



PARLIAMENT OF NEW SOUTH WALES

## Joint Standing Committee on Electoral Matters

REPORT 2/55 – DECEMBER 2012

ADMINISTRATION OF THE 2011 NSW ELECTION AND RELATED MATTERS





**PARLIAMENT OF NEW SOUTH WALES**

**JOINT STANDING COMMITTEE ON ELECTORAL  
MATTERS**

**ADMINISTRATION OF THE 2011 NSW ELECTION AND RELATED  
MATTERS**

**REPORT 2/55 – DECEMBER 2012**

New South Wales Parliamentary Library cataloguing-in-publication data:

**New South Wales. Parliament. Joint Standing Committee on Electoral Matters.**

Administration of the 2011 NSW Election and related matters / Joint Standing Committee on Electoral Matters. [Sydney, N.S.W.] : the Committee, 2012. [82] p. ; 30 cm. (Report ; no. 2/55).

Chair: Jai Rowell, MP.

“December 2012”.

ISBN 9781921686603

1. New South Wales. Parliament—Elections, 2011.
2. Elections—New South Wales.
3. Voting—New South Wales.
- I. Title
- II. Rowell, Jai.
- III. Series: New South Wales. Parliament. Joint Standing Committee on Electoral Matters. Report ; no. 2/55.

324.609944 (DDC22)

The motto of the coat of arms for the state of New South Wales is “Orta recens quam pura nites”. It is written in Latin and means “newly risen, how brightly you shine”.

# Contents

Membership _____	iii
Terms of Reference _____	iv
Chair’s Foreword _____	v
Executive Summary _____	vii
List of Findings and Recommendations _____	xiv
<b>CHAPTER ONE – INTRODUCTION _____</b>	<b>1</b>
CONDUCT OF THE INQUIRY _____	1
LEGISLATIVE REFORMS BEFORE THE 2011 ELECTION _____	2
THE NSW ELECTORAL COMMISSION’S REPORT ON THE CONDUCT OF THE 2011 ELECTION _____	3
KEY ISSUES _____	3
KEY ACHIEVEMENTS _____	5
THE NSW ELECTORAL COMMISSION’S PROPOSALS FOR REVIEWING THE <i>PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912</i> _____	7
<b>CHAPTER TWO – CONDUCT OF THE ELECTION: SERVICES FOR ELECTORS _____</b>	<b>8</b>
POLLING PLACES _____	8
EARLY VOTING SERVICES _____	12
INFORMATION PROVIDED TO VOTERS _____	20
<b>CHAPTER THREE – CONDUCT OF THE ELECTION: SERVICES FOR CANDIDATES AND PARTIES _____</b>	<b>24</b>
PUBLIC SERVANTS CONTESTING STATE ELECTIONS _____	24
PARTY REGISTRATION _____	25
REGISTRATION OF ELECTORAL MATERIAL _____	27
INFORMATION SESSIONS FOR CANDIDATES _____	29
INTERFERENCE WITH ELECTORAL MATERIAL AT POLLING PLACES _____	30
ELECTORAL EXPENDITURE - PROCESSING CLAIMS _____	32
COUNTING PROCEDURES _____	33
<b>CHAPTER FOUR – INNOVATIONS IN ELECTORAL PRACTICES _____</b>	<b>37</b>
SMARTROLL _____	37
IVOTE _____	40
<b>CHAPTER FIVE – FUTURE OPTIONS FOR VOTING _____</b>	<b>53</b>
FIXING A DATE FOR THE ISSUE OF THE WRITS _____	53
VOTER IDENTIFICATION _____	54
AN ALTERNATIVE VERSION OF THE LEGISLATIVE COUNCIL BALLOT PAPER _____	57
MORATORIUM ON SIGNIFICANT ELECTORAL CHANGES _____	58
<b>APPENDIX ONE – LIST OF SUBMISSIONS _____</b>	<b>60</b>
<b>APPENDIX TWO – LIST OF WITNESSES _____</b>	<b>61</b>

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

15 JUNE 2012, JUBILEE ROOM PARLIAMENT HOUSE _____	61
29 JUNE 2012, JUBILEE ROOM PARLIAMENT HOUSE _____	62
APPENDIX THREE – EXTRACTS FROM MINUTES _____	63

# Membership

<b>CHAIR</b>	Mr Jai Rowell MP (Member from 21 June 2012, Chair from 29 June 2012)
<b>DEPUTY CHAIR</b>	The Hon. Robert Borsak MLC
<b>MEMBERS</b>	Mr Andrew Fraser MP The Hon. Amanda Fazio MLC The Hon. Trevor Khan (Chair from 23 June 2011 until 29 June 2012) The Hon. Paul Lynch MP (Member from 21 June 2012) Mr Daryl Maguire MP (Member from 21 June 2012) The Hon. Dr Peter Phelps MLC The Hon. Peter Primrose MLC Mr Gareth Ward MP
<b>CONTACT DETAILS</b>	Joint Standing Committee on Electoral Matters Parliament House Macquarie Street SYDNEY NSW 2000
<b>TELEPHONE</b>	02 9230 2216
<b>FACSIMILE</b>	02 9230 3309
<b>E-MAIL</b>	<a href="mailto:ElectoralMatters.Committee@parliament.nsw.gov.au">ElectoralMatters.Committee@parliament.nsw.gov.au</a>
<b>URL</b>	<a href="http://www.parliament.nsw.gov.au/electoralatters">http://www.parliament.nsw.gov.au/electoralatters</a>

# Terms of Reference

That the Joint Standing Committee on Electoral Matters is to inquire into and report upon the conduct of the 2011 NSW State Election with respect to the following electoral laws, their administration and related practices:

- *Parliamentary Electorates and Elections Act 1912* (other than Part 2);
- *Election Funding, Expenditure and Disclosures Act 1981*; and
- The provisions of the *Constitution Act 1902* that relate to the procedures for, and conduct of, elections for members of the Legislative Assembly and the Legislative Council (other than sections 27, 28 and 28a, that is, the provisions relating to the distribution of electorates).

## Chair's Foreword

I am pleased to present the Joint Standing Committee on Electoral Matters' second report of the 55th Parliament, on the administration of the 2011 NSW election and related matters.

In making any comment about the 2011 election I must firstly commend the NSW Electoral Commissioner, Mr Colin Barry, and the staff of the NSW Electoral Commission for their professionalism and diligence in administering what was a successful and well-run election. The general levels of satisfaction with the Commission's performance, in such areas as promoting awareness and maximising voter participation, election day services at polling places, information and support provided to candidates and parties, and the counting of votes and provision of results, are testimony to the good work that was done.

The 2011 election was a particularly interesting one, as significant legislative changes to the *Parliamentary Electorates and Elections Act 1912* and the *Election Funding, Expenditure and Disclosures Act 1981* were put in place to provide for electoral innovations such as iVote and SmartRoll; reforms to the provisions governing political donations; and an expansion of the existing scheme of public funding for election campaigns. Improvements such as these are indicative of the fact that NSW is a leader when it comes to responding to the needs of voters and candidates, and also in terms of the transparency and integrity of election campaigns.

Of course, significant changes such as those described above also present certain challenges, and this report addresses these through recommendations that are aimed at, for example: mitigating the risks of multiple voting and voter impersonation, strengthening the verifiability of iVote and enabling eligible voters to use the system more widely, preventing legitimate electoral material from being interfered with at polling places on election day, and making voter information in accessible formats more widely available.

The Committee hopes that the recommendations contained in this report, as well as its report on administrative funding for minor parties, and in its forthcoming review of the *Parliamentary Electorates and Elections Act 1912* and the *Election Funding, Expenditure and Disclosures Act 1981*, will uphold and enhance the high standard of electoral administration that exists in NSW.

