nutty schemes"—schemes like the recently failed \$5 billion

trigeneration power plant extravaganza. Despite the construction of power plants and citywide hot water distribution networks being beyond the remit of any council—and businesses were not asked whether they wanted this—businesses effectively funded \$8.1 million spent on preparatory work without a single light bulb being turned on. Schemes like the old over-engineered, gold-plated and disconnected bike paths were rammed through council with no costed benefits for business—funded by business, the so-called non-residential voter, but without business representation on any of the bike path decisions. We have seen schemes like the continual and systematic removal of parking and loading zones—so the removal of parking is funded by businesses through their rates but used to reduce their business opportunity.

The Lord Mayor has a personal staff of 24, rivalling the staff of the Premier of New South Wales. This would not be possible without the business rate haul. There are 24 individuals dedicated to thinking up ways to spend non-residential rates from businesses that do not vote on residential ratepayers that do vote, basically to keep the Lord Mayor in office. The Lord Mayor of course will tell you the current system was devised by the previous Labor Government and it is fine—it just needs a few tweaks, and non-residential voters can vote; they just do not want to. The Lord Mayor will tell you how the city writes to businesspeople to encourage them to vote. My argument is that every obstacle has been placed before businesspeople to silence their vote, and I am going to want to go through this process.

First of all, there is no electoral roll as it gets wiped after every election so there are no reminders. A business has to figure out that it is not a business but a non-residential ratepayer. A non-residential ratepayer has a small window of between two weeks and three months before the council election in which to enrol. You cannot enrol prior to this period and if you are not enrolled more than two weeks out from the election then you will miss out. You then need to download the correct enrolment form, of which there are three options. It is not enough that you know you are a non-residential ratepayer; you have to figure out whether you are a non-ratepaying lessee, a ratepaying lessee or an owner-occupier. You need to know where to go in order to download the correct form. The forms are very complex to fill in; I have experienced lawyers being completely dumbfounded as to whether the forms have been filled in correctly. Next you need to obtain your rate assessment number. For an owner-occupier this is on the rates notice. But for many their accountants have that number so they have to go and chase up their accountants—it is not readily at their fingertips.

For non-ratepaying and ratepaying lessees who do not have access to the rates notice, they need to ring the council—and it is not particularly clear which number to ring. They are put on extended hold and then they have to answer a number of questions in order to get the rate assessment number. If you do not answer correctly then you will not get your rate assessment number. At least the worst offshore call centres try to help, with the City of Sydney the answer is basically, "The computer said no." Next you need to make a declaration and have the form signed and witnessed. If you live within the local government area [LGA] as a resident and you are concurrently a non-resident then you need to appoint a proxy from outside the LGA, who will be fined if they fail to vote. Those who manage to submit the form face the penultimate humiliation: a rejection of the form for having a tiny mistake. As the checking is so slow and the enrolment window so tight, there is most likely not enough time to correct or resubmit the form.

The ultimate humiliation is that the roll is erased a few days after the election. By any standard this process is too hard and most businesses simply do not have the time or expertise to exercise their democratic right to vote. It is an elaborate scheme. It is devised to deceive, hinder and distort democracy. It is Sydney's silent shame that we tax our productive backbone without representation. The solution is rather simple: we need a permanent roll where eligible non-residential voters—the businesses that make up our great city—are automatically enrolled. If Melbourne can do it then surely we can too.

**Mr MANT:** I was not going to say much other than support—

**The Hon. TREVOR KHAN:** Feel free, it is very entertaining.

**Mr MANT:** Yes, I have now been prompted by the free hits in the presentation from my colleague here. I would like to bring this back to the subject of the inquiry, if you do not mind. Of course the roll is put together by the Electoral Commissioner not by the Lord Mayor; and to suggest, as Councillor Mandla has done, that somehow or other it is a great political plot engineered by the Lord Mayor and her staff in order to waste taxpayers' money is nonsense. The council agrees that the process could be simpler. But the issue of a permanent roll seems to me to have been settled for some time. If you are to move to a permanent role then one has to be conscious of the cost and problems of keeping that up to date. It is different if you are resident and you are an owner—residents have a vote and have to enrol; but we know who the owners are because they have to

file a notice of sale so the owners' record is up to date. I do not know if you have been up to Oxford Street lately but tenancies are constantly changing for very short periods. Keeping a permanent roll honest is an impossible task, I would suggest to you, or at least possible but could only be done at great expense.

**The Hon. TREVOR KHAN:** Under sections 299 and 300 of the Local Government Act which separate non-residential owners from occupiers and lessees, could you envisage that owners of property could be part of a permanent roll whereas the section 300 occupier and/or lessees would continue to form part of an impermanent roll only for election purposes?

**Mr MANT:** Certainly that could be looked at, because it is easier to know who the owners are at any point in time. The second thing is, of course, that if you move to a permanent roll then you really have to apply that across the State. I see no reason for the city being singled out. The city is already singled out in the sense that the test for getting on the roll is a lot easier than in the rest of the State.

**Ms MOORE:** Because it is three months rather than three years.

**Mr MANT:** Yes, which seems to me to be an anomaly but maybe it is excusable. The system has been working well; it can be simplified. Certainly I agree with Councillor Mandla and council has already suggested that the issue about the rate receipt is complex and putting more onus on the honesty of the person applying seems to me to be a good compromise subject to reasonable penalties if there is rorting. It has worked well, albeit disappointingly, notwithstanding that we spent a great deal of money on trying to get interest in voting. The flippant answer, of course, is that maybe the businesspeople of Sydney are pretty happy with the way council is going, unlike the old days.

**Ms VITHOULKAS:** I resent that.

**CHAIR:** You will get an opportunity in a moment to resent it as much as you like.

**Mr MANT:** As a long-term citizen and lawyer and consultant in this city, certainly 20 years ago a lot of us were very concerned about the state of the City of Sydney council. I think that concern is a lot less now. That is just a personal impression; not something I would swear to as a real expert.

**Ms FORSTER:** I thank the Committee for the opportunity to speak to you. I would like to briefly discuss points (a) and (c) of the terms and reference and then, in some more detail, point (d). Points (a) and (c) are the costs of and participation in local government elections. It is my opinion that Australia's accepted requirement for compulsory voting should be maintained for local government elections. The current system, which offers voting at a large number of polling booths across each electorate, has significant advantages.

It encourages active engagement in the electoral process by voters, candidates and broader numbers of political party members. But it is costly and inefficient in terms of the manpower required to administer it and it also fails to reflect the way people communicate and engage in an increasingly fast paced and digital world. I believe for the next electoral cycle in 2016 we should provide all voters with three options: polling booth voting at a significantly reduced number of locations in each electorate; postal voting; and online voting. Results from the next election could then be reviewed to determine the optimum system for future polls.

I will now turn to point (d) of the terms of reference. Businesses play a vital role in the life and operation of Sydney both in its central business district and surrounding inner suburbs. The City of Sydney is home to, conservatively, 20,000 businesses which account for nearly 80 per cent of its ratepayer funding base. These businesses can and should have a significant voice in the democratic process of determining who is elected as Lord Mayor and councillors in Australia's biggest commercial and only truly global city. Yet the numbers of non-residential voters have plunged over recent electoral cycles to levels at which the sector is virtually disenfranchised. I would take issue with Councillor Mant's comment that that is a reflection of the fact that business thinks we are doing such a great job.

In the 2012 City of Sydney elections 1,700 non-residential voters registered and around 1,200 actually registered a vote. This was down from just under 5,000 in the 1999 election but up slightly from a dismal turnout of just 396 in 2004. Based on the discussions I have held with City of Sydney constituents, non-residential enrolment and voting participation is low for the following reasons. Many business owners and ratepayers even in the so-called big end of town are simply unaware that they have the right to vote. The process of enrolling is time consuming, complex and needs to be repeated after every election. In addition, the voting

process is onerous for business owners who live outside the local government area due to the lack of a postal option.

These issues could be addressed by amendments to the Local Government Act 1993 and the City of Sydney Act 1988 and other reforms to ensure that non-residential voters would be notified by council of their eligibility to vote when they pay their rates in the period of the run-up to the scheduled election both in writing and via council's electronic and online telephone payment facilities. Council would provide the New South Wales Electoral Commission with its list of all rate-paying business owners and occupiers prior to each election. The Electoral Commission would also notify these non-residents of their eligibility to vote.

Non-residential voters could enrol using a pro forma online application process administered by the Electoral Commission. Retention on the roll would be automatic for all non-residential voters who participate in local government elections. Once enrolled, non-residential voters would only be excluded from the roll should they fail to participate in two consecutive elections. It is my contention that such reforms are needed urgently in order to re-enfranchise the business owners and operators of Sydney who make such an important economic, social and cultural contribution to the fabric of our great city but who for decades now have been neglected in the electoral process.

**Ms VITHOULKAS:** Thank you very much for this opportunity. I have been a business owner in the City of Sydney for almost 30 years. I can speak about my personal experiences of trying to get enrolled to vote. For decades, I was not aware that I had the right to vote as a business owner and a non-residential person as we keep referring to them. I do have a little bit to say but, while it is fresh in everyone's memories of what has already been said, there are approximately—and the figures do change a little bit—around 20,000 landowners that we know of that have rates assessments issued to them. These are the owners of the land, and that would be a much easier roll to establish and to get to and to update clearly. Some of those would be part of the Better Business Partnership that the Lord Mayor has referred to that are run by massive organisations that also struggle to work out the system of how to enrol and to vote and who would be nominated and that very long process.

I have some forms that I retained for posterity from the Electoral Commission regarding the beginning, if you will, of the enrolment process. Councillor Mandla stepped you through a bit of it. What I would like to point out is that there is a very small window of opportunity for non-residential eligible voters to be able to get on the roll. The Electoral Commission issued the forms with a termination date of 30 July and they came out on, I believe, 31 May or 1 June. You have about eight weeks to get enrolled. It is not a very long time to also initiate the campaign of awareness, whether it be from the City of Sydney or the Electoral Commission. In fact, if you are any type of organisation or if you are trying to get in touch with an accountant or a building manager to get your rates assessment number from them and find out our exact lot number, et cetera, it is a near impossibility to get it in time.

I enrolled to vote, or attempted to and it was successful. I enrolled on 19 June, which was about 10 or 15 days after the forms were available. I wrote to the Electoral Commission on 20 July and asked how my form had been going and was I eligible to be on the roll. They said they would provisionally add me to the roll but they still had not checked all the forms. I was in regular contact with the Electoral Commission during the June and July period. I also have an email that I would like to table in which the Electoral Commission said that it was struggling to get through the forms, there was a cut off period, most of them were not going to even be looked at and that so far one-third of them—and this was towards the end of June—were flawed in some way. The Electoral Commission was probably never going to get back to the people who had enrolled to vote and they would have had no chance to rectify any of the forms.

Being able to enrol online would be a massive help. I do not know whether members are aware, but once you are enrolled to vote, you are provisionally added to the roll and eventually they let you know. You then have two options to vote. You can either fill out another form to get a postal vote or you can wait and come back to work, because if you are a non-residential eligible voter you are probably not in the city of Sydney on the Saturday and you cannot absentee vote. You have to make sure you get to somewhere within the city to vote. That is another thing that puts people off. I also doubt what was said about the number of complaints lodged with the City of Sydney. I have spoken to thousands of people who were not aware that they could vote and to those who have tried to ring the City of Sydney and who could not get their rates assessment notice. I have some other emails I would like to table, including from the City of Sydney dated June 2013 stating that it had finally sorted out its legal issues around all of that.



The issue is that when people tried to ring the council to get a rates assessment notice, if they were an eligible owner-occupier, lessee, or whatever terminology one uses—the back of the Australian Electoral Commission form has a number of definitions of an eligible voter, and the solicitor also struggled to define an eligible voter—they could not get their rates assessment number. I tried four times and hundreds of people could not be bothered complaining further to the City of Sydney. Therefore, the report about three people contacting the council and seven complaints being lodged is completely inaccurate. People tried to enrol to vote but they faced so many issues. Business owners certainly were not going to be bothered sitting down to work out that they should lodge a complaint because a parliamentary inquiry might be established a year later and their complaint would be registered.

They are disenfranchised because so many walls have been put up to prevent them from enrolling to vote. There is also an issue with the wiping of the roll. It has been stated today that it is too expensive to maintain the roll. Apparently it is too expensive for people to exercise their democratic right. Surely that should not be a factor for the City of Sydney. It is not something that needs to be done every day. Business ratepayers contribute well over 70 per cent of rates paid to the City of Sydney, not the 30 per cent of total income referred to today. We are talking about ratepayers—residential and non-residential. That 70 per cent was about \$170 million of the 2011-12 budget. That money comes from the business sector.

It was suggested that the roll might be rorted. I disagree. There is no greater likelihood of the business sector rorting the roll than the residential sector, and we have all heard about that. A permanent roll should be considered in some format or another. As I said, I have first-hand experience of this. Absentee voting or being able to vote on a different day and not on the Saturday as happens with other elections should be allowed. I do not believe that nearly as much effort is made with regard to awareness. The Electoral Commission opens the roll only about 60 days before the election. The process is far too confusing and not enough attention is drawn to it. The roll should be opened a lot sooner and should be kept open a lot later. A lot more funding should also be provided to make the community of the City of Sydney aware.

Even to hint that the business community might be flighty and that the empty stores on Oxford Street are an indication that we do not hang around is incorrect. The average residential lease is six months and the average commercial lease is about three years. Those who leave properties vacant are the exception to the rule. There is an economic challenge throughout Australia, including in Sydney. However, when you have to pay hundreds of thousands of dollars for a fit-out, you are not there for three months or less. Commercial leases are for many years and we deserve some consideration.

**CHAIR:** Mayor Moore, you made some comments about to the need for the roll not to be permanent. Under the current system, I am enrolled at Kiama and I do not need to enrol for each election. Why do you think the roll should be refreshed for each election as opposed to having a permanent roll?

**Ms MOORE:** My letter highlights the issues. This was examined in 1998 when the Government commissioned William Fisher, QC, to review the Act. He reported on the issues that were causing problems and the then general manager of the City of Sydney went through them in some detail. I have outlined the issues on page five. It is very difficult to maintain that roll and to do so accurately. It was said that it was an unreasonable burden on the city and that it was also inaccurate. I think the New South Wales Crown Solicitor said in 1995 that the problems with the ongoing roll meant that there was a real risk that any election could be open to legal challenge. He said that it was unsafe to hold an election in the city because of the state of uncertainty. It was the issue of rorting and the inability to maintain the roll. We are suggesting that that can be addressed by having the same eligibility criteria for the business community as applies to the residential community and that people should be required to sign a statutory declaration saying they are a business owner and they would then be able to enrol each time. I had my electorate office in Oxford Street, Paddington, for 24 years and my neighbours turned over very regularly. That is anecdotal, but it is the crux of the issue. It indicates how difficult it has been in the past to ensure that the roll has integrity and accuracy.

**CHAIR:** Do any other councillors wish to respond to the question?

**Ms FORSTER:** I reiterate what has been said by Councillor Vithoukas. Businesses do not turn over as often as residents in the City of Sydney. I see no issue with having a permanent roll of businesses. It seems to me that it would not be difficult to administer. Council keeps records of ratepayers and it has a basic record. It should be made permanent so that people do not have to go through this costly, complex and time-consuming process for every election.

**Mr MANT:** The resident roll is kept by the Electoral Commission for Federal, State and local government elections. It spends a lot of money ensuring that that is a reasonable representation of the electorate at the time of the election.

**Ms MOORE:** It is also updated regularly because of Federal, State and local government elections. For the city it is every four years and there is the turnover issue. It is the Electoral Commissioner's responsibility.

**CHAIR:** I understand.

**Ms VITHOULKAS:** Clearly there is an issue because the number of non-residential voters has severely declined. We are obviously not reaching people. As to fault, it is not my place to lay blame. We are here today to expose some of the weaknesses and hopefully to move forward and rectify them. Being a business owner for close to 30 years, I have first-hand business experience. Most of us in the city of Sydney are solid businesspeople and we are not flighty. While there is a turnover in Oxford Street—and there is some evidence towards that—the city of Sydney is not only made up of Oxford Street. I have bought and sold about 20 businesses in the city of Sydney and signed leases.

I am currently in a lease of almost 12 years in length. I am hardly going to turn around when I am liable for a 12-year lease and just walk away. We have to pay rent; we are liable for it. Residential leases are about six months and people move or change. People who own land or buildings in the city of Sydney are hardly flighty. Most of those owners are part of the Better Buildings Partnership, I might add. Some of those buildings are going for \$12 million or \$15 million or more, \$30 million or \$40 million or \$100 million. These are hardly owners without substance and people who do not contribute to the city of Sydney. Why do we not have a roll for them at least? Not to mention that there are probably 20,000-odd other occupiers like me who do not get a rate assessment notice and have to fight tooth and nail to get one, or a copy of one for the number to enrol to vote. Where are they being heard? Where is their roll?

**CHAIR:** That is one of the questions the Committee is asking. Councillor Mandla, do you wish to make a brief comment?

**Mr MANDLA:** I think Councillor Vithoulkas has summed it up well. I will emphasise again that the city is more than Oxford Street. I seem to buy my bananas from the same shop stall on the corner, I get my coffee from the same place, I eat at restaurants that have been there for a very long time and I visit businesses that have been there for a very long time. I will emphasise the point one more time: It is in fact the residential voters who are transient; not the businesses.

**Mr ANDREW FRASER:** Earlier this morning the NSW Business Chamber had similar arguments to Councillor Foster, Councillor Vithoulkas and Councillor Mandla. However, Councillor Mant has said in evidence this morning that he thinks the system is working well. Councillor Mant, how can you justify the statement you made to the Committee this morning that the system is working well when the roll shows that some 17,000 non-resident people actually registered and I think 12,000 voted? I own a property in Potts Point. I have found it difficult to enrol. I have to say that most of the shops around my part of Potts Point have been there for 10 or 15 years. Councillor Mant, how can you justify that statement?

**Mr MANT:** Subject to us making it easier to enrol. I was referring to the general principle of having to renew each four years. That seems to have been in place for some time and it applies elsewhere across New South Wales. Subject to picking up on some of the suggestions that the Lord Mayor has made about simplifying showing that you are a resident, that you are a non-resident I think the process is the right one.

**Mr ANDREW FRASER:** Whilst I think that probably you and the Lord Mayor agree that the system needs to be simplified, I cannot understand how so many people can be disenfranchised because of a system that is not allowing them to say they live in an area. I have to say that even as a rate-paying resident I found it difficult but I made the choice to go along and enrol to ensure that I did vote because I believe as a rate-paying resident I have an interest. Surely we have to lay out the red carpet to businesses and property owners across any local government area to ensure that they do get an opportunity to make a decision as to their future.

**Mr MANT:** I think there are two things. Firstly, do we get them to renew every four years? That is an issue of practicality and principle. Secondly, how easy is it to renew? I think we are all in agreement that the Electoral Commission—it is not the city that is doing this—could make the process simpler. Subject to that, I think that is a far balance.

**Mr DARYL MAGUIRE:** Councillor Vithoulkas, in your opening remarks you made a statement about the need for more funding to maintain the roll—effectively stating that the roll was underfunded. Lord Mayor, you made the comment that there was a significant burden on the council to maintain the electoral roll. I would like to know how much is expended by the City of Sydney on maintaining the roll per annum or per four-yearly cycle, how many staff are involved in maintaining the roll, what resources are allocated to maintain that roll, what this year's budget allocation is to maintain the roll, and any other relevant information you might think applicable to support the statement that it is a burden on council and there is a need to increase the resource if you are to maintain the roll?

**Ms MOORE:** I was talking about the experience of the council in the past. I was quoting from the submission by the general manager of the council to the review undertaken by Commissioner William Fisher, QC, in 1998. He was asked to give the information that you are now seeking. He said it was difficult. The quote I have given you does not include a figure but I expect I could get that.

**Mr DARYL MAGUIRE:** Will you take that on notice?

**Ms MOORE:** He said, "It was extremely resource intensive and therefore expensive to keep track of occupancy changes and update the list of eligible electors ... in an attempt to achieve the regular surveys of occupancy within the bounds of the city; however, the information gathered was often out-of-date by the time it had been completed. The information gathered during the survey was often incomplete or inaccurate as it was difficult to always speak to the owner, the rate-paying lessee or the occupier. The council officers had to rely on such people as sales assistants or reception staff ..."

**Mr DARYL MAGUIRE:** You spoke about that in your opening statement.

**Ms MOORE:** That investigation led to the Electoral Commissioner taking on the roll and clarifying that the Commissioner would prepare that non-residential roll, as is the case for all other local government elections in New South Wales. It was an attempt to get on top of the issue and to be fair. In terms of expense, in supporting the Electoral Commissioner doing that job the council spent \$243,000 encouraging the business community to get on the roll—that was for the last election. In fact, the cost of the last election was \$779,719. That is the cost of encouraging people to try and get them on the roll, and that is every four years.

**CHAIR:** Are you prepared to take the specific questions asked of you by Mr Maguire on notice?

**Ms MOORE:** Sure, and get more information for you.

**Mr DARYL MAGUIRE:** To allow the Committee to drill down further. So \$700,000-odd spent over four years to maintain—

**Ms MOORE:** No, the roll does not exist now. That was a decision made in the 1990s because it was seen to be too difficult and because it was too easy to rot—that was the result of a number of commissions. If you have a look at my letter I have outlined that. It was decided that the situation for the city would be similar to other local government areas across the State: It would be renewed every four years. We put \$250,000 into the last election to encourage people to go on that roll but, because we can see there are still some difficulties in that, we are saying perhaps the eligibility for residents to go on the roll could be similar to non-residents or the business community; they have to sign a declaration to say that they are eligible.

**Mr DARYL MAGUIRE:** So your reference to a burden on the city was referring to the \$700,000 dollars that was expended?

**Ms MOORE:** No, I was referring to what the city had found when it was maintaining that continuous roll. I was quoting what the general manager in the 1990s had said was the situation for the city. Of course, the city was much smaller then too—it was five times smaller than it is now.

**Mr ANDREW FRASER:** Just on that, Lord Mayor, firstly that was in the nineties and we have come a long way since then. Secondly, there does not appear to be a qualification there that says these are either residential or business. The issue has been raised this morning by both councils and the Business Chamber that it is the ratepaying businesses and lessees in the town that need to go on a permanent roll of some sort, to save them having to do this every four years. There is no differentiation in that quote that you gave in your letter

between residential or business. I have to say that, living in a block of 12 units and that is only a small block, I guarantee that, except for the owner occupiers, at least seven of those units have turned over dozens of times, I would suggest, in the last 10 years. The turnover would appear to be in residential, not so much business.

**Ms MOORE:** The Electoral Commissioner is now responsible and the Electoral Commissioner is responsible for State and Federal elections too. If you look at how they are having to continually update their roll to correspond with those other elections, there is a great opportunity for the Electoral Commissioner to have more accurate figures for the residential roll. I will just take some information here. Do I need some more information here? Do you want me to give you some more information on that?

**Mr ANDREW FRASER:** Yes.

**Ms MOORE:** I will do that, yes—not being an Electoral Commissioner expert myself.

**Mr DARYL MAGUIRE:** Councillor Moore, in your submission you are saying that the non-residential roll will lapse after each election and that a new non-residential will be created within a reasonable period before the election, with eligible non-residential electors being given adequate notice of the creation of the roll. Do you have a figure on what that particular part costs the council to do that?

**Ms MOORE:** To?

**Mr DARYL MAGUIRE:** To create the new roll.

**Ms MOORE:** We are not creating it; the Electoral Commissioner is. But what we are doing is supporting the Electoral Commissioner and we spent a quarter of a million on promoting.

**Mr DARYL MAGUIRE:** It was \$250,000, not \$700,000? Was it \$700,000 over four years?

**Ms MOORE:** That was the cost of the election. Can I just check with our chief financial officer here?

**CHAIR:** While you are doing that, Councillor Forster, do you think it would be easier for the council to maintain that roll, as it has been in the past, rather than the Electoral Commissioner maintaining that roll of businesses?

**Ms FORSTER:** Absolutely, yes, because the council has access to ratepayers when they pay their rates, so why should the council not be maintaining that? We have an existing database there and we can track people through the function of paying rates. So absolutely I think so, yes.

**CHAIR:** Councillor Vithoulkas, do you agree with that?

**Ms VITHOULKAS:** I would most certainly agree. As I am sure you have all experienced at one time or another, when you buy or sell property, that is all taken care of legally and you are registered and the name of the landowner is changed then and there. The records are kept that way. The council is updated because they issue you with an invoice and a bill so they have those details. I think that spending over \$200,000-odd for an awareness campaign, which was very late in starting and only under the duress of the public, I might add, at that time, once-off in four years and the information we have heard here is from 1998. This is 2013. This is discussing a 2012 election. We are hoping to fix this for 2016. I think that anything from 1998 is well and truly done and dusted and we need to move forward. In the forms that people were filling out, you did have to have a statement of witness. You had to have someone witness your signature. It was not a way of roting. It takes months to get onto the non-residential business roll. It does not take months to get onto the residential roll. If it did take months, then I hazard a guess that no-one would be voting, certainly not in a State or Federal election and you have only got to see the numbers.

**CHAIR:** That is an obvious conflict there. Councillor Mandla, do you want to add anything?

**Mr MANDLA:** The only thing I would add is that you are spending advertising money on a predetermined result where you know people are not actually going to be able to go through a flawed process is really an argument that we should not be considering those figures at all.

**CHAIR:** Councillor Moore, do you wish to add some information?

**Ms MOORE:** Yes, just to clarify what Mr Maguire is asking me. The city paid \$243,000 to promote getting people to go on the roll and we paid the Electoral Commissioner \$779,000 to run the election, so that was altogether a million that the council spent. What I have suggested in terms of getting the Electoral Commissioner to make it fairer for people to apply is that non-residential business people are able to enrol in the same way as residential voters, but they have to complete a claim to say they are eligible, and by doing checks and having severe fines, if there is misleading information, would make it an easier way for people to actually get on the roll.

**CHAIR:** Can I say to you that that is very reasonable.

**Mr ANDREW FRASER:** Under the proposal of Councillor Vithoulkas, surely you have already got the information on computer. It would be fairly easy to access that without having to go through yet another process.

**Ms MOORE:** I am sorry, what?

**CHAIR:** I think what Mr Fraser is saying is that you have already got lands and rates notices and you are aware of who is eligible to vote. That is in the eligibility criteria.

**Ms MOORE:** Let me just check if we do have that.

**CHAIR:** Sure.

**Ms MOORE:** This is our chief financial officer. Can he tell it to you directly?

**CHAIR:** No. As he is not sworn, I am sorry, you can only seek advice from him.

**Mr MANT:** We clearly have the property owners, but we do not have the lessees.

**Mr DARYL MAGUIRE:** That is right.

**Ms VITHOULKAS:** But that is a portion.

**Mr MANT:** That is the answer: We clearly have the property owners, but not the lessees.

**CHAIR:** Councillor Vithoulkas, do you want to add something?

**Ms VITHOULKAS:** We have the property owners, and we were not communicating to them. We are not communicating to them. They are a very easy-to-see part of the voters that need to be registered. They are the ones that you can get in five seconds. We have that database. We write to them. We invoice them. We communicate with them, but we choose not to during election-time. Why is that?

**Mr DARYL MAGUIRE:** I address this question to any of the councillors. Of the \$243,000 that was expended, for the record how many non-residential voters enrolled? Compared to the last election, what was the expenditure per capita to encourage non-residential voters to enrol?

**Ms MOORE:** I might take that on notice and get back to you.

**CHAIR:** I think Councillor Forster has some information.

**Ms FORSTER:** Yes, 1,702 non-residential voters enrolled.

**Mr DARYL MAGUIRE:** So that is 1,702 voters enrolled for a cost of \$243,000 expended.

**Ms FORSTER:** Yes.

**Mr DARYL MAGUIRE:** And the previous election?

**Ms FORSTER:** It was \$396,000 in 2004. I do not have the figure for 2008.

**Mr DARYL MAGUIRE:** How much was expended in 2004 to advertise the election and the need to enrol?

**Ms MOORE:** I can give you the cost for 2008. It is on page two of the letter I have given you. I think it was \$502,000.

**Mr MANT:** No, that is the cost of running it.

**Ms MOORE:** I am sorry, that is the cost of running it. I will get back to you with those figures.

**Mr DARYL MAGUIRE:** You will take that on notice?

**Ms MOORE:** Yes.

**Mr DARYL MAGUIRE:** The other question I have is: Has the council carried out an actuarial study of what the real cost would be to maintain its own roll other than the Electoral Commissioner?

**Ms MOORE:** No.

**CHAIR:** That is one of the other questions we have been asking every council. We appreciate that is a difficult question. You can take that on notice.

**Ms MOORE:** Could I just also point out to you that what we have done, in terms of breaking down the cost, the \$243,000, there were 80,000 mail-outs to individuals and business entities. We contacted 125 property managing agents. We did a video on the New South Wales Electoral Commission's Facebook. We dedicated a call centre and we put advertisements in the *Australian*, the *Australian Financial Review*, the *Sydney Morning Herald*, the *Daily Telegraph*, and *mX*. They were the ways we sought to engage with the existing business community for the last election.

**Mr DARYL MAGUIRE:** I think Councillor Vithoulkas wants to make a comment.

**Ms VITHOULKAS:** Yes, I would. I would say that the amount of money that the council spent previously, the \$240,000-odd, is not a direct reflection on the enrolment numbers. To divide that by the 1,700 that enrolled, I would say that the system is clearly flawed. While the council did spend some funds, there has not been an ongoing campaign. To spend that money in a matter of five or six weeks in the small window of opportunity that people had to register to vote is not a good return on investment because you start late. It was only through duress of the public and that people were asking a lot of questions and that they found many, many stumbling blocks that the city chooses to have the Electoral Commission run the local government elections of the City of Sydney. Councils have a choice: either run the elections themselves or they supply the funding to the Electoral Commission to run.

**The Hon. TREVOR KHAN:** Does that apply to the roll?

**Ms VITHOULKAS:** The roll is issued and maintained, my understanding is, by the Electoral Commission but the City of Sydney could provide the information that it does have to the Electoral Commission to have at least a base roll, somewhere to start. I do not know if there are privacy issues. I have just heard that word maybe tossed around behind me, but we do reach that roll. We invoice them. As I said, we invoice them, we send them notices, we do lots of things. Those owners of those rateable lands and where the rate assessment notices are issued are registered on a database when a property is bought and sold. Those ownership changes are registered and the councils are notified. Why is the council not notifying them with due diligence and some effort in bringing about democracy and a roll?

**Mr MANDLA:** I want to come back to the point. I am wondering why this is not such a great difficulty for Melbourne, but it is such a great difficulty for Sydney. Melbourne City Council does have automatic enrolment of non-residential ratepayers and it is a permanent roll.

**Ms MOORE:** The information that the city has about property ownership is all passed on to the Electoral Commission.

**Ms FORSTER:** I would add that \$240,000 was not money well spent. As I said in my submission, even those in the big end of town are not aware of their ability to vote in local government elections. So that is, effectively, money down the drain.

**CHAIR:** I welcome the Hon. Dr Peter Phelps. He had other arrangements and I thank him for coming.

**The Hon. TREVOR KHAN:** Do we know whether the non-residential voter system for the City of Melbourne is the same as the system we have in New South Wales? Is the eligibility the same?

**CHAIR:** I will direct that question to Councillor Mandla because he raised that. Are you aware or would you like to take that question on notice?

**Mr MANDLA:** I will take that question on notice because I do not know how they handle lessees.

**The Hon. TREVOR KHAN:** It could be a big difference, could it not, if all they have is landowners, for instance?

**Mr MANDLA:** Yes.

**Mr MANT:** We could make it very simple by just having landowners as the voters and cut out the lessees.

**The Hon. TREVOR KHAN:** Section 299.

**Ms MOORE:** It sounds like the nineteenth century British system, does it not?

**Mr MANT:** That would solve the problems because we do know who they are and we do give those addresses to the Electoral Commission so that the commission can write to them. So it is not some conspiracy by the city, this system; it is the Electoral Commission's requirements for proving eligibility. It is the Electoral Commission that carries this out, and I would submit to the Committee that it should remain with the Electoral Commission. From my memory of the old days of the Sydney City Council, I think it would be a very good idea if the Electoral Commission kept control of this process.

**CHAIR:** Could I just change tack briefly and enter a different area? There has been a submission this morning in relation to amalgamations from the Business Chamber. It has argued strongly that there should be amalgamations. My view is that there are too many councils in Sydney, at 41. I am told that I should not have a personal view but it is my view and it is on the record. Does anyone wish to make any comments about that evidence and the need for amalgamations in Sydney? I will start from Councillor Vithoulkas and move from right to left.

**Ms VITHOULKAS:** I think some councils, the smaller ones, probably need to look at amalgamation. I do not think that of the City of Sydney because we have already gone through one amalgamation process and there has not been enough discussion as to the cost that would be forced on any council that amalgamates and what that looks like, and who is going to pay for that. I think it would be very challenging for the City of Sydney to, let us say, have to take on any other financial burdens as well and make the ratepayers have to take on that burden. I think there is a lot more discussion that needs to happen about amalgamations and that there needs to be more thinking before we toss that word out and send everyone into an extreme panic—residents and councils alike. We need to plan a little better and have more discussions around that.

**The Hon. TREVOR KHAN:** Before we go further, Chair, how does this fit within the terms of reference of this Committee?

**CHAIR:** It fits, because there was evidence given this morning by the Business Chamber—

**The Hon. TREVOR KHAN:** That does not make the question within the terms of reference of the Committee.

**CHAIR:** The Business Chamber raised the point this morning, Mr Khan. I am happy to ask for the views of the City of Sydney council, seeing that it is also topical in relation to the Local Government Act.

**The Hon. TREVOR KHAN:** I did not know that "topical" makes it something within the terms of reference.

**CHAIR:** Order! I am going to allow the question because, obviously, I asked it. Your dissent is duly noted.

**The Hon. TREVOR KHAN:** Do you want me to put it in writing? I will put it in writing, if need be and then we will have to go into deliberation.

**CHAIR:** Are you formally dissenting?

**The Hon. TREVOR KHAN:** I am formally dissenting.

**CHAIR:** I withdraw the question. I have another question in relation to pre-polling. We have received evidence in relation to the length of the pre-poll period being too long and I would like to know whether people agree or disagree, whether they think that that is acceptable. I will again start with you, Councillor Vithoulkas.

**Ms VITHOULKAS:** I think it would be nice to give the non-residential eligible voters a chance to vote on another day besides the day of the election. I think pre-polling is important to a lot of people who can plan ahead for what they want to do and who choose not to put in a postal vote. Given that it takes so long to get the paperwork organised if you are a non-residential eligible voter, you probably need the opportunity to pre-poll. However, having those booths adds to the burden of the election and to the costs. In the City of Sydney I think we had four pre-poll booths. They were not clearly marked. Three of them, if one blinked, one missed them. They were very challenging, site-wise.

**Ms FORSTER:** I think it is very important that we give people the opportunity to pre-poll but resourcing pre-polling, from a political party's perspective, is a challenge.

**The Hon. TREVOR KHAN:** It is even harder from an individual's point of view.

**Ms FORSTER:** Yes and for an Independent it is even more difficult and that is a consideration. But I think it is important that we give people as much opportunity as we feasibly can economically, to cast their votes and to participate in elections. I think pre-polling in the City of Sydney would be better confined to just Town Hall. It is a high visibility booth. People know it is there and they are used to going there to pre-poll, if they choose to. If it was restricted to Town Hall, it would be less of a burden on the participants in the election to staff a pre-polling booth. I think the period of two weeks is probably a bit of a stretch and maybe one week would be better. It allows people to plan ahead and get themselves organised without creating too much of an additional burden.

**CHAIR:** And perhaps removing the proscriptions as well that are currently in place in that you need to be absent on polling day.

**Ms FORSTER:** Yes people should be able just to choose to pre-poll, if they want to.

**CHAIR:** Just like the Federal system.

**Ms MOORE:** I agree that it is important to have the availability. It is important to have it at Town Hall because people are familiar with that, and particularly in the city it might be another way of encouraging the business community to vote.

**Mr MANT:** I think to come back to one week would be good and it would take away that restriction and allow anyone to pre-poll. I also agree that concentrating it at the city council level would be good.

**Mr MANDLA:** If there were ever an opportunity to trial new voting technologies, the City of Sydney would be the most connected community in Australia. I think the whole concept that the people have to come out on a particular day was reflected in the last election. I think only 70 per cent of the residential voters turned out. I think there should be a better combination of a smaller number of polling booths on the day. We should have the pre-polling, whether it is one or two weeks. One week seems to make a lot of sense but there should now be an online or electronic way that one can submit one's vote. The city would be ideal for that trial.



**CHAIR:** One last question on that point to which I ask you to respond briefly: iVote was used in the State election for the first time, electronic voting. Is that something you would endorse for local government elections? Secondly, do you believe that a system of postal voting or having the option for councils to adopt a system of postal voting, rather than having polling booths, is optimal?

**Ms VITHOULKAS:** In an effort for sustainability and technology, I think iVote is clearly going to be the way of the future; it is just a matter of when. Partnering that with being able to enrol to vote online would be amazing for the non-residential voters, to reflect the same way that residential voters can enrol to vote. Having postal votes and cutting down on booths would be a great convenience for the people and the community, because it is physically something that interferes with their lives. The setting up in the communities the week before and the amount of political paperwork that is issued and the waste on that day is phenomenal. It also separates parties and funding. I am not going to tout the Independent thing here in front of you all. But it is a challenge.

**Ms FORSTER:** Or Independent parties! It was my submission that I would like to see trialled at the 2016 election a combination of a reduced number of polling booths, with postal and electronic voting. I think there should be a good, solid trial of all three of those in the City of Sydney. Councillor Mandla makes a good point. It is a very connected electorate. It has embraced the digital age in all senses. So we should have a really good look at the three ways of casting a vote—at a polling booth, via postal vote and electronically—to see how that encourages participation in local government elections. That could at least inform the future path for elections post 2016.

**Ms MOORE:** I agree with that. I think postal voting needs to continue in the city because we also have a large aged population and I think they would struggle with new technology.

**Mr MANT:** I agree.

**Mr MANDLA:** Definitely we should fast-track the ability to use iVote.

**The Hon. TREVOR KHAN:** How would the postal votes be distributed? What would be the mechanism? Would you wait for somebody to make an application to the Electoral Commission, for instance?

**Ms FORSTER:** I would like to see postal votes being sent to every eligible voter.

**The Hon. TREVOR KHAN:** That is what I was wondering about.

**The Hon. Dr PETER PHELPS:** On that basis, what would be the need for a walk-up election?

**Mr MANDLA:** Nostalgia.

**Ms FORSTER:** Not necessarily nostalgia.

**The Hon. Dr PETER PHELPS:** I am not pro or anti. What I am saying is that if you are going to send postal votes to everyone why not just have a postal vote election, like in Victoria?

**Ms FORSTER:** I think the option to vote at a polling booth in a transition period would be a good one. I believe that polling-booth voting does engage the community in the political process, in a way. It engages parties in the political process. I think it has its advantages, but in terms of going forward I think we should trial reduced numbers of polling booths in combination with postal and electronic voting. Then we would see which method people prefer. We would see how they would rather vote—via postal or online voting, or by going into the booths. You could stack up the numbers and see where the turnout was.

**CHAIR:** Any other comments on that?

**Ms MOORE:** I think the postal vote relates particularly to older people who might struggle physically to go to a polling booth. We have a lot of opportunities at the city to be in touch with those people through our centres and through our publications. So we would inform people who fit into that category of their vote, rather than sending a postal vote to every person. I like the idea of maintaining the ability for people to come out on a Saturday and vote. I think that is a really quite important part of—

**The Hon. Dr PETER PHELPS:** So do the sausage producers of Australia!

**Ms FORSTER:** A lot of public schools make a lot of money.

**Ms MOORE:** It is an important part of our political life but I think we should be making it easier for people who find it difficult and we should allow the people who are going to be away to have absentee, postal votes or iVotes. It is just making it easier for people.

**Mr MANT:** I just had a thought. Certainly, those non-residential people who manage to enrol under the simplified process could be sent a postal vote—I am picking up on the point—saving them from having to come in. They could automatically have a postal vote.

**CHAIR:** There has been evidence given in relation to by-elections and the way we manage by-elections. One of the suggestions has been that there should be a process of countback, similar to that in the Australian Capital Territory, rather than having to go to a by-election if a councillor resigns. I am happy for anyone to comment on this.

**Ms MOORE:** I agree with that.

**CHAIR:** Any other comments?

**Ms FORSTER:** I support that too.

**Ms VITHOULKAS:** I support that. I am sorry; I did not have an opportunity to comment on the previous question. I tried to catch your eye.

**CHAIR:** Sorry.

**Ms VITHOULKAS:** I would like to say that part of the experience of voting is turning up on the day and having some satisfaction in voting. I would not discount that but I might just point out that for a non-residential eligible voter to get a postal vote they have to apply to get one. A residential voter can choose, online, to receive a postal vote. You get that automatically; you do not have to remind the Electoral Commission every time an election comes up. The postal vote comes out to you once you have made that choice. People are given a choice to get a postal vote. They can go online and tick that box.

**The Hon. TREVOR KHAN:** I think Mr Mant is suggesting that a way of dealing with it is that if you get enrolled as a non-resident you will get a postal vote.

**Ms VITHOULKAS:** You have to choose that, right now.

**CHAIR:** I understand that.

**Ms VITHOULKAS:** I would agree that if you—

**Ms FORSTER:** Everyone should get one.

**Ms VITHOULKAS:** That is changing the system completely. As it is now you have to ask for a postal vote. That is another form to fill out before you get the form.

**The Hon. Dr PETER PHELPS:** Are you happy with the countback method to fill a casual vacancy rather than having to go to a new by-election?

**Ms VITHOULKAS:** Yes, I think—

**The Hon. TREVOR KHAN:** The question is about the cost of the by-election. That is what it is all about.

**Ms VITHOULKAS:** Yes, the cost of the by-election. And it provides a trauma for the community, as well. There is a point where they have gone through three elections in a matter of three months—

**Ms FORSTER:** Election fatigue can kick in.

**CHAIR:** I think we are all suffering a bit of that now.

**Ms FORSTER:** Most candidates and electors are suffering that.

**Ms MOORE:** Can I raise another issue?

**The Hon. TREVOR KHAN:** As long as it is within the terms of reference.

**The Hon. Dr PETER PHELPS:** Or else he will be cross.

**Ms MOORE:** It should be if it is not. The issue is that public funding of local government elections does not occur. It occurs for State and Federal elections. I think that, particularly in the light of the work of councillors—which is very important across the communities of New South Wales—we want the best possible candidates. To not have any public funding for local government elections is a real disadvantage. I think it would be terrific if you could consider that in your deliberations.

**CHAIR:** The terms of reference does include "other related matters," so we certainly can accept those comments. The Committee may wish to send some supplementary questions in writing, the replies to which will form part of the evidence and may be made public. Would each of the witnesses be satisfied to provide written replies to any further questions? I see that every witness is nodding, yes. That concludes our questions today. Thank you for appearing before the Committee.

**(The witnesses withdrew)**

**(Short adjournment)**

**MARIA JANE WOODS**, Councillor, Shires Association, and

**PETER JAMES COULTON**, Director of Corporate Services, Local Government NSW, affirmed and examined:

**KEVIN WILLIAM SCHREIBER**, Treasurer, Local Government Association, sworn and examined:

**CHAIR:** I draw your attention to the fact that your evidence is given under parliamentary privilege and you are protected from legal or administrative action that might otherwise result in action in relation to the information you provide. I also note that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act. Would any of you like to give a brief opening statement? Mr Coulton.

**Mr COULTON:** I might, if I could.

**CHAIR:** Certainly.

**Mr COULTON:** We put forward a fairly brief and, I hope, succinct and concise submission with the expectation that our councils would also put in their own and we did not want to spend a lot of time with duplication. In the end, 14 of our councils managed their own elections, with the rest using the Electoral Commissioner. The ones who ran their own election, I assume, have also appeared before this Committee, or will at some point.

**CHAIR:** They already have.

**Mr COULTON:** There is supposed to be a collated report of information that those councils would have provided to the Department of Local Government. We have not seen that report. I hope at some point that has been made available to you good people as well. I will start with going through our dot points and we will deal with any questions. Councillor Woods and Councillor Schreiber will detail their particular experiences as individual candidates and identify the issues that need to be worked through.

**CHAIR:** If you have got no other statement to make, I will move to Councillor Woods. Would you like to make a brief statement?

**Ms WOODS:** Not at this time, thank you.

**CHAIR:** Councillor Schreiber?

**Mr SCHREIBER:** No, I am right at the moment, thank you.

**CHAIR:** We start with questions from the Committee. Councillor Woods, did your council run its own election or did the Electoral Commission run it?

**Ms WOODS:** The Electoral Commission ran it. We had a referendum as well.

**CHAIR:** Councillor Schreiber, was the Electoral Commission involved in Sutherland?

**Mr SCHREIBER:** We ran our own.

**CHAIR:** Councillor Woods, were there any issues you would like to raise regarding how the commission ran the election?

**Ms WOODS:** The election itself ran relatively smoothly. There were a number of issues leading up to the election with regard to information that was sought and perhaps the general discussions were not as productive as they could be.

**CHAIR:** Councillor Schreiber, were there any issues as a result of the election company running your election that you would like to raise?

**Mr SCHREIBER:** No. We found they were very efficient. The biggest problem we had at the beginning was to do with the Electoral Commission's attitude towards our council because we were not going to use them, which made it very hard. Finally, because they never put in any tender or any idea of how much it was going to be, we went with the outside people. We found they were very efficient. We finished our voting on the Saturday and had the final vote on the following Friday, which was 10 days in front of what was done by the Electoral Commission in the previous election. We had no problems on the booths. We had proper people manning everything. All in all, we found it was very efficient. We saved somewhere in the vicinity of \$275,000.

**Mr ANDREW FRASER:** Councillor Woods, what is your council?

**Ms WOODS:** It is Walcha.

**CHAIR:** A great council it is, too. There has been some evidence given to suggest that instead of going to a by-election when a councillor resigns and putting the community through a costly and expensive process, that there be a process of countbacks so that the next person who would have been elected should be elected.

**Ms WOODS:** I think that is a wise move, but there needs to be a time frame when that happens.

**CHAIR:** How long would you suggest?

**Ms WOODS:** I would suggest 12 months.

**The Hon. Dr PETER PHELPS:** Twelve months out from the next election?

**Ms WOODS:** No, 12 months following that election. I think the people have the right to go back to the polls.

**The Hon. Dr PETER PHELPS:** Following up on that, certainly the Australian Capital Territory does not impose any limit. It simply seeks the confirmation that potential Assembly members still wish to be considered at that stage. Would that not be a better way around it, rather than imposing a simple 12-month limit?

**Ms WOODS:** I think the difference perhaps is that some people who may not have been eligible to stand, particularly young people, may after 12 months certainly be reconsidering their positions. That is an important factor, particularly as local government is trying very hard to attract young people and much more diversity to the councils of New South Wales. Certainly in the discussions that we had it was noted that perhaps time frames need to be—

**The Hon. Dr PETER PHELPS:** Twelve months immediately following the election?

**Ms WOODS:** Yes.

**CHAIR:** Mr Coulton, does Local Government NSW have a view on that question?

**Mr COULTON:** Yes, we would support that.

**The Hon. TREVOR KHAN:** Support what?

**Mr COULTON:** Not having a by-election. Councillor Woods makes a good point regarding the 12 months and other people then being eligible to run. If you went for a countback, you would have to go back to the candidate who has the first right of refusal. I do not know how far you go if they say, "I have changed my mind. I do not want this gig." Do you go to the next one and then the next one?

**The Hon. Dr PETER PHELPS:** That is exactly the way the Australian Capital Territory does it, but very few people who put their hand up for election suddenly decide they do not want to have the power that comes with election if they have the opportunity.

**Mr COULTON:** That may be true, but there are some candidates who get elected at the end of the run with no quota, and with very few votes.

**The Hon. TREVOR KHAN:** There are many people in the Upper House who do not have a full quota.

**The Hon. Dr PETER PHELPS:** Indeed, and one needs to look at the new Senate of the Federal Parliament.

**CHAIR:** Why do you get to make Upper House jokes and I am not allowed?

**The Hon. Dr PETER PHELPS:** Following on, Mr Coulton, would it not have, if you like, an unintended beneficial consequence of teams running people who do not have—let us put it bluntly—dud candidates lower on down the order simply to make up their numbers. If you have someone who is 78 and who is likely—

**The Hon. TREVOR KHAN:** There is nothing wrong with 78-year-olds.

**The Hon. Dr PETER PHELPS:** There is nothing wrong with 78-year-olds, let me get that clear, but they may well be considering retiring from council. Would it not be better to have a system where they know when they construct the ticket that they have to have decent candidates in those marginal spots because there is a strong likelihood—as there always is in a countback and preferential system—for that person to be elected?

**Mr COULTON:** Anything that encourages decent candidates should be encouraged.

**Mr SCHREIBER:** I believe we should have the countback system. The cost of a by-election is just too much to the community, especially at the moment. Say they come out of a Federal election and then we have got a council by-election on top of that. I do not think they would like to see what it is going to cost them; they would rather see their rate dollars spent more in their local area by their council in the roads, rates and rubbish area, whatever it is. I think that is far more essential to the community. If we go on the countback system it is still a fair result of whereabouts they might have voted before. So I think it is a fair result all the way round and I think that the people you have got to think of is not so much the councillors but the community, the cost to them, and their acceptance of what we are trying to do through local government instead of putting more and more impost onto them.

**The Hon. TREVOR KHAN:** I go to recommendation six, which is the pre-poll issue. Do I take it you would agree with what seems to be the bulk of the witnesses who have given evidence that you would proceed on the basis of a pre-poll without precondition for pre-polling so that essentially we turn it into a period of voting as opposed to an individual day? Is that where you would go, or would you still have preconditions on it?

**Mr COULTON:** No, I do not think there should be preconditions. They are never checked anyway.

**The Hon. TREVOR KHAN:** And enforced.

**Mr COULTON:** No, they are not.

**Ms WOODS:** They are not.

**The Hon. TREVOR KHAN:** In relation to postal voting I think you heard the interchange that occurred with the councillors from the City of Sydney. Have you views as to postal voting and how it should be done?

**Ms WOODS:** The view of Local Government NSW is that it should be up to the individual councils to make that decision for their communities. Certainly they know their communities better than someone that might put a blanket ruling across everyone, and it really should be up to the individual councils to have the opportunity to do that, but within the rules that they wish.

**The Hon. TREVOR KHAN:** That would mean that somebody who might be eligible for a postal vote in one area—say, for instance, they are in a nursing home—because of the council's decision they may not be entitled to a postal vote in the next council area. Is that what you would envisage?

**CHAIR:** What you are saying is that they should still be able to apply; it is just that it might not be carte blanche postal voting. Is that what you are saying?

**Ms WOODS:** Yes.

**Mr COULTON:** As a general position we would like our councils to be able to have the option of these sorts of things. So rather than a mandatory postal voting system, if the councils want to go down that path it should be up to them.

**The Hon. TREVOR KHAN:** We are probably talking at cross-purposes.

**The Hon. Dr PETER PHELPS:** They are saying they do not want to be Victoria; they want the option.

**Ms WOODS:** Yes.

**Mr COULTON:** I might add that we have never formally put this matter, to my recollection, to a conference. But we have our annual conference coming up in early October where this matter will be put to the conference. So if there is still an opportunity we are happy to feed back the results of those comments to the Committee.

**The Hon. Dr PETER PHELPS:** When is that conference coming up?

**Mr COULTON:** On 2 and 3 October.

**The Hon. TREVOR KHAN:** You might take it on notice in those circumstances and tell us how it goes.

**Mr DARYL MAGUIRE:** I would like to know with regard to the 2012 election how much did the Local Government Association expend and participate to promote those elections, if anything, and, included in that, the proposed referendum at the time. Was there an amount expended by local government in regard to the yes versus no?

**Mr COULTON:** In relation to the local government elections, any money that we spent would only have been in terms of some staff time. There was no formal budget commitment. Our staff work in conjunction with the division staff. There are some education packages and programs and things like that. With the referendum case there was nothing really activated at that time.

**Mr ANDREW FRASER:** Do you think the Local Government Association should play a bigger role in the promotion of council elections?

**Mr SCHREIBER:** I think the Local Government Association tries to get involved where it does run briefing notes for women in local government, trying to get women to go and stand for local government and getting people to run courses and try to promote it out there. I think at the moment it does a pretty fair job of it; it is just that a lot of people do not really understand local government either. I think a lot more has got to be promoted—possibly by the councils themselves—about elections coming up and what can be involved in local government elections.

**Mr ANDREW FRASER:** You see it more as a local issue rather than an issue for the association?

**Mr SCHREIBER:** Yes.

**The Hon. Dr PETER PHELPS:** Two bits and pieces: first, my little hobbyhorse of above the line voting and the idea that you have to get a ticket of a certain size to be able to stand and get an above the line vote. What would be the association's view if you just allowed everyone a box above the line so that you would not have to have that minimum requirement before you get a box above the line?

**Mr SCHREIBER:** I have never had to look at it that way. I have always been in a box that has always been above the line. I think you will find that in my own ward last time there was only one below the line. There were eight candidates, seven were above the line and one was below the line. My ward has three councillors so we are having three on the ticket above the line. I think that is pretty fair.

**The Hon. Dr PETER PHELPS:** Just to clarify, you had seven tickets plus a solo person?

**Mr SCHREIBER:** Yes.

**The Hon. Dr PETER PHELPS:** Do you think it would have been less democratic if you gave that solo person a box above the line as well?

**Mr SCHREIBER:** That person actually polled very well below the line.

**Ms WOODS:** Can I just make a comment? Local Government NSW does not have a position on that and I do not think it would be appropriate to draw conclusions at this time as to what that would be.

**CHAIR:** And I understand that you are representing Local Government NSW. Feel free though, if you wish—you do not have to—to answer the question as a councillor who has been elected.

**Ms WOODS:** No, I do not wish to.

**CHAIR:** Mr Coulton, I trust you probably would not want to provide any—

**Mr COULTON:** No. I have personal views but they had best stay personal.

**Mr ANDREW FRASER:** Are there any motions coming up at your conference?

**Mr COULTON:** No, not at the moment, but we are happy to take it on notice and put it to the board for a discussion. What sort of reporting time lines are you on?

**Mr ANDREW FRASER:** We have until November.

**Mr COULTON:** I am happy to put something to the board to try to get some coherent decision for you. Could we go back to the previous question that you asked, Mr Fraser, about our involvement in the elections generally? After the legislative changes which provided that councillors could choose their own destiny after the change of government, we were heavily involved with organising those councils who felt the need to at least look at running their own elections. So we pulled them together; we contacted the Australian Election Company which was the only viable alternative source provider at the time and we did a lot to nurture that relationship. We pulled the general managers in, we had a cut-out meeting after the elections and we went through the pros and cons. The Minister came to that meeting, so did Ross Woodward, the chief executive officer. So we are heavily involved in that nurturing arrangement as this sort of stuff goes along.

**The Hon. TREVOR KHAN:** Are you able to express a view, having been through the process with the Australian Election Company, as to whether it was an effective and viable alternative?

**Mr COULTON:** By all accounts it was. The feedback that we got from those councils—there were 14 councils involved in the end; I think 15 started, and then Narrabri fell by the wayside because it had an issue with the returning officer—who attended that cut-out meeting said that they would run their own elections again. They all reported cost savings, except for maybe one that said it was probably a bit marginal but it got its result quicker and it would also do it again. They all had similar experiences. The success depended on having quality returning officers, getting in quick and sharp, and having proper and good advice. Our submission is based on some of the feedback that they gave us. Things like the functional split that we proposed is based on that feedback.

**Mr ANDREW FRASER:** There were suggestions made in evidence given to the Committee that the councils who did run their own elections had not accounted for staff time or alternatively replacement staff for those who took time to assist in the overall running of those elections. Do you have any information on that?

**Mr COULTON:** No, I have not seen any financials come back on councils. I would hope that they are in the reports that they had to provide to the division. The numbers for cost savings that we have come from that meeting so I have not gone through those.

**Mr ANDREW FRASER:** So you are unaware as to whether they did cost out staff time in relation to this?

**Mr COULTON:** I thought that they would have but I cannot swear on it.



**Mr ANDREW FRASER:** It was an assertion made I think by the Electoral Commission staff that—

**CHAIR:** I think it was The Hills Shire Council which made some comments about that.

**Mr ANDREW FRASER:** I cannot remember who it was but somebody did make the assertion that, whilst the dollar savings were there in actual payouts, the reality was that the costs back to the ratepayer were significantly higher than what they had estimated or declared.

**The Hon. TREVOR KHAN:** You will remember, however, that the councils who had gone their own way and who were at the table as well were not necessarily impressed with the assessment by The Hills Shire Council of its accounting expertise.

**Mr ANDREW FRASER:** No, but there is a greater representation of views.

**The Hon. Dr PETER PHELPS:** I would like to follow on from the question of the member for Coffs Harbour. Did you receive any complaints from unsuccessful candidates or from council officials in relation to those councils which had run their own elections—any complaints about inappropriate process or just general grumpiness about the way they were run?

**Mr COULTON:** No.

**Ms WOODS:** No.

**The Hon. Dr PETER PHELPS:** Did you hear anything from people working for the council about inappropriate pressure being applied for having polling booths in locations or anything like that? Were there any complaints from council workers in relation to those elections?

**Mr COULTON:** No.

**Ms WOODS:** No.

**Mr SCHREIBER:** No.

**The Hon. Dr PETER PHELPS:** Following on from the testimony of witnesses from the City of Sydney, what is the position of Local Government NSW in relation to non-resident rate paying electors? Do you do anything to try to broaden knowledge that this voting exists or does Local Government NSW just wish they were all gone? What is the position of Local Government NSW in relation to non-resident rate paying electors? How do we fix what appears to be an apparent problem?

**Mr COULTON:** We do not have a position.

**Ms WOODS:** We do not have a position at this time. It is probably one of the things that we could put back to the board for a position on and get back to you.

**CHAIR:** We would strongly encourage you to consider that.

**Ms WOODS:** Yes, we do not have a position at this time though.

**The Hon. Dr PETER PHELPS:** Has there been concern expressed previously? She did it half-jokingly, but one of the councillors previously giving evidence suggested that it was a throwback to nineteenth-century England to have property-right voting qualifications. Has that been expressed as an issue with local government?

**Mr COULTON:** No.

**Ms WOODS:** No.

**Mr SCHREIBER:** No, it has never been raised.

**CHAIR:** Would any of you like to provide comment on that, perhaps as councillors might be best.

**Mr SCHREIBER:** No, I do not really have a comment about it at all.

**Ms WOODS:** No.

**The Hon. Dr PETER PHELPS:** I am not sure but presumably your rate base from residential ratepayers would be far in excess of your commercial rate base. In your area do you get a level of participation which is, frankly, as bad as that of Sydney?

**Mr SCHREIBER:** No, a number of people who own businesses or property within the shire always ask how they go about doing it. I will not say there are many, but there are people who are aware of it; and they make use of it. It is hard to get it out there all the time.

**Mr ANDREW FRASER:** I think in regional areas such as Walcha the level of out-of-town ownership of commercial property would be considerably less than what it would be in Sydney.

**Ms WOODS:** It would be significantly less. It is not an issue that comes up.

**CHAIR:** The Committee may wish to send some supplementary questions in writing—

**Ms WOODS:** Before we finish, could I just make a comment?

**CHAIR:** Yes, of course.

**Ms WOODS:** One of the significant issues that did come up with regard to my council area was that the mapping that was provided was significantly different to the rolls. When people went in to vote, based on the maps that were published and in the local newspapers, they were told that they were in a completely different ward. I am talking about a significant number of people.

**The Hon. Dr PETER PHELPS:** Were the maps wrong or was the information provided at the polling booths wrong?

**Ms WOODS:** People assumed, based on the map that was provided, that that ward was where they were enrolled—and then when they went inside the information said that they were in a different ward. This happened to significant numbers of people. In our council elections there were fewer than 10 votes in one area, and fewer than five votes in another area, separating some of the candidates. I would suggest that there were significant numbers, many more than that, which were wrong. In my area, and this is from talking to people outside the booths, there were probably around 20-odd people whose details were wrong. I spoke to people as they came out of the polling booth.

**The Hon. Dr PETER PHELPS:** I would like to get a bit more information on the maps. So the maps provided are published in local newspapers in relation to which ward you are in? Or were they on display at polling booths as well?

**Ms WOODS:** They were displayed at the council and in the newspapers. They were the maps that were well displayed.

**Mr ANDREW FRASER:** So who issued those maps?

**The Hon. Dr PETER PHELPS:** The New South Wales Electoral Commission must have done it, because it ran the election.

**Mr ANDREW FRASER:** Are you aware whether this was a problem in other areas? Is it possible for other members of the association to provide some advice to the Committee on that?

**Mr COULTON:** We will have to ask. It is not an issue that I am familiar with at all.

**The Hon. Dr PETER PHELPS:** It is a pretty fundamental error to make.

**Mr ANDREW FRASER:** Absolutely.

**CHAIR:** Councillor Woods, has your council taken that issue up with the New South Wales Electoral Commission?

**Ms WOODS:** I believe it was going to. I can certainly take that question on notice and get back to you.

**CHAIR:** I think that is something you could even take up as a notice of motion asking for clarification—it is quite a serious error.

**Ms WOODS:** I thought so.

**CHAIR:** Do any of the witnesses have any more comments or statements?

**Mr COULTON:** So the submission that we have lodged is taken as part of our evidence.

**CHAIR:** Yes, it forms part of your evidence.

**Mr COULTON:** We talked about a number of questions around above the line voting and the non-resident issue. Do you formalise some questions for us so that we can take those back to the board?

**The Hon. Dr PETER PHELPS:** You can just put in an additional submission after you have had your board meeting, if you like. That would become a supplementary submission.

**Mr COULTON:** I just want to make sure that we answer the right questions.

**Mr ANDREW FRASER:** I think Mr Coulton is asking whether we can clarify the detail we need in those questions.

**Mr COULTON:** Is that possible?

**CHAIR:** Yes, we can provide you with some questions on notice—which we will discuss in a deliberative meeting afterwards—so you can provide some specific guidance and advice. The Committee will send some supplementary questions in writing, replies to which will form part of the Committee's evidence and may be made public. Would each of the witnesses be satisfied to provide a written reply to any further questions?

**Mr COULTON:** Yes.

**Ms WOODS:** Yes.

**Mr SCHREIBER:** Yes.

**CHAIR:** That concludes our questions for today. Thank you for appearing before the Committee.

**(The witnesses withdrew)**

**(The Committee adjourned at 12.18 p.m.)**