INQUIRY INTO BUDGET PROCESS FOR INDEPENDENT OVERSIGHT BODIES AND THE PARLIAMENT OF NEW SOUTH WALES

Organisation:

NSW Electoral Commission

Date Received: 18 November 2019



Mr David Shoebridge MLC Chair Public Accountability Committee Parliament of New South Wales Macquarie Street SYDNEY NSW 2000

14 November 2019

Dear Mr Shoebridge

Inquiry into the Budget process for independent oversight bodies and the Parliament of New South Wales

I enclose a submission from the NSW Electoral Commission for the consideration of the Committee in its inquiry into the Budget process for independent oversight bodies and the Parliament of New South Wales.

The submission outlines the difficulties faced by the Commission under the current process for determining its annual funding. It also offers suggestions for change that would provide greater transparency and certainty in relation to the provision of financial support for independent election administration in New South Wales.

One of the key issues identified in the submission is the limited capacity of the Commission to have input into and visibility of funding decisions made by Government as part of the annual State budget process. Another key issue is the application of whole-of-government savings measures and efficiency dividends to small agencies. Such constraints have a disproportionately adverse impact on the operations of small agencies as these have limited scope for flexibility. While large public sector organisations may be able to defer some discretionary expenditure in order to comply with such policies, this is not the case for agencies such as the NSW Electoral Commission.

The Commission has a statutory obligation to deliver elections as and when they arise and to regulate political participation, including the provision of public funding and the registration of lobbyists, on an ongoing basis. The Commission is concerned that quality of service delivery is at genuine risk under the current Budget process, as well as ongoing public trust in the capacity and independence of electoral administration. I look forward to appearing before the Committee in the near future to answer any questions members of the Committee may have about the Commission's concerns and proposals.

Yours sincerely

John Schmidt **Electoral Commissioner**



Budget inquiry

Submission to the Public Accountability Committee inquiry into the budget process for independent oversight bodies and the Parliament of New South Wales

Submitted November 2019

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Executive summary

The conduct of elections and the regulation of electoral participation in NSW is governed by a suite of legislation, policies and practices. The legislative framework is broad in scope, encompassing elections for the NSW Parliament, local councils, the NSW Aboriginal Land Council, registered clubs, industry bodies and industrial organisations. Although each of these electoral events has different characteristics, they are all built on a shared expectation that the election event is fair, transparent and conducted with integrity. The objects of the *Electoral Act 2017* (the Electoral Act) may be viewed as central, therefore, to all the work of the two entities created by Parliament to administer electoral matters - the NSW Electoral Commission and the NSW Electoral Commissioner.

These statutory objects describe the aims of the State's electoral administration framework in the following terms:

- to constitute an independent Electoral Commission for New South Wales and to provide for the appointment of an independent Electoral Commissioner for New South Wales,
- to promote and maintain an electoral system characterised by accessibility, integrity and fairness that provides for the election of members of Parliament of New South Wales in accordance with the *Constitution Act 1902*,
- to provide for a fair and transparent process for the distribution of New South Wales into electoral districts for elections for the Legislative Assembly,
- to facilitate and protect the integrity of representative government in New South Wales,
- to enable the citizens of New South Wales to participate freely in fair and transparent electoral processes,
- to facilitate the fair and transparent conduct of elections in New South Wales,
- to provide guidance to members of Parliament, parties, groups and candidates in relation to their rights, responsibilities and obligations in relation to the conduct of elections under this Act.

These objects do not detail what it means for an electoral administrator to be "independent", or for a process to be "transparent" or for representative government to possess "integrity". As community expectations of public administration evolve, therefore, it is important to examine from time to time whether existing legislative and administrative arrangements meet those expectations and whether those expectations are realistic. This submission to the Public Accountability Committee of the NSW Parliament explains why NSW electoral administrators perceive a real opportunity exists at this time to reform the annual budget process to reflect more closely modern concepts of independence and transparency, so as to better meet the other statutory objects set out in the Electoral Act and to improve the overall integrity of public administration.

This submission provides an overview of the NSW Electoral Commission's recent experiences of the budget process and illustrates how that process impedes the performance of its statutory duties in the most efficient and transparent way possible.

Although this submission describes in some detail proposals made to Government for funding through the annual Appropriation Bills, it also emphasises that the NSW Electoral Commission and Electoral Commissioner are not directly involved in the development of the State budget for the NSW cabinet's consideration. Details of some proposals are provided in order to illustrate the barriers to transparency that the current process entrenches and the opportunities for improvement that exist.

The NSW Electoral Commission: background information

Structure and role

The NSW Electoral Commission is constituted as a three-member statutory authority under the Electoral Act. The Commission assumed the functions of the former Election Funding Authority following significant changes to campaign finance regulation in New South Wales in 2014. Originally established under the *Parliamentary Elections and Electorates Act 1912*, the Commission was continued by the Electoral Act following legislative reforms in 2017. The Electoral Commissioner is a member of the Commission but it is led by a Chairperson, who must be a former senior judge.

The Electoral Commissioner is a statutory office-holder also originally established by the *Parliamentary Electorates and Elections Act 1912* and continued under the Electoral Act. Both the Commission and the Commissioner are supported in the exercise of their distinct but complementary statutory functions by a public service staff agency also known as the Electoral Commission, which is established as a "separate agency" under the *Government Sector Employment Act 2013* [the GSE Act].

Under the *Electoral Funding Act 2018*, the Electoral Commission has the functions of administering the election funding, expenditure and disclosure scheme under that Act, including registering electoral participants for the purposes of that scheme. It also enforces breaches of electoral legislation in relation to both funding and the conduct of elections, including elections held under the *Local Government Act 1993*.

Under the *Lobbying of Government Officials Act 2011*, the Electoral Commission has the function of maintaining the Register of Third-Party Lobbyists and Lobbyists Watch List, and of the enforcement of obligations relating to lobbying.

Under the Electoral Act, the *Local Government Act 1993* and other NSW laws, the Electoral Commissioner has the function of registering political parties, conducting elections and maintaining the electoral roll for New South Wales.

In the exercise of their functions, neither the Commission nor the Commissioner are subject to the direction of any Minister administering NSW electoral legislation. This independence from executive government is set out in sections 10(4) and 12(4) of the Electoral Act.

The staff agency is headed by the Electoral Commissioner, who exercises the employer functions of the Government under the GSE Act.

This submission is being made by the Electoral Commissioner, therefore, in his capacity as head of the staff agency and the person responsible for its day to day management, including financial management.

The NSW Electoral Commission's staff work across four Divisions: Elections; Information Services; Funding, Disclosure and Compliance & General Counsel; and Corporate. The NSW Electoral Commission supports the Commission and Commissioner to:

- Conduct, regulate and report on general elections and by-elections for the Parliament of NSW;
- Conduct general elections and by-elections for local government councils who engage the NSW Electoral Commission's services;
- Investigate possible offences and enforce breaches of electoral, funding and disclosure, and lobbying laws;
- Administer electoral funding legislation, including maintaining a scheme of public funding;
- Publish political donation and expenditure disclosures and registers of political parties, candidates agents, third-party campaigners and political lobbyists;

- Conduct elections for registered clubs, statutory boards, the NSW Aboriginal Land Council and state registered industrial organisations (on a not for profit, cost recovery basis);
- Prepare and maintain the NSW electoral roll, in conjunction with the Australian Electoral Commission;
- Contribute to public understanding and awareness of elections and electoral matters to make it
 easier for people to understand and participate in the democratic process; and
- Report to the Ministers administering NSW electoral legislation and the NSW Parliament's Joint Standing Committee on Electoral Matters (JSCEM) on the NSW Electoral Commission's activities.

In the rest of this submission, references to the NSW Electoral Commission should be taken to include the statutory authority, the Electoral Commissioner and the staff agency as may be appropriate in the context.

Staffing

The NSW Electoral Commission is a small organisation, employing 133 ongoing and temporary staff as at 31 October 2019 (55 per cent ongoing and 45 per cent temporary).

	Female	Male	Total Headcount – Temporary and Ongoing Officers	Critical Roles
Clerks 1/2, 3/4, 5/6	22	6	28	3
Clerks 7/8, 9/10, 11/12	47	41	88	36
Senior Executives	4	12	16	<mark>1</mark> 6
Public Office Holder	0	1	1	1
Total Headcount	73	60	133	56

Table 1. Breakdown of ongoing and temporary officers (as at 31 October 2019)

Note: Critical roles are defined as roles that are deemed to add the most value to an organisation and have the greatest strategic impact within the organisation. A critical role is one that if it were vacant, it would have a significant impact on the organisation's ability to conduct day to day operations, These positions may be managerial, technical or supportive in nature.

In addition to the 133 ongoing and temporary staff, the NSW Electoral Commission employs 65 casuals, contractors and consultants.

Staff funding

The staff of the NSW Electoral Commission are funded from two sources: Labour Expense Cap (LEC), and Projects.

As at 31 October 2019, there are 113 roles funded under the LEC and 144 roles project funded – roles are distinct from headcount and include vacancies. A breakdown of LEC and non-LEC roles by Business Unit is provided in Tables 2 and 3.

	LEC 01 Position	s as at 31st October 2	019		
Division	Business Unit	Ongoing	Temporary	Contractor	Total
	Communications	1	3	0	4
	Corporate	1	0	0	1
Corporate	EPMO & Corporate Governance	6	0	0	6
	Finance	6	7	1	14
	Hum an Resources	2	1	0	3
Corporate Total		16	11	1	28
	Elections	1	0	0	1
	Elections Customer Service	5	1	0	6
lections	Elections Innovation	3	1	0	4
	Elections Operations	7	1	0	8
	Elections Support	9	1	0	10
elections Total		25	4	0	29
xecutive	Electoral Commissioner	1	0	0	1
xecutive Total		1	0	0	1
	Client Experience Regulatory Services	4	4	4	12
	Compliance	13	1	1	15
DC & General Counsel	FDC & General Counsel	4	1	0	5
	Legal	6	2	0	8
DC & General Counsel Total		27	8	5	40
nformation Services	Business Systems	6	0	2	8
	Information Security	1	0	0	1
	Information Services	1	1	0	2
	iVote	0	1	0	1
	Network & Server Infrastructure	1	0	0	1
	Service Delivery	1	1	0	2
nformation Services Total		10	3	2	15
Total		79	26	8	113

Table 2. LEC Funded Roles (as at 31 October 2019)

Table 3. Non-LEC and Project Funded Roles (as at 31 October 2019)

Project Funded Positions as at 31st October 2019					
Division	Business Unit	Ongoing	Temp	Contractor	Total
	Comm unica tions	0	1	8	9
Corporate	EPMO & Corporate Governance	0	6	2	8
Corporate	Finance	0	3	10	13
	Human Resources	0	3	1	4
Corporate Total		0	13	21	34
	Elections	0	5	9	14
Elections	Elections Customer Service	0	2	0	2
Elections	Elections Operations	0	10	5	15
	Elections Support	0	4	6	10
Elections Total		0	21	20	41
	Client Experience Regulatory Services	0	4	2	6
FDC & General Counsel	Compliance	1	6	6	13
PDC & General Counsel	FDC & General Counsel	0	0	1	1
	Project	0	0	3	3
FDC & General Counsel Total		1	10	12	23
	Business Systems	0	10	26	36
	Information Security	0	1	2	3
Information Services	iVote	0	1	0	1
	Network & Server Infrastructure	0	2	2	4
	Service Delivery	0	1	1	2
Information Services Total		0	15	31	46
Total		1	59	84	144

2019-20 Budget

The NSW Parliament has appropriated \$121.98m to the Premier for the services of the New South Wales Electoral Commission for 2019-20. As expected at this point in NSW election cycles, having just delivered the 2019 State General Election the NSW Electoral Commission's 2019-20 appropriation is less than the 2018-19 provision of \$163.5m.

A large proportion of the annual appropriation for the NSW Electoral Commission is to meet claims made by political participants for public funding, not for the operations of the NSW Electoral Commission. Approximately 40 per cent of total recurrent funding is protected public funding for political parties and Members of Parliament.

A breakdown of NSW Electoral Commission's Full Year Budget for the past four years is provided in Table 4.

Item	2016-17 \$,000	2017-18 \$,000	2018-19 \$,000	2019-20 \$,000
Labour Expense Cap (LEC)	16,184	17,859	16,684	17,286
Other Expenses	8,060	10,574	11,796	14,467
Depreciation	5,694	1,809	3,757	5,290
Total Recurrent	29,938	30,242	32,237	37,043
State By-Elections	772	792	808	826
State General Election	1,106	5,008	75,836	5,657
Electoral Act Implementation	-	-	3,302	24
Joint Roll Agreement	3,323	2,317	2,411	2,540
Funding Disclosure & Compliance	19,555	12,410	<mark>28,11</mark> 9	48,741
Local Government Election	40,580	22,424		11,268
Total Protected	65,336	42,951	110,476	69,032
Minor Works	100	100	100	100
Major Works				
Electronic Mark-Off	1,405	985	1,386	3 .
FDC Online Disclosure System / Lite		5,273	8,417	6,443
GovDC		994	400	366
iVote Enhancement		2,566	3,486	2-
Online Nominations			4,458	2,435
Office Relocation			850	9 <u>-</u>
SGE - Computers/Tablets			1,569	900
LG Regulations Changes			-	5,661

Table 4: NSW Electoral Commission Full Year Budget Treasury Approvals Detail

Item	2016-17 \$,000	2017-18 \$,000	2018-19 \$,000	2019-20 \$,000
Information Security & Data Governance			100	-
Roll Management System	1,400	265		
FDC Investigations System	500	275		
Universal Postal Voting (LGE)	1,543	1,543		
Count Back System (LGE)	883	883		
Total Capital	5,831	12,884	20,766	15,905
Total Opex & Capex	101,105	86,077	163,479	121,980

Note: Funding Disclosure and Compliance relates to public funding as opposed to internal cost items.

A description of the main budget items is provided in Table 5.

Table 5: Description of the NSW Electoral	Commission's budget items
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ltem	Description
Recurrent - Business As Usual	
Labour Expense Cap	Head office staff required for the day to day running of the agency
Other Expenses	Head office expenses required for the day to day running of the agency, including recurrent projects
Depreciation	Depreciation of agency fixed and intangible assets
Protected Items	
State By-Elections	Direct cost of running State By-Elections as and when they are called throughout the year.
State General Election	Direct cost of planning and running the State General Election every four years
Electoral Act Implementation	Electoral Act 2017
Joint Roll Agreement	Cost of agreement with Australian Eletoral Commission for access to their electoral roll information
Funding, Disclosure & Compliance	Payments to parties and candidate for Election Campaign, Administration and New Policy expenditure.
Local Government Election - Council Services	Direct cost of running the Local Government Elections every four years, recoverable from Councils.
Local Government Election - Core Services	Cost of core services providing in the planning and running the Local Government Elections every four years
Capital Items	
Minor Works	Minor capital items such as office equipment and small office changes.

Item	Description
Major Works	Major capital projects that require individual Treasury funding
Electronic Roll Mark-Off	Implementation of electronic roll mark-off of electors at all polling places
FDC Online Disclosure System	Online system to enable candidates, parties, members, campaigners and donors to electronically lodge disclosures of donations and expenditure
Gov DC (Data Centre)	Funding for the upgrade of core IT infrastructure including essential backup and recovery services
iVote Enhancement	Improvements to the iVote system to enable the use of Technology Assisted Voting at SGE 2019
Online Nominations	Online system to enable candidates to complete their nomination information and payment electronically.
Office Relocation	Relocate FDC and Legal divisions from Queens Square to 20 Kent Street Sydney
SGE - Computers/Tablets	Funding for the purchase of computers and tablets used for the State General Election.
LG Regulation Changes	Update of existing and development of new business processes and IT systems to implement changes to the <i>Local</i> <i>Government (General) Regulation (2005),</i> including the infrastructre to support Universal Postal Voting, WIGM and a Countback Election system.
Information Security & Data Governance	Seed money of \$100k for the development of an Information Security and Data Governance proposal
Roll Management System	Development of a Roll Management System to enable the NSW Electoral Commission to maintain and manage the NSW Electoral Roll
FDC Investigation System	Development of an investigations and intelligance matter management system
Universal Postal Voting (LGE)	Development of centralised infrastructure to support Universal Postal Voting for Local Government Elections
Count Back System (LGE)	Development of centralised infrastructure to support a Local Government Countback Election system

The NSW Electoral Commission's current funding model

Appropriation

The Premier receives an appropriation for the New South Wales Electoral Commission each year in the budget bills, which we understand to inclusively refer to the statutory authority, the public service agency that supports it and the Electoral Commissioner. This year the annual appropriation was listed in section 21 of the *Appropriation Act 2019* (see *Part 4 Appropriation (Special Offices) Section 21 New South Wales Electoral Commission)*. Although section 21 refers to the sum being for "the services" of the Commission, as noted above, a large proportion of the amount is to make payments in response to public funding claims by political participants, not for the operations of the NSW Electoral Commission.

It is noted that both the Electoral Act and the Electoral Funding Acts contain mechanisms outside the annual appropriations for meeting the expenses of the NSW Electoral Commission, including public funding for political participants. Later in this submission, we raise the possibility that greater use of these mechanisms (or as amended to introduce greater Parliamentary oversight) may be a more effective way for Parliament to secure the independence of electoral administrators.

Over the past four years the NSW Electoral Commission has received the following appropriations through the annual budget bills:

NSW Legislation	Financial Year	Expenses \$,000	Capital Expenditure \$,000	Total \$,000
Appropriation Act 2016 No 30 [NSW]	2016-17	95,274	5,831	101,105
Appropriation Act 2017 No 30 [NSW]	2017-18	73,193	12,884	<mark>86,07</mark> 7
Appropriation Act 2018 No 35 [NSW]	2018-19	142,713	20,766	163,479
Appropriation Act 2019 No 3 [NSW]	2019-20	106,075	15,905	121,980

Table 6: Appropriation Sum to the NSW Electoral Commission

The varying size of the annual appropriations to date reflects the four year election cycle for the two major election events, the State Government Election and the Local Government Elections. Funding increases in election years allow the NSW Electoral Commission to meet the increased workload arising from major election delivery, predominantly through the engagement of temporary contractors. Later in this submission, it is noted that this major event model does not adequately support the expanded role of the NSW Electoral Commission as a provider of many other elections, as well as being responsible for extensive regulatory and integrity functions in relation to political participants.

Budget process

The NSW Electoral Commission is invited by Treasury to make submissions each year on its annual appropriation. These are made via DPC under the current cluster model. There is no direct avenue for making budget submissions to responsible Ministers.

The timing of the 2019 General State Election led to changes to Treasury's requirements for parameter and technical adjustment (PTA) submissions for the 2019-20 year. Only **significant agencies** were invited to submit first round PTAs, with a further limitation of only submitting PTAs *greater than \$10 million in total* (over the period 2019-20 to 2022-23). The NSW Electoral Commission is not considered to be a significant agency and was, therefore, excluded from the first round of PTA submissions.

The NSW Electoral Commission submitted 14 budget bids in total to DPC, plus eight carry-forwards of existing funding (Table 7).

Priority	Final Budget Proposal	Treasury Approval	Amount requested 19/20 (\$'000)	Amount provided 19/20 (\$'000)	Variance (\$'000)
1	Workplace Planning	REJECTED	<mark>6,936</mark>	-	- 6,936
2	Information Security and Data Governance	PARTIAL	8,939	2,578	- 6,361
3	Local Government Regulation Changes	PARTIAL	5,810	5,661	- 149
4	Electoral Act Implementation	REJECTED	3,182		- 3,182
5	Lobbyist Register	REJECTED	3,105	-	- 3,105
6	Office Lease	PARTIAL	90	90	ŝ
7	SGE19 Non-Voter Penalty Process	REJECTED	481		- 481
8	Minor Works	REJECTED	200		- 200
9	State by-elections	REJECTED	2,250	-	- 2,250
10	Administration Fund	APPROVED	3,844	3,844	
11	Data Remediation - Other Revenue	APPROVED	105	105	-
12	Data Remediation - Protected Items	PARTIAL	N/A	N/A	N/A
13	Data Remediation - LEC Transfer	APPROVED	N/A	N/A	N/A
14	Local Government Election Base Funding	REJECTED	2,707	-	- 2,707
Total Ne	w Funding Submissions		37,649	12,278	- 25,371
15	GovDC Reform	APPROVED	890	890	-
16	Online Nominations	APPROVED	<mark>1,99</mark> 5	<mark>1,99</mark> 5	
17	Online Elector Mark-off	REJECTED	1,010	-	- 1,010
18	Non Voters Financial Intergration	APPROVED	385	385	
19	FDC Online	APPROVED	<mark>6,44</mark> 3	<mark>6,443</mark>	-
20	Resource Time Capture	APPROVED	300	300	
21	Electoral Act Implementation	APPROVED	700	700	-
22	SGE Funding	APPROVED	3,600	3,600	-
Total Ca	rry Forwards		15,323	14,313	- 1,010
Total Su	Total Submissions		52,972	26,591	- 26,381

Table 7: NSW Electoral	Commission Parameter 8	Technical Adjustment	Submissions 2019-20

Note: 32.6% of new funding submissions approved. No. 11-13 Data Remediation – the NSW Electoral Commission submitted accounting adjustments to realign the forward estimates to match the election cycle. No. 12 & 13 adjustments are only reflected in future years.

Only three of the 14 new funding submissions were fully approved 'as submitted' for inclusion in the NSW Electoral Commission's 2019-20 appropriation. Of those three, only one substantive bid was approved, that being for additional public funding for political participants. That funding added nothing to the overall operating budget for the NSW Electoral Commission as it can only be used to meet claims by eligible political participants.

By value, less than one third of the NSW Electoral Commission's new budget submissions were approved. The three submissions approved were not identified by the NSW Electoral Commission as being of the highest priority when making its bids as part of the budget process.

Grant funding

Under the current cluster arrangements, should an agency such as the NSW Electoral Commission run short of cash during the year, Treasury will direct it to the relevant cluster lead agency to seek additional funding. Should DPC (in the case of the Premier and Cabinet cluster) agree with the NSW Electoral Commission's request for funds, and if it has surplus or contingent budget available itself, a grant can be made from DPC to the NSW Electoral Commission. Grants have been provided by the DPC on two occasions in the past four years (Table 8).

Table 8: Grant Funding

Title	Explanation	Amount \$
CIM & LG Election Offences	Grant received in September 2017	1,293,533
Electoral Act Implementation	Grant received in February 2018 - \$2,050,000	1,150,000
	Grant reduced by \$900,000	
Total Grants 2017/18		2,443,553

Note: DPC approved an initial grant of \$2.05m in February 2018 to fund the Electoral Act implementation. This was reduced to \$1.15m on the advice of the NSW Electoral Commission on the basis that, by the time it was received, the grant could not be fully expended in the relevant year. Funding had been sought in November 2017 but was not approved until February 2018.

The NSW Electoral Commission's 2019-20 Budget Bids

Set out below (see Box 1) are details of budget bids made by the NSW Electoral Commission as part of the 2019-20 Budget process.

Box 1. NSW Electoral Commission's Submissions to the 2019-20 Budget

2019-20 funding submissions:

New Policy Proposal (NPP) – Urgent & Unavoidable

Local Government Election Base Funding (Total cash cost 10 years: \$44.4m)

Purpose of the project:

• To deliver a new funding model for Local Government Elections (LGEs) in New South Wales entailing partial Government funding to support the costs of running these elections.

<u>Funding approved: Nil.</u> The business case was not funded in the 2019-20 Budget. On 18 September 2019 following a review conducted by the Independent Pricing and Regulatory Tribunal of the costs of conducting local government elections, the Government announced that it would provide \$19.9m to fund the NSW Electoral Commission's core costs for the 2020 local government elections (e.g. staff payroll, training, IT system development, and maintenance of the electoral roll).

Parameter & Technical Adjustments (PTAs)

1. Information Security and Data Governance (Total cash cost 10 years: \$67.7m)

Purpose of the project:

- To enhance the security capability of the NSW Electoral Commission and deliver a structured, approach to the management of information security and data governance aligned with ISO management systems, including the implementation of preventive and detective security controls, and improve the cyber resilience and response capability of the organisation to cyber security threats.
- The project included provision for developing an ongoing capability within the NSW Electoral Commission to address cyber security issues in the period after the 2019 State General Election. These capabilities need to be developed so that they are in place prior to SGE2023.
- The project was informed by the recommendations in the Wilkins Report on the Security of the iVote system; an external review by PwC; the Council of Australian Governments (COAG sponsored Department of Home Affairs/Deloitte Cyber-Security Maturity Review of Commonwealth, State and Territory election systems and processes); the Department of Finance, Services and Innovation's Digital Information Security Policy; and the NSW Electoral Commission's Cyber Security Policy.

<u>Funding approved: \$2.578m pa for 10 years for iVote and web secure hosting costs only. No</u> <u>other funding provided.</u> The NSW Electoral Commission is not currently compliant with the NSW Government Cyber Security Policy. In the absence of additional resources it is not possible to forecast if, and when, such compliance can be achieved.

2. Local Government Regulation Changes (Total cash cost 10 years: \$9.3m)

Purpose of the project:

- To implement the Government's announced acceptance of recommendations from the Joint Standing Committee on Electoral Matters' (JSCEM) *Inquiry into Preference Counting in Local Government Elections in NSW*. This included development of systems to support the introduction of the Weighted Inclusive Gregory Method (WIGM) method for counting ballots, countback elections to fill casual vacancies and postal only (UPV) elections.
- The submission also sought funding for ongoing resources to operate the new systems.

Funding approved: \$5.661m in capital (i.e. WIGM system, countback and universal postal voting). No operational funding was provided.

3. Lobbyist Register (Total cash cost 10 years: \$4.3m)

Purpose of the project:

• To enhance, or replace, the system that administers the Third-Party Lobbyists Register. <u>Funding approved: Nil.</u>

4. Electoral Act Implementation (Total cash cost 10 years: \$14.1m)

Purpose of the project:

- To finalise implementation of the *Electoral Act 2017*. The project had four deliverables: Electoral Information Register; Registered Early Voters; Election Management Systems for State By-elections; and Register of Special Electors (multi-voters).
- NSW Electoral Commission was provided funding of \$700K towards the implementation of these items in 2018-19 and Treasury approved a carry forward of this funding into 2019-20.

<u>Funding approved: Carry forward to 2019-20 only of \$700k.</u> In the absence of additional resources the NSW Electoral Commission can only make critical changes to avoid system failures and rely on (already over-committed) internal resources to develop tactical processes and solutions to meet the requirements of its legislative framework.

5. Workforce Planning (Total cash cost 10 years: \$81.6m)

Purpose of the project:

- To deliver a sustainable staffing structure for the NSW Electoral Commission to address the fragility of the NSW Electoral Commission's staffing structure with a heavy reliance on expensive contractors and a high proportion of temporary staff; address the inability (due to the cyclic events nature of the business) to attract and retain talent and knowledge; and an over reliance on staff working long hours posing serious WHS risks.
- The strategy is designed to move away from the current 'events' focus to a business as usual (BAU) approach build capability and provide a stable staffing structure that takes into account key role considerations such as succession planning and knowledge retention.

Funding approved: Nil.

6. Office Lease (Total cash cost 10 years: \$24.1m)

Purpose of the project:

- To cover both existing rental commitments and the new tenancy which was planned to commence in May 2020 at 231 Elizabeth Street, Sydney the NSW Electoral Commission was required by Government to relocate without funding being provided.
- A 12-month extension of the present lease at 201 Kent Street was funded in the 2019-20 Budget. This current lease expires in February 2021.
- The NSW Electoral Commission required additional rent to cover the two months in 2019-20 when it was then planned we would take possession of the new premises at 231 Elizabeth Street.

Funding approved: \$1.533m (this represents a 12 month extension to the current lease at 201 Kent Street only).

7. State By-election Protected Funding (resubmit of last year) (Total cash cost 10 years: \$24.8m)

Purpose of the project:

• To increase from the current provision of one funded State by-election each year to three per year. This reflects NSW Electoral Commission's recent experience – namely, 10 state by-elections in the past 2.5 years.

Funding approved: Nil.

8. Minor works (resubmit of previous year bid) (Total cash cost 10 years: \$2.2m)

Purpose of the project:

- To increase NSW Electoral Commission's Minor Works Budget to \$200K per annum. The present \$100k minor works provision has not been increased for 10 years.
- During this period the size of the NSW Electoral Commission's operation has significantly increased as is illustrated by the growth of NSW Electoral Commission's BAU accommodation from 850m² to 2,700m².

Funding approved: Nil.

9. Administration Fund – Fund for political parties and independent members (Total cash cost 10 years: \$42.3m)

Purpose of the project:

• To increase public funding for political parties and independent members of Parliament. <u>Funding approved: \$42.3m.</u>

10. SGE Non-Voter Penalty Process (Total cash cost \$4.1m)

Purpose of the project:

- To cover additional costs in operating the non-voters process for the 2019 State General Election to be held on 23 March 2019.
- The major cost increases were: increased Australia Post postage costs (\$810K) for the notices sent to non-voters; mail audit requirements (\$294K); and court costs (\$60K).
- The penalty revenue from the State General Election non-voters process was projected to exceed the costs, resulting in a net benefit to the State.

Funding approved: Nil.

Carry Forward Requests

Carry forward requests were approved in the 2019-20 Budget process for a number of capital projects, including: FDC Online; Online Nominations; GovDC, and SGE IT Capex (Total value: \$10.1m). One carry forward request was not approved, namely:

Elector Mark-Off

Purpose of the project:

- To use carried forward funds (a rollover was approved by NSW Treasury on 21 May 2018) from the Elector Mark-off (EMO) funding to meet the NSW Government supported recommendation of the JSCEM inquiry into the 2015 State General Election.
- The JSCEM recommended that "the NSW Government expands the trial of the electronic roll mark-off of electors at pre-polling and Election Day polling booths, with a view to a full rollout over the next few elections."

Funding approved: Nil - Carry forward request not approved.

The NSW Electoral Commission has taken measures to address some of the funding shortfalls noted above in advance of making fresh budget bids in the 2020-21 Budget process. These measures include: using existing already stretched resources; reallocating existing project and recurrent funds where possible; and making only critical changes to avoid system failures and/or ensure legislative compliance. However, these are only temporary measures and do not address the very real and ongoing funding and operational challenges facing the NSW Electoral Commission.

Challenges with the event-based funding model for the NSW Electoral Commission

As noted above, the NSW Electoral Commission is still largely funded as if it only delivers major election events, which is not reflective of its extensive statutory responsibilities and operations, nor sound public sector governance practice.

In recent years, the NSW Electoral Commission's funding model has been the subject of two external reviews (PwC and Bendelta) commissioned by the NSW Electoral Commission. A copy of the Bendelta report is provided as an attachment to this submission.

The central problem of over-reliance on event-based funding is that NSW Electoral Commission has a core staffing complement of 133 employees, but approximately 45 per cent are temporary appointments. This reliance on short-term employment or contractor arrangements inevitably impacts on the cost and quality of services and the NSW Electoral Commission's operational capability.

The NSW Electoral Commission perceives the main risks arising from not being funded for a more sustainable structure are as follows:

- Organisational fragility approximately 57 per cent of staff are contractors or temporary, including the Senior Executive.
- Key person risk over-reliance on key subject matter experts.
- Over reliance on temporary and expensive contract staff to deliver core services.
- Limited capacity for succession planning and knowledge transfer/capability building.
- High turnover 22 per cent compared with Public Sector average of 10 per cent.
- Workplace Health & Safety risks excessive hours, overtime, fatigue and well-being.
- Risks to the successful delivery of projects aimed at delivering core election services and improvements to election systems.

The NSW Electoral Commission has, unsuccessfully to date, sought to address these challenges through the Government's annual budget process.

Box 2. Workforce planning

The NSW Electoral Commission relies on a core nucleus of subject matter experts to carry out its functions. Two independent reviews have concluded that this core staffing profile does not represent the critical mass required for the NSW Electoral Commission to maintain its services. There are very few activities undertaken that are not mandated by legislation.

In late 2016, the NSW Electoral Commission engaged PwC to review its labour funding model. This review recommended the adoption of a more sustainable model in order to reduce workforce risks (i.e., knowledge retention, key person risks, over reliance on contingent labour), and budget risks that require the NSW Electoral Commission to rely upon non-recurrent funding sources to sustain service delivery. The PwC recommended model proposed a transfer of critical roles currently funded by non-recurrent sources into an increased Labour Expense Cap. This recommendation, which was included in a NSW Electoral Commission funding submission to Treasury for the 2017-18 Budget, could have been delivered at nil cost to the Budget as it involved a reallocation from existing funding sources. The funding bid was unsuccessful.

In April 2017, the Auditor General released a report on a review of the use of contingent labour in the NSW Public Sector; *Contingent Workforce: Management and Procurement*. This report noted the over-reliance on contingent labour in the reviewed agencies and concluded that none of those agencies were 'able to demonstrate that the use of contingent labour is the best resourcing strategy to meet their business needs or deliver value for money'. Further, the Auditor General's report noted that agencies were not using workforce planning to inform their use of contingent labour.

Informed by the Auditor-General's Report, in October 2018 the NSW Electoral Commission engaged consultants Bendelta to assist in developing a Workforce Strategy and four year Resourcing Plan. This Workforce Strategy took into account the changing role of the NSW Electoral Commission, which is not simply an 'events' based organisation.

A Business Case, based on this Workforce Strategy, was submitted to Treasury for funding in the 2019-20 Budget. The funding bid was unsuccessful.

The NSW Electoral Commission will be resubmitting this bid for consideration as part of the 2020-21 budget process.

Key issues and risks with the current budget process

The following are some of the key issues and risks with the current budget process for small independent agencies like the NSW Electoral Commission:

Unrealistic expectations for small agencies around business cases

Formal guidance on the Budget process is issued late in the financial year. For example, Treasury released formal guidance to agencies for the 2019-20 Budget process on 11 January 2019. In accordance with Treasury's advice, agencies had until 15 February 2019 to prepare and submit Parameter and Technical Adjustments and Carry Forward requests, and until 5 March 2019 to submit one New Policy Proposal.

Had the NSW Electoral Commission waited for this formal guidance to start preparing its submissions for 2019-20, it would not have been in a position to make them within the limited timeframe. The NSW Electoral Commission mitigated this risk by inferring from past experience when submissions would likely be required to allow adequate time (at least six months) to prepare the requisite business cases to support its funding submissions.

Business cases are a prerequisite for funding submissions by both small and large agencies. This presents significant challenges for the NSW Electoral Commission which, with limited internal resources, must often engage contractors and consultants to prepare such materials. This is a significant cost to the NSW Electoral Commission and reduces its capacity to deliver other initiatives.

The preparation of business cases for the 2019-20 Budget also required input from subject matter experts who were already heavily engaged in the critical delivery phase of the 2019 State General Election.

Limited consultation and transparency

The NSW Electoral Commission expends considerable effort and resources to prepare and submit its funding submissions to Treasury. Although some consultation is undertaken with relevant agencies to ascertain alignment with Government priorities, the NSW Electoral Commission does not contribute to the Minute that is submitted to cabinet with its funding bids. As a cabinet matter, this is handled by the cluster (i.e. DPC as the lead agency).

The NSW Electoral Commission is also only advised of the outcome at the end of the process, which may be many weeks post the Cabinet meeting. It may never receive detailed feedback from either Treasury or DPC on the Government's consideration of the NSW Electoral Commission's proposals.

Incremental budgeting does not reflect true cost

The NSW Government budget process is incremental - meaning that funding provided in any given year is usually based on the funding that has been allocated in the past, with some adjustments for inflation. The recent experience of budgeting for SGE19 is provided below (see Box 3) to illustrate the difficulties that arise from this approach.

Box 3. SGE19 budget process

The NSW Electoral Commission had originally received funding of \$55.2m over two years to plan and conduct the SGE in March 2019. This amount was based only on the initial budget allocation for the SGE in 2015 with CPI adjustments.

The 2018-19 Budget allocation did not take into account the \$6m overrun in SGE 2015 or that a number of new or increased costs would be incurred during SGE 2019. After a comprehensive review, it was determined that the SGE programme for 2019 was significantly under-funded and additional funding of \$31m was required in 2018-19 to deliver a successful SGE in 2019 - a funding bid was submitted to Treasury during the 2018-19 Budget process.

The requirement for additional funding was largely the product of external factors, including:

- Election staffing Alignment of pay rates and employment conditions for casual election staff with those in the Crown Employees Award and *Government Sector Employment Act 2013*.
- IT infrastructure Election Manager's Office infrastructure (mobile devices, wireless networking and hardware); server infrastructure (to address cyber threats); development and testing resources; and software certification.
- Venue costs The cost of temporary offices used for early voting and Election Manager Offices increased above CPI and the need to secure a new count centre.
- Roll growth This growth was not accounted for in the initial SGE allocation. In March 2019, the number of electors was approximately 5.3m; an increase from 5m in 2015. The growth in electors gives rise to increases in other costs such as staffing, venues, ICT infrastructure, systems and ballot papers.
- Australia Post postage costs increased by 67 per cent from SGE 2015.

While the NSW Electoral Commission achieved a significant budget increase in 2018-19 of \$22.3m (includes capital) to deliver the SGE in March 2019, not all items included in our Budget submission were funded. Unfunded items include:

- Programme Management & Risk Mitigation \$5.51m
- Media, Communications & Digital (website etc.) \$1.18m
- Election Staff Recruitment & Support \$562k
- Security at Election centres \$975K
- Australia Post Postage Cost Increase \$880K.

The Commissioner considered expenditure on these items to be essential to the conduct of a safe and robust election and decided, therefore, that additional election staffing and security-related costs were to be met by using an unallocated carry-forward of \$1.5m in State funding originally provided to the NSW Electoral Commission to run the 2017 local government elections. The costs of the other unfunded projects had to be met by reducing expenditure evenly across all other already funded SGE19 projects.

Treasury's current forward estimates include an amount for conducting the 2023 State Election. This figure is again based on SGE15 with CPI growth only. Based on experience of the costs of conducting SGE19, this means that the forward estimate is already more than \$30m short of what it will cost to deliver SGE23.

Short-term and part-bid decisions do not meet funding needs

Another feature of the current budget process is that many proposals receive no funding, or at best only time-limited funding, even if the statutory function is ongoing. This has resulted in high staff turnover because the NSW Electoral Commission is limited in the long term temporary engagements or ongoing appointments it can offer. In turn this undermines the NSW Electoral Commission's ability to carry out core statutory functions. The introduction of new enforcement responsibilities for the NSW Electoral Commission in 2016 and 2017 for local government elections and electoral funding illustrates this point – see Box 4.

Box 4. Local government regulatory responsibilities (Council Integrity Measures and Local Government Act Offences)

In 2017, the Parliament passed amendments to the NSW local government legislation to confer additional regulatory functions and responsibilities on the NSW Electoral Commission. No ongoing funding was provided to the Commission to carry out these functions:

 On 1 July 2017, the Local Government and Elections Legislation Amendment (Integrity) Act 2016 (Council Integrity Measures) came into force, imposing ongoing obligations on the NSW Electoral Commission to regulate local government political parties', candidates' and thirdparty campaigners' compliance with electoral funding legislation. The new laws increased the NSW Electoral Commission's audit and investigative responsibilities in relation to political participants, created administration and regulatory responsibilities for the NSW Electoral Commission in relation to third-party campaigners (TPCs) and created greater demand for NSW Electoral Commission support and advice for stakeholders.

The NSW Electoral Commission initially received one-off supplementary funding in 2016-17 to cover the cost of implementing changes to systems and processes. No recurrent funding was provided to carry out this ongoing function. Funding was extended in the next budget round for two years only for staffing (approx. \$1.4m pa). This funding expires on 30 June 2020.

• On 14 August 2017, the *Environmental Planning and Assessment and Electoral Legislation Amendment (Planning Panels and Enforcement) Act 2017* (LG Enforcement Amendment Act) came into effect, giving the NSW Electoral Commission power to investigate and enforce local government election offences under the *Local Government Act 1993* (LG Act).

Despite advice from the NSW Electoral Commission that funding would be required to carry out this new function, no funding was initially provided. On 5 September 2017, the NSW Electoral Commission received a \$1.29 million grant from DPC for 2017-18 to implement the necessary changes and carry out enforcement responsibilities resulting from the LG Enforcement Amendment Act. Funding was extended in the next budget round for two years only. This funding expires on 30 June 2020.

Due to this funding uncertainty, the NSW Electoral Commission is facing a major challenge in discharging its local government compliance functions. If new funding is not provided for 2020- 21, the NSW Electoral Commission will lose up to eight full-time equivalent compliance and client services staff. Without ongoing funding, the NSW Electoral Commission's ability to discharge its compliance functions will be compromised from 1 July 2020; just three months prior to the September 2020 Local Government Elections. To ensure that an appropriate level of compliance support is provided for these elections, it will be necessary to reduce other NSW Electoral Commission compliance activities during the election period.

Although the NSW Electoral Commission is proposing to submit a budget bid as part of the 2020-21 budget process, from an operational perspective it is counter-productive for a decision regarding the funding of these positions to be delayed until the 2020 Budget. With no job security, some key staff may wish to explore options for alternative employment. This could see the NSW Electoral Commission lose experienced officers and the curtailment of the investigations and audits on which they are currently engaged.

NSW Electoral Commission has limited or no visibility of the factors taken into account when Treasury determines to progress only some elements of its funding submissions. A particular challenge arises when funding is approved for the capital component of a project but no funding is provided for recurrent costs.

Two recent examples demonstrate the point:

- iVote strategic enhancements for SGE2019. Funding was provided to upgrade the system but ongoing funding was not provided to support delivery and maintenance of the solution (i.e. staffing, licensing, hosting, and systems maintenance) – refer to Box 5.
- Website upgrade for SGE2019. Capital funding was provided without any funds being provided for ongoing operating expenses such as licensing, maintenance or staff refer to Box 6.

Box 5. iVote – Strategic Enhancements for SGE2019

- In the 2017-18 Budget, the NSW Electoral Commission received CAPEX funding of \$5.392m over two years to make strategic enhancements to the iVote system. These enhancements are related to security, transparency, verifiability and auditability which were required before iVote could be used for SGE2019.
- In addition to capital costs, the NSW Electoral Commission's funding submission requested recurrent funding to establish three permanent positions to support iVote. This request was made in light of issues experienced by the NSW Electoral Commission in maintaining iVote between election events, including knowledge retention and difficulty responding to byelections time constraints. This request for recurrent funding was unsuccessful.
- The ongoing funding eventually provided for these critical positions was only made available from 1 July 2019. The time and effort involved in securing this ongoing funding had an impact on the delivery of the project as key staff were required to focus on the development of funding submissions rather than project delivery.

Box 6. Digital transformation – new website

A NSW Electoral Commission digital transformation project, to introduce a new customer centred digital presence, was approved as part of SGE19 funding submissions.

The website was launched in December 2018 to align with new Electoral Act and Electoral Funding Act requirements ahead of the 2019 State Election and reflect best practice in customer centred design and stakeholder consultation to better serve end-user needs.

Website traffic increased by 500 per cent for the 2019 NSW State election (compared to traffic for the 2015 State Election) allowing many more users to self-serve and resulting in high levels of customer satisfaction. Requests to fund ongoing staffing, licensing and support arrangements for the website were unsuccessful leaving the NSW Electoral Commission with ad-hoc and fragile staffing arrangements to manage this critical engagement channel.

The impact of short-term funding decisions is magnified by year-on-year efficiency dividends and additional budget savings measures, with no corresponding wind-back of the NSW Electoral Commission's statutory functions. The focus on reducing the employment costs of government agencies (for example, by not funding on-going staff, only capital expenditure) is particularly counterproductive for small agencies, who are left with no choice but to engage more expensive contractor resources, often for long periods of time, to undertake their non-discretionary statutory functions.

In addition, small agencies such as the NSW Electoral Commission are limited by ongoing staffing resource constraints from undertaking the kind of long-term strategic planning that may realise more efficient service delivery.

The agency head's identified priorities are not reflected in final funding

In making its annual submissions to Treasury for the budget process, the NSW Electoral Commission is required to rank projects in order of priority. The NSW Electoral Commission's priorities take into account factors such as: announced Government policy priorities; Government responses to Parliamentary Inquiries; proposed legislative reforms; and organisational priorities and capacity.

Without visibility of the process or criteria used by Government to determine project funding, it is the NSW Electoral Commission's experience that its priorities are generally not accepted. Box 7 outlines the NSW Electoral Commission's budget submissions in 2019-20 by priority ranking, and funding status.

Box 7. Rank of funding priorities for 2019-20

In the 2019-20 Budget, the NSW Electoral Commission submitted 14 projects for funding, including one new policy proposal and 13 PTAs. The top five priority projects were:

- 1. Workforce Planning
- 2. Information Security & Data Governance
- 3. Local Government Regulation Changes
- 4. Post SGE Electoral Act Implementation
- 5. Lobbyist Register Rectification

Only partial funding for two of the priority PTAs was provided - Information Security and Data Governance (Cyber Security) and Local Government Regulation Changes. The other three priority funding bids were rejected in full.

The NSW Electoral Commission was not provided with advice as to why specific projects were selected for priority funding.

Carry forwards process undermines long-term planning

Carry forward requests are included in the budget process and agencies must make formal application to Treasury to carry forward unspent funds from one year to the next. Funding may need be carried forward for a variety of reasons that should not prevent the project continuing, albeit with an amended timetable. As annual carry forwards are at the discretion of Treasury, there is considerable uncertainty for agencies trying to manage a portfolio of projects. The annual timing of this review does not strike the right balance between accountability for the expenditure of public monies and certainty of funding to complete individual projects. A case study of Elector Mark-Off is provided below to illustrate these points – see Box 8.

Box 8. Elector Mark-Off

Funding for the Elector Mark-Off project, a project designed to introduce electronic mark-off of electors' names at polling places, was provided in 2016-17. Initial trials were conducted at the Local Government Elections in September 2016.

The JSCEM inquiry into the 2015 General Election recommended that 'the NSW Government expands the trial of the electronic roll mark-off of electors at pre-polling and Election Day polling booths, with a view to a full rollout over the next few elections'. This recommendation was endorsed by the Government and funding was provided to the NSW Electoral Commission in 2017-18.

The implementation of the Elector Mark-Off project was overtaken by other Government priorities and was put on hold in 2017. These priorities included: implementation of the new *Electoral Act 2017* and *Electoral Funding Act 2018*; implementation of online disclosures of political donations; and the split of local government elections into two tranches in 2016 and 2017. These other projects limited the capacity of the NSW Electoral Commission to commit internal resources to the elector mark-off project.

The project was placed on hold and no monies were spent in 2018-19. Carry-forward funding from 2017-18 into 2018-19 of \$1.386m was granted.

In the 2019-20 Budget, the NSW Electoral Commission's request to carry forward funds for the Elector Mark-Off Project was not approved. Accordingly, the NSW Electoral Commission will not deliver electronic mark-off, or be able to conduct trials of real time mark-off.

In the absence of funding the NSW Electoral Commission has ceased work on this project.

The cessation also impacted the NSW Electoral Commission's ability to implement another JSCEM recommendation that 'the NSW Government commences a trial of electronic voting in polling places'. Conducting such a trial is dependent on the development of a full electronic mark-off system

Lack of funding to implement new legislation

The NSW Electoral Commission has assumed a number of new, ongoing responsibilities in recent years without any funding being provided to the agency for implementation or ongoing operations.

For example, set out below are details of the NSW Electoral Commission's experience in seeking funding to implement the *Electoral Funding Act 2018*.

Box. 9. Electoral Funding Act 2018

The *Electoral Funding Act 2018* introduced a number of significant reforms to the NSW election funding, expenditure and disclosure scheme. The impact of these reforms on the operations of the NSW Electoral Commission and its stakeholders were considerable and additional recurrent and capital funding was required for their implementation. In 2017 and 2018, the NSW Electoral Commission provided DPC and Treasury with advice regarding the financial impact of implementing the Act. The NSW Electoral Commission estimated that the costs for it to implement the new Act were recurrent funding of \$1.98m, protected funding of \$10.60m and additional capital funding of \$1.22m.

In light of the Government's publicly stated intention to introduce this legislation, in December 2017 the NSW Electoral Commission sought supplementary funding of \$0.456m to enable it to undertake preparatory work for the Act's implementation. In a letter dated 23 February 2018, Treasury advised:

Treasury understands that the Bill has yet to be enacted or introduced to Parliament. As such the timing for consideration of funding is more appropriate when the Act is formally passed and associated implementation requirements are made clear.

The full cost required will need to be assessed as part of the budget process in 2018-19 for future funding needs.

The *Electoral Funding Bill 2018* was introduced into Parliament on 17 May 2018 and was passed on 24 May 2018. It commenced operation on 1 July 2018. There was, as anticipated by the Commissioner's request for funding in late 2017, no opportunity after passage of the Bill in May 2018 and commencement of the Act in July 2018 for the full cost of those reforms to be considered and sought in the next budget process.

Following the Bill being passed Treasury advised that the funding request could not be considered as it was now too late in the budget process to do so. Notwithstanding this advice funding of \$10.60m was approved outside the formal budget process timelines to cover increases introduced by the Bill for public funding for political parties. The NSW Electoral Commission's subsequent bid for ongoing operational funding to administer the new scheme was unsuccessful.

The NSW Electoral Commission had no choice but to fund critical system changes through an existing capex project (on the basis that additional top-up funding for that project will be sought at a later time). To fund recurrent implementation costs, the NSW Electoral Commission redirected other existing resources.

This experience demonstrates that funding to implement legislative reforms will not necessarily be considered or agreed before the relevant legislation has been passed by the Parliament. The NSW Electoral Commission is unaware of any formal Treasury guidance to this effect being published to NSW public sector agencies. Such a practice fails to recognise the adverse impact of a lack of funding on agencies charged with implementing important reforms. Lack of funding leads to a lack of planning and a lack of readiness. In creating such weaknesses, an agency's ability to successfully implement new initiatives is compromised.

Imposition of additional budget savings measures

The Government imposed a new savings measure on the NSW Electoral Commission (and other agencies) in the 2019-20 Budget – these savings are in addition to the pre-existing efficiency dividend. Details of these additional savings were not announced at the time of the budget and the NSW Electoral Commission was not consulted on their quantum, achievability or impact on its ability to deliver elections and other services.

On 16 August 2019, DPC advised the NSW Electoral Commission that it was expected to save an additional \$10.7m over a nine year period from 2020-21 to 2028-29. These savings are ongoing and permanent and have been escalated at 2.5 per cent per annum from 2023-24 – the 2.5 per cent savings measure is in constant dollars and therefore in terms that amount to more than 2.5 per cent. This brings the NSW Electoral Commission's total expected savings target to 2028-29 to \$29.9m.

The DPC letter advising of this measure stated that the NSW Electoral Commission 'has some latitude to determine how savings are achieved, however savings measures are expected to be applied predominantly to labour expenses'.

The Electoral Commissioner has written to the Secretary of DPC to express concerns about the savings measures and to outline the impact these targets will have on the NSW Electoral Commission. As at the date of this submission, the savings target remains in place for 2019-20 and the full extent of its implications are still being worked through by the NSW Electoral Commission.

To achieve the target, the NSW Electoral Commission will need to reduce its core workforce by approximately 12 full time positions or around 10 per cent of its existing full-time workforce on 1 July 2020 – two months prior to the 2020 Local Government Elections. These positions are in addition to the approximately eight compliance and service staff positions which are currently at risk as previously outlined at Box 3 above. If these savings measure were to be applied to non-employee funding, a cut of 26.7 per cent would need to be applied to the NSW Electoral Commission's non-protected other operating expenses. The cuts equate to a reduction of 10.1 per cent if applied across the NSW Electoral Commission's non-protected funding, i.e. employee and other operating expenses (see Table 9).

	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29
1,419	1,646	1,456	1,492	1,529	1,567	1,607	1,647	1,688	1,730
0	1,233	1,044	1,517	1,010	1,316	895	1,418	988	1,275
1,419	2,879	2,500	3,009	2,539	2,883	2,502	3,065	2,676	3,005
31,943	28,458	25,048	25,205	26,278	26,977	27,421	27,430	28,788	29,542
20,992	17,690	18,133	18,015	19,043	19,512	19,999	19,870	21,021	21,538
6.8%	16.3%	13.8%	16.7%	13.3%	14.8%	12.5%	15.4%	12.7%	14.0%
1	ncremental	Headcount>	•						
Achieved	11	8	12	9	11	8	13	10	12
PEX									
10,951	10,768	6,915	7,190	7,235	7,465	7,422	7,560	7,767	8,004
1,419	2,879	2,500	3,009	2,539	2,883	2,502	3,065	2,676	3,005
13.0%	26.7%	36.2%	41.8%	35.1%	38.6%	33.7%	40.5%	34.5%	37.5%
X (including L	EC)								
31,943	28,458	25,048	25,205	26,278	26,977	27,421	27,430	28,788	29,542
1,419	2,879	2,500	3,009	2,539	2,883	2,502	3,065	2,676	3,005
4.4%	10.1%	10.0%	11.9%	9.7%	10.7%	9.1%	11.2%	9.3%	10.2%
	0 1,419 31,943 20,992 6.8% Achieved PEX 10,951 1,419 13.0% X (including L 31,943 1,419	0 1,233 1,419 2,879 31,943 28,458 20,992 17,690 6.8% 16.3% 6.8% 16.3% 10,768 10,951 10,768 1,419 2,879 13.0% 26.7% X (including LEC) 31,943 28,458 1,419 2,879	0 1,233 1,044 1,419 2,879 2,500 31,943 28,458 25,048 20,992 17,690 18,133 6.8% 16.3% 13.8% Incremental Headcount> Achieved 11 8 PEX 10,951 10,768 6,915 1,419 2,879 2,500 13.0% 26.7% 36.2% X (including LEC) 31,943 28,458 25,048 1,419 2,879 2,500	0 1,233 1,044 1,517 1,419 2,879 2,500 3,009 31,943 28,458 25,048 25,205 20,992 17,690 18,133 18,015 6.8% 16.3% 13.8% 16.7% 6.8% 16.3% 13.8% 16.7% Achieved 11 8 12 PEX 2 2 200 3,009 13.0% 26.7% 36.2% 41.8% X (including LEC) 2 2 25,048 25,205 31,943 28,458 25,048 25,205 3,009	0 1,233 1,044 1,517 1,010 1,419 2,879 2,500 3,009 2,539 31,943 28,458 25,048 25,205 26,278 20,992 17,690 18,133 18,015 19,043 6.8% 16.3% 13.8% 16.7% 13.3% 6.8% 16.3% 13.8% 16.7% 13.3% Achieved 11 8 12 9 PEX 7,190 7,235 1,419 2,879 2,500 3,009 2,539 13.0% 26.7% 36.2% 41.8% 35.1% X (including LEC) 31,943 28,458 25,048 25,205 26,278 1,419 2,879 2,500 3,009 2,539	0 1,233 1,044 1,517 1,010 1,316 1,419 2,879 2,500 3,009 2,539 2,883 31,943 28,458 25,048 25,205 26,278 26,977 20,992 17,690 18,133 18,015 19,043 19,512 6.8% 16.3% 13.8% 16.7% 13.3% 14.8% 6.8% 16.3% 13.8% 16.7% 13.3% 14.8% Achieved 11 8 12 9 11 PEX	0 1,233 1,044 1,517 1,010 1,316 895 1,419 2,879 2,500 3,009 2,539 2,883 2,502 31,943 28,458 25,048 25,205 26,278 26,977 27,421 20,992 17,690 18,133 18,015 19,043 19,512 19,999 6.8% 16.3% 13.8% 16.7% 13.3% 14.8% 12.5% Achieved 11 8 12 9 11 8 PEX 2,879 2,500 3,009 2,539 2,883 2,502 13.0% 26.7% 36.2% 41.8% 35.1% 38.6% 33.7% K 13.0% 26.7% 36.2% 41.8% 35.1% 38.6% 33.7% X (including LEC) 25,00 3,009 2,539 2,883 2,502 31,943 28,458 25,048 25,205 26,278 26,977 27,421 3,419	0 1,233 1,044 1,517 1,010 1,316 895 1,418 1,419 2,879 2,500 3,009 2,539 2,883 2,502 3,065 31,943 28,458 25,048 25,205 26,278 26,977 27,421 27,430 20,992 17,690 18,133 18,015 19,043 19,512 19,999 19,870 6.8% 16.3% 13.8% 16.7% 13.3% 14.8% 12.5% 15.4% Achieved 11 8 12 9 11 8 13 PEX 10,951 10,768 6,915 7,190 7,235 7,465 7,422 7,560 1,419 2,879 2,500 3,009 2,539 2,883 2,502 3,065 13.0% 26.7% 36.2% 41.8% 35.1% 38.6% 33.7% 40.5% 13.0% 26.7% 36.2% 41.8% 35.1% 38.6% 33.7% 40.5%	0 1,233 1,044 1,517 1,010 1,316 895 1,418 988 1,419 2,879 2,500 3,009 2,539 2,883 2,502 3,065 2,676 31,943 28,458 25,048 25,205 26,278 26,977 27,421 27,430 28,788 20,992 17,690 18,133 18,015 19,043 19,512 19,999 19,870 21,021 6.8% 16.3% 13.8% 16.7% 13.3% 14.8% 12.5% 15.4% 12.7% Achieved 11 8 12 9 11 8 13 10 PEX 10,951 10,768 6,915 7,190 7,235 7,465 7,422 7,560 7,767 1,419 2,879 2,500 3,009 2,539 2,883 2,502 3,065 2,676 31,943 28,458 25,048 25,205 26,278 26,977 27,421 27,430 28,788

Table 9. Savings targets for the NSW Electoral (Commission 2019-20 to 2028-29
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As a knowledge-intensive organisation, the loss of 12 critical staff (plus, potentially a further eight compliance and client services staff) is not sustainable – the NSW Electoral Commission is already operating with a workforce that is comprised of 45 per cent temporary staff out of a workforce of 133 employees. The savings measures will lead to an even greater reliance on contractors and temporary staff, which is ultimately more costly.

These savings measures also mean that future funding bids (particularly for election events) will need to be increased to engage more staff for longer periods because of the diminished subject matter expertise within the NSW Electoral Commission. This approach will also lead to an increased risk of failure for such events.

The savings target cannot be achieved by the NSW Electoral Commission without impacting the delivery of its core functions/services.

Uncertainty over how much protected funding will be available

The NSW Electoral Commission is provided with "protected" funding annually, which is funding appropriated for the NSW Electoral Commission identified as necessary to deliver a specific activity or make specific payments e.g. conduct a State General or Local Government Election, a State by-election or make public funding payments to eligible political parties and candidates.

Unless Treasury approves otherwise in advance, protected funding cannot be spent by a NSW public sector agency on services other than those for which it has been specifically provided.

Where there is an identified need, the NSW Electoral Commission expends significant effort in making the case to Government for increases to the annual appropriation for protected funding. This effort was partially successful in the work undertaken by the NSW Electoral Commission to secure increased funding to conduct the 2019 State election.

Such requests, however, are not always successful. For example, in 2018-19 and 2019-20 Budgets, the NSW Electoral Commission sought an increase to the funding available for State by-elections to reflect current risks – specifically, 10 state by-elections in the last 2.5 years. Funding was sought to support up to three State by-elections in any given year. It is noted that these funds would only be spent if by-elections are called, but the request was not approved.

By-elections usually occur on short notice. It is essential, therefore, that the NSW Electoral Commission be adequately provisioned ahead of time so that key resources are not diverted to developing additional budget submissions instead of undertaking time-critical election preparations. Many of the by-elections delivered over the past few years have been funded, however, via diversion of existing resources from other work and projects, which has a negative impact on the NSW Electoral Commission's ability to deliver services in its other areas of responsibility.

Another issue is that the NSW Electoral Commission may have no choice but to incur expenditure under legislation, such as making payments under the public funding scheme. Requests by NSW Electoral Commission for access to protected funding for this purpose, however, are treated in the same way as other budget bids, which is onerous and inflexible. The following example illustrates the unnecessary hurdles that now exist as a result:

The rules for making payments for public funding to political parties and candidates each year are established by legislation, and those payments are already subject to a special legislative appropriation, and yet:

- the current budget process does not recognise the need for an automatic CPI increase each year even though the legislation requires it (refer to Schedule1 of the Electoral Funding Act).
- the current budget process does not recognise that the amount of Administration funding required each year will vary, depending on the number of members in each Parliamentary party and independent elected members. By-elections held throughout a calendar year have the potential to increase the public funding required.
- the current budget process does not recognise that the amount of public funding required for the Election Campaign Fund (ECF) is dependent upon the number of State by-elections held and, for any elections, the number of first-preference votes to eligible parties. This calculation is difficult to accurately estimate as it requires an assessment of the likely levels of elector participation, the proportion of formal votes and the overall result of an election.

Although the NSW Electoral Commission believes it is important to plan ahead for annual expenditure on protected funding, streamlining of the current process is necessary.

Difficulty in obtaining funds for back-office projects and asset renewal

Under current arrangements, it is difficult to obtain funds through the annual budget process for many critical corporate support projects, for example, the replacement of core systems for records management.

Requests for such "back office" systems must compete for funds against other high profile projects/programmes. As such, funding for many of these projects has to be met internally by not doing other things or they are never progressed. The pattern of not funding essential "back office" systems upgrades merely delays a problem and is not reflective of good financial and asset management.

Similarly, no asset renewal funding is provided to NSW Electoral Commission as a matter of course. This is difficult because, as confirmed by the Audit Office, the NSW Electoral Commission needs to plan for the replacement of core IT assets that are central to the delivery of every election.

If an asset that is critical for a small agency needs to be replaced (e.g. updated to the latest model/version), however, it must apply for funding through the normal budget process, which includes the preparation of a full business case. These bids are onerous and rarely successful.

Box 10. IT asset renewal

In delivering major elections the NSW Electoral Commission uses three major systems. EMS, EMA and PRCC. All three of these systems were initially developed over 10 years ago and have now been fully depreciated. Additional functionality has been added to each of these systems over time to support specific election events, however there has not been an ongoing system development and asset renewal programme to ensure that the assets continue to provide maximum benefit to the business.

As an example, in seeking funding to implement systems changes relating to the new *Electoral Act 2017* the costs associated with those changes were split into two parts. Funding was only provided for the first tranche of these changes.

Part a) \$500,000 (Funded)

Initial funding to modify EMS, EMA and PRCC to be compliant with the new Act for SGE19. Due to time constraints many of the changes had to be applied at the code level rather than being made configurable.

Part b) Additional \$1.4M for EMS, EMA and PRCC rectification post SGE (Not funded)

EMS, EMA and PRCC are used to deliver multiple election events. The Electoral Act introduced changes between State and Local Government terminology and process. Funding was requested to update these systems to deliver multiple events.

In the absence of this funding, another round of short term code changes are currently underway to ensure that the systems are able to run the 2020 Local Government Elections. These changes are being made using existing resources that would otherwise be preparing and testing the systems for the election event, putting pressure and risk on the event preparation process.

Short term changes will again have to be made after the local Government elections to prepare for the State General Election in 2023. Each of these short term changes adds complexity to the systems, increases the cost of ongoing support, potentially decreases the overall usability, and increases the risk of system failure of error.

There was an example of the impact of this approach during the SGE19 early voting period. The EMA system used to mark electors as voted at early voting centres had an outage during early voting which caused significant delays in issuing ballot papers. This outage was caused by a change implemented as a short term fix during the lead-up to the election.

The cyber security risks associated with these systems also continues to increase. Whilst efforts are being made to keep the systems secure, they were not designed with current information security management principles in mind and therefore the controls that are possible are limited.

Ideally a long term asset development and renewal programme would be in place so that maintenance and replacement of core systems is not linked to election event funding or carried out as a short term project in the lead up to an election event.

Unfortunately development of a long term asset development and renewal programme to cover the systems used by the NSW Electoral Commission, and development of a business case to attain funding for the programme, requires resources the NSW Electoral Commission does not have. The NSW Electoral Commission is therefore stuck in a cycle of short term, event-specific planning.
Whole of Government policies apply disproportionately

Although independent, there is an assumption that the NSW Electoral Commission and similar oversight agencies are still subject to whole of government administrative policies – possibly because supporting staff are often public servants. Even if that assumption is correct, it should be recognised that such policies often have a disproportionate cost impact on small agencies like the NSW Electoral Commission.

An example is the whole of government office accommodation policy. Under this policy, overseen by Property NSW, the NSW Electoral Commission is required to relocate to 231 Elizabeth Street, Sydney in mid-2020. While this is an endorsed Government policy, and the NSW Electoral Commission is working with Property NSW to relocate in its timeframe, the NSW Electoral Commission was not provided with any funds to relocate; to pay for rent on two premises for a period of six months (this coincides with the expiry of the current lease at 201 Kent Street); or to meet the increased rent on the new premises. Instead, the NSW Electoral Commission had to make a submission for funding through the normal budget process – see Box 11 – which is a time and resource-consuming process for a small agency that has been given no discretion but to incur the additional costs.

Box 11. Office lease 2019-20

The NSW Electoral Commission occupies 2,700m² in Kent Street for its BAU operations. This is the only office the Commission has and is a permanent requirement. The current lease expires in February 2020.

The NSW Electoral Commission submitted a PTA to cover its office lease costs for the period 2020-21 to 2028-29. This funding submission for ongoing rent was rejected and funding was only provided to the end of the current lease in February 2020.

Treasury informally advised that the PTA was not supported because a long term lease for the new premises had not yet been signed. As a consequence, the NSW Electoral Commission has not been provided with funding to cover its basic ongoing accommodation needs.

Office accommodation will always have a cost, and that cost is well informed by market rents. The NSW Electoral Commission believes its forward estimates should accurately reflect its projected operating costs.

	2019/20	2020/21	$\textbf{2021/22} \rightarrow \textbf{2028/29}$	Total
Lodged	90,000	2,165,000	22,144,000	24,399,000
Approved	90,000	1,443,000	5	1,533,000
Variance	-	- 722,000	- 22,144,000	- 22,866,000

Property NSW has negotiated a lease for new premises at 231 Elizabeth Street, from 1 May 2020 and before long will presumably be seeking the signing of a 12 year Financial Commitment by the NSW Electoral Commission. Property NSW has informally advised that the Government has approved funding for the premises, however, this is not reflected in any approval provided to the NSW Electoral Commission and does not show up in its forward operating costs.

Further, no funds have been provided for the fit-out of the new premises; no funding for the installation of telephones; and no funding for the installation of computer systems and hardware.

The NSW Electoral Commission will resubmit its funding application in the 2020-21 budget round.

Specific submissions are invited but then not funded: wasted resources

There have been instances where the NSW Electoral Commission has been encouraged to make application for certain projects which were then left unfunded by Government in the final budget outcomes. The effort required to prepare budget funding submissions has a significant resource impact on small agencies such as the NSW Electoral Commission - in terms of both human (SMEs, contractors) and financial ones. The NSW Electoral Commission must also engage business case writers as it cannot justify maintaining internal resources for this specialised task. The process generates significant costs for the NSW Electoral Commission and diverts critical expertise away from its core service delivery responsibilities. The NSW Electoral Commission believes it would be reasonable for small agencies not to be invited to submit complex business cases unless the proposal is already supported in-principle by Government. In the absence of a requirement for in-principle support, there is uncertainty and wasted investment of resources leading to inefficiencies. Two recent examples illustrate this point and are outlined in Box 12.

Box 12. Projects submitted on advice and then not funded

Cyber security

In the 2018-19 Budget, the NSW Electoral Commission made application for funding for a project to enhance the overall security capability of the NSW Electoral Commission, including an ongoing capability within the NSW Electoral Commission to address cyber security issues. The project was deemed critical and necessary as, without the requested resources, the NSW Electoral Commission would be unable to apply the Government's security guidelines and may not be able to deliver its election systems and services in a manner which satisfies requisite levels of security controls.

Initially culled in the Budget process, this project was later re-prioritised in a "second round" process by Treasury and the NSW Electoral Commission was requested to resubmit its bid. Ultimately Treasury provided only 'seed funding' of \$100K for the development of a further business case. This project was then re-submitted to Treasury in the 2019-20 Budget process. In the end, the project was only partially funded to cover recurrent hosting costs for iVote and the NSW Electoral Commission's website, with no funding provided for the project's core purpose which was to enhance the NSW Electoral Commission's cyber security capacity.

The NSW Electoral Commission is not compliant with the NSW Government Cyber Security Policy.

Minor Works

In 2019-20 Budget, Treasury suggested the NSW Electoral Commission make application to increase its Minor Capital Works Budget to \$200K per annum. At present, the budget has remained at \$100k per annum for more than 10 years. The requisite submission was prepared only to be told the proposal was not supported without any further explanation.

Budget process is inflexible so cannot support important structural change

A key concern for the NSW Electoral Commission with the current budget process is that structural funding issues remain unaddressed year on year. Small agencies are subject to a one-size-fits-all approach to budget planning – which appears to have become further entrenched by the new cluster focus. Under the current process, the NSW Electoral Commission's annual budget is built on a historic business-as-usual recurrent funding level that is supplemented only with successful new project funding each year. There appears to be no appetite to innovate in relation to funding arrangements, even in cases where the overall budget impact of such a change may be neutral.

The case study of workforce planning referred to earlier demonstrates that the budget process is designed only to fund existing programs and new projects rather than seek to drive efficiency, cost savings and support improved service delivery through better planning.

In addition, through the application of whole-of-government savings measures, which impact predominantly on labour expenses, the budget process ignores the long term needs of small agencies. The specific result for the NSW Electoral Commission is that it faces the prospect of significant staffing cuts at a time when those staff are making preparations for the September 2020 Local Government Elections and other prioritised activities.

The Cluster model lacks transparency for independent agencies

The NSW Electoral Commission understands that the cluster model was implemented to drive efficiencies across the NSW public sector by grouping together similar agencies. The NSW Electoral Commission is part of the DPC cluster, as are other integrity and oversight agencies such as the Independent Commission Against Corruption (ICAC), the Law Enforcement Conduct Commission and the NSW Ombudsman.

In practice, however, the cluster model appears to have limited efficiency and transparency for smaller agencies during the annual budget process. This is a cabinet process that is managed by DPC as the cluster lead agency. Agencies such as NSW Electoral Commission have limited visibility on whether its funding submission/s are included in cluster proposals. There is also little opportunity to influence decisions that are being implemented at a cluster level. For example, the additional budget savings measures in the 2019-20 Budget were allocated at a cluster level. DPC was then required to allocate savings targets to the agencies within the Premier and Cabinet cluster, but without consideration of those agencies' capacity to realise them.

Options for reform

Reforming the approach to appropriations

Under its establishing legislation, the decisions of the Electoral Commission and the Electoral Commissioner are not subject to the direction of Ministers. This legal independence from the Executive Government is critical to maintaining the confidence of electors in the integrity of NSW democratic institutions. Freedom from ministerial direction alone, however, is not sufficient to ensure the independence of any public sector organisation where financial and management limitations may be imposed through other means, such as the annual budget process.

Any indirect form of Executive control needs to be acknowledged as a risk to independence, even if it also serves the public interest in some ways. The NSW Electoral Commission strongly supports Parliament and the Government examining options to improve accountability and transparency for independent statutory bodies by way of reform to the budget process.

Why current appropriations practice does not ensure independence – the annual State budget development process

Under the current approach to annual appropriations, the NSW Electoral Commission is reliant on other Executive agencies to assess its annual funding requirements and to recommend to the Government, through the cabinet process, the amount to be made available in the Appropriation Bill. The NSW Electoral Commission's peripheral involvement in this process makes its financial position, and that of other integrity agencies established under similar legislative frameworks, subject to the competing financial and operational priorities of the elected government of the day.

It is appropriate that the Government has discretion to allocate public resources between the agencies and programmes it creates, according to its policy and operational priorities. Integrity and electoral administrators created by Parliament, however, should not have to compete with those other priorities in order to discharge their statutory functions. There is no avenue for Parliamentary or other public oversight of the analysis that has informed the Government in relation to amounts included for special offices in the Appropriation Bills, such as the NSW Electoral Commission, due to their status as cabinet deliberations. The NSW Electoral Commission appreciates and understands the importance of maintaining the confidentiality of cabinet deliberations, including those undertaken during the development of the State's annual budget. The convention of cabinet confidentiality is fundamental to the proper operation of the system of representative government. In the case of integrity agencies established by the Parliament, rather than by the Executive, however, being subsumed in the State budget process undermines their independence and limits the transparency of annual resource allocation.

Why current appropriations bills do not ensure independence

The longstanding practice of directly appropriating money to the Premier for the services of various "special offices" in the Appropriation Bills is not adequate to support those offices' independence. The NSW Electoral Commission acknowledges that the approach is preferable to receiving grants from a lead cluster agency, but it has not been fully effective. While the distinction from other agencies in the Appropriation Bills is important, that distinction alone does not ensure independence or generate sufficient transparency for Parliament to be able to discharge its oversight responsibilities.

The NSW Electoral Commission considers it would be more effective and transparent to further separate the special offices from the rest of the public sector in the appropriations process. Further separation would promote and support greater public scrutiny, which in turn supports integrity.

The NSW Electoral Commission also expects such a new funding approach would recognise that it is no longer simply an events-based organisation. As already noted, the NSW Electoral Commission's role has changed considerably in recent years but the existing budget-setting process is not compatible with its expanded operations and the scope of its legislative functions. The capacity of the NSW Electoral Commission to deliver high-quality elections and exercise regulatory functions with integrity would be better supported, in NSW Electoral Commission's view, by a different appropriations process.

Suggestion for change to funding arrangements for special offices

The NSW Electoral Commission advocates for a change that better supports realisation of the objects of the Electoral Act of independence, integrity and transparency. It is proposed that the NSW Electoral Commission and all integrity agencies established by Parliament be directly funded by way of a special statutory appropriation in their establishing legislation.

For this to operate effectively, however, the NSW Electoral Commission acknowledges that it would need to be accompanied by carefully considered oversight processes. A balance must be struck to ensure non-partisan approach to any Parliamentary consideration but also that an increased level of external budget oversight does not become even more onerous for small independent offices than the centralised budget process it replaces.

These are issues that can be addressed, however, in careful design and regular reviews. The NSW Electoral Commission is optimistic that a reformed model for integrity agencies would be capable of meeting both the need for certainty of financial resources as well as an appropriate level of public oversight, in parallel with the centralised appropriations approach for ordinary executive agencies.

Both the Electoral Act and the Electoral Funding Act already contain special appropriation provisions (see sections 265 and 134, respectively) that could be further modified, if required. Other integrity legislation also contains special appropriation provisions that reflect the independence of the special office in question and could be further modified or expanded – for example, the remuneration for the ICAC Chief Commissioner is appropriated under its establishing legislation.

A current example of special appropriations for electoral administration already working in Australia, is the Victorian Electoral Commission (VEC), which is funded by a special appropriation under section 181(2) of the *Victorian Electoral Act 2002*:

Except as otherwise provided... the money required for the administration of this Act... is to be paid out of the Consolidated Fund, which is by virtue of this section appropriated to the necessary extent.

The drafting of this provision is similar to those that exist already in NSW electoral legislation but the NSW Electoral Commission understands it is implemented in a different way. The NSW Electoral Commission understands that although Victorian Treasury still plays an important role in the oversight of the VEC controls around its expenditure, there is also opportunity for oversight about budget matters by the relevant Victorian parliamentary committee. The outcome appears to be that VEC is not required to jostle with other Government priorities to ensure the adequacy of its annual funding.

The issue of financial/managerial independence for integrity agencies has also been canvassed formally in Western Australia. In 2006, the Accountability Officers of the Western Australian Parliament (i.e. Auditor General, Ombudsman, and Electoral Commissioner, amongst others) submitted a report to the Western Australian Parliament outlining a range of accountability and independence principles for integrity agencies. A copy of this report is attached for the Committee's consideration. In that report, it was noted in relation to annual budget development and oversight that:

"...a significant number of jurisdictions have included some form of Parliamentary input into the establishment of accountability officers' budgets, to increase the transparency of the financial resource allocation process. Legislation may enable a Committee of the Parliament itself to recommend the annual accountability officers' budget allocations or may mandate consultation with a Parliamentary Committee."¹

It does not appear that the oversight arrangements have since changed in WA, but there are interesting examples of Parliamentary oversight of budget processes to be found in relation to Canadian electoral administrators².

Other options

If the NSW Electoral Commission's suggested model is not supported, the NSW Electoral Commission has identified a number of improvements to the existing process the Committee could explore for small and/or independent offices:

Annual declaration to a relevant Parliamentary Oversight Committee

At present, submissions made by independent agencies (and others) are forwarded to Treasury via an online portal known as PRIME for inclusion in the annual budget process. A soft copy is also provided to DPC as the lead agency in the cluster. It is normal practice for the NSW Electoral Commission to then meet with Treasury to brief them on the submissions and to answer any questions. Further questions from Treasury are then sent via email and responded to in due course.

BudgetSOs-Report.pdf (accessed 7 November 2019) and the *Briefing Book for the Minister of Democratic Institutions* (January 2017) published by Elections Canada at

¹ Accountability and Independence Principles by the Accountability Officers of the Western Australian Parliament, November 2006, p. 12 (see attached).

² See for example, the *Annual Review of the Budgets of Statutory Offices* (December 2018) of the Select Standing Committee on Finance and Government Services of the Legislative Assembly of British Columbia at https://www.leg.bc.ca/content/CommitteeDocuments/41st-parliament/3rd-session/fgs/FGS_2018-12-19 Annual Review-

https://www.elections.ca/content.aspx?section=abo&dir=oec&document=p1&lang=e#a4 accessed 7 November 2019.

The NSW Electoral Commission does not review the internal briefings by Treasury on its funding submissions or receive notification of which projects are presented to Government for consideration of funding. The NSW Electoral Commission is only advised the outcome of the Cabinet process via informal means (e.g. telephone call or email from the relevant Treasury officer with responsibility for NSW Electoral Commission matters) with little opportunity to outline the risks of not funding a particular project or activity.

A suggested way forward is that independent agencies (or Treasury/DPC) provides an annual statement to a relevant Parliamentary Oversight Committee (e.g. Budget Estimates Inquiry) on funding submissions made by these agencies and the outcomes of the budget process. This submission could include reasons for not supporting a particular funding bid (or partial bid). Such an approach would provide transparency to Parliament on why a particular project/activity was or was not funded. This is particularly important for integrity agencies where maintaining public confidence in their capacity to exercise their functions is critical.

Treasury to provide clear and timely budget guidance to agencies

Formal Treasury advice on the annual budget process should be issued at least six months prior to the deadline for funding submissions. This will enable small agencies more time to prepare the requisite funding submissions and supporting business cases.

A longer lead time is important for smaller agencies that need to engage external expertise to prepare the necessary funding submissions. The longer agencies have to prepare these submissions, the less negative impact on service delivery.

Integrity agencies to be members of a separate Integrity Cluster

The cluster model does not appear to be serving integrity and oversight agencies well, as they face such severe budget cuts over the next few years that their ability to perform their legislated functions is at risk. The budget cuts for the NSW Electoral Commission, for example, will require more than 10 per cent of the workforce to be made redundant. This will result in a diminution of services to the detriment of the electors of NSW and political participants. It will also undermine the proper discharge of NSW Electoral Commission's regulatory functions.

Under a different model, the NSW Electoral Commission and similar agencies may have been better placed to demonstrate the risks of these savings measures to the relevant Minister/s responsible to Parliament and to suggest ways to minimise their impact. Under the current cluster model, however, there is no proper avenue for input into such decision-making by Government. The cluster model has reduced the "line of sight" that responsible Ministers previously had in relation to integrity agencies.

The NSW Electoral Commission suggests that integrity agencies form their own Integrity cluster with separate accountability lines to the responsible Ministers. This approach would keep agencies with similar functions grouped together, with the potential to limit costs through collaboration, while also providing a clear mandate for input into Government budget decisions that affect them specifically and the system of public sector integrity more generally.

Timeframe for budget approvals extended

Approvals should be given for the full period of the budget submission – this is currently 10 years, and also for ongoing operations such as staffing, licensing and maintenance.

At present, Treasury appears to determine how long a project is to be funded and no explanation is given as to how or why such a period was determined. Despite agencies seeking ongoing funding, Treasury may only provide funding for two years with agencies then having to resubmit a business case at some future point for a function that is ongoing. This is an inefficient process and one that has significant impact on small agencies.

Streamlined process for protected funds and BAU base funding

There needs to be a streamlined process for the NSW Electoral Commission to receive increases in protected funds, such as to deliver state by-elections. The NSW Electoral Commission is required by legislation to deliver such elections so the State must inevitably meet the associated costs. In the past, however, funding has had to be diverted from other NSW Electoral Commission approved priorities because no specific funding was provided to run by-elections.

It needs to be recognised that the BAU cost base required for election service delivery inevitably rises with each major election event. At present, the budget process adopts an out of date cost base for the NSW Electoral Commission and so is never reflective of current costs to deliver a State general election. If this issue is not resolved, the NSW Electoral Commission will once again be required to prepare a business case to Government to seek increased funding for the SGE in 2023 because its forward budget currently only reflects the costs of delivering the SGE in 2015. Preparing business cases to secure funding to meet additional costs that were known about but not factored into the forward estimates is an inefficient use of scarce resources.

Modified budget submission requirements for small agencies

Small and large agencies must prepare business cases to support funding submissions in the same format. However, large agencies are more likely to have internal resources available (i.e. funding and people) to prepare these business cases. Small agencies need to bring in expertise to do so. This diverts funds from other projects and/or core BAU work. This process is not sustainable.

Templates should be developed for the use of all small agencies to make the process less onerous while still preserving financial accountability.

Centralised funding of business cases or access to a resource pool

It is recommended that Treasury be allocated a pool of funds to assist small agencies in the preparation of detailed business cases. The NSW Electoral Commission understands that such a fund previously existed and could be reinstated.

In addition, it is proposed that there be greater central support/provision of technical resources for corporate IT system builds, rather than each agency engaging their own expensive contractors.

Establishment of capital planning limits

Most large agencies have a capital planning limit each year. This enables them to plan and implement capital projects from year to year. If a project is delayed one year, the agency then has the discretion to simply fund another project without submission of a revised business case.

The NSW Electoral Commission, however, must bid for all capital projects. It (and all small independent agencies) has no capital planning limit.

Establishment of a capital planning limit would give small agencies certainty on how much capital they have each year and they could plan accordingly.

An annual CAPEX fund (or limit) of say \$20m should be provided, within which the Electoral Commission and Electoral Commissioner can determine priorities, as occurs with recurrent funding. Formal submissions would only be required where there may be a need to exceed the annual limit.

Carry forward approval not required annually

An agency should not have to make a carry forward submission each year for an already approved project to continue. This is inefficient.

Implementation funding in response to Parliamentary Inquiries

The Parliament should be advised on the funding to be provided to small agencies to implement any Government response to recommendations of Parliamentary committee inquiries. This would ensure the matter of resourcing is properly considered at the relevant time.

Legislative change proposals to be accompanied by funding proposal

Legislative change could be accompanied by a 'cost to implement' funding proposal. Such a proposal should mandate provision of additional funds to the agency required to implement the change, such as by way of a special appropriation. There are numerous examples of the NSW Electoral Commission being conferred with a new legislative function by Parliament but no funding (or at best time-limited funds) is provided by Government in order to implement it.

Funding to implement whole of government policies

It should not be left to small agencies to prepare business cases to implement whole of government initiatives. This should be the responsibility of the lead agency, in consultation with the impacted agency.

At a minimum, smaller agencies should be made aware of any whole of government initiatives likely to impact their organisation and their views should be included in the lead agency's Financial Impact Statement when it is first put forward for consideration by Government.

Asset renewal

Assets at the end of their economic life should have prioritised renewal of funding if the service they provide is still required.

Efficiency dividend and additional budget savings measures

Small agencies should be consulted on the allocation of efficiency dividends and any additional savings measures to determine achievability and sustainability. This should not be the sole purview of the cluster lead agency.

Increased input into final State budget preparations

It would be beneficial if Treasury were to provide agencies with a greater opportunity for input at the time it is preparing the final budget papers. In addition, Treasury could provide guidance on what types of projects are likely to be prioritised by Government for funding in that year's budget.

Attachments

- Bendelta 2019 NSW Electoral Commission Workforce Strategy and Resource Plan. This report has been redacted to remove the names of individual officers employed (past or present) by the NSW Electoral Commission.
- Commissioner for Public Sector Standards, Report: Accountability Officers of the Western Australian Parliament Accountability and Independence Principles, submission to the WA Parliament, 22 November 2006.

NSW Electoral Commission – Workforce Strategy and Resource Plan LEC01 Report 14 February 2019

Executive Summary

The Workforce Strategy takes a broad view of the work required to develop a more sustainable employment context for the NSW Electoral Commission (NSWEC). It looks beyond the staffing mix and resourcing plan to questions of structural efficiency and effectiveness, the need for a bespoke capability framework to underpin future talent management strategies and the requirement for investment in a compelling employee value proposition.

The role of NSWEC has changed considerably in recent years – no longer can it be characterised as a "boom and bust" organisation that experiences long periods of dormancy punctuated every two years by the frenetic activity that is associated with a State Government Election or a suite of Local Government Elections. Its remit has been progressively expanded with the incorporation of FDC; the requirement to administer an increasing number of Legislative Acts; and with the increasing emphasis on developing a range of digitised and innovative voter related systems and applications to encourage voter participation and to further enhance the integrity and efficiency of the electoral system.

Whilst NSWEC's remit has increased and broadened, however, the Labour Expense Cap (LEC) funding for the "ongoing" staff complement has not kept pace. The funding model which is event driven assumes that staffing needs are tightly correlated with election events, but this is not the case. In essence, the staffing implication of the increased remit is not reflected in NSWEC's recurrent funding base and its LEC.

NSWEC operates with a complex funding model and strict constraints on the use of different funding buckets for staffing purposes; this has resulted in an increasing proportion of staff being employed to do the core work of the organisation on non-ongoing employment terms.

As a consequence of its current funding model, NSWEC has a high-cost employment model and a highly transient workforce. Relatively few staff are employed on an ongoing basis and the organisation relies heavily on a contractor pool who cost significantly more per head. Indeed,.

- Across the four divisions, roles with ongoing status make up less than half (47%) of the NSW payroll profile (ongoing, temporary or casual status). The balance of staff have term based contracts with no guarantee of funding continuance.
- There is an over reliance on overtime in areas like the Elections Division and IS, reflecting the imbalance between workload and available staff capacity and posing a possible Work Health and Safety risk for both the individual staff members and the NSWEC
- 46% of staff employed as a Director (Band 1), are engaged on a temporary arrangement. This is at a key leadership level both in terms of people and thought leadership in the organisation

Further, funding constraints prevented NSWEC from fully implementing the recommendations that emanated from the organisation reviews conducted in 2015 and 2018 and have meant that there are recognised capability gaps in the core staffing profile of the organisation. In addition, the inadequacy of baseline funding has resulted in an underinvestment in the training and professional development of staff – leading to a further erosion in organisational capabilities against evolving need.

The staffing profile is characterised by fragility – fragility that drives inefficiencies: in Salaries and Wages spend, in work and initiative discontinuities, in hiring and engagement processes and in the lack of investment in training and upskilling. This fragility presents a risk management issue for the NSWEC and calls into question the sustainability of the organisation over the long term.

Executive Summary, continued

A critical degree of urgency to address this fragility exists, given the high proportion of staff on Temporary and Contractor arrangements with contracts ending on or before 30 June 2019. Indeed, 60% of the roles identified as critical to NSWEC's operational continuity cannot be assured unless there is a commensurate increase in LEC 01 funding. Further, in some of these cases, there is no potential for contract renewal under the provisions of the Government Sector Employment (GSE) Act 2013 after 30 June 2019, meaning an irretrievable loss of skills to the organisation.

To better assure the long term sustainability of NSWEC there is a need to recalibrate the funding model to reflect the current reality of the operating model. All Directors are seeking the flexibility to increase the proportion of "ongoing staff" over the next four years - increasing organisational flexibility and reversing the current level knowledge attrition that flows from the preponderance of short term employment arrangements.

Specifically, the 4 Year Resourcing Plan for the LEC 01 bucket proposes an overall increase of 50 FTE. This increase at an FTE level is outlined below:

Division	# of temporary FTE to convert to ongoing status	# casual FTE to convert to ongoing status	# of contractor FTE to convert to ongoing status	New roles established with ongoing status	Ongoing total
Elections	9	1	1	3	14
FD&C	6	0	0	0	6
IS	8	0	3	4	15
Corporate	8	0	3	4	15
Overall	31	1	7	<mark>11</mark>	50

The Workforce Strategy and 4 Year Resourcing Plan cannot be implemented without a significant uplift in the baseline funding available to NSWEC for staffing purposes. In effect it is contingent on the successful prosecution of a business case for an enlarged LEC01 funding bucket (either an increase in the budget or greater flexibility in the application of NSWEC's overall funding budget).

Over and above the proposals relating to staff numbers and their employment basis, the review identified the need for the organisation to develop a Capability Framework for the ongoing training and development of staff in NSWEC. A focus on development is seen across the organisation as an essential component of a contemporary employee value proposition.

It was also recognised that the implementation of the workforce profile changes proposed in the Workforce Strategy provides an opportunity to further evolve the NSWEC organizational structure. In addition to the current intention to implement a number of the outstanding recommendations from the organizational reviews conducted in 2015 and 2018, there is an opportunity for the NSWEC to take this opportunity to create job clusters – a key underpinning of the Capability Framework - and to adjust managerial spans of control – a key dependency in effective managerial leadership.

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The approach to the workforce strategy

The approach taken to Workforce Planning

In mid October 2018 Bendelta was engaged by the NSWEC to assist with the development of a Workforce Strategy and a four year resourcing plan. The approach taken was future focused, objective and focused on ensuring organisational sustainability within the context of an evolving role and remit.

The approach taken



A Workforce Strategy is more than a resourcing plan

The Workforce Strategy and Resourcing Plan being developed for NSWEC needs to enable and assure the delivery of the Strategic Plan and

- Enable a shift from the current reliance on temporary and contract staff to a greater proportion of ongoing staff and provide clarity around the process and decisions
- Ensure that there are a suite of strategies to underpin continuity in the face of an ageing workforce specifically around knowledge capture and sharing
- Deliver an organisation specific capability framework to complement the NSW Public Service Capability Framework
- Provide a basis for proactive planning around current and future staffing and capability gaps
- Further increase the effectiveness of NSWEC to deliver its services to NSW's public and political participants*



* NOTE: An analysis of NSWEC's organisation effectiveness was out of scope for this engagement.

The strategy also needs to facilitate NSWEC's possible futures

There are a range of <u>future focused</u> <u>scenarios</u> to consider when building a workforce strategy. Those scenarios emerging as the most likely are....

- All EC's move towards a greater degree of collaboration and harmonisation – major initiatives are developed and funded jointly
- Transactional work reduces with increasing levels of digitisation and greater opportunities are taken to outsource remaining low value / transactional work

The approach has been principles led

Both NSWEC and Bendelta established a suite of principles to underpin the development of the workforce strategy:

NSWEC's articulated principles:

- 1. Create a 4 year resourcing strategy and plan that will identify and build capability for NSWEC and reduce the reactive nature of recruitment
- 2. Build a knowledge-based organisation with a sustainable and responsive staffing structure that is aligned to our Corporate Strategy and future needs
- 3. Create a lean and efficient structure and resourcing model that takes into account key people considerations such as succession planning and knowledge retention.

The expanded suite agreed by Bendelta and NSWEC:

- A workforce and business that is aligned with the Corporate strategy. The workforce is both efficient and resourced to sustain burst periods whilst minimising risks of loss of knowledge, difficulty transitioning adequately skilled staff and turnover
- Minimal duplication of work and no silos; removal of all barriers to effective work by orienting teams against customers/customer outcomes
- The workforce strategy is consistent with the desired culture: a culture characterised by growth mindset (continuous improvement), agile, market facing, high performing teams
- A productive workforce who is adept at using technology as a multiplier of performance and outputs
- · Career development is enabled by the design and the development and deployment of deep specialist skills where required is supported
- Tacit and intangible knowledge is to be retained in the organisation using a combination of systems that support knowledge management and the retention of quality staff
- The workforce strategy supports agility and flexibility to support new initiatives and is consistent with process efficiency and effectiveness.

The evolving role and remit of NSWEC

The role of NSWEC

The role of NSWEC has changed considerably in recent years – no longer can it be characterised as a "boom and bust" organisation that experiences long periods of dormancy punctuated every two years by the frenetic activity that is associated with a State Government Election or a suite of Local Government Elections.

NSWEC delivers both a broad range of election services and a suite of services to political participants

NSWEC is responsible for conducting, regulating and reporting on general and by-elections for the Parliament of NSW in an independent, efficient and accessible way for voters. As part of its role, it also:

- Provides electoral services to local governments and other clients such as Universities, NGOs, unions and private companies
- Provides guidance to political participants to comply with their legal obligations and regulates their compliance
- Oversees and publishes political donation, expenditure disclosures and registers of political parties, candidate agents, third party campaigners and political lobbyists
- Engages with the public to make it easier for people to understand and participate in the process of voting
- Provides advice and advocates for improvements to the legislation, and
- Investigates possible offences and enforces electoral laws.

The activities and remit above are delivered and supported by the four Divisions of the business – Elections, Funding, Disclosure and Compliance (FDC), Information Services and Corporate.

The Strategic focus reflects a high degree of proactivity

In 2017, NSWEC outlined its strategic focus for the period to 2020:

- To deliver seamless end to end electoral services, by developing customer focused products and services
- To build its reach, impact, influence and collaboration with key stakeholders to improve engagement and delivery
- To create an efficient business with a strong and positive culture.

NSWEC has committed to the following success measures for the achievement of the these 2020 goals:

- Increased voter turnout
- Increased stakeholder satisfaction
- Increase in valid registrations, nominations and disclosures
- Reduction in cost per elector
- · Improved timeliness of count
- Operating within budget allocation
- Improved employee engagement
- Increased portfolio and project management maturity
- Improved risk maturity.

Source: NSWEC Strategic Plan 2017-2020

The work of NSWEC continues to evolve and expand

With a continuing focus on "the running of independent and accessible elections for the voters of NSW to participate in and choose their governments", NSWEC is now supporting an increasing number of elections.

The rate of elections events has become less cyclical

Whilst the electoral cycle in NSW remains fixed, with State Government Elections every four years, NSWEC also provides electoral services to an increasing number of Local Governments – an area of activity that has escalated in recent years given changes in the LG landscape – amalgamations and demergers.

In addition, NSWEC provides an increasing number of by-elections at both a State and a Local level. Perhaps the best indication of the growth in by-elections lies in the funding model which is still predicated on an incidence of one State byelection per annum and for which make up funding is now being regularly provided at the end of each year.

In addition to electoral events at a State and Local Government level, NSWEC provides electoral services on a commercial basis to a range of other clients such as Universities, NGOs, unions and private companies.

Election Type	2012/ 2013	2013/ 2014	2014/ 2015	2015/ 2016	2016/ 2017	2017/ 2018	2018/ 2019
State Election (total number of electoral districts)	0	0	93	0	0	0	93
Local Government Elections (total number of councils)	136	0	0	0	76	45	0
By-election State	2	1	2		6	3	1
By-election Local	5	9	9	2	3	8	5
Total by-elections:	7	10	11	2	9	11	6
Other elections	31	31	23	33	17	30	4

Trends identified by the NSWEC that are driving the focus and quantum of their work.

The work of NSWEC is shaped by global and domestic trends



The role of NSWEC extends well beyond the running of elections

The introduction of the Electoral and Lobbying Legislation Amendment (ELLA) and Electoral Funding, Expenditure and Disclosures Act (EFEDA Act) in 2014 had a significant impact on the overall remit of the NSWEC with three additional functions relating to the regulation of elections being added to the remit.

In 2012/13

NSWEC became responsible to:

- Proactively contact prospective election clients (due to a change in LG Act 1993)
- Administer the Local Government Amendment (Elections) Act 2011 amending the Local Government Act 1993.

NSWEC undertook a number of significant projects and commenced a number of significant strategic initiatives:

- Funding and disclosure management system developed
- Refinement of iVote system
- · Website development project (improve stakeholder communication)
- · Established election inquiry centre
- Initiated the Cyber security project Information Security Management System.

In 2013/14

NSWEC undertook a number of significant projects and commenced a number of significant strategic initiatives:

- Software development for the Roll Management System
- Established Customer Relationship Management System
- Launched performance management cycle for staff
- Implemented employee services portal (ESP)

In addition, NSWEC championed initiatives to strengthen the network of Electoral Commissions including establishing the Electoral Regulation Research Network and Chairing 12-month election engagement project.

In 2014/15

NSWEC became responsible to:

- Regulate compliance with registration, funding and disclosure provisions
- · Reporting on donations received by political parties
- Maintain a Register of Third-Party Lobbyists, a Lobbyists Watch List and a Code of Conduct for third-party and other lobbyists and enforcing compliance
- Conducting investigations to ensure compliance and enforcement of legislation (State)
- Electoral and Lobbying Legislation Amendment (Electoral Commission) Act 2014
- Election Funding, Expenditure and Disclosures Amendment Act 2014.

NSWEC undertook a number of significant projects and commenced a number of significant strategic initiatives:

- Development of roll management system
- · Delivery of tablet devices for the iRoll product
- Online Electoral Material Registration System
- · System development for Lobbyist register
- · Developed and implemented a community engagement strategy
- Commissioned research on advertising effectiveness
- Undertook a comprehensive review of the policies to ensure best practice in regulatory matters.

The role of NSWEC extends well beyond the running of elections

In 2015/16

NSWEC undertook a number of significant projects and commenced a number of significant strategic initiatives:

- Continued development of roll management system
- The launch of a new NSWEC website targeted towards local council elections
- Executed stakeholder communications strategy.

In addition, NSWEC championed initiatives to strengthen the network of Electoral Commissions including:

- Working with Australian Electoral Commission's (AEC) Indigenous
 Participation Program
- Contributed to body of knowledge concerning electoral administration
- Joint Standing Committee on Electoral Matters (JSCEM).

In 2016/17

NSWEC undertook a number of significant projects and commenced a number of significant strategic initiatives:

- Launching a Public elector lookup tool
- Piloting the Electronic roll project
- Roll management system development and testing complete
- Implementing a new organisational restructure in line with the Government Sector Employment (GSE) Act 2013
- · Launching a device friendly election event website
- Launching a new complaints management system
- Beginning work on talent management system
- Developing new policy library
- · Enhancing internal access to data capabilities.

In 2016/17 continued

In addition, NSWEC championed initiatives to strengthen the network of Electoral Commissions including:

- Involvement in an academic research project
- Trialling I-vote in the Western Australian State General Election.

In 2017/18

NSWEC became responsible to:

- Conduct investigations to ensure compliance and enforcement of legislation (Local)
- Incorporate changes made to election management system and elections management application to align with Electoral Act 2017.

Further, in 2017/18 a number of legislative changes impacted NSWEC's remit:

- The Electoral Funding Act 2018 was enacted, replacing the Election, Funding, Expenditure and Disclosures Act 1981
- The Electoral Act 2017 was enacted, replacing the Parliamentary Electorates and Elections Act 1912
- NSWEC undertook a number of significant projects and commenced a number of significant strategic initiatives:
- Upgrade of the performance development framework and commence the integration of a Workforce Management Strategy
- Deliver long-term information technology strategy
- Change standard operating procedures, policies, manuals and forms to comply and align with new legislative changes
- Transition IT infrastructure to GovDC data centre
- Implemented recommendations that came from cyber security review
- Developed Investigations Matter Management System to manage compliance reviews and investigations

In addition, NSWEC championed initiatives to strengthen the network of Electoral Commissions, including consulting with reference groups to ensure equal access to elections.

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The impact of the funding model on workforce planning

The staff complement has not kept pace with the growth in remit

Whilst NSWEC's remit has increased and broadened over a number of years, Labour Expense Cap (LEC) funding for the "ongoing" staff complement has not kept pace.

Legislative change has underpinned growth in Funding, Disclosure & Compliance (FD&C) staff numbers

The requirement to administer an expanded suite of legislation in 2012/13 and then again in 2014/15 did result in small headcount increases for FD&C. Similarly the expanded focus on Investigations in 2017/18 was accompanied by a minor headcount increase. These increases however, were really only directed to the work of managing the legislation rather than to the broader organisational impact associated with extra governance, systems, workforce and stakeholder management.

The restructure in 2016/17 was not fully funded leaving recognised capability gaps unresolved

The restructure of NSWEC in 2016/17, was not supported by the increase in LEC funding required. The catalyst for this restructure was the need to align the organisation with the requirements of the Government Sector Employment (GSE) Act 2013, which established a new and streamlined statutory framework for Government Sector Employment and Workforce Management in NSW.

Whilst the structure approved for NSWEC was seen to create a more effective operating model for the organisation, its implementation was not fully funded. This has been a major driver of the use of non LEC funds to employ temporary and contractor staff to fill needed and critical roles in the organisation. Indeed, there are a number of contractors across the organisation that are performing BAU tasks, adding to the high staff cost base.

Further, It has resulted in a number of significant capability gaps that NSWEC has not been able to remediate within its baseline funding bucket. The current structure creates a level of inefficiency and reinforces a high dependence on a critical few individuals.

The funding model is more reflective of a past paradigm rather than the current or future reality of NSWEC's role:

- The funding model which is event driven assumes that staffing needs are tightly correlated with election events, but this is not the case. The rhythm of organisational activity has evolved to represent a more continuous stream of activity and delivery in relation to customer services, legislative and enforcement activities. Despite this the funding model remains predicated on a boom and bust and State Government election centric basis;
- Notwithstanding that NSWEC is now largely conceptualised as a projects based organisation with a rolling suite of projects managed simultaneously, project funding and project spend is dictated by the funding model and specifically the availability of Protected Items and CAPEX funding. As a consequence the funding model drives peaks and troughs in project activity and delivery. Further, project funding availability drives project activity into the same windows as election delivery creating congestion of activity and competition for key resources between project and BAU work activities;
- The Labour Expense Cap set for NSWEC does not reflect the organisation's staffing need. The staff employment arrangements driven by the funding model are high cost and have low flexibility. They do not position the organisation well for the future, either in terms of continuity of skill supply or in terms of the capability profile available to NSWEC at a sustainable cost;

The LEC funding model is no longer aligned to the operating model

The current funding model is complex; limits NSWEC's ability to employ ongoing staff; creates periods of discontinuity for employees employed on time based contracts; and drives a reliance on expensive contractors for work which is core to the organisation To better assure the long term sustainability of NSWEC there is a need to recalibrate the funding model to reflect the current reality of the operating model.

There are 4 main funding buckets for staff costs in current use.

Underpinning NSWEC's salaries and wages budget is a complex funding model. Other than project funding NSWEC receives a series of appropriations from Treasury, each tied to a very specific activity.

- The recurrent budget, focused on funding the suite of activities necessary to maintain and sustain NSWEC, is the only source of funding able to be allocated to the employment of ongoing staff. In addition it can be used to fund contractors who are temporarily filling a position on the organisation chart, assisting the Business Unit (BU) with an increase in Business As Usual (BAU) work for a short period or assisting the BU with BAU project development and rollout.
- The State Government Elections budget can only be used for temporary and contractor staff who are engaged to work directly on the State Government election. Given that the quantum of this funding varies significantly over the 4 year period between elections the majority of staff can only be employed for the 18 months before the election and the 3 months immediately after.
- The Local Government Elections budget can only be used for temporary and contractor staff who are engaged to work directly on the Local Government election. Funds are only available for two years in four.
- The **By-Elections budget** is reset annually and only funds temporary and contractor staff to work for a maximum of 12 months. As previously mentioned this funding is calculated on the basis of one by-election each year - a number generally exceeded. leaving NSWEC to absorb the cost in the short term and recoup at the end of a financial year.

With a strategic focus on workforce planning there is the potential to review the efficiency of salaries and wages related spend.

- The recurrent LEC 01 budget is the funding source for the core business of NSWEC. Notwithstanding, and at a time when there is a significant appetite for an increased proportion of Ongoing FTE, 37% of FTE funded from this allocation are Temporary and Contract roles.
- The event specific budget for the State Government Election (SGE) is LEC 05. Whilst the quantum of funding for an SGE varies over 4 years, there is certainty in advance about the funding. Notwithstanding this 61% of FTE funded from this allocation are Contract roles.
- Funding Source LEC 28 represents specific funding for the implementation of specific requirements of the Electoral Act - it is used to fund projects. Not surprisingly 58% of this funding is used to fund Contract roles.
- Similarly, 70% of the FTE funded from the Project bucket have Contract status.



*Source: NSWEC Validation worksheets as provided on 17.01.2019 and 18.01.2019. FTE of 1 has been applied to all roles with contractor status. Vacant roles have been included.

The funding model also contributes to significant earnings disparity within teams

Both ongoing staff and temporary staff are paid in line with Public Service pay grades. However, Contractors are paid in line with market rates and are more reflective of top quartile private sector rates. In many cases this is reflective of the unique and scarce skill sets that Contractors bring to the organisation. In others cases it reflects the short term nature of their engagement.

Average annualised cost by work level:

Work level	Average annualised cost	Median annualised cost	Range annualised cost
Executive Director Band 2	\$313,561	\$312,742	<mark>\$309,807 - \$318,953</mark>
Director Band 1	\$235,073	\$222,086	\$169,794 - \$272,188
Clerk 11/12	\$162,409	\$169,794	\$123,279 - \$169,812
Clerk 9/10	\$132,300	\$133,186	\$108,119 - \$139,882
Clerk 7/8	\$116,854	\$114,687	\$111,369 - \$126,849
Clerk 5/6	\$85,914	\$99,366	\$79,895 - \$106,517
Clerk 3/4	\$85,132	\$83,016	\$83,007 - \$90,892
Clerk 1/2	\$77,640	\$77,640	\$74,557 - \$80, 722

Work level	Average annualised cost	Median annualised cost	Range annualised cost
Contractor	\$218,333	\$222,287	Up to \$422,388

* Source: Consolidated master data (current as at 31.10.2018). Annualised cost includes salary and on-costs (payroll tax, superannuation, leave loading and workers compensation). 17.5% has been applied to cover these costs for employees GRD 11/12 and below.

Allocation of staffing costs to employment type by funding source.

NSWEC has a complex funding base with a range of event based allocations. Given the event based nature of the funding model, appropriations are time based mitigating against their use for the employment of ongoing staff. The majority of the budget attributable to employment costs is spent on contractors and temporary staff.

Funding Source

Indicates the source of where the money is coming from to fund the event or expenditures.

Code	Description	Definition
01	Operating Expenses	Recurrent expenditures such as permanent staff.
02	Commercial Business	Local Government By-Elections.Statutory and Industrial Ballots.
04	State By-Elections	Project costs for conducting State By- Elections.
05	State General Election	Project costs for conducting State Government Elections
12 18	Local Government Election Baseline Budget Incremental Budget 	Project costs for conducting Local Government Elections.
90-99	CAPEX	Capital Expenditure

For workforce planning there needs to be a view about the security and quantum of future funding

Underpinning the focus on Workforce Planning is an appetite to transition a greater proportion of staff to an Ongoing employment arrangement. This will be critical in addressing the consequences of a highly transient workforce in terms of the level of organisational disruption that comes when the majority of staff are employed on term based arrangements and the loss of organisation knowledge and expertise associated with high turnover.

To achieve this there needs to be a level of certainty about the future funding allocations and a careful analysis of need in terms of skills and roles required into the future. Given the event nature of the funding model, this does require a willingness to take a level of risk around funding discontinuities. This risk would be significantly mitigated by both:

- · recognising the increased base level of work undertaken by NSWEC and reflecting this in an increased recurrent budget
- moving from an event based series of funding allocations to an all-encompassing organisational budget

Forecast - Labour Resource costs by Funding Source

	Forecas	t - Labour R	esource cost	s by Funding	Source		
Funding Source Description	Quantum pa \$ '000					Duration of Funding	Parameters
	Budget 18/19	Forecast 19/20	Forecast 20/21	Forecast 21/22	Forecast 22/23		
LEC - 01	20,971	19,352	17,660	18,102	17,976	Ongoing	Personnel on the org chart and includes contractors who are temporarily filling a position on the org chart, assisting the BU with an increase in BAU work for a short period or assisting the BU with BAU project development and rollout
State Government Elections (SGE)	15,811	2,433	792	4,971	12,246	Event duration (includes the lead up and event)	Personnel working directly on SGE
Local Government Elections (LGE)	-	<mark>5,</mark> 590	1 <mark>3,6</mark> 50	-	-	Event duration (includes lead up and event)	Personnel working directly on LGE
By-Elections	525	537	551	564	578	Annual	Personnel working directly on By-Elections
Project	6,295	ТВА	ТВА	ТВА	ТВА	Amounts and dates are specific to each Business Case	Labour component determined by the specifics of each business case working specifically on project development and rollout
LEC – Not including 1708 Contractors (Contractors who assist a Division with BAU project	43,602	27,912	32,653	23,637	30,800		

NSWEC's four year funding horizon for staff costs

*Source: NSWEC Finance. Note the SGE budget for 18/19 and 22/23 have been adjusted to exclude allocations for the engagement of short term and event specific staff.

development or roll-out)

The workforce profile of NSWEC in 2018

The current workforce profile does not provide a platform for organisational sustainability

NSWEC has a high-cost employment model and a highly transient workforce. Relatively few staff are employed on an ongoing basis and the organisation relies heavily on a contractor pool that cost significantly more per head. Underpinning this model is a complex funding model and strict constraints on the LEC which limits the number of staff offered ongoing roles.

Across the four divisions, roles with ongoing status make up less than half (47%) of the NSW payroll profile (ongoing, temporary or casual status).

71.2 FTE (47%) of the current NSWEC payroll profile are employed on an ongoing basis. Over half (52%) are temporary employees with a maximum contract period of 2 years.

Status	FTE	%	Elections	FD&C	IS	Corporate
Ongoing	71.2	47%	23	20.6	10.8	16.8
Temporary	77.6	<mark>52%</mark>	19.8	13	12	32.8
Casual	1	1%	1			
Overall Payroll FTE	149.8	100%	43.8	33.6	22.8	49.6

Note: Temporary refers to employment status rather than "temporarily acting in role".

In addition to the NSWEC payroll FTE (149.8) there are 96 FTE that have contractor status. IS have the highest number of FTE with contractor status (30) but all Divisions have a relatively high dependence for the discharge of their remit on Contractor employment.

Status	FTE	Elections	FD&C	IS	Corporate
Contractors	96	26	15	30	25

Only 54% of Director roles hold Ongoing status.

46% of Director roles have Temporary status. This is at a key leadership level both in terms of people and thought leadership in the organisation. The use of term based appointments and the lack of surety about funding continuity at this level creates a disproportionately high level of disruption that impacts both organisational cultural and organisational memory.

Grade	Ongoing	Temporary	Casual
Executive Director - Band 2	100%	0%	
Director - Band 1	54%	46%	
Clerk 11/12	53%	47%	
Clerk 9/10	47%	53%	
Clerk 7/8	43%	53%	3%
Clerk 5/6	<mark>36</mark> %	<mark>64</mark> %	
Clerk 3/4	11%	89%	
Clerk 1/2	50%	50%	

*Source: NSWEC Validation worksheets as provided on 17.01.2019 and 18.01.2019. FTE of 1 has been applied to all roles with contractor status. Vacant roles have been included.

NSWEC's complex funding model has led to fragility in the staffing base

The heavy reliance on temporary staff – driven in part by an inflexible funding model and in part by management decisions – creates a level of fragility in the current workforce profile. LEC01 is NSWEC's primary funding base for staff expenses and represents the majority of the funding available for spend on salaries and wages. Critically it is the only consistent (year on year) funding bucket and as such is the only reliable source of funding available for the engagement of staff on an Ongoing basis.

Of the total of 149.8 FTE on NSWEC's Payroll FTE (ongoing, temporary and casual FTE):

- More than half (52% or 78.6 FTE) of NSWEC's Payroll have temporary or casual status and 48% (71.2 FTE) are employed on an ongoing basis.
- Two thirds (67%) or 100.4 FTE are funded from the LEC 01 bucket; of the 100.4 FTE funded from LEC 01, 30.8 FTE are employed on Temporary arrangements presumably in roles considered ongoing.
- The remaining 49.4 Ongoing or Temporary FTE are funded through either LEC 05, LEC 28 or Project funds.
- The utilisation of LEC 01 funding at a divisional level is varied, 32% of FD&C and 50% of Corporate roles funded through LEC01 are filled with Temporary appointments.



NSWEC Payroll profile by funding source

67%

Breakdown of the FTE funded by the LEC 01 bucket by division

Division	Ongoing FTE	Temporary and Casual FTE	FTE
Elections	23	3	26
FD&C	19	9	28
IS	10.8	2	12.8
Corporate	16.8	16.8	33.6
Overall	69.6	30.8	100.4

FTE funded through 'LEC 01'

100.4

* Source: NSWEC Validation worksheets as provided on 17.01.2019 and 18.01.2019. FTE of 1 has been applied to all roles with contractor status. Vacant roles have been included.

The staffing fragility is compounded by NSWEC's reliance on contractors

NSWEC has a high reliance on Contractors for a broad range of work – across all Divisions. Over and above LEC01 – the source of funding for NSWEC's Business as Usual activity – NSWEC has access to a range of smaller funding buckets, each with specific and restrictive caveats on their application.

- When Contractors (96 FTE) are added to NSWEC's Payroll FTE of 149.8, the total workforce FTE increases to 245.8.
- The LEC01 bucket funds 111.4 FTE (payroll FTE plus contractors), the remaining 134.4 FTE that are funded through either LEC 05, LEC 28 or Project funds.
- LEC 05, LEC 28 and Project funding comprises the balance of NSWEC's staffing funds each of these funding buckets is tethered either to time based activities or to projects. Given the lack of continuity associated with each of these funding buckets their utilisation drives the organisational dependence on temporary and contractor staff.
- Almost two thirds (63%) of the roles funded from LEC 05, LEC 28 or Project funds have contractor status.







* Source: NSWEC Validation worksheets as provided on 17.01.2019 and 18.01.2019. FTE of 1 has been applied to all roles with contractor status. Vacant roles have been included.

Turnover of staff has also contributed to workforce fragility

In FY17/18, 24 FTE departed the organisation, it is estimated that this cost the organsiation approximately \$3.1m*

These costs were for 24 employees who voluntarily left the organisation (21 x full-time employees, 3 part-time employees). Turnover costs include both direct and indirect costs to an organisation – cost of hiring, onboarding, lost productivity, lost engagement, customer service and errors, training and lost engagement as others pick up the extra workload.

The notional turnover cost, contributes to the fragility of the NSWEC workforce.

*NOTE: This is a notional cost of turnover (TO) costs for FY17/18, based on the following assumptions:

- Cost of TO is based on a 1.5 x yearly salary of the departed employee, spread over 8 months. The 8 month time frame is based on 2 months to recruit and 6 months to onboard and train the new incumbent to a standard productivity level (References: Bersin by Deloitte 16.08.2013, Corporate Executive Board, Society of Human Resource Management)
- Assumes departure was unplanned (e.g. resignation rather than redundancy or other planned activities)
- Does not consider individual contractual status e.g. ongoing or temporary, when the employee departed
- TO cost in the graph is a notional accumulative cost, it has been pro-rated on a monthly basis to accommodate the departure month of the employee and the FY18/19 timeframe
- Cost for part-time employees are pro-rata based on their standard hours per fortnight. The cost of TO was then calculated (1.5 x pro-rata salary) and spread over 8 months for these employees.

Work Level	Part Time	Full Time	Total
Executive Director Band 2	0	1	1
Director Band 1	0	1	1
Clerk 11/12	1	6	7
Clerk 9/10	0	2	2
Clerk 7/8	1	5	6
Clerk 5/6	0	5	5
Clerk 3/4	1	1	2
Overall Total	3	21	24

Voluntary Terminations	Jul 17	Aug 17	Sep 17	Oct 17	Nov 17	Dec 17	Jan 18	Feb 18	Mar 18	Apr 18	May 18	Jun 18	Total
Number of full- time employees	2	1	1	3	1	3	2	1	0	3	2	2	21
Number of Part- time employees	0	0	0	0	0	0	1	1	0	1	0	0	3
Total accumulative terminations	2	3	4	7	8	11	14	16	16	20	22	24	24
Monthly cost	\$69,367	\$96,898	\$128,738	\$189,455	\$208,410	\$283,676	\$330,867	\$367,851	\$298,484	\$351,785	\$376,258	\$404,782	\$3,106,571

*Source: NSWEC Employee Maintenance Listing 18.02.2019

The funding model leads to significant discontinuity in workforce engagement

The employment mix of the organisation varies over time in strict correlation with the availability of funding. Whilst funding is events based, the organisation has a base workload that is increasingly independent of events and is steadily growing. LEC constraints have resulted in an increasing proportion of staff being employed to do the core work of the organisation on non-ongoing employment terms.

This has led to inefficiencies: in Salaries and Wages spend, in work and initiative discontinuities, in hiring and engagement processes and in the lack of investment in training and upskilling.

The clustering of Contractor and Temporary end dates highlights the level of organisational fragility

Workforce fragility is heightened because the majority of the Temporary and Contractor term dates expire within the same six month period (the second half of the current FY), increasing the risk of core skill shortage and a significant attrition in organisational knowledge and memory.



*Source: NSWEC Validation worksheets as provided on 17.01.2019 and 18.01.2019. FTE of 1 has been applied to all roles with contractor status. Vacant roles have been included.

The impending staff attrition places NSWEC's sustainability at significant risk

Of the 174.6 roles that are filled by staff on either Temporary or Contractor arrangements, 41.8 FTE are funded from LEC 01 – 30.8 roles filled by Temporary staff and 11 roles filled by Contractors.

A total of 132.8 FTE roles are filled by either staff on Temporary, Casual arrangements or by Contractors funded outside of LEC01 and - notwithstanding that they are focused on core functions within NSWEC - their continuity is not assured.

Staff engaged on a Temporary basis funded outside of LEC 01

There are 47.8 FTE that are currently engaged as Temporary or Casual FTE under non-LEC 01 funding arrangements. 37.8 (77%) of those staff come to the end of their contract term within the current FY (e.g. prior to 1 July 2019).

Division	Temporary	c	lindefined		
	or Casual FTE	Current FY	FY19/20	FY20/21	Undefined
Elections	17.8	1 <mark>6.8</mark>	1	0	0
Corporate	16	10	2	2	2 (Vacant)
IS	10	8	0	0	2 (Vacant)
FDC	4	3	0	0	1 (Vacant)
Overall	47.8	37.8	3	2	5

Staff engaged on a Contractor basis funded outside of LEC 01

There are 85 FTE that are currently engaged under non-LEC 01 funding arrangements. 81 of those roles come to the end of their contract term within the current FY (e.g. prior to 1 July 2019).

Division		Contract end date					
	FTE	Current FY	FY19/20	Undefined			
Elections	25	25	0	0			
Corporate	23	21	0	2 (Vacant)			
IS	28	27	0	1 <mark>(</mark> Vacant)			
FDC	9	8	1	0			
Overall	85	81	1	3			

*Source: NSWEC Validation worksheets as provided on 17.01.2019 and 18.01.2019. FTE of 1 has been applied to all roles with contractor status. Vacant roles have been included.
NSWEC has a high reliance on overtime

The events based nature of the funding model reinforces a peaks and troughs approach to work and creates an unsustainable and extraordinarily expensive dependence on overtime.

Total overtime hours by employment status:

Cohort	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Ongoing	454 (93%)	6,776 (87%)	1,092 (96%)	4,699 (84%)	5,144 (79%)
Temporary	18	829	49	789	1,616
Casual	18	164	1	108	45
Total	490	7,769	1,142	5,597	6,805

Total overtime paid by employment status:

Cohort	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Ongoing	\$36,920 (95%)	\$620,596 (87%)	\$99,099 (97%)	\$442,987 (85%)	\$505,882 (78%)
Temporary	\$816	\$74,443	\$2,750	\$70,405	\$136,410
Casual	\$1,167	\$15,016	\$83	\$10,149	\$4,291
Total	\$38,903	\$710,055	\$101,931	\$523,541	\$646,583

Overtime expense by financial year and division funded from LEC

Division	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Executive	-	\$1,407 (<1%)	-	\$979 (<1%)	
Elections	\$5,751 (15%)	\$418,705 (59%)	\$77,086 (76%)	\$430,473 (82%)	\$505,584 (78%)
Corporate	\$3,372 (9%)	\$146,081 (21%)	\$495 (<1%)	\$10,850 (2%)	\$14,694 (2%)
FD&C	\$544 (1%)	\$8,344 (1%)	\$1,817 (2%)	\$8,945 (2%)	\$2,190 (<1%)
IS	\$29,236 (75%)	\$135,518 (19%)	\$22,534 (22%)	\$72,295 (14%)	\$124,116 (19%)
Total	\$38,903	\$710,055	\$101,931	\$523,541	\$646,583

Traditionally the use of overtime in NSWEC has been driven by the delivery of significant election events. But whilst State and Local Government elections remain true to their four year cycles (other than in 2017/18 when there was significant Council amalgamation activity), the increasing number of byelections and the Other Elections supported by NSWEC (as indicated on page 9 and summarised below) are serving to make the reliance on overtime more systemic.

Further, the increasing reliance on technology and digitised solutions are driving a steady demand from IS for overtime hours.

	State Govt Election (# of electoral districts)	Local Govt Election (# of Councils)	By- Elections (State and Local Govt)	Other Elections	Total Elections
2012/13	0	136	7	31	174
2013/14	0	0	10	31	41
2014/15	93	0	11	23	127
2015/16	0	0	2	33	35
2016/17	0	76	9	17	102
2017/18	0	45	11	30	86

*Source: Overtime data (current as of 30.06.2018).

The dependence on overtime is reflective of the need to increase the core cohort of employees

The majority of overtime is worked by a relatively small number of ongoing staff in Clerical grades in Elections and IS.

Overtime levels indicate that for key periods in the year, some staff are being asked to work an unsustainable quantum of hours, posing a workplace health and safety risk for NSWEC and the staff. Whilst the impetus for the overtime may well be a shortage of appropriately skilled and knowledgeable staff to do the work at hand, there is a danger that the practice of and dependence on overtime, becomes institutionalised and a negative cultural attribute.

Organisations with unreasonable levels of overtime typically experience higher levels of turnover and find it more challenging to attract and recruit new staff. The current high reliance on a small number of staff to work extended hours points to under resourcing currently and the need to increase the cohort of staff in these key areas.

A small number of employees earn 80% of the overtime (hours worked) each year. Of the 17 employees in 2017/18, median overtime hours worked is 318. This equates to approximately 8 working weeks.



The staff earning the majority of the overtime (80%) are from Elections and IS and employed in Clerical grades. 13 of the 17 (76.5%) are employed as Ongoing employees.

Division	Role	Level	Status
Elections	Team Leader Results	Clerk 9/10	Ongoing
Elections	Declaration Voting Lead	Clerk 9/10	Temporary
Elections	Manager, Voting Services Clerk	Clerk 11/12	Ongoing
Elections	Team Leader, Nominations and Electoral Material Registration	Clerk 9/10	Ongoing
Elections	Manager, Data and Geospatial Services	Clerk 11/12	Ongoing
Elections	Roll Products Lead	Clerk 7/8	Ongoing
Elections	Contact Centre Lead	Clerk 7/8	Ongoing
Elections	Manager, Candidates and Results	Clerk 11/12	Ongoing
Elections	Geospatial Office Lead	Clerk 9/10	Ongoing
Elections	Manager, Workforce Planning and Development	Clerk 11/12	Ongoing
Elections	Commercial Elections Administration Support	Clerk 3/4	Temporary
Elections	Senior Election Talent Lead	Clerk 9/10	Ongoing
Elections	Election Staffing Lead	Clerk 9/10	Ongoing
IS	Manager, Infrastructure Server	Clerk 11/12	Ongoing
IS	Information Security Administrator	Clerk 7/8	Temporary
IS	IT Support Analyst	Clerk 7/8	Temporary
IS	Manager, Information Security	Clerk 11/12	Ongoing

*Source: Overtime data (current as of 30.06.2018).

As with all State Government Agencies, NSWEC has an ageing workforce

Of the employees in Ongoing roles, 31% are over 50 years of age. 17% of these staff are likely to retire progressively over the next 10 years (Note: It is assumed that the average retirement age is 65, and that staff retirement plans will vary individually and is dependent on individual preference. It is assumed that not all staff will retire at the same time).



Age Profile of Ongoing Staff

* Source: Consolidated master data (current as at 31.10.2018).

Envisaged retirements over the next 10 years

Division	Role
Elections	Nominations Lead Clerk
Elections	Team Leader Results
Elections	Manager, Candidates and results
Elections	Director, Election Support
Elections	Director, Customer Service and Relationship Management
Elections	Senior Election Talent Lead
Corporate	Manager, Governance
Corporate	Director, Finance
Corporate	Principal Legal Officer (Enforcement)
FD&C	Administrative Assistant
FD&C	Senior Investigator
IS	Manager, Application Support

NSWEC does not have the requisite complement of ongoing staff for sustainability

At the beginning of 2019, only 49% of NSWEC's baseline FTE workforce had an Ongoing basis of employment. The balance of staff have term based contracts with no guarantee of funding continuance.

The current complement of ongoing staff is insufficient to manage the steadily increasing baseload of work. The organisation's operating model is significantly less driven by discrete State and Local Government Election events than it was in the past.

Over the past 5 years the organisation's remit has expanded significantly with the incorporation of FDC; the requirement to administer an increasing number of Legislative Acts; and with the increasing emphasis on developing a range of digitised and innovative voter related systems and applications to encourage voter participation and to further enhance the integrity and efficiency of the electoral system.

The staffing implication of the increased remit is not reflected in NSWEC's recurrent funding base and its LEC. This has been recently recognised by Treasury through the substantial increase in the LEC associated with the Protected Items funding. However, the strictures on the use of the funding allocations other than recurrent, have meant that additional staff have largely been hired through the use of temporary and contractor employment arrangements.

The profile of NSWEC's payroll establishment (excludes Contractors)

NSWEC current payroll FTE profile - (Total FTE 149.8)



In summary, the workforce strategy must ensure increased organisational sustainability

The Workforce Strategy and 4 year Resourcing Plan needs to address the high levels of workforce fragility overall and in specific and fundamental parts of NSWEC.

Today NSWEC's workforce strategy is characterised by fragility



The strategy documented through this review:

- Speaks to the need to secure the level of baseline funding necessary to ensure that the core work of NSWEC is able to be funded by NSWEC's baseline Salaries and Wages budget (LEC01)
- Identifies the critical roles, currently filled by Temporary staff and Contractors, that should be prioritised for funding from LEC01 and offered to staff with Ongoing employment
- Indicates the new roles that need to be created and filled across NSWEC to meet the anticipated growth in and evolution of remit.
- Proposes the suite of capabilities that could underpin a future Capability Framework for NSWEC – facilitating an uptake in staff development which together with an increased ability to "promise ongoing tenure" are fundamental platforms for a refreshed Employment Value Proposition.
- Points to the need to evolve the organisational structure given the significant shift in the staffing profile.

Workforce Projections – LEC 01 workforce

There is an appetite across NSWEC for a more stable and capable workforce

There is a need across the organisation to increase the proportion of "ongoing staff" over the next four years. This shift will increase organisational flexibility and reverse the current level knowledge attrition that flows from the preponderance of short term employment arrangements.

Rebalancing the staffing profile will mainly be achieved by changing the status of 50 FTE within the LEC 01 bucket.

	FTE to transition from non LEC 01 buckets to LEC 01 funding	FTE that are new or converted from non LEC 01 buckets	FTE to transition partial to full LEC 01 funding	Overall
FTE	29	18	3	50

Note: Total FTE to transition of 50 is offset by 1 current, ongoing FTE role not being renewed. This leads to a net increase in FTE of 49 FTE.

The desired profile for NSWEC's workforce sees a rebalance of ongoing and temporary staff

4 Year NSWEC payroll profile - LEC 01 FTE



*Source: NSWEC Validation worksheets as provided on 17.01.2019 and 18.01.2019. FTE of 1

has been applied to all roles with contractor status. Vacant roles have been included.

The 50 roles that require business case funding are spread across the four divisions

The 50 FTE related to the business case are as follows:

Elections - 9 temporary FTE, 1 casual FTE and 1 contractor FTE will convert to ongoing, and 3 roles will be established with ongoing status

Temporary FTE

- Registration Lead Clerk .
- Declaraton Voting Lead
- Data and Geospatial Analyst
- Logistics Analyst
- **Operations Support Clerk**
- Director Election Innovation
- Data and Geospatial Analyst
- Non Attendance Voting Lead
- Nominations Lead Clerk

Casual FTE

IVote Hub Customer Service .

Contractor

IVote BA

New Roles

- **Innovation Business Analyst**
- ELection Innovation Researcher
- Graduate .

FD&C- 6 temporary FTE will convert to ongoing

Temporary FTE

- Manager, Audit
- Audit Officer
- Senior Intelligence Analyst
- Investigator
- Investigator
- Director, Client Experience Regulatory Services

IS – 8 temporary FTE, 3 contractor FTE will convert to ongoing, and 4 roles will be established with ongoing status	Corporate – 8 t ongoing, and 4
Temporary FTE	Temporary FT
Technical Business Analyst	 Manager Or
IVote Technical Director	 Contract Ma
Web Techical Lead	 HR Coordin
Support Analyst	 Governance
Test Manager	 Director, EP
IT Security Analyst	 Records Ma
Information Security Administration	 Legal Office
Support Analyst	Project Acce
Contractor	Contractor
 Application Development – Enrolments 	 HR Services
IT Helpdesk Support	 WHS Specia
System Admin Desktop	 Master Sche
New Roles	New Roles
Architect – Server / Infrastructure	Workforce F
App Support – External Sites	 Instructional
Network Engineer	 Policy Office
	I UILY UILL

Wintel Engineer •

temporary FTE, 3 contractor FTE will convert to 4 roles will be established with ongoing status

ΓE

- Organisation Development
- lanager
- nator
- e and Reporting Lead
- PMO
- lanager
- er
- countant
- es and Analytics Lead
- cialist
- heduler
- Planner
- al Designer
- oncy Officer
- Governance Lead

Division	# of temporary FTE to convert to ongoing status	# casual FTE to convert to ongoing status	# of contractor FTE to convert to ongoing status	New roles established with ongoing status	Ongoing total
Elections	9	1	1	3	14
FD&C	6	0	0	0	6
IS	8	0	3	4	15
Corporate	8	0	3	4	15
Overall	31	1	7	11	50

32 FTE are proposed to transition to LEC 01 from non - LEC 01 funding buckets

Elections is looking for 10 roles to be redesignated as Ongoing to ensure its operational continuity

Across the four year period, Elections will transition 10 roles currently filled on a temporary basis to an ongoing basis, securing foundational/critical Elections capability and knowledge.

All 10 FTE are currently funded from buckets other than LEC 01, it is proposed that they will all transition to LEC 01.

There is a high degree of urgency in achieving this funding increase as the majority of these roles are filled by temporary and casual roles with contracts ending prior to 30.06.19.

In addition, a further 3 roles have been identified as priorities for transition to Ongoing in either 2020/21 or 2021/22

One (1) existing, ongoing role, Logistics Support Officer will cease in its current form in 2019/20.

Roles that are to be converted to Ongoing basis

Employment Status	Role	Staff Member	Current Funding Source	Contract End Date	Transition Phase
Temporary	Declaration Voting Lead		LEC 28	30.06.2019	2019/20
Temporary	Data and Geospatial Analyst		LEC 05	30.06.2019	2019/20
Temporary	Logistics Analyst,		LEC 05	30.06.2019	2019/20
Temporary	Director Election Innovation		LEC 05	13.07.2019	2019/20
Temporary	Data and Geospatial Analyst		LEC 05	30.06.2019	2019/20
Temporary	Non Attendance Voting Lead,		LEC 05	30.06.2019	2019/20
Casual	iVote Hub Customer Service		LEC 05	30.04.2019	2019/20
Temporary	Nominations Lead Clerk,		Project	30.06.2019	2020/21
Temporary	Registration Lead Clerk		LEC 05	30.06.2019	2021/22
Temporary	Operations Support Clerk		LEC 28	30.04.2019	2021/22

For the Elections Division it is expected that the LEC 01 staffing FTE will increase

In the current FY, 26 FTE are funded by LEC 01. Over the four year period:

- 1 ongoing FTE, Logistics Support role will be discontinued at the beginning of 2019/20
- The 2 roles funded through LEC 28 and 1 project funded role will transition to ongoing status
- 10 FTE, currently funded in non LEC 01 buckets, will convert to LEC 01



Year on Year change to FTE by status

Status	Current FY	FY 19/20	FY20/21	FY21/22	FY22/23
Ongoing	23	30%	10%	6%	0%
Temporary	3	67%	<mark>-60%</mark>	-100%	0%
Casual	0	0%	0%	0%	0%
Overall	26	35	35	35	35

Note: NSWEC Payroll is the total number of FTE with Ongoing, Temporary and Casual status.

FD&C is looking for 6 roles to be redesignated as Ongoing to ensure operational continuity

Across the four year period, FD&C will transition 6 roles currently filled on a Temporary basis on an Ongoing basis.

Employment Status	Role	Staff Member	Current Funding Source	Contract End Date	Transition Phase
Temporary	Audit officer (5/6),		Partially funded by LEC 01	06.10.2019	2019/20
Temporary	Director Client Experience Regulatory Services (SEO1)		Project	25.03.2019	2019/20
Temporary	Senior Intelligence Analyst (9/10)		Partially funded by LEC 01		2020/21
Temporary	Manager Audit (11/12)		Project	18.02.2019	2020/21
Temporary	Investigator (7/8),		Project		2020/21
Temporary	Investigator (7/8),		Project	29.01.2019	2020/21

Roles that are to be converted to an Ongoing basis

*The role of Audit Officer (5/6) and Senior Intelligence Analyst (9/10) are already partially funded by LEC 01, it is proposed that these two roles transition to full LEC 01 funding.

The conversion of Temporary roles to an Ongoing basis will be phased with 2 FTE to transition in 2019/20 and 4 FTE in 2020/21.

2 of the roles to be redesignated are partially funded from LEC01, so the ability of the Division to realise all the changes will be dependent on an increase in LEC01 funding.

For the FD&C Division it is expected that the LEC 01 staffing FTE will have increased

By 2022/23 the overall FDC FTE will increase from 28 to 32. Over the four year period the following is proposed:

- 4 temporary roles, currently funded by a project fund will transition to on going, LEC 01 status
- 2 roles that are partially funded by LEC 01, will convert to full LEC 01 funding
- 11 FTE will transition from temporary to ongoing status



Year on Year change to FTE by status

Status	Current FY	FY 19/20	FY20/21	FY21/22	FY22/23
Ongoing	19	16%	27%	0%	7%
Temporary	7	29%	-56%	0%	-50%
Temporary and partially funded by LEC 01	2	-50%	-100%	0%	0%
Casual	0	0%	0%	0%	0%
Overall	28	32	32	32	32

Note: NSWEC Payroll is the total number of FTE with Ongoing, Temporary and Casual status.

IS will transition 8 roles to Ongoing status to ensure operational continuity

Across the four year period, IS will transition 8 roles currently filled on a Temporary basis on an Ongoing basis. The FTE identified for transition are critical to providing technology support to the ongoing operations of NSWEC.

This transition will be phased, 7 FTE will transition in FY2019/20 and the remaining FTE will transition in 2020/21.

The majority of these roles are not funded from LEC01 (80%), making this transition totally dependent on an increase in LEC 01 funding.

Roles that are to be converted to an Ongoing basis

Employment Status	Role	Staff Member	Current Funding Source	Contract End Date	Transition phase
Temporary	i∨ote Technical Director		LEC 05	30.04.2019	2019/20
Temporary	Web Technical Lead		LEC 05	30.06.2019	2019/20
Temporary	Support Analyst		LEC 05	10.04.2019	2019/20
Temporary	Test Manager		Project	30.06.2019	2019/20
Temporary	IT Security Analyst		Project		2019/20
Temporary	Information Security Administration		LEC 05	30.06.2019	2019/20
Temporary	Support Analyst		LEC 05	30.06.2019	2019/20
Temporary	Technical Business Analyst		LEC 05	30.06.2019	2020/21

The IS Division has identified 10 roles to transition to ongoing, LEC 01 funding

In the current FY, 10.8 FTE are funded by LEC 01. Over the four year period:

- 2 temporary roles, currently funded by a project fund will transition to LEC 01 ongoing status
- 8 roles, currently funded by non LEC 01 buckets will be transitioned to LEC 01



Year on Year change to FTE by status

Status	Current FY	FY 19/20	FY20/21	FY21/22	FY22/23
Ongoing	10.8	74%	11%	0%	0%
Temporary	2	0%	-100%	0%	0%
Overall	12.8	20.8	20.8	20.8	20.8

Note: NSWEC Payroll is the total number of FTE with Ongoing, Temporary and Casual status.

Corporate is looking for 8 roles to be redesignated as Ongoing to ensure operational continuity

Across the four year period Corporate will seek to transition 8 FTE roles currently filled on a Temporary basis to an Ongoing basis.

The FTE identified for transition are critical NSWEC service delivery roles.

Care has been taken to phase the transitions across the four year period.

In addition to these transitions, 1 existing Temporary role, Payroll Officer, will end in 2019/20.

Employment Status	Role	Staff Member	Current Funding Source	Contract End Date	Transition Phase
Temporary	Manager Organisation Development		LEC 05	11.03.2019	2019/20
Temporary	Contract Manager		Partially funded by LEC 01	22.10.2018	2019/20
Temporary	Legal Officer		Project	30.06.2019	2019/20
Temporary	HR Coordinator		LEC 05	30.06.2019	2020/21
Temporary	Governance and Reporting Lead		Project	15.07.2019	2020/21
Temporary	Director PMO		LEC05	30.11.2020	2020/21
Temporary	Records Manager		Project	30.06.2019	2021/22
Temporary	Project Accountant		Project	06.06.2019	2022/23

*The role of Contract Manager is already partially funded by LEC 01, it is proposed that this role transition to full LEC 01 funding.

For the Corporate Division it is expected that the staffing mix will change significantly

In the current FY, 16.8 FTE are funded by LEC 01. Over the four year period:

- The 1 FTE partially funded by LEC 01, will transition to full LEC 01 funding
- 7 FTE currently funded by non LEC 01 buckets will convert to LEC 01
- Of the current 16.8 LEC 01, Temporary FTE, 1 FTE will not be renewed, and 8 will convert to the ongoing status.



Year on Year change to FTE by status

Status	Current FY	FY 19/20	FY20/21	FY21/22	FY22/23
Ongoing	16.8	48%	20%	7%	3%
Temporary	15.8	0%	-38%	0%	0%
Temporary and partially funded by LEC 01		0%	0%	0%	0%
Casual	0	0%	0%	0%	0%
Overall	33.6	40.6	39.6	39.6	39.6

Note: NSWEC Payroll is the total number of FTE with Ongoing, Temporary and Casual status.

18 new FTE are proposed to transition to LEC 01



Three Divisions envisage the need for new and converted LEC 01 roles to meet emerging needs

Three Divisions are envisaging the creation of new or converted ongoing and temporary roles to accommodate emerging work priorities and to remedy identified capability gaps. A total of 18 new or converted roles have been proposed: 11 roles will be roles not currently in existence and the remaining 7 roles already exist, are filled on a Contract basis and will be converted to an ongoing status.

LEC 05

LEC 05

Elections: 3 New roles and the conversion of 1 role to ongoing status is being proposed.

New roles:

- 1. Innovation Business Analyst, Ongoing, LEC 01
- 2. Election Innovation Researcher, Ongoing, LEC 01
- 3. Graduate, Temporary FY 19/20, Transition to Ongoing FY 20/21, LEC 01

Converted roles:

1. iVote BA, Project

Note: The conversion of the existing Casual role, iVote Hub Customer Service, has been included in the conversion calculation for Temporary and Casual roles to Ongoing, therefore is not counted in this calculation.

IS – 4 New roles and the conversion of 3 roles to ongoing status is being proposed.

New roles:

- 1. Architect server/infrastructure, Ongoing, LEC 01
- 2. Application Support External sites, Ongoing, LEC 01
- 3. Network Engineer, Ongoing, LEC 01
- 4. Wintel Engineer, Ongoing, LEC 01

Converted roles:

1. Application Development - Enrolments,



3. System Admin Desktop, LEC 05

FD&C: No new roles are proposed

Corporate – 4 New roles and the conversion of 3 roles to Ongoing status is being proposed.

New roles:

- 1. Governance Officer, Ongoing, LEC 01
- 2. Workforce Planner, Temporary, LEC 01
- 3. Instructional Designer, Temporary, LEC 01
- 4. Policy Officer (Legal), Ongoing, LEC 1 commences 2020/21

Converted roles:

- 1. HR Services and Analytics Lead, LEC 05
- 2. WHS Specialist, LEC 05
- 3. Master Scheduler, Project

*Source: NSWEC Validation worksheets as provided on 17.01.2019 and 18.01.2019. FTE of 1 has been applied to all roles with contractor status. Vacant roles have been included.

NOTE: Roles included in other Parameter and Technical Adjustment (PTA) processes or a Business Case have not been included in this document.

The 18 new roles will be phased in over two of the four year period

A total of 18 NEW roles have been proposed - the majority will take on Ongoing or Temporary status in FY19/20 and all but one role (Corporate, Policy Officer - Legal) will be introduced in the FY2020/21. IS and Corporate are proposing the highest number of new roles. More than half of the new and converted roles will be for new and emerging skills and capabilities (rather than skills already within NSWEC).



18 new and converted roles by Division

The 18 additional roles further increases the number of roles with Ongoing status

An increase of roles with Ongoing status is an essential feature of NSWEC's workforce profile across the next four years. Currently 69.6 FTE have Ongoing status; by FY22/23 it is proposed that this number will increase to 133.6, a 92% increase. The total NSWEC payroll profile increases from 100.4 FTE to 145.4 FTE, a 45% increase and an additional 45 FTE.



Change to FTE profile across the 4 year period

Status	FTE Profile Current FY	FTE Profile FY 22/23	Growth rate (%)	Growth rate (FTE)
Ongoing	69.6	133.6	92%	64
Temporary	27.8	11.8	-62%	-19
Overall	100.4	145.4	45%	45

The number of contractors will reduce from 11 FTE to 6 FTE



At the same time there will be a reducing reliance on the use of Contractors

The overall profile of roles that have a Contractor status reduces significantly over the four year period from 11 to 6, a 44% decline.

Division	Contractor FTE Current FY	Contractor FTE FY 22/23	% change
Elections	1	0	-100%
FD&C	6	6	0%
IS	2	0	-100%
Corporate	2	0	-100%
Overall	11	6	-45%

6 FTE with current contractor status that will have no change to that status:



3 FTE with current contractor status that will transition to ongoing status:

- IS, Application Support Enrolments,
- 2. Corporate, DBA Contractor Roll Team,
- 3. Corporate, Portfolio Manager,

2 FTE with current contractor status that will not be renewed:

- 1. Financial Accounting Officer,
- 2. Non Voter Administrator,

Workforce projection summary



The overall workforce profile is significantly different from the current state

Elections: Change to FTE profile across the 4 year period

Status	Current FY	FY 22/23	Growth rate	FTE impact
Ongoing	23	35	52%	12
Temporary	3	0	-100%	-3
Casual	0	0	n/a	0
New role	0	3	n/a	3
Conversion from Contractor status (non LEC 01 fund)	0	1	n/a	1
Contractor (no change to status)	1	0	-100%	-1
Overall	27	39	50%	13

FD&C: Change to FTE profile across the 4 year period

Status	Current FY	FY 22/23	Growth rate	FTE impact
Ongoing	19	30	58%	11
Temporary	7	2	-71%	-5
Temporary and partially funded by LEC 01	2	0	-100%	-2
Casual	0	0	n/a	0
New role	0	0	n/a	0
Conversion from Contractor status (non LEC 01 fund)	0	0	n/a	0
Contractor (no change to status)	6	6	0%	0
Overall	34	38	12%	4

The overall workforce profile is significantly different from the current state

IS: Change to FTE profile across the 4 year period

Status	Current FY	FY 22/23	Growth rate	FTE impact
Ongoing	10.8	20.8	93%	10
Temporary	2	0	-100%	-2
Casual	0	0	0%	0
New role	0	4	n/a	4
Conversion from Contractor status (non LEC 01 fund)	0	3	n/a	3
Conversion from Contractor status (LEC 01 fund)	0	1	n/a	1
Contractor (no change to status)	2	0	n/a	-2
Overall	14.8	28.8	95%	14

Corporate: Change to FTE profile across the 4 year period

Status	Current FY	FY 22/23	Growth rate	FTE impact
Ongoing	16.8	32.8	95%	16
Temporary	15.8	6.8	-57%	-9
Temporary and partially funded by LEC 01	1	0	-100%	-1
Casual	0	0	n/a	0
New role	0	4	n/a	4
Conversion from Contractor status (non LEC 01 fund)	0	3	n/a	3
Conversion from Contractor status (LEC 01 fund)	0	2	n/a	2
Contractor (no change to status)	2	0	-100%	-2
Overall	35.6	48.6	37%	13

Ensuring Operational sustainability is critical and dependant on increased LEC 01 funding

50 FTE embedded within the four year forecast have been identified as critical to NSWEC's operational continuity cannot be assured unless there is a commensurate increase in LEC 01 funding.

LEC 01 currently funds a reasonable proportion of temporary staff, that said it is unlikely that the magnitude of the shift to making Ongoing appointments will be able to be afforded within the current LEC 01 funding bucket. This indicates that a business case to either:

- increase the quantum of LEC 01 funding will be necessary, or
- that the current constraints on each of the funding buckets will need to be relaxed – providing NSWEC with greater flexibility in its use of the different funding buckets.

Failing that, NSWEC may need to adopt a more risk based approach to the use of the non-LEC 01 funding buckets, in effect "hedging" the risk of funding discontinuities.

Of the 50 FTE identified as critical roles, all (but 3 which are partially funded by LEC 01) are either not funded or funded by non-LEC 01 sources.

Further, 25 (50%) of the employment arrangements underpinning the 50 roles have a term that concludes prior to 30.06.2019, making the need to resolve increased LEC 01 funding an urgent priority.

In some of these cases, there is no potential for contract renewal under the provisions of the Government Sector Employment (GSE) Act 2013, meaning an irretrievable loss of skills to the organisation.

Division	FTE not current funded by LEC 01	FTE partially funded by LEC 01	New and converted roles	Requires increased LEC01 funding to achieve
Elections	10	0	4	14
FD&C	4	2	0	6
IS	8	0	7	15
Corporate	7	1	7	15
Overall	29	3	18	50

Division	# of temporary roles with a funding term pre 30.06.2019	# of temporary roles with a funding term between 01.07.2019 and 31.12.2019	# of temporary roles with a funding that extends beyond 01.01.2020	Vacant or new role so no term specified	Contractors	FTE total
Elections	9	1	0	3	1	14
FD&C	3	1	0	2	0	6
IS	7	0	0	5	3	15
Corporate	6	1	1	4	3	<mark>1</mark> 5
Overall	25	3	1	14	7	50
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A small number of roles currently occupied by Contractors will convert to Ongoing status

The conversion of some Contractor roles to Ongoing status will provide savings for NSWEC. Nine Contractor roles have been identified for conversion resulting in an anticipated \$1,118,980 savings across the 4 years.

Division	Current Contractor Role	Current Incumbent	Contractors' Annualised Salary	Current Contract End Date	Proposed Classification Level	Proposed Conversion Date	Annualised Savings FY18/19	Annualised Savings FY19/20	Annualised Savings FY20/21	Annualised Savings FY21/22
Elections Innovation	iVote BA		\$ 273,830	31.05.2019	Clerk 9/10	01.06.2019	\$ 10,672	\$ 130,437	\$ 126,852	\$ 123,177
HR	HR Services and Analytics Lead		\$ 216,625	30.06.2019	Clerk 11/12	01.07.2019	\$-	\$ 42,567	\$ 38,216	\$ 33,756
HR	WHS Specialist		\$ 143,583	30.06.2019	Clerk 9/10	01.07.2019	\$ -	\$ 190	-\$ 3,395	-\$ 7,070
IS	DBA Contractor Roll Team		\$ 264,403	30.06.2019	Senior Executive Band 1	01.07.2020	\$ -	\$-	\$ 35,262	\$ 29,534
IS	Application Support - Enrolments		\$ 159,764	30.06.2019	Clerk 7/8	01.07.2019	\$ -	\$ 33,404	\$ 30,245	\$ 27,007
IS	Application Development - Enrolments		\$ 174,738	29.03.2019	Clerk 9/10	01.07.2020	\$ -	\$ -	\$ 27,760	\$ 24,085
IS	IT Helpdesk Support		\$ 85,656	28.12.2018	Clerk 7/8	01.07.2020	\$ -	\$ -	-\$ 43,863	-\$ 47,101
IS	System Admin Desktop		\$ 170,204	28.12.2018	Clerk 7/8	01.07.2020	\$ -	\$-	\$ 40,685	\$ 37,447
PMO	Master Scheduler		\$ 341,984	28.12.2018	Clerk 11/12	01.07.2020	\$ -	\$-	\$ -	\$ 159,115
PMO	Portfolio Manager		\$ 265,888	<mark>31.05.201</mark> 9	Clerk 11/12	01.06.2019	\$ 7,670	\$ 91,830	\$ 87,479	\$ 83,019
		ANTICI	PATED SAVINGS				\$ 18,342	\$ 298,428	\$ 339,241	\$ 462,969
		ANTICIPATE	D OVERALL SAVIN	GS			\$ 1,118,98	0		

NOTE: The following assumptions have been made to determine the anticipated savings over the 4 year period:

The conversion date assumed is the 1 July in either FY19/20 or FY20/21, except for those roles currently occupied by Naumann and Zoomer, where the conversion rate is assumed to be the day after their current contract end.

Where a contract expires before the conversion date (except for those roles currently occupied by Naumann and Zoomer), it is assumed that the contract will be extended until the 30.6.2020. The maximum of the classification level / grade was used to determine salaries for Contractor roles converted to Ongoing status.

 The annualised savings have factored in an annual increase of 2.5% year on year. The annualised salaries incorporate on-costs. The savings noted are indicative; market testing of proposed salaries will be necessary *Source: Contractor Conversion Information on 30.01.2019 and NSWEC Validation worksheets as provided on 17.01.2019 and 18.01.2019.

In toto and including contractors, there is a focus on workforce stability over the 4 year period

The workforce profile envisaged as essential for NSWEC's strategic objectives to be met over the next four years represents a shift to greater workforce stability. Over 4 years it is proposed that:

- Staff with ongoing tenure will increase by a net of 64 FTE, mainly through the transition of FTE that currently hold temporary status to an ongoing basis
- Roles with Temporary status will reduce by 19 FTE
- Roles with Contractor status will reduce by 18%
- The impact overall is an additional 43 FTE to be funded through the LEC 01 bucket



Change to FTE profile across the 4 year period

Status	Current FY	FY 22/23	Growth rate	FTE impact
Ongoing	69.6	133.6	92%	64
Temporary	30.8	11.8	- <mark>6</mark> 2%	-19
Contractors within LEC 01	11	9	-18%	-2
Overall	111.4	154.4	39%	43

Emerging Capability Needs

The Capability needs of NSWEC have been assessed against three lenses

The required capability profile of every organisation evolves over time. For NSWEC there is a need to assess whether the current profile is appropriately aligned to current needs, whether there is a line of sight to the expected future remit of the organisation and whether the impacts of changing conceptions about Work and Workplaces has been factored in to emerging capability needs.

It is anticipated that NSWEC will develop a comprehensive capability framework over the next twelve months. Whilst a rigorous assessment of NSWEC's current capability gaps was outside the scope of this review, the consultation process did highlight that in addition to new capabilities that needed to be hired in coming years, targeted development was required to lift both general and specific capability levels in a number of areas.

The following slides have been developed to capture the current thinking regarding capability uplifts required and as a thought starter for a more comprehensive review.

Current needs

 Reviewing the organisation as it currently stands and where there are capability deficits against current needs

Emerging remit

 Reviewing the emerging remit for the organisation and what this is likely to mean in terms of new capabilities

Mega trends

Reviewing the mega trends affecting organisations and workplaces to see what this may suggest in terms of new capabilities



These capability needs have been addressed and thought about in three ways:

- 1. Attention to creating Capability clusters and job families within the current Commission structure
- 2. Roles that may need to be created and new staff hired to meet future capability needs
- Capabilities that can be developed across the organisation through professional development.
 Many of these capabilities are similar across the three lenses and have been outlined in the following pages.

Creating skills clusters and job families support capability and career development

Clustering / categorising similar roles into job families creates clear career paths and enables skill progression for staff; it is a critical foundation for enabling seamless, systematic and efficient capability development and knowledge transfer.

It is anticipated that as a part of the Workforce Strategy implementation process, NSWEC will review the current structure and alignment of roles – this will provide the opportunity to identify current and desired job families and capability / skills clusters. Clustering roles into logical categories will provide focus for the assessment of capability gaps, a basis for the knowledge sharing, will support the identification of logical career paths within disciplines, and will provide a basis for development of communities of practice and professional groupings.

There are a number of possible ways to cluster jobs including mapping each role against their respective capabilities and grouping them by higher order capabilities. Job families are often linked to either one or a combination of the following:

- Function or discipline examples include IT, HR, Finance (and given the significance of IT there may be merit to creating sub-groups within IT)
- Roles examples include researchers, analysts and administrative assistants
- Divisions.

Grouping similar roles or a hierarchy of roles enables:

- Articulation of specific roles for practical application to workforce planning and management
- Greater insight into the skill and capability requirements of NSWEC, down to the granularity of job families
- Greater mobility and progression of staff, increasing employee value proposition internally
- A more flexible, agile approach to the identification and incorporation of new skills and roles as they emerge.

There are capability deficits against all three lenses – underpinning the requirement for new roles

As shown previously NSWEC currently has a high and unsustainable dependence on Contractors and staff on Temporary employment arrangements. These staff are, in the main, employed to deliver the core work of NSWEC. The short term nature of their employment not only results in a significant and unnecessary contract management burden for the organisation and its leadership, but results in an unreasonable experience of employment discontinuity for NSWEC staff and a substantial and repeated loss of corporate intelligence given the staff turnover that results.

The NSW State Election cycle occurs every 4 years. For optimum effectiveness, staff benefit from having worked through an entire four year cycle.

A significant percentage of Ongoing employees and the majority of employees on Temporary arrangements have been in the organisation for less than 3 years (see chart below) and as such have not experienced and gained knowledge from a full election cycle.

The relatively 'new' staff base (i.e. high proportion of staff with less than 3 years of tenure) necessitates investment in capability development and a movement away from depending on Temporary and Contractor staff.



Ongoing and Temporary employee tenure (as at 14/12/18)

*Source: Consolidated master data (current as at 31.10.2018) - Vacant roles not included.

The recent restructure of NSWEC, whilst adding significant Corporate resource and capability to the organisation, overlooked some critical organisational capabilities.

- The restructure did not put sufficient attention on building and strengthening requisite HR skills and capabilities required by the organisation a deficit that is only partially met today through the employment of Contract staff.
- Given the high percentage of employees on Temporary arrangements and Contractors, there has been little systematic investment in capability development (on staff employed on an ongoing basis) since the restructure.
- The increasing focus on Project Management within the organisation was not adequately supported by funding for Ongoing roles
- There are insufficient roles, with continued funding to ensure an appropriate level of records management and governance administration and reporting.
- It left a heavy reliance on external support across the board in IS.

The requirement to build capability to meet the emerging needs of the organisation is pressing

The remit of NSWEC continues to evolve and enlarge – influenced and shaped by a range of external factors and trends, including those specific to the sector and to government organisations as well as to others that are more ubiquitous.

The role of NSWEC is expanding in terms of:

- The range of election services and interfaces
- The range of legislation administered and enforced
- The level of technology and digitised solutions under development
- The requirement to partner with other Government agencies to achieve economies of scale and to realise the Government's aspiration of "joined up" service delivery
- The desire to partner with other electoral agencies across Australia to optimise electoral services and reduce the cost of development / delivery.

Each of these results in the need to engage and develop new and additional capabilities. Our consultations with NSWEC and our scan of the external trends have resulted in the following trends impacting the organisation (see graph to the right). We have also outlined the resulting capabilities that NSWEC will need to put attention to, to respond to these emerging trends. We note, however, that many of these capabilities are currently being discussed as key areas of need (some of which are being addressed as new roles).



Source: Interviews with NSWEC Executive Directors

The Workforce Plan, by increasing the proportion of Ongoing roles, addresses capability gaps.

The following critical roles (currently filled by staff on temporary and contract arrangements) need to be transitioned to an Ongoing basis to meet current and future capability needs.



*Each role has been mapped against their respective core/primary capability area to reflect their core responsibilities (see yellow boxes above). Some of the above roles would also have secondary capability areas (e.g. iVote Technical Director currently mapped against ICT governance, strategy and cybersecurity, and has Digital Innovation, Voter Experience as its secondary capability)

In addition, the new roles identified as critical will ensure NSWEC is able to meet emerging needs



** The ten roles are subject to the Cyber Security business case and for the purpose of this review have not been included in the detailed workforce projections.

#Cybersecurity roles have been included to depict mapping against capability areas that have been identified as critical and pressing; we note that these roles are funded via a different business case currently under review.

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NSWEC's evolving EVP will need to contemplate broader societal trends and their implications.

NSWEC is not immune from a raft of global workforce trends which are changing the nature of the workforce and demanding new capabilities at an organisational and individual level. At the heart of these, and over and above an ageing society and workforce, is the blurring of the boundaries between employees and their personal lives. NSWEC will need to consider the following drivers along with the implications as they continue to refine and improve their Employee Value Proposition.

The Drivers The Implications Flexible working hours in combination with constant connectivity can prove difficult to deal with in a constructive manner. It has traditionally been primarily beneficial for Connectivity employers, as it most often led to employees working more than scheduled, but now employees are expecting flexibility on their own terms. Working Life in the Networked Society Blurred boundaries between work life and private life The Networked Increased emphasis on personal networks • Society Flexible work hours and workplaces • Virtual teamwork across organizations and locations Freelance and project-based work The shift in focus Led by the Millennials, there is an increasing appetite to engage with work that is less from task to about "task" and more about fulfilment of a personal mission or that has a tangible mission impact on a broader societal contribution. Culture as a Low levels of employment tend to turn the recruitment equation in favour of the recruitment employee - increasing job aspirants are looking to tangible evidence of a positive (by differentiator their definition) organisational culture as a threshold issue in assessing opportunities . The focus over the last decade on innovation has led to the rise of the everyday The rise of entrepreneur. Whilst organisations are actively encouraging entrepreneurship, entrepreneurship increasingly staff are taking the view "I work for you, but I innovate for myself." Employees are increasingly seeking a personalised experience...like customers. They The demand for have expectations about their careers and their employment experiences that take personal precedence over their view of their role as organisational contributors. They are unwilling customisation to compromise their know-how by abiding to policies that are not advantageous.

These converging dynamics will impact all organisations including NSWEC - requiring a raft of new HR and leadership models and behaviours as well as the development of new organisational capabilities:

- Agility and adaptability for the organisation and the individual
- A commitment to investment in life long learning and development
- Strategic Partnerships
- Design thinking
- Community engagement
- Digital first
- Integrated analytics

Further, there is a need for an organisation specific capability framework

Whilst some but not all of the needed capabilities are role specific, many are generic to the organisation and can be acquired / uplifted through a focused investment in Professional Development. As a NSW Government agency NSWEC is underpinned by the Public Sector Capability Framework. Notwithstanding the comprehensive nature of this Framework, there is a need to develop a bespoke Capability Framework aligned with NSWEC's strategic direction.

There are a suite of capabilities which have emerged as consistent across the Divisions that are required for the organisation to achieve its strategic remit

Across the organisation, the following capabilities should be in-focus in the short to medium term for capability uplift:

- Strategic thinking and commerciality
- Project management
- · Contract and vendor management

Additionally, given the significant pace and complexity of change there is a greater degree of need to work more strategically to increase voter experience and participation, and partnering more effectively with other organization's (e.g. other Electoral Commissions). The resultant additional capabilities to be invested in include:

- Strategic partnering skills
- Customer centricity (e.g. by increasing satisfaction levels of voter experience)
- Data analytics to predict and impact services pre, during and post elections
- Cybersecurity, including information security.

Whilst there is an appetite for capability development in each of these areas in all Divisions, the degree of capability uplift will vary:

- Across role and levels
- By team and Division.

Whilst there is work to do in developing a NSWEC specific Capability Framework the following three domains have emerged as the high level areas of focus for the organisation through this review:

- Strategic management capabilities
- Customer and stakeholder management capabilities
- Technological and technical capabilities (specifically, within policy and IT).

The emerging Framework to underpin the needed investment in future capability uplift

Effective organisation-wide performance will depend on an uplift in capability in the following areas:

- strategic management capabilities,
- technological and technical capabilities (primarily resides in IT and Policy roles, however generic and foundational IT security capabilities would be expected of all staff)
- customer and stakeholder management capabilities.

An uplift in these capabilities is required universally, however the relative emphasis may vary by role and level. The following articulated capabilities complement the current PSC Capability Framework and should be read as focus capabilities (priority capabilities).



Critical to the implementation of this Capability Framework is the availability of funds for investment in skills development and recruitment. The benefit of this investment will only be realised over time and will only become evident when:

- The proposed staff mix has been achieved and the majority of staff have ongoing tenure
- A minimum level of attainment has been achieved in each of the required capabilities.

The Capability Framework

The capability domains defined

NSWEC will need to conduct an assessment (e.g. via 360 degree survey) of the following capability areas identified as gaps, to understand the existing level of proficiency. Capabilities to be prioritised (from the list below) will depend on the urgency and the size of the capability gap.

Strategic management capabilities

Strategic workforce, finance and project management

- Ensures current staffing, financial and project records are updated
- Conducts statistical and data analysis and reporting to inform strategic HR/financial/project decisions and discussions
- Understands and analyses financial data to diagnose and report on business conditions
- Manages projects to agreed timeframes and budget, escalating where necessary, and on a timely fashion
- Is able to produce high quality commercial arguments
- Ensures resources are re-directed in response to the changing internal and external environment

Strategy, governance, compliance and risk management

- Views situations from a commercial and risk lens, challenging status quo and/or processes that are no longer useful
- Strives to maximize business outcomes whilst optimizing /minimizing resource use
- · Balances short term gains with long term investment
- Draws connections between actions today and likely future consequences
- Strictly adheres to NSWEC's ethical framework when making decisions

Contract management

- Applies legal, policy and organisational guidelines and procedures in relation to procurement and contract management
- Is aware of contract and procurement risks, and acts accordingly
- Monitors processes to ensure they are open, transparent and competitive, and that performance meets expectations
- Shows sensitivity and understanding in minimizing and resolving conflict



Customer and stakeholder management capabilities

Partnering skills

- Proactively develops and strengthens internal and external relationships
- Scans the environment for opportunities to collaborate with internal and external parties to improve outcomes
- Conducts conversations with other electoral offices to share best practice and to maintain currency of knowledge
- Addresses situations where stakeholders might represent competing views and strives to reach an agreement through effective consultation and negotiation

Customer engagement and service, voter experience

- Engages with key stakeholders and customers to ensure that the voice of the customer is heard and reflected in services and products
- Delivers high quality and timely service to stakeholders
- Maintains a process of frequent communication and feedback collection from stakeholders
- Ensures that feedback, both positive and negative is responded to on a timely fashion

Outside in thinking

- Sees issues and lived experience of customers and stakeholders from their perspective and strives to improve them
- Recognises changing external landscape and adapts internal business processes and solutions to meet these
- Can pre-empt customer needs and wants and strives to surface a variety of ideas (either through co-design or internal collaboration) to deliver on these
- Champions change initiatives to reflect the changing nature of customer expectations and demands



Technological and technical capabilities

ICT Governance & strategy, cybersecurity

- Maintains an up to date ICT and cybersecurity strategy, ensuring adherence and compliance across the business
- Actively promotes the importance of a safe and secure data and information environment
- Identify cultural barriers to uptake of technology/cybersecurity practices and implement strategies to address them
- Ensures that the development and architecture of technologies, apps and support are as simple and user-friendly as possible
- Strives to develop systems and apps that can be integrated across a multitude (if not all) of systems within the business
- Champions and leads the development/sourcing of user-friendly environments and technologies

Use of data/information for decision making and policy development

- Is able to communicate technical and complex information in simple ways, tailored to the audience
- Collects, collates and analyses critical information and data using technology to inform technological decision making
- Translates technical frameworks and legislation into operational and business processes and rules
- Is able to work with a very high volume of information, categorise them in a hierarchical fashion and design schedules and processes according to this hierarchy
- Collects, collates and analyses information and/or evidence to determine suitability for action

The evolving structure

Structures need to evolve over time in line with changes in organisational context and maturity

The comprehensive organisational reviews conducted in 2015 and 2018 resulted in a suite of structural changes for implementation. Given the NSWEC's funding constraints, and notwithstanding the acceptance of the recommendations, not all structural changes were able to be fully implemented.

The result was gaps in the capability deemed requisite to fulfil the organisational mandate. These have been exacerbated over time, given the NSWEC's increasing remit and the challenges, previously canvassed of an organisation with a high level of term based staff and a low level of certainty about securing the required level of baseline funding. These capability gaps have provided important context for the Workforce Strategy and 4 year Resourcing Plan. In addition, it is noted that NSWEC anticipates implementing a number of the outstanding recommendations from the Reviews post the impending NSW State Government election.

Overview on the status of key recommendations proposed from the organisational reviews undertaken in 2015 and 2018

Fully Implemented

2015 Structural Changes:

- Corporate function established and includes Legal, Finance, HR, Communications and PMO
- Elections function includes electoral roll products, election support, operations and logistics, and customer service and relationship management

Partially Implemented

2015 Structural Changes:

- Governance function established but sits under Corporate (originally intended to sit directly under the Electoral Commissioner)
- IS function involves operations, support and IS event services but Finance system support sits in Finance (outside of IS)

Not Yet Implemented *

2018 Structural Changes:

- Proposed operating model
- Corporate renamed Operations and establish a Chief Operations Officer role
- Establish a CIO role
- Consolidate IS BAU into Corporate and separate this from Election Event IS Service
- Establish a Centre of Excellence
- Establish a single Client Interaction Unit
- Establish two lines of business for Legal

 compliance and administration

* NOTE: Anticipated implementation of recommendations to occur post NSW State Election on 23 March 2019.

SOURCE: Internal NSWEC 2015 Restructure documents and Organisation Effectiveness Report by PM-Partners dated 25.06.2018.

Implementation of the Workforce Strategy will trigger the need to review the structure

Executive Directors acknowledged that the current structure results in some sub-optimal outcomes

As with all structures, NSWEC's current structure needs review to ensure it remains fit for purpose given the growth in remit. The focus through the Workforce Strategy on critical roles and capabilities provides further impetus to consider whether current Divisional boundaries and team groupings are the best constructs for ensuring:

- strategic outcomes are optimised and
- staff are able to collaborate, take accountability for their work and be agile in their contributions and their skill development.

In addition, the following reflections from Executive Directors point to opportunities for structural improvement:

- the need to reduce duplicative effort (teams doing similar work but in different parts of the organisation and working in isolation) e.g. HR teams, Comms teams, business analytics, policy etc.
- the desire to reduce the existence of siloes at a Divisional level and
- the appetite to deepen reporting lines and spans of control the predominance of small spans of control undermines NSWEC's ability to build a depth of knowledge in teams and to ensure succession.



There are a number of key principles that should guide structural design:

- 1. Facilitation of strategic priorities
 - Value to its key stakeholders
 - Coherence and clarity
 - Efficiency (in decision-making, allocation of resources, delegation of tasks)
 - Employee engagement
- 2. Design at the top determines the rest of the design
- 3. Simpler is better when it comes to organisation structures and to key people systems people should be able to see and intuit who is responsible for what and why
- 4. Where a hierarchical structure is a given, the focus should be on a flatter structure, that:
 - Maximises productivity forcing people to focus on work rather than coordination and requiring the elimination of activities that do not deliver value
 - Streamlines decision making and
 - Fosters clearer accountabilities.
- 5. Design around business requirements not people
- 6. Design knowing that new / additional capabilities may be required
- 7. Design requires optimal trade-offs between different requirements (e.g. control versus autonomy, efficiency versus capacity).

There are opportunities to evolve the structure for efficiency & effectiveness

A high-level review of the current NSWEC structure has identified that there are a number of structural changes that could positively impact organisational effectiveness. These changes fall into two major categories.



The structural principles at play:

In addition to the general design principles previously outlined the evolution of the structure must be cognisant of the following:

- There are a maximum of 4 Divisions, so new teams need to be accommodated within these, rather than become a new reporting line.
- There are two distinct operational Divisions Elections and FD&C – they are specialist teams rather than "end to end siloes".
- The operating Divisions are supported by a comprehensive Corporate Services team, providing consistency of service and support for all operational matters
- The IS team has a strategic orientation developing and maintaining the core systems and platforms underpinning NSWEC and ensuring the security of the organisation's systems and data.

Recommendations

Recommendations

NSWEC's current workforce strategy is characterised by fragility. Addressing this requires attention on several fronts:			Logic
	A significant increase in the proportion of staff with an ongoing employment arrangement		Clarifies the LEC01 bucket available to accommodate transitions before new funding
	1.	Review the staff proposed for conversions to Ongoing and prioritize.	
		For those prioritized staff with roles currently funded from LEC 01 (subject to the usual caveats around performance, skills and organizational fit) accelerate the renegotiation of contracts	
1	The negotiation of a more flexible funding base		Clarifies the likely additional impost on LEC01
		Market test the salary positioning of the roles currently filled by Contractors that are prioritized for transition as Ongoing roles	Clarifies the likely additional impost on LEC01 and the relative chances of attracting current Contractors to take an Ongoing position Stress test the Treasury appetite for increasing LEC01 funding for NSWEC's staffing "base case" aligned to the current Strategic Plan and taking into account emerging Government priorities.
		Develop a business case for an enlarged LEC01 funding bucket (either an increase in the budget or greater flexibility in the application of NSWEC's overall funding budget). Considerations should be Funding all other Temporary staff prioritized for Ongoing employment that position Stress test the Treasury application of NSWEC's overall for NSWEC's staffing "base for NSWEC's staffing" staffing "	
		 Funding all new positions 	
		 Funding the roles prioritized for Ongoing employment that are currently filled by Contractors 	

Recommendations

- Undertaking a more detailed analysis of the incidence of overtime in the organisation to determine the extent to which it constitutes a Work Health and Safety risk for both the individual staff members and the NSWEC
- Development of a capability framework that speaks to the organisation's future strategy and remit, responds to the work trends that are and will impact NSWEC and that underpins a more compelling EVP
 - Refine the proposed Capability Framework, conducting a gap analysis and establishing a level of prioritization around skills development and impacted staff
 - Establish the required level of investment for a Professional Development program aligned to the proposed Capability Framework – over a four year horizon
- Implementing the changes proposed in the Workforce Strategy provides an opportunity to further evolve the NSWEC organizational structure. In addition to the current intention to implement a number of the outstanding recommendations from the organizational reviews conducted in 2015 and 2018, it is recommended that consideration be given to creating job clusters and adjusting managerial spans of control.

Logic

Whilst it appear that a small number of individuals are working excessive overtime it is unclear whether this is spread across the year or falls into a small number of time periods consistent with Election events. If the latter, the risk profile of the overtime is higher for both the individual and the organisation.

Socialisation of the proposed Capability Framework will be critical to ensuring that development is bespoke to NSWEC's needs at the different organisational levels.

Including the required investment in the Capability Framework in the LEC 01 business case will be essential to reversing the historic low level of investment in professional development.

Job Clusters are a key underpinning of a capability framework Appropriate spans of control are key to effective managerial leadership.



Accountability Officers of the Western Australian Parliament

Accountability and Independence Principles

November 2006

Commissioner for Public Sector Standards

To achieve better practice within public authorities in people management, workforce diversity and ethical behaviour through education, capacity building and independent oversight.

The report is available in PDF format at www.opssc.wa.gov.au. For people with disabilities, this document is available in alternative formats on request.

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Accountability and Independence Principles

Commissioner for Public Sector Standards

THE SPEAKER LEGISLATIVE ASSEMBLY

THE PRESIDENT LEGISLATIVE COUNCIL

I submit to Parliament this report on Western Australia's accountability officers in accordance with Section 21(1)(h) of the *Public Sector Management Act 1994*, and seek permission to publish the report following tabling in Parliament.

This report meets the commitment I made in the Addendum to my report to Parliament, *Ten-Year Review Report One: The Commissioner's role in action: A ten year reflection*, tabled on 12 April 2006.

I draw to Parliament's attention the attached statement in support of the report signed by my fellow accountability officers.

Maxine Muna

Maxine Murray COMMISSIONER FOR PUBLIC SECTOR STANDARDS

22 November 2006

We refer to the report submitted today to Parliament by the Commissioner for Public Sector Standards.

We advise Parliament that we and the Commissioner for Public Sector Standards have worked collaboratively to undertake the research for the preparation of this report, and support the report's content and conclusions. We also advise Parliament that the former Western Australian Auditor General, Mr Des Pearson, was supportive of the report being prepared.

We are therefore pleased to endorse the tabling of this report by the Commissioner for Public Sector Standards.

Collenth

Colin Murphy ACTING AUDITOR GENERAL

Darryl Wookey ACTING INFORMATION COMMISSIONER

Richard Harding INSPECTOR OF CUSTODIAL SERVICES

22 November 2006

Warwick Gately AM ELECTORAL COMMISSIONER

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Deirdre O'Donnell OMBUDSMAN

Overview

- 1. Accountability officers are independent officers empowered by Parliament to assist in maintaining the integrity of government. Their existence ensures, among other things, free and fair elections and independent scrutiny of the activities, decisions and behaviour of Executive Government and the public sector.
- 2. To function effectively, these officers must be, and be seen to be, able to operate independently. Effective independence relies on a range of legislative mechanisms that separate the officers from Executive Government and protect them from its influence.
- The greater their independence from the Executive Government, the greater the need for the accountability officers themselves to be held accountable for their actions. Transparency is essential in an effective accountability process.
- 4. This report brings together a set of principles that can ensure both the independence and the accountability of accountability officers. The principles were identified having regard to current international discussion on the independence of accountability officers and through a detailed review of governing legislation for 29 integrity agencies in 11 comparable Westminster jurisdictions, including all States and the Commonwealth in Australia, New Zealand and several Canadian jurisdictions.
- At the time of the study, the Western Australian Parliament was considering a Bill to establish the Audit Act 2006. This Bill, as originally presented, was included in the review.
- 6. The principles outlined in this report are seen to be fundamental to enabling accountability officers to effectively carry out their legislated responsibilities. In articulating these principles, the aim is to clarify Parliament's expectations of its officers, and help ensure that these expectations are widely recognised and supported by Members of Parliament, Executive Government, the public sector and the general public.

Western Australia's accountability officers

- Accountability officers occupy a special position within our system of Government. Established by statute, they exercise wide powers, operate independently of Executive Government and enjoy special protections to enable them to perform their role effectively.
- Accountability officers promote the integrity of government and act as a check against the misuse of executive power. It is essential that accountability officers are, and are seen to be, independent of Executive Government in order to undertake their role effectively.
- 9. The accountability officers in Western Australia are:
 - The Electoral Commissioner, who ensures the proper conduct of elections and, as one of three Electoral Distribution Commissioners, establishes the boundaries of electorates.
 - The Parliamentary Commissioner for Administrative Investigations (the Ombudsman), whose main role is to investigate administrative acts or omissions in State Government agencies and local governments and to make recommendations to redress the effect of defective administration and to prevent its recurrence.

- The Auditor General, who is a key provider of independent and impartial information on public sector integrity and performance to the Parliament and makes recommendations to address shortcomings.
- The Commissioner for Public Sector Standards, whose role was created in response to the findings of the Royal Commission into Commercial and Other Activities of Government. The Commissioner's integrity role includes independently setting standards and ethical codes addressing the principles of merit, equity, probity and integrity. The Commissioner monitors compliance with these standards and ethical codes and provides Parliament with information and recommendations to improve public sector accountability.
- The Information Commissioner, also established as a result of the Royal Commission's findings, who undertakes independent external review of decisions made by agencies under the Freedom of Information Act, advises the public and agencies of their rights and responsibilities under the Act and advises Parliament about the operation of the Act and any legislative changes that should be made to help the objects of the Act to be achieved.
- The Inspector of Custodial Services, who provides Parliament with independent information and analysis about prison and detention centre operations and custodial services and also makes recommendations for improvement.
- 10. Whilst the Corruption and Crime Commission also plays a vital part in the overall integrity of the public sector and shares some of the characteristics of the accountability officers mentioned above, its role is primarily directed at addressing misconduct by individuals rather than acting as a check on the activities of Executive Government. Its role presents unique issues that go beyond the scope of the present study.

Ensuring that accountability officers are themselves accountable

- 11. Because of their wide powers and their role in forming opinions about the performance of others, it is essential that the accountability officers are themselves held, and are seen to be held, fully accountable for the effectiveness with which they perform their work and for their efficiency in the use of public funds.
- 12. The relationship between accountability officers and the Parliament they support is of considerable importance. An effective relationship permits the accountability officers to operate more effectively, and also provides a mechanism of accountability of the accountability officers themselves.
- 13. As the accountability officers' responsibilities are assigned by the Parliament, it is the Parliament that should hold them accountable. Executive Government should not be empowered to scrutinise accountability officers, as this creates the perception of Government control.
- 14. Four elements support the accountability of accountability officers:
 - Reporting on their performance and use of resources;
 - Bipartisan Parliamentary scrutiny of activities;
 - Checks and balances on each others' operations; and

- Periodic independent reviews of their role and functions.
- 15. The accountability of accountability officers is enhanced where:
 - a) accountability officers are the accountable officer for their agency but are administratively responsible to the Parliament, not to a Minister;
 - b) accountability officers' Annual Reports on their functions and operations are submitted directly to the Parliament where they receive active consideration by a Committee with mandated responsibility to do so;
 - c) a Parliamentary Committee has legislatively mandated responsibility to hold accountability officers accountable for their activities, including the active monitoring of their operational performance and resource requirements;
 - d) accountability officers are audited by the Auditor General, but the Auditor General is in turn audited by an independent auditor appointed by and reporting to the Parliament or a Parliamentary Committee. All auditors should be empowered to undertake performance auditing of the accountability officers;
 - e) statutory performance reviews of each accountability officer's functions, effectiveness and efficiency are conducted at regular intervals by independent reviewers appointed by and reporting to the Parliamentary Committee.

Safequarding the independence of accountability officers

- 16. Four elements safeguard the independence of accountability officers:
 - independence of appointment;
 - statutory separation of the accountability officer from Executive;
 - personal independence; and
 - managerial independence.
- 17. Factors that are important to the independence of appointment include:
 - who makes the appointment decision;
 - whether there is Parliamentary involvement in selection and appointment;
 - whether the appointment process is open and transparent and whether there is some form of external oversight of the process;
 - whether reappointment is possible and, if so, how and by whom the decision to reappoint is made; and
 - how and by whom decisions are made about acting appointments during a vacancy in the accountability office.
- 18. Independence of appointment may be achieved in these ways:
 - a) accountability officers are appointed by the Governor on recommendation of the Parliament following advice from a Committee of Parliament;

- b) legislation requires that the process of selection for accountability officers is transparent and merit-based;
- c) accountability officers are appointed for a fixed term exceeding two Parliamentary cycles and are not eligible for reappointment;
- d) a deputy accountability officer is appointed by a similar process to the principal accountability officer and automatically acts when the principal office is vacant; and
- e) appointment of an acting accountability officer by Executive Government is only possible in the event of a vacancy in both the principal and deputy offices and is strictly time limited.
- 19. Factors contributing to separateness include legislation which:
 - establishes and defines the accountability officer's role, mandate and responsibilities;
 - authorises and imposes a duty on the accountability officer to act independently;
 - establishes the status and rank of the accountability officer; and
 - requires an oath or affirmation of office that is administered in a way that recognises the separation of the role from Executive government.
 - Statutory separation of accountability officers from the Executive can be achieved where:
 - a) accountability officers are established in the constitution as 'Independent Officers of Parliament';
 - b) separate legislation, principally devoted to the accountability officers' role, establishes their functions, mandate, and powers;
 - c) accountability officers are authorised and have a statutory duty to act independently and are not subject to direction from anyone in performance of their functions;
 - d) separation and independence from Executive are reinforced by an oath or affirmation of office which is administered by a Presiding Officer of the Parliament; and
 - e) status, rank and relative remuneration are established by statute and tied to an appropriate level within the judiciary.
 - 21. To be effective in achieving their purpose, accountability officers must feel free to exercise their functions and to report their findings to Parliament without fear of recrimination or reprisal. Assuring their personal independence is therefore a matter that receives considerable attention in the legislation examined for the purposes of this report.
 - 22. Safeguards over the personal independence of the accountability officer include:

- their term of appointment;
- removal or suspension from office;
- their remuneration;
- their eligibility to undertake other employment for reward; and
- their vulnerability to legal action as a result of performing their functions in good faith.

Term of appointment

- 23. Security of tenure and duration of appointment are both important to independence. Although some jurisdictions still make appointments until the time of age-related retirement, there has been a move in favour of fixed term appointments of more limited duration. There is also a trend away from renewable appointments because they are seen to have the potential to compromise independence.
- 24. The length of fixed term appointments is of some importance. The term needs to be long enough to enable the development of independence and to effectively 'steer' the accountability officer's role, but not so long that the officer becomes either complacent or 'stale' in the role.
- 25. Another consideration is the term in relation to the Parliamentary electoral cycle. In most jurisdictions fixed term appointments have been set to exceed at least one, but more commonly two electoral periods.

Removal from office

- 26. Protection from removal from office at the whim of the Executive is paramount to independence.
- 27. In all of the jurisdictions examined in other parts of Australia, and those investigated elsewhere, only the Parliament can remove an accountability officer. In many, even removal by Parliament is only possible for cause or on prescribed grounds (bankruptcy, misbehaviour, or physical or mental incapacity). In some (usually those with unicameral Parliaments), a two-thirds majority vote in the Parliament is required to effect removal, giving further protection from a Government-dominated Parliament.
- 28. In Western Australia, five of the accountability officers can only be removed on an address of both Houses of Parliament. The exception is the Inspector of Custodial Services, who may be removed by the Governor on prescribed grounds. In the Auditor General Bill, the Parliamentary Committee is given a key role in both the suspension and removal process.

Suspension

- 29. Most, but not all, jurisdictions allow for the accountability officers to be suspended from office, usually for cause or on prescribed grounds, which often include ill health, misconduct or incompetence.
- 30. If the accountability officers can be suspended, there is usually provision for restoration to office. Legislation frequently provides checks on the suspension process, commonly limiting the duration of the suspension and requiring Parliamentary intervention within a prescribed time frame. The 'default action' taken at the end of that time frame is usually restoration to office.

Remuneration protection

- 31. If remuneration of the accountability officers is appropriated in their enabling legislation (or in the determining Tribunal legislation), it is protected from the normal budget/appropriation processes. This precludes any possibility of influence or control of remuneration funds by the Executive or by Treasury, Finance or other parts of the bureaucracy. Most legislation provides this protection to the accountability officers' salary.
- 32. In some jurisdictions, the remuneration of an incumbent accountability officer is protected by legislation from being diminished during his or her term of office.
- 33. In Western Australia, appropriation of remuneration is explicitly provided for in the enabling legislation of five of the accountability officers. The provision has been dropped from the Auditor General Bill, but is addressed less specifically under provisions of the Salaries and Allowances Act.
- 34. Their enabling legislation also protects the remuneration of five of the accountability officers from diminution during their term of office. However, the Inspector of Custodial Services is not afforded this protection, and it is possible for the remuneration of any accountability office (not the office holder) to be adjusted.

Employment constraints

- 35. Constraints on the accountability officer holding other positions or gaining remuneration from other forms of employment is commonly included in legislation to ensure that the incumbent devotes their full attention to their statutory role and to reduce the opportunity for a conflict of interest.
- In some jurisdictions, any other occupation for reward is prohibited, and may be grounds for removal from Office, while in others it may be permitted subject to approval.
- 37. Where such approval can only be given by the Parliament it could be expected to be relatively difficult to obtain and transparency of approval is ensured. However, where approval must be sought from the Executive it may enable covert pressure to be applied to the accountability officer.
- 38. In Western Australia, a resolution by both houses of Parliament is required to enable the Ombudsman, Commissioner for Public Sector Standards, Electoral Commissioner and (under the Auditor General Bill) the Auditor General to hold other positions. The legislation is silent for the Information Commissioner and the Inspector of Custodial Services.

Post employment

- 39. In some jurisdictions there are prohibitions against subsequent employment in the public sector, but in most, if the incumbent originally came from the public service, there is a right of return.
- In Western Australia, all of the accountability officers examined have a right of return if they were originally appointed from the public sector.

Immunity

- 41. Litigation could be used to divert attention from the accountability officer's function or threatened litigation could weaken the independence of the accountability officer. In most jurisdictions, accountability officers are afforded protection from liability for acts done or omitted.
- Accountability officers' personal independence from the Executive can be safeguarded where:
 - a) they can only be removed from office on prescribed grounds by resolution of both Houses of Parliament;
 - b) suspension from office can occur only on prescribed grounds and restoration to office is automatic unless Parliament resolves to remove the officers;
 - c) they have a non-renewable fixed-term appointment that exceeds the duration of two normal electoral cycles;
 - d) their remuneration is appropriated in their enabling legislation and protected from being reduced during their term of office without their consent;
 - e) they are prevented from taking other employment for reward without the approval of both Houses of Parliament and are not eligible to return to the public service at the conclusion of their term of office; and
 - f) they are afforded protection from liability for acts done or omitted whilst performing their functions in good faith.
- Safeguards associated with the accountability officer's managerial independence include:
 - the mechanism for determining their financial resources and whether there
 are protections over the drawing rights of funds appropriated to them;
 - whether the accountability officer is subject to broader administrative control by Executive including any constraints imposed on procurement which could impair his or her independence;
 - the means by which supporting staff are provided and who determines the terms and conditions of employment of those staff; and
 - the type of supporting structure with which they are provided.

Financial independence

- 44. Accountability officers must have sufficient financial resources to execute their role and function.
- 45. Westminster appropriation processes usually require the Executive to be held accountable for the budget and it therefore should determine the budget's overall makeup and composition. However, leaving the budget for accountability officers entirely in the hands of the Government is seen to be undesirable.

Accountability Officers of the Western Australian Parliament

- 46. As a protection against this possibility, a significant number of jurisdictions have included some form of Parliamentary input into the establishment of accountability officers' budgets, to increase the transparency of the financial resource allocation process. Legislation may enable a Committee or the Parliament itself to recommend the annual accountability officers' budget allocations or may mandate consultation with a Parliamentary Committee.
- 47. A key advantage of involving the Parliament in the accountability officers' budget allocation process is that they are set somewhat apart from other appropriations in recognition of their unique role. Proactive Parliamentary involvement is also more transparent, and ensures that the accountability officers' budgets are not presented as a *fait accompli* along with all other budget proposals.
- 48. A further advantage is seen where Parliament or its relevant Committee recommends a budget to the Executive, after considering plans of the accountability officer and submissions from the Treasury. This establishes a stronger form of Parliamentary input than consultation, although Executive retains overall control.
- 49. To whom resources are appropriated to support the accountability officers could be important. If the budget for the accountability officer's office is part of the Parliament's appropriation or a separate appropriation, a much higher level of independence from the Executive is demonstrated than if it is part of the general appropriation or forms part of the budget for a Minister's portfolio. If appropriation is to a Minister, or the Minister's department, constraints could be imposed on the expenditure of appropriated funds. A number of jurisdictions have legislated to guarantee availability of appropriated funds to accountability officers.

Government administrative controls

- 50. In general terms, accountability officers need to have sufficient independence from government administrative controls to ensure that they can organise, staff and manage their offices, and engage outside expertise, as they see fit, within their budgets and within the provisions of legislation designed to promote sound employment principles.
- Independence can be compromised if the accountability officer or their office is subject to government administrative controls and/or other government policy direction.

Staff

- The capacity to employ staff is fundamental to the resources available to the accountability officers.
- 53. Most legislation makes provision for staff and the accountability officer is usually the employing authority. Many jurisdictions also enable the accountability officers to use contracted professional services, and some enable secondment of staff from other public sector organisations (often requiring approval of the Minister).
- 54. However, legislation varies widely on the extent to which accountability officers can determine staffing and staff conditions within their office. In many jurisdictions, the Executive Government and/or the public service bureaucracy can influence or indeed approve the number, classification and remuneration of such staff. This is a complex area and one that is often difficult to unravel.

Office type

- 55. Departments staffed by public servants have traditionally been created to support the accountability officers and these remain the most common. Of the jurisdictions examined in the review, 18 have departments supporting them.
- 56. However, departments can be created and abolished by Executive. A departmental structure is also subject to administrative control by Executive. Over recent years, a significant number of jurisdictions have favoured removing support structures for accountability officers from the wider public service and have created separate supporting statutory authorities, replacing Executive administrative control with enhanced integrity through Parliamentary Committee oversight.
- 57. Managerial independence can be enhanced where:
 - a) a Parliamentary Committee has a legislated responsibility to review plans and budgets of accountability officers, to consider submissions from the Treasury and to then recommend the budget allocations for accountability officers to the Executive;
 - b) appropriations for accountability officers' offices are protected from Executive interference by legislative guarantees;
 - c) the supporting structure for accountability officers is a statutory authority, removed from the public service (as defined by the Public Sector Management Act 1994);
 - d) the accountability officer is the employing authority for all his or her officers and other supporting staff, and has the flexibility to establish terms and conditions of employment in accordance with the principles of a good employer;
 - e) accountability officers and their offices are not subject to, but are required to have regard to, overarching government administrative policy directives; and
 - f) accountability officers are held accountable for the performance of their office through enhanced Parliamentary Committee oversight.

Accountability Officers of the Western Australian Parliament

Concluding Comments

- 58. The effectiveness of accountability officers depends upon their independence; their independence in turn requires accountability.
- 59. The degree of independence of accountability officers will determine their fearlessness in holding Executive Government to account, and in fulfilling their role in upholding democracy. This report has detailed the legislative mechanisms that can enhance independence and reduce their vulnerability to control or influence of the Executive Government.
- 60. The following statements incorporate key principles observed elsewhere, that would provide a framework for good practice in Western Australia:
 - a) Safeguarding the status of accountability officers and their functional independence and separation from Executive Government by explicit provisions in the Constitution and enabling legislation;
 - b) Assuring personal independence during a fixed term non-renewable appointment that exceeds two Parliamentary cycles;
 - c) Providing a high level of managerial independence from Executive Government by separating the supporting structures for accountability officers from the public service; and
 - d) Mandating proactive and transparent involvement of Parliament or Committees of Parliament in legislation in these areas:
 - selecting and appointing accountability officers and acting accountability officers;
 - ii) determining the resources made available to accountability officers;
 - iii) monitoring the performance of accountability officers; and
 - iv) holding accountability officers accountable for their performance.