On behalf of the Committee I would like to extend my sincere thanks to each of the individuals and organisations that made submissions to the inquiry and gave evidence at the Committee's public hearings. Needless to say, the information gathered during the course of the inquiry was invaluable in formulating the report's final recommendations. I would also like to convey the Committee's appreciation to the Electoral Commissioner and the staff of the Electoral Commission for their input into the inquiry and for their ongoing contribution to the work of the Committee.

On a personal note, I want to thank my Committee colleagues, namely the Hon. Robert Borsak MLC, the Hon. Amanda Fazio MLC, Mr Andrew Fraser MP, the Hon. Paul Lynch MP, Mr Daryl Maguire MP, the Hon. Dr Peter Phelps MLC, the Hon. Peter Primrose MLC, and Mr Gareth Ward MP, for the enthusiasm and insight that they brought to the inquiry.



In particular, I would like to thank the Hon. Trevor Khan MLC who chaired the Committee for much of the inquiry's duration and who continues to be a valuable voice on the Committee. Lastly, I want to thank the secretariat staff for their assistance in the conduct of the inquiry and in the preparation of the Committee's final report.

A handwritten signature in black ink, appearing to read "Jai Rowell". The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping underline.

**Mr Jai Rowell MP**  
Chair

# Executive Summary

## Background

On 26 March 2011 the NSW Electoral Commission (NSWEC) conducted the 2011 NSW election. Since 2007 the NSWEC has prepared a report on its conduct of State elections, which is tabled in the Parliament. Following the tabling of the report the Joint Standing Committee on Electoral Matters reviews the administration of that election, as provided for by the Committee's terms of reference.

## Key issues and outcomes

The Committee received evidence across a broad range of issues, which are grouped in the report under the following categories:

- services for electors;
- services for candidates and parties;
- innovations in electoral practices; and
- future options for voting.

## Services for electors

### *Accessibility of polling places*

Although the NSWEC provided at least one wheelchair accessible polling place in each electoral district for the 2011 election, the Committee heard that accessibility of polling places continued to be an issue for electors with a disability or with mobility impairment. A stakeholder suggested that this issue was particularly acute in rural areas where there are less polling places and greater distances between polling places in an electoral district. The Committee determined that more should be done to improve access at polling places and that one way this could be achieved was to make a greater number of venues available to the NSWEC for the purpose of conducting an election. To this end, the Committee has recommended that the NSW Government introduce a legislative provision requiring the owner of any building, in receipt of any State benefit, to make that building available to the NSWEC for use as a polling place on election day (Recommendation 1).

### *Postal voting*

The Committee heard that an ongoing issue with postal voting was the infrequency of mail services in remote areas, which left little room for delays or errors in the submitting and processing of Postal Vote Applications. In order to solve this problem, a stakeholder organisation recommended that the period between the close of nominations and polling day be extended to three weeks. However, the Committee agreed with NSWEC that consideration would have to be given to other electoral processes that might be impacted by an extended period and recommended instead that the NSWEC continue to promote alternatives for rural and remote voters, such as registered general postal voting, iVote and mobile voting (Recommendation 2).

*Pre-poll voting*

The Committee heard a range of views in relation to the availability of pre-poll voting to electors during election campaigns. Evidence received by the Committee encompassed enforcement of the requirements for pre-poll voting, the length of the pre-poll period, and whether pre-poll voting should be available to any voter that states that they cannot vote in person on election day. The Committee recognised that voters' lifestyles have evolved and that the electoral process should adapt to these changes so as to optimise accessibility. Consequently the Committee has recommended that the pre-poll application be simplified by dispensing with the current categories and allowing any voter not able to attend a polling place on election day to apply for pre-poll voting (Recommendation 3).

*Hospitals and declared institution voting*

A number of issues relating to hospitals and declared institution voting were identified during the inquiry. The Committee made particular note of the ongoing difficulties experienced by the NSWEC in identifying declared institutions in a timely manner. The NSWEC suggested that identification could be assisted by developing a central register of institutions. The Committee agreed with this approach, recommending that Ageing, Disability and Home Care, Department of Family and Community Services, assist the NSWEC with the timely identification of declared institutions for the purposes of elections (Recommendation 4).

*Information provided to voters*

At the 2011 election the NSWEC provided information to voters aimed at promoting voter awareness and increasing participation in a variety of formats and at various stages of the election campaign. The Committee heard that voter information was made available in community languages, as well as in accessible formats such as Easy English, AUSLAN and Braille. However, the Committee also noted evidence that more could be done to ensure that voters with special needs were appropriately informed in order for them to effectively participate in the election process. For example, stakeholder organisations suggested that AUSLAN interpreters should be made available to deaf and hearing-impaired voters on request, at specified booths; the NSWEC website should be modified to include "homeless" and "no fixed abode" as search terms, so that homeless voters are better able to access electoral information that is relevant to them; proactive outreach work to encourage participation by homeless voters should be undertaken by the NSWEC; and candidates and parties should do more to provide voter information (e.g. how-to-vote cards) in accessible formats. The Committee found that each of the above suggestions warranted further examination by the NSWEC and also recommended that the Commission facilitate a dialogue between disability advocacy groups and parties and candidates on the importance of providing voter information in accessible formats (Recommendation 5).

**Services for candidates and parties**

*Public servants contesting State elections*

The Committee heard that the conditions under which public servants may contest State elections under the *Public Sector Employment and Management Act 2002* were too restrictive. The Committee noted that, under the Act, public servants were only required to take leave without pay if they did not have sufficient paid leave to cover the election period, and

concluded that this requirement did not constitute an unreasonable constraint on individuals' right to contest an election.

#### *Party registration*

Some stakeholders submitted that the current administrative requirements for registering political parties were unnecessarily onerous and restricted the development of emerging parties. The current scheme requires 750 party members to declare their membership in writing to the NSWEC, payment of a \$2,000 registration fee, and registration at least 15 months prior to an election. Although the Committee acknowledged that the requirements did place an administrative burden on political parties, the Committee found that the current scheme was appropriate to achieving the outcome of preventing manipulation of the party registration system.

#### *Registration of electoral material*

The Committee heard that the regulations governing the content of registrable electoral material (how-to-vote cards and election-related handbills, pamphlets or notices) were overly complex; that registered material should be available to the public prior to an election; and that registered electoral material should be made more accessible at polling places on election day.

In relation to matters of regulation, the Committee was of the view that, wherever possible, the form and content of legislation should be simple in order to assist with understanding and compliance. Consequently, the Committee has recommended that the NSW Government amend the relevant sections of the *Parliamentary Electorates and Elections Act 1912* to simplify the registration requirements so that they are clear and precise (Recommendation 6).

In relation to matters of accessibility, the Committee supported the view that increased public access to registered electoral material would enable greater scrutiny and regulation of that material. The Committee has therefore recommended that the NSWEC publish registered electoral material at NSWEC offices and on its website, as soon as is practicable after the deadline for registration (Recommendation 7).

#### *Information sessions for candidates*

The NSWEC held information sessions for candidates in late 2010 and early 2011 on such subjects as recent changes to electoral legislation; electoral advertising; electoral material; voting; and funding and disclosure. The Committee heard anecdotal evidence that the standard of the information sessions was inconsistent and that the NSWEC should instigate a review of the procedures for the selection and training of staff presenting the sessions. While the Committee did not recommend a review of the NSWEC's processes, it did suggest that the Commission consider establishing a mechanism to enable participants to provide feedback on the Candidate Briefing Sessions.

#### *Interference with electoral material at polling places*

The Committee heard accounts of two separate incidents in which the display of compliant electoral material was interfered with by representatives of the owners of the venue being used as a polling place on election day. It was the NSWEC's and the Committee's view that venue owners should not obstruct the electoral process by, for example, removing or interfering with electoral material at polling places. Consequently, the Committee has

recommended that the NSW Government introduce legislation that applies penalties against the providers of premises to the NSWEC for the purposes of polling who interfere with the display of compliant electoral material (Recommendation 8).

#### *Electoral expenditure – Processing claims*

Significant legislative reforms were put in place in the lead up to the 2011 election placing certain restrictions on political donations and expanding the existing public funding scheme to reduce political parties' reliance on donations. A number of political parties submitted that they had experienced delays in having their claims for public funding processed and paid following the 2011 election. The Committee noted the issue and determined that it could be more comprehensively examined as part of its review of the *Parliamentary Electorates and Elections Act 1912* (excluding part 2) and the *Election Funding, Expenditure and Disclosures Act 1981*, which the Committee anticipates it will report on by April 2013.

#### *Counting procedures*

The Committee heard evidence that the NSWEC's procedure for counting Legislative Council votes was to only count 'above the line' votes on election night (with 'below the line votes' being counted at a later time), and that this procedure had resulted in an inaccurate early indication of an Independent candidate's percentage of the final vote. Although the Committee acknowledged the potential difficulties associated with the Legislative Council counting procedures, the Committee's view was that there was not a sufficient case for change due to the small percentage of 'below the line' votes cast at the 2011 election and the relatively few issues that arose as a result of the current arrangements.

The Committee also heard evidence on the NSWEC's procedure for conducting the Legislative Assembly two candidate preferred count, whereby the Commission selected the two party preferred candidates (the Labor and Coalition candidates) as the two candidates most likely receive the most number of votes in electoral districts that were won on first preference. The Committee heard that this approach concerned some Greens and Independent candidates that were not included in the two candidate preferred count in districts where they were one of the expected first two candidates, as it presented an inaccurate view of the actual performance of candidates and parties at the 2011 election. It was submitted that the NSWEC should, instead, conduct a full two candidate preferred count in every electoral district, thereby selecting the two candidates most likely to receive the most number of votes irrespective of party affiliation. The Committee commented that while it did not wish to prescribe particular counting procedures for the NSWEC, it would encourage direct consultations with stakeholders in order to gain a fuller understanding of their needs in advance of the 2015 election and also to provide stakeholders with a clearer understanding of the Commission's current practices and resources.

### **Innovations in electoral practices**

#### *SmartRoll*

Legislative change resulted in the implementation of the SmartRoll system ahead of the 2011 election, which enabled the NSWEC to automatically enrol, re-enrol and update the addresses of electors using data from other agencies. The NSWEC submitted that SmartRoll had the potential to make the NSW electoral roll significantly more accurate, and that the system had been very successful to date in enrolling 'missing voters' and updating the addresses of voters.

The Committee heard an alternative view that it was not the right of the State to put people on the electoral roll and that there were concerns about the reliability of the data collected and the accountability of the system.

The Committee found that SmartRoll was a significant initiative that provided an effective means of facilitating and increasing participation in the electoral process; however it also noted the concerns expressed about the system and encouraged the NSWEC to investigate any issues that arose as a result of the implementation of SmartRoll and to consult with relevant stakeholders to resolve those issues.

#### *iVote*

A technology assisted voting system, known as iVote, was implemented by the NSWEC for the 2011 election, enabling eligible groups of electors (people with blindness or low vision, people with a disability, people who live 20 kilometres or more from a polling place, and people who were going to be out of NSW on election day) to cast a ballot by telephone or via the internet.

Stakeholders generally found iVote to be an effective means of increasing the accessibility of the electoral process to certain voters who might not have otherwise been able to participate. The Committee also noted stakeholder views calling for the retention of the iVote telephone option for all by-elections as well as State elections, and for iVote to be made available in polling booths. The Committee commented that iVote technology had been effective in enhancing voter accessibility, but acknowledged that the provision of options such as the telephone option for by-elections and iVote in polling booths was not always viable and cost effective. The Committee commended the NSWEC for its ongoing consultations with peak bodies representing disability groups in seeking to identify solutions for the 2015 election.

The Committee heard evidence that the current system of counting iVotes in the same category as postal votes should be discontinued, as electronic voting should be recognised as a distinct 'vote type'. The Committee concurred with this view and has consequently recommended that the NSW Government considers introducing legislation enabling technology assisted voting results to be counted separately to postal votes at State elections and by-elections (Recommendation 9).

It was submitted that the provision of iVote should be extended to by-elections for those electors who will be more than 20 kilometres outside their electorate on election day. The Committee agreed with this suggestion on the basis that voters do not have the option of absent voting at a polling place in another electoral district during a by-election. Consequently, the Committee has recommended that the NSW Government considers introducing legislation to enable electors at a by-election, to use technology assisted voting if they are to be more than 20 kilometres outside their electorate on polling day (Recommendation 10).

The Committee considered a range of evidence and numerous views about possible vulnerabilities inherent in iVote, including those related to the verifiability of ballots cast and the transparency of the system's development. Noting the limitations of this inquiry as a means of addressing the specific technical issues that were raised, the Committee concluded that its comments should focus on the issues of verifiability and transparency. A key criticism of iVote at the 2011 election was that voters using the system were unable to verify that their vote was recorded as they intended it. The Committee agreed with this view and, noting the NSWEC's recommendation to the same effect, has recommended that the NSWEC develop and implement voter preference verification for voters using iVote at the 2015 election

(Recommendation 11). On the issue of transparency, the Committee noted the differing stakeholder views as to the best way to evaluate electronic voting systems, that being via expert review under non-disclosure agreements, or via open review through unlimited access to the system's source code. In the event that the NSWEC adopts the expert review approach, the Committee has encouraged the Commission to carefully consider the form of the non-disclosure agreements, so that independent expert evaluation is supported and the right balance is struck between confidentiality and inclusivity.

### **Future options for voting**

#### *Fixing a date for the issue of the writs*

Since the introduction of fixed-term parliaments in 1995, NSW has conducted elections with fixed dates for the dissolution of the Legislative Assembly and the day of polling, but with a variable date for the issue of the writs. The Committee heard evidence that there was no reason to retain a variable writ date as this only caused administrative and logistical difficulties for the NSWEC (i.e. it cannot publicise the date for the close of rolls or the close of nominations as these dates cannot be set until the writ is issued). This was a view which was shared by the NSWEC. After due consideration the Committee has recommended that the NSW Government introduce legislation to fix the date for the issue of writs for a normal quadrennial election, that the provisions should also fix the date for the close of nominations, and, when the date for a quadrennial election is varied or an early dissolution occurs, then the date should be similarly fixed (Recommendation 12).

#### *Voter identification*

The Committee considered the matters of multiple voting by an individual and impersonating another elector for the purposes of voting, and noted evidence from the NSWEC which stated that instances of these offences had occurred, that they were difficult to prosecute, and that they had the potential to lead to fraud. The Committee determined that the risks of multiple voting and voter impersonation would be mitigated by requiring voters to provide proof of their identity, and also by investigating the feasibility of an electronic system to mark-off voters for future elections. Although the Committee was not unanimous in coming to this conclusion, the Committee has recommended that the NSW Government gives consideration to introducing legislation to require that voters provide proof of identity at the time of casting their vote (Recommendation 13). The Committee further recommended that the NSWEC investigate and report back to the Committee on the future use of an electronic system to mark-off voters (Recommendation 14).

#### *An alternative version of the Legislative Council ballot paper*

The Committee heard that there may be a benefit in offering voters an alternative to the current Legislative Council ballot paper of a new, smaller ballot paper that only lists the parties or groups. The Committee considered evidence that a smaller ballot paper had the advantages of being able to be scanned using optical recognition technology (something that is not possible with the current ballot paper because of its size), resulting in a quicker and cheaper count, and that voters had the choice of not having to contend with large, unwieldy ballot papers. However, the Committee noted the evidence of the NSWEC that the benefits would be offset by additional costs such as those associated with printing two sets of ballot papers and with educating voters and election officials about the choices on offer. The Committee also heard that there would have to be a re-examination of the way in which unaffiliated groups

are listed on the smaller ballot paper. As a result, the Committee concluded that, at present, there was not a sufficient case to support a recommendation in relation to the introduction of an alternative ballot paper, but that it would keep a watching brief on the matter.

#### *Moratorium on significant electoral changes*

An inquiry stakeholder suggested that there would be a benefit to political parties and other affected agencies if a moratorium on significant electoral changes was put in place one year out from a State election, as it would ensure that appropriate systems and procedures could be implemented well in advance of an election. Although the Committee understood that electoral changes did impact on election stakeholders' administration and planning, it did not support restricting the Parliament's capacity to deliberate and legislate on electoral matters by way of a moratorium.

#### **Report structure**

**Chapter one** provides the background to the inquiry, its terms of reference and how the inquiry was conducted. The chapter also provides a brief outline of the significant legislative reforms to the electoral acts that were enacted in the lead up to the 2011 election and a summary of the key issues contained in the NSWEC Report.

**Chapter two** examines the services that were provided to electors by the NSWEC in respect of the 2011 election.

**Chapter three** considers the services that were provided to candidates and parties by the NSWEC in respect of the 2011 election.

**Chapter four** looks at the services that were provided to electors by the NSWEC that were considered to be innovations, both in terms of their performance at the 2011 election and in their potential use for future elections.

**Chapter five** considers proposals to change the way in which State elections are conducted in the future.



# List of Findings and Recommendations

## RECOMMENDATION 1 \_\_\_\_\_ 11

The Committee recommends that the NSW Government introduces a legislative provision requiring the owner of any building, in receipt of any State benefit, to make that building available to the NSW Electoral Commission (NSWEC) for use as a polling place on an election day.

## RECOMMENDATION 2 \_\_\_\_\_ 15

The Committee recommends that the NSWEC continues to promote awareness of registered general postal voting and promotion of those options such as iVote and mobile voting which are available to rural and remote voters.

## RECOMMENDATION 3 \_\_\_\_\_ 18

The Committee recommends that the NSWEC undertake a review of the pre-poll application process. This review should include consideration as to:

- whether the current categories for applicants should be simplified to allow any voter, who cannot attend a polling place on polling day, to apply for pre-poll voting;
- what the impact of any recommended changes to the pre-poll application process might be on the resources of the NSWEC and other stakeholders (such as the political parties); and
- whether any recommended changes to the pre-poll application process might require adjustments to be made to the pre-poll voting period.

## RECOMMENDATION 4 \_\_\_\_\_ 20

The Committee recommends that Ageing, Disability and Home Care, Department of Family and Community Services, assists the NSWEC in developing means for the timely identification of declared institutions for the purposes of elections.

## RECOMMENDATION 5 \_\_\_\_\_ 23

The Committee recommends that the NSWEC facilitates a dialogue between disability advocacy groups and parties and candidates, on the importance of providing voter information in accessible formats.

## RECOMMENDATION 6 \_\_\_\_\_ 28

The Committee recommends that the NSW Government amend sections 151F, 151G and 151GA of the *Parliamentary Electorates and Elections Act 1912* to simplify the requirements for the registration of electoral material so they are clear and precise.

## RECOMMENDATION 7 \_\_\_\_\_ 29

The Committee recommends that the NSWEC publish registered electoral material at NSWEC offices and on its website, as soon as is practicable after the deadline for registration, with a view to increasing public access to this material during future elections.

**RECOMMENDATION 8** \_\_\_\_\_ 32

The Committee recommends that the NSW Government introduce legislation that applies penalties against providers of premises to the NSWEC for the purposes of polling who interfere with the display of compliant electoral material.

**RECOMMENDATION 9** \_\_\_\_\_ 45

The Committee recommends that the NSW Government considers introducing legislation to amend the *Parliamentary Electorates and Elections Act 1912* to enable technology assisted voting results to be counted separately to postal votes at State elections and by-elections.

**RECOMMENDATION 10** \_\_\_\_\_ 45

The Committee recommends that the NSW Government considers introducing legislation to amend the *Parliamentary Electorates and Elections Act 1912*, to enable electors at a by-election, to use technology assisted voting if they are to be more than 20 km outside their electorate on polling day.

**RECOMMENDATION 11** \_\_\_\_\_ 52

The Committee recommends that the NSWEC develop and implement voter preference verification for voters using iVote at the 2015 State election.

**RECOMMENDATION 12** \_\_\_\_\_ 54

The Committee recommends that the NSW Government introduce legislation to amend Section 68 of the *Parliamentary Electorates and Elections Act* to fix the date for the issue of writs for a normal quadrennial election.

The provisions should also fix the date for the close of nominations, or

Where Section 24B(4) is invoked to vary the date for a quadrennial election, or an early dissolution occurs, the date should be similarly fixed.

**RECOMMENDATION 13** \_\_\_\_\_ 57

The Committee recommends that the NSW Government gives consideration to introducing legislation to require that voters provide proof of identity at the time of casting their vote.

**RECOMMENDATION 14** \_\_\_\_\_ 57

The Committee recommends that the NSWEC investigate and report back to the Committee on the future use of an electronic system to mark-off voters.



# Chapter One – Introduction

## CONDUCT OF THE INQUIRY

- 1.1 The Joint Standing Committee on Electoral Matters (the Committee), which was initially established in 2004, was re-appointed for the 55<sup>th</sup> Parliament on 22 June 2011. The resolution appointing the Committee also contained the terms of reference for the Committee's inquiry into the Administration of the 2011 NSW Election.<sup>1</sup>

### Terms of Reference

- 1.2 The terms of reference directed the Committee to inquire into and report upon the administration of the 2011 election with respect to the *Parliamentary Electorates and Elections Act 1912* (other than Part 2 relating to the distribution of electorates), the *Election Funding, Expenditure and Disclosures Act 1981* and provisions of the *Constitution Act 1902* relating to procedures for and conduct of the elections of Members of the Legislative Assembly and Legislative Council (other than sections 27, 28 and 28A relating to the distribution of electorates).
- 1.3 Although the resolution appointing the Committee initially provided for it to report on the outcome of the inquiry within 12 months, this reporting date was later extended to 18 months.<sup>2</sup>

### Submissions

- 1.4 An advertisement calling for submissions was placed in the *Sydney Morning Herald* on 21 December 2011. The Committee also wrote to relevant individuals, organisations and political parties to inform them of the Inquiry and invite them to make a submission.
- 1.5 In total fifteen submissions were received from individuals, political parties, advocacy groups and research organisations.<sup>3</sup>

### Public hearings

- 1.6 The Committee held two public hearings as part of the Inquiry, on 15 June and 29 June 2012. Transcripts of the public hearings and documents provided in evidence to the Committee are available on the Committee's website.<sup>4</sup>
- 1.7 The Committee wishes to express its gratitude to all the groups or individuals who made a submission or gave evidence in relation to the Inquiry.

---

<sup>1</sup> Legislative Assembly Votes and Proceedings, No. 23, Wednesday 22 June 2011, entry No. 12 (7), and Legislative Council Minutes of Proceedings, No. 23, Wednesday 22 June 2011, entry No. 30 (5).

<sup>2</sup> Legislative Assembly Votes and Proceedings, No. 73, Tuesday 27 March 2012, entry No. 12, and Legislative Council Minutes of Proceedings, No. 73, Wednesday 28 March 2012, entry No. 23.

<sup>3</sup> A list of submissions is provided at Appendix One of this report.

<sup>4</sup> A list of witnesses is provided at Appendix Two of this report.

### Other inquiries being undertaken by the Committee

- 1.8 Following the establishment of the Inquiry, the Committee resolved to undertake two further inquiries.
- 1.9 Firstly, on 3 April 2012, following a referral by the Premier, the Hon. Barry O'Farrell MP, the Committee resolved to undertake a Review of the *Parliamentary Electorates and Elections Act 1912* (excluding part 2) and the *Election Funding, Expenditure and Disclosures Act 1981*. This inquiry is referred to as the Review of the Electoral Acts Inquiry.
- 1.10 Secondly, on 13 June 2012, the Committee resolved to undertake an Inquiry into Administrative funding for minor parties, after the matter was referred to the Committee by the Premier.
- 1.11 While the focus of the report is the administration of the 2011 election, it is recommended that it be read in conjunction with the Committee's report on Administrative funding for minor parties (November 2012) and its forthcoming report on the Review of the Electoral Acts (April 2013), in order to attain a full understanding of the Committee's position on the electoral framework in NSW.
- 1.12 Following the commencement of the Review of the Electoral Acts Inquiry, the Committee wrote to those individuals or groups who had made submissions to the Administration of the 2011 NSW Election Inquiry, to notify them and to invite them to also make a submission to that Inquiry.
- 1.13 Those individuals or groups were also given the option of notifying the Committee should they consider that their submission to the Administration of the 2011 NSW Election Inquiry, or parts thereof, was relevant to the terms of the reference for the Review of the Electoral Acts Inquiry.
- 1.14 In addition to taking evidence in relation to this inquiry, the Committee also used the two public hearings in June to take evidence in relation to the Review of the Electoral Acts Inquiry.

### LEGISLATIVE REFORMS BEFORE THE 2011 ELECTION

- 1.15 Significant legislative reforms to the *Parliamentary Electorates and Elections Act 1912* and the *Election Funding, Expenditure and Disclosures Act 1981* were put in place in the lead up to the 2011 election.<sup>5</sup>

### Enrolment and voting processes

- 1.16 The *Parliamentary Electorates and Elections (Automatic Enrolment) Act 2009*<sup>6</sup> amended the *Parliamentary Electorates and Elections Act 1912* to allow the NSWEC to gather information from public sector agencies to automatically enrol, re-enrol or update the addresses of eligible electors.
- 1.17 The amending Act also:

---

<sup>5</sup> NSW Electoral Commission, *Report on the Conduct of the NSW State Election 2011*, November 2011, pp. 21-22.

<sup>6</sup> The Act was passed by the Parliament on 1 December 2009 and assented to on 14 December 2009.

- allowed eligible electors to enrol and provisionally vote on election day;
- enabled the centralised processing of postal vote applications and allowed such applications to be made online;
- allowed "ordinary" voting (i.e. dispensing with declaration envelopes) for electors at pre-poll voting places and declared institutions within the district for which the elector was enrolled; and
- increased the penalty for failing to vote from \$25 to \$55, bringing NSW State elections in line with local government elections and other jurisdictions.<sup>7</sup>

1.18 The *Parliamentary Electorates and Elections Amendment Act 2010*<sup>8</sup> amended the *Parliamentary Electorates and Elections Act 1912* to allow eligible electors to use iVote (internet and telephone technology) to cast a vote at the 2011 election.<sup>9</sup>

### Political donations and public funding of election campaigns

1.19 The *Election Funding and Disclosures Amendment Act 2010*<sup>10</sup> amended the *Election Funding, Expenditure and Disclosures Act 1981* to effect reforms to the provisions governing political donations, including bans, caps and other restrictions on political donations, and increased public funding of election campaigns.<sup>11</sup>

## THE NSW ELECTORAL COMMISSION'S REPORT ON THE CONDUCT OF THE 2011 ELECTION

1.20 On the 24 November 2011, the Premier tabled the NSWEC Report on the Conduct of the NSW State Election 2011 (the 'NSWEC Report') in the Parliament.

1.21 By way of background, this introductory chapter concludes with a summary of some of the elements of that report. These are:

- the NSWEC's key issues for the 2011 election;
- the NSWEC's key achievements for the 2011 election; and
- the NSWEC's proposals for reviewing the *Parliamentary Electorates and Elections Act 1912*.

## KEY ISSUES

### Challenges to Election outcomes

1.22 Ms Pauline Hanson contested the 2011 election as a candidate for the NSW Legislative Council. On 5 May 2011 Ms Hanson lodged a petition to the Court of Disputed Returns disputing the validity of the last two successful Legislative Council candidates. The petition was dismissed as the evidence was found to

---

<sup>7</sup> *Parliamentary Electorates and Elections (Automatic Enrolment) Act 2009*.

<sup>8</sup> The Act was passed by the Parliament on 21 April 2010 and assented to on 28 April 2010.

<sup>9</sup> *Parliamentary Electorates and Elections Amendment Act 2010*.

<sup>10</sup> The Act was passed by the Parliament on 11 November 2011 and assented to on 16 November 2011.

<sup>11</sup> *Election Funding and Disclosures Amendment Act 2010*.

have been fabricated. The Court subsequently recommended that the legal costs of the petitioner (Ms Hanson) and the respondents be paid by the Crown.<sup>12</sup>

- 1.23 Mr Gordon Bradbery contested the 2011 election as an Independent candidate for the seat of Wollongong for the Legislative Assembly. On 18 May 2011 Mr Bradbery lodged a petition to the Court of Disputed Returns disputing the validity of the election of the endorsed candidate for the Labor Party. The petition was dismissed due to a failure to state the occupations of the attesting witnesses. The Court subsequently recommended that the legal costs of the petitioner (Mr Bradbery) and the respondent be paid by the Crown.<sup>13</sup>

### Enrolment by electors

- 1.24 The NSWEC Report notes that the numbers of electors on the electoral roll for the 2011 election was 4,635,810 and that, by the NSWEC's estimation, 400,000 eligible NSW citizens were not on the roll (approximately 10% of eligible citizens). The NSWEC notes that that approximately 500,000 eligible voters move house each year, but do not update their enrolment details.<sup>14</sup>
- 1.25 The NSWEC's awareness of the growing gap between the numbers of NSW citizens enrolled and those eligible to enrol but not on the Australian Electoral Commission's (AEC) Enrolment Register resulted in the establishment of the SmartRoll initiative, as well as legislative change enabling citizens to enrol and provisionally vote on election day.<sup>15</sup> The effectiveness of SmartRoll is examined in paras 4.4 - 4.18 of this report.

### Trends in early voting

- 1.26 In the 2011 election almost three quarters (74.3%) of votes were cast on election day in the elector's own electoral district (or possibly at the Sydney Town Hall). This represents the lowest election day voting attendance since 1995.<sup>16</sup>
- 1.27 The trend of electors using various forms of early voting has been on the incline since the 1995 election. In the 2011 election pre-poll voting (including pre-poll, postal, declared institutions and iVote) comprised at least 15.4% of total votes, and nearly one in ten voters (9.5%) voted out of their electoral district and were counted as 'absent votes'.<sup>17</sup>

### 'Enrol and vote' on election day

- 1.28 Enrolment and voting on election day was available for the first time for the 2011 election. Eligibility was subject to appropriate proof of identity and, where relevant, citizenship. In its report, the NSWEC states that, as a result of election

---

<sup>12</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, pp. 49-50.

<sup>13</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, pp. 50-51.

<sup>14</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, pp. 51-52.

<sup>15</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 52.

<sup>16</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 62.

<sup>17</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 63.

day enrolment measures, the notion of a 'close of roll' is no longer relevant in NSW.<sup>18</sup>

### Communication campaign

- 1.29 The NSWEC commenced a broad communication campaign on 21 February 2011, via television, radio, the internet and liaison with community groups, to promote awareness of the 2011 election and to maximise elector participation.<sup>19</sup>
- 1.30 For the first time the NSWEC incorporated social media and digital advertising into its communication campaign. The NSWEC's investment in social media was approximately \$32,000 and its investment in digital advertising \$369,000. The NSWEC Report states that these new forms of interaction were very effective in terms of maximising the distribution of election messages and in the nature and quality of responses that they prompted.<sup>20</sup>

### KEY ACHIEVEMENTS

- 1.31 In its report, the NSWEC states that it conducted a very successful election 2011, overcoming such challenges as late enactment of legislation to deliver initiatives such as SmartRoll and iVote. The NSWEC's report states "These advances have put NSW at the forefront of electoral administration nationally and in the case of iVote, internationally."<sup>21</sup>
- 1.32 The report notes that it met the great majority of its performance targets in the following key areas:
- maximising enrolment and participation;
  - counting of votes and provision of results;
  - communicating democratic rights and responsibilities; and
  - organisation capacity.<sup>22</sup>

### Financial management

- 1.33 The NSWEC Report notes that it demonstrated responsible financial management for the 2011 election, with an operational spend over two years of \$40.917 million against an allocated budget of \$41.153 million (a below budget variation of 0.6%). The Report also notes that its capital program was responsibly acquitted, with expenditure over three years being \$18.741 million against an allocated budget of \$19.600 million (a below budget variation of 4.4%).<sup>23</sup>

---

<sup>18</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 66.

<sup>19</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 69.

<sup>20</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 72.

<sup>21</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 180.

<sup>22</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 180.

<sup>23</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 180.



## Feedback

The NSWEC Report notes that feedback received from stakeholders in relation to the services provided by the NSWEC was consistently positive. The NSWEC received consistently high ratings from the following groups:

- electors, in relation to information received, pre-poll and election day voting services, iVote and SmartRoll, provision of results, and on the services provided at the Sydney Town Hall and Greenacre polling places;
- media representatives, in relation to the quality, timeliness and accessibility of information provided by the NSWEC;
- candidates, who largely indicated that they felt the NSWEC delivered on its *Service Commitments NSW State Election 2011* charter; and
- election staff, who indicated that they were satisfied with recruitment, training, election day support and supplies.<sup>24</sup>

1.34 The NSWEC Report notes that feedback received from stakeholders about the NSWEC's impartiality in respect of its administration of the 2011 election was particularly positive:

Such consistently high scores on 'impartiality' provide confidence to the NSW Parliament and the community that the democratic process is being properly administered by the NSWEC.<sup>25</sup>

## Performance targets and service standards

1.35 The NSWEC Report states that for the first time it released performance targets and service standards ahead of the 2011 election. This 'rigorous framework', according to the NSWEC, represents a major advance in terms of accountability in electoral administration and makes NSW unique among comparable Australian jurisdictions.<sup>26</sup>

1.36 The Report notes that, overall, the NSWEC performed very well against the targets that were set down in the *Service Commitments NSW State Election 2011* charter and *Strategy for Conduct of the NSW State Election 2011*, with 18 of the 25 performance targets (72%) being met or exceeded. In instances where performance targets were not met, pages 185 to 188 of the NSWEC Report provides details of the actions the NSWEC intends to undertake to improve its performance in preparation for the next NSW election.<sup>27</sup>

---

<sup>24</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, pp. 180-181.

<sup>25</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 180.

<sup>26</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 181.

<sup>27</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, pp. 182-188.

## THE NSW ELECTORAL COMMISSION'S PROPOSALS FOR REVIEWING THE *PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912*

- 1.37 The NSWEC Report states that the NSWEC will recommend a comprehensive review of the *Parliamentary Electorates and Elections Act 1912* to be conducted by the Joint Standing Committee on Electoral Matters.<sup>28</sup>
- 1.38 According to the NSWEC, the review has been necessitated by a series of ad hoc amendments to the 100 year old act resulting in what is a complex and outdated piece of legislation that is ill-equipped to adapt to a rapidly changing electoral environment.
- 1.39 The report describes the existing legislation as "...on the whole, overly prescriptive, anachronistic and an obstacle to re-engineering existing electoral procedures in line with advances in technology."<sup>29</sup>
- 1.40 The NSWEC report states that, ideally, any primary legislation that is developed as a result of a comprehensive review should enshrine all essential electoral principles at a high level, and in a simple and clear way. More detailed operational matters should then be developed in accordance with those principles and outlined in procedures determined and published by the NSWEC and, as necessary, in subordinate legislation.<sup>30</sup>
- 1.41 It is the NSWEC's view that standard operating procedures should not be legislated. Instead, developing and adopting administrative arrangements should be the business of the electoral administration.<sup>31</sup>
- 1.42 As noted previously on page 2 of this report the Committee resolved to undertake a review of the *Parliamentary Electorates and Elections Act 1912* (excluding part 2) and the *Election Funding, Expenditure and Disclosures Act 1981* on 3 April 2012, after the matter was referred to it by the Premier.

---

<sup>28</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 190.

<sup>29</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 191-192.

<sup>30</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 192.

<sup>31</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 192.

## Chapter Two – Conduct of the Election: Services for Electors

- 2.1 Commentary on the services that the NSWEC provided to electors at the 2011 election are, for the purposes of this report, considered across two chapters.
- 2.2 This chapter considers those 'traditional' services which were a continuation (albeit with refinements) of services provided by the NSWEC at previous elections. These include services such as the provision of polling places and early voting services such as pre-poll and postal voting.
- 2.3 Chapter Four then examines those services that were innovations by the NSWEC at the 2011 election that were targeted to maximising elector enrolment (SmartRoll) and providing greater choice and convenience in voting services (iVote).

### POLLING PLACES

- 2.4 The NSWEC established 2,627 polling places across NSW for the 2011 election, an average of 28 polling places per district, with Sydney Town Hall operating as the polling place for all electoral districts.<sup>32</sup>
- 2.5 The NSWEC's survey of electors found high levels of voter satisfaction in relation to queuing times (88%), the services provided by electoral staff (89%) and polling places in general (89%).<sup>33</sup>
- 2.6 The Electoral Commissioner, Mr Colin Barry, informed the Committee that the work undertaken by the NSWEC, in developing a service charter and conducting research and analysis around trends in polling places, had been effective, particularly in relation to reducing queuing times:
- I am absolutely pleased to be able to say that in the 25 years that I have been involved in electoral administration this was the first election that I was not inundated with complaints about queues at polling places... I do think that we actually did a good job in terms of reducing queues at polling places - we will never eliminate them but we certainly did a lot better than what we did in 2007.<sup>34</sup>
- 2.7 During the course of the inquiry accessibility was the main issue which was raised in relation to polling places, particularly for those electors with a disability.

### Accessibility of polling places

- 2.8 At the 2011 election the NSWEC provided at least one wheelchair accessible polling place in every electoral district and used an access rating system to provide detailed information for electors on the access provided at each polling place.

---

<sup>32</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 125.

<sup>33</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 132.

<sup>34</sup> Mr Colin Barry, Commissioner, NSWEC, *Transcript of evidence*, 15 June 2012, p. 2.

2.9 The election also saw a continuation of initiatives, such as tabletop voting screens, which were introduced for the 2007 election, as well as the introduction of iVote, which enabled groups of voters to cast their ballot via telephone or the internet.<sup>35</sup>

2.10 However, the Committee heard evidence from Ms Fiona Given, Policy Officer, Australia Centre for Disability Law, that access was still a significant problem for voters with a disability, particularly given the age of many polling places.

2.11 The Australian Centre for Disability Law submitted that NSW had a legal duty to provide accessible voting for people with disability under the *Disability Discrimination Act 1992 (Cth)* (DDA) and the United Nations Convention on the Rights of Persons with Disabilities (CRPD), and that all polling booths should be accessible via public transport:

...all polling booths ought to be fully accessible in accordance with the *Disability (Access to Premises – Buildings) Standards 2010*. This encompasses hearing augmentation.

It is also imperative that polling venues be close to accessible transport nodes. An accessible building may be of no use if the cost of getting there is prohibitively expensive, such as having to get an accessible taxi because of the unavailability of accessible public transport.<sup>36</sup>

2.12 Ms Susan Thompson, Advocate, Vision Australia, also cited Australia's obligations under the United Nations CPRD and the *Disability Discrimination Act*:

...the Disability Discrimination Act enshrines principles of dignity and equity and makes it unlawful for people with disabilities to be treated less favourably, and that would include in the area of voting.<sup>37</sup>

2.13 The submission from The Nationals cited a number of complaints received concerning pre-poll and election day polling places with inadequate access for persons with mobility impairment.<sup>38</sup> While The Nationals recognised the difficulty of providing easy access at all polling places, Mr Benjamin Franklin, State Director, The Nationals, informed the Committee that accessibility was an issue that could be particularly acute in rural electorates:

...in a small town where there is only one polling booth we would like the Electoral Commission to be mindful of the need for easy access, and ideally disabled access, for those people at the booth and to be very conscious of that. We got a few anecdotal comments that in some booths the access was not there and it was difficult.

...In the city it does not really matter. You can just drive another kilometre and get to a different polling booth that does have disabled access. But in a country town, if

---

<sup>35</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 111.

<sup>36</sup> Australian Centre for Disability Law, *Submission No. 9*, p. 2.

<sup>37</sup> Ms Susan Thompson, Advocate, Vision Australia, *Transcript of evidence*, 15 June 2012, pp. 37-38.

<sup>38</sup> The Nationals, *Submission No. 11*, p. 10.

you have only one polling booth and the next polling booth is 50 kilometres away, it is a very important issue.<sup>39</sup>

2.14 In responding to the points raised by stakeholders in relation to the accessibility of polling places, the NSWEC explained that it always sought venues which were accessible and close to public transport. However, as the NSWEC does not own any of the venues used for polling places, factors such as the levels of access and the proximity to public transport were beyond its control. Additionally, choice was limited by which venues were available for leasing/hiring at the time of an election and the period of time required for hire.<sup>40</sup>

2.15 The Commissioner recommended the adoption of a Victorian legislative provision, requiring any building in receipt of State benefits to be available for use on election day:

Unfortunately, many of the buildings that the Commission uses are not suitable for people with a disability. I will recommend to the Committee that the legislation be changed to pick up a provision that exists in the Victorian elections legislation that requires the owner of any building who receives any benefit from the State to be required to make their building - that is, a church hall, a private school or a council building - available to the Commission for use on election a day and that the Commission reimburse the owner of the building for the direct costs associated with heating, lighting, power and cleaning. The Commission found that in the 2011 State election quite a number of organisations were gouging - that is the only word I can use - with regard to the charges they wanted to impose for the use of their building.<sup>41</sup>

2.16 The Victorian provision enables the Victorian Electoral Commission (VEC) to use as a voting centre, any room or hall in a prescribed premises with 7 days' notice. A prescribed premises under the section means a school or building that is not used exclusively for religious services and that is supported wholly, or in part, by public funds; or a perpetual endowment; or has been built with, or is supported wholly or in part by, a grant from the Consolidated Fund.<sup>42</sup>

### Changes to the location of polling places

2.17 An issue raised by the Christian Democratic Party in their submission, was the problems which arose when the location of a polling place was changed close to the date of an election:

I know locations may become unavailable due to changed views of the owner of the location but with fixed-date elections there should be sufficient time to arrange polling booths well in advance.

---

<sup>39</sup> Mr Benjamin Franklin, State Director, The Nationals, *Transcript of evidence*, 29 June 2012, p. 24.

<sup>40</sup> NSW Electoral Commission and Election Funding Authority, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 9 and p. 13.

<sup>41</sup> Mr Colin Barry, Commissioner, NSWEC, *Transcript of evidence*, 15 June 2012, p. 4.

<sup>42</sup> See s67 of the *Electoral Act 2002* (Vic).

If the EC determines that a Booth should be closed due to lack of staff or better management of its resources, then this needs to be managed in a timely manner and advice given to all affected parties as quickly as possible.<sup>43</sup>

2.18 The Christian Democrats recommended that the NSWEC have a register of contacts for both political parties and candidates that allows it to advise polling place changes in an expeditious manner.

2.19 The NSWEC responded to this suggestion:

It is the NSWEC's preference to have no changes to polling venues once they have been confirmed. Any changes that occur at the eleventh hour are due to circumstances beyond the control of the NSWEC.<sup>44</sup>

2.20 It noted that the NSWEC had sent bulletins to all registered political parties before and during the election and that those bulletins included information on any changes to pre-poll and polling places.

#### *Committee comment*

2.21 The Committee is pleased to note that the NSWEC was able to provide a fully accessible polling place in each electorate and an accessibility rating system for all its polling places.

2.22 However, on the basis of the evidence that the Committee received, it is clear firstly that more must be done to improve access at polling places, particularly in rural areas; and secondly that the ability of the NSWEC to make those improvements would appear to be constrained by a lack of suitable venues for polling places during election periods.

2.23 To this end, the recommendation from the NSWEC to adopt a Victorian legislative provision, requiring any building in receipt of State benefits to be available for use on election day, would appear to have merit.

2.24 Increasing the number of venues available to the NSWEC to use as polling places should enhance its ability to select venues that are accessible and may also enable the NSWEC to choose venues which are least vulnerable to the kind of eleventh hour changes which cause difficulties for voters, parties and administrators alike.

2.25 It seems reasonable to the Committee that those buildings in receipt of a State benefit should, if required, be available for the very important public purpose of conducting an election.

## RECOMMENDATION 1

**The Committee recommends that the NSW Government introduces a legislative provision requiring the owner of any building, in receipt of any State benefit, to**

---

<sup>43</sup> Christian Democratic Party, *Submission No. 5*, p. 7.

<sup>44</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 5.

**make that building available to the NSW Electoral Commission (NSWEC) for use as a polling place on an election day.**

## EARLY VOTING SERVICES

2.26 The NSWEC provides the following services to enable certain groups of electors to lodge their vote prior to election day:

- postal voting;
- pre-poll voting;
- mobile voting;
- hospitals and declared institutions voting;
- absent voting;
- airport and cruise ship voting;
- Antarctica voting;
- Defence Force voting;
- interstate and overseas voting; and
- technology assisted voting (iVote).<sup>45</sup>

2.27 During the course of the Inquiry the main issues on which the Committee received evidence were postal and pre-poll voting, hospitals and declared institutions voting, and iVote. As noted above, consideration of iVote is undertaken in Chapter Four of this report.

## Postal Voting

2.28 Certain voters, unable to attend a polling place, may make an application to the NSWEC to cast a postal vote.<sup>46</sup> At the 2011 election, 317,216 applications for postal voting were received, of which 245,295 were returned and accepted in the count.<sup>47</sup>

2.29 For The Nationals, an ongoing problem with postal voting was the infrequency of mail services in remote areas which left little room for delay or error in the submission or processing of Postal Vote Applications.

2.30 The Nationals noted that this had been an ongoing problem at successive elections and recommended extending the period between the close of nominations and polling day to at least three weeks:

At the moment we have had a number of stories of concern from electors in both Murray-Darling and Barwon who only have a weekly delivery of mail. If they are

---

<sup>45</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 117.

<sup>46</sup> See sections 114A and 114AA of the *Parliamentary Electorates and Elections Act 1912*.

<sup>47</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 64.

taking a postal vote it is very difficult for them to apply for the postal vote, to receive it back and then to send it back in the appropriate time. That is why we would ask, although we still encourage that pre-polling only stay at two weeks; but the close of nominations is three weeks or more.<sup>48</sup>

- 2.31 The NSWEC did not disagree that an extension of the period between the close of nominations and polling day would assist voters in rural areas to receive and return their ballot papers in time. However, it advised that due consideration would need to be given to any other electoral processes which may be impacted by an extended period:

...the introduction of iVote offers a more reliable (timewise) and efficient form of voting for those electors in remote locations.<sup>49</sup>

- 2.32 Another issue for The Nationals in relation to postal voting, was that the standard Postal Vote Application form contained a pre-filled "02" at the beginning of the field for an elector's home phone number. As electors near the State's borders in the electorates of Albury, Barwon, Lismore, Murray-Darling, Northern Tablelands and Tweed have home phone numbers with 03, 07 and 08 area codes, The Nationals recommended that Electoral Commission forms not include any pre-filled area code information in phone number fields.<sup>50</sup>

- 2.33 The NSWEC informed the Committee that it would take this recommendation into consideration when developing the fields for future Postal Vote Application forms.<sup>51</sup>

- 2.34 Postal Vote Applications were also the subject of recommendations from the Christian Democratic Party and The Greens. Both parties recommended that it be an offence for any person to encourage voters to return a completed application form to anyone other than the NSWEC, with the Christian Democratic Party questioning why parties adopted the practice:

...The bit that is concerning us at present is that political parties are sending out forms or documentation to voters to enable them to do a postal vote. That is okay if it stopped there but the return address is back to the party that has sent them out. One has got to stop and ask: Why does that party want them back rather than telling them to send it straight back to the Electoral Commission?<sup>52</sup>

- 2.35 The Christian Democrats expressed concerns that the process might increase the illegitimate use of postal voting and be used to improperly influence voters:

...there should be no hint of collusion of EC officers or the use of Electorate Offices for Party Political purposes, such as harvesting information about Postal Votes in an attempt to influence the outcome of an election.

---

<sup>48</sup> Mr Benjamin Franklin, State Director, The Nationals, *Transcript of evidence*, 29 June 2012, p. 24.

<sup>49</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 12.

<sup>50</sup> The Nationals, *Submission No.11*, pp. 4-5.

<sup>51</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 12.

<sup>52</sup> Mr Leighton Thew, Acting State Manager, Christian Democratic Party, *Transcript of evidence*, 29 June 2012, p. 3.



JOINT STANDING COMMITTEE ON ELECTORAL MATTERS  
LIST OF SUBMISSIONS

...Police should be given the power to conduct selected inspections with warrants upon targeted Electorate Offices during the next election period at times during and after business hours for the purpose of discovery of illegal conduct and use of such electorate offices for Party Political purposes.<sup>53</sup>

- 2.36 While acknowledging the role of parties and candidates in encouraging electors to apply for a postal vote, The Greens pointed out a number of flaws in the system, including susceptibility to fraud:

The current system causes delay for the voter and an extra administrative burden for the SEO when parties arrive with large bundles of accumulated applications close to the deadline for receipt of postal vote applications. It also undermines the identity of the NSW Electoral Commission and leads to a blurring of the boundaries between official communications and those emanating from the political parties.

Further, the current system is open to various kinds of fraud or unwarranted advantage, especially when information distributed to voters encouraging a postal vote is designed to appear as if it is official SEO material. For example, the use by the party of voter information from the application to distribute how-to-vote material at the time the ballots are mailed by the SEO is questionable on privacy grounds.<sup>54</sup>

- 2.37 The Liberal Party took a different view, with Mr Mark Neeham, State Director, Liberal Party of Australia (NSW Division), telling the Committee that he would not wish to see restrictions imposed on the distribution or receipt of postal vote applications, as long as they meet the requirements of the NSWEC.<sup>55</sup>
- 2.38 For the NSWEC, introducing a requirement that only the NSWEC produce postal vote applications was considered to be a matter for the Committee.<sup>56</sup>

*Committee comment*

- 2.39 In relation to the issue of the very narrow timeframe available to rural and remote electors for the submission of or processing of Postal Vote Applications, the Committee agrees with the NSWEC that due consideration would need to be given to other electoral processes which may be impacted by an extended period.<sup>57</sup>
- 2.40 As the NSWEC notes, iVote is available to those electors and it is a very time efficient means of casting a ballot. However, voters who have been given the choice of early voting options and have selected a postal vote, should be able to vote that way and not be effectively limited to certain early voting options.
- 2.41 The Committee's report on the Administration of the 2007 election considered that encouraging rural and remote voters to register as general postal voters was a viable solution. This was because those who had registered would receive their

---

<sup>53</sup> The Christian Democratic Party, *Submission No. 5*, p. 5.

<sup>54</sup> The Greens, *Submission No. 14*, p. 7.

<sup>55</sup> Mr Mark Neeham, State Director, Liberal Party of Australia, *Transcript of evidence*, 15 June 2012, p. 56.

<sup>56</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 4.

<sup>57</sup> The date for the close of nominations, 'nomination day', is set out in the Writ. The Writ also specifies the date of election day and the date by which the Writs are to be returned to the Governor. Extending the timeframe for one stage of the process, could have a consequential impact on the other stages.

ballot papers automatically, without the need to make a postal vote application, thereby increasing the likelihood that their vote would be received in time to be included in the count.<sup>58</sup>

- 2.42 While the 2007 report noted that the NSWEC had found the take up rate for registration as a general postal voter to be disappointing at that election, this Committee is of the view that it does remain the most practicable solution for rural and remote electors who wish to cast a postal vote and have some confidence that it will be received on time.
- 2.43 The Committee acknowledges the efforts of the NSWEC to date in promoting awareness of registered general postal voting and promoting those options such as iVote and mobile voting which are available to rural and remote voters. The Committee would encourage the NSWEC to continue those efforts in preference to extending the period between the close of nominations and polling day with its consequential effects on other electoral processes.

## RECOMMENDATION 2

**The Committee recommends that the NSWEC continues to promote awareness of registered general postal voting and promotion of those options such as iVote and mobile voting which are available to rural and remote voters.**

- 2.44 With regard to Postal Vote Application forms containing a pre-filled "02" at the beginning of the field for an elector's home phone number, the Committee was pleased to hear that the NSWEC would take the matter into consideration when developing the fields for future Postal Vote Application forms.
- 2.45 This would appear, on the face of it, to be a simple amendment which would greatly assist electors in electorates close to the State's borders, by enabling the correct area codes to be entered on the form.
- 2.46 On the matter of the distribution of postal vote applications by candidates or political parties, the Committee is not sufficiently persuaded on the basis of the evidence it has received, that there is a case for change.
- 2.47 Currently voters may receive documentation in relation to postal voting from candidates or parties, and should they choose to do so, they may return completed postal application forms to those parties or candidates, rather than sending them directly to the NSWEC.
- 2.48 The actual postal ballot, it should be noted, must be returned to the NSWEC and it is an offence for any person to fail to post, or deliver, a postal vote application or a postal ballot, entrusted to them by an elector for that purpose.<sup>59</sup>
- 2.49 The Committee did not receive any evidence from the NSWEC to suggest that the return of completed postal application forms to parties or candidates was causing it administrative difficulties.

---

<sup>58</sup> See Joint Standing Committee on Electoral Matters, *Administration of the 2007 NSW Election and Related Matters*, report no. 1, Sydney, May 2008, pp.18-20.

<sup>59</sup> See s114J(3) of the *Parliamentary Electorates and Elections Act 1912*.

- 2.50 It is in the nature of election contests for parties and candidates to seek to persuade voters to vote for them; and during election periods, they may provide legitimate information and services to voters, which those voters are free to accept or disregard.

### Pre-poll voting

- 2.51 Currently certain categories of voters who cannot attend a polling place on election day, may opt to vote in person at a pre-poll location. Those voters include persons who may be unable to attend a polling place due to their hours of work, their distance from a polling place, a disability, or a fear for their personal safety or the safety of their family.<sup>60</sup>
- 2.52 Evidence received by the Committee during the course of the inquiry considered the enforcement of the requirements for pre-poll voting, the length of the pre-poll period, and whether pre-poll voting should be opened up to any person who simply stated that they could not vote in person on polling day.
- 2.53 For Mr Neeham of the Liberal Party, those wishing to vote before polling day should be able to do so:
- Mr NEEHAM:** I think if you want to vote before polling day you should be allowed to vote before polling day.<sup>61</sup>
- 2.54 In contrast, the Christian Democrats were of the view that the current pre-poll requirements should be more strictly enforced:
- Mr SMITH:** I believe it should be more tightly controlled. I think you have an election day and people are aware of that.<sup>62</sup>
- 2.55 For Homelessness NSW, having voters state their reasons for selecting a pre-poll or postal vote could be a valuable source of data:
- ...one of the things that should be available to people who are escaping domestic violence is to honestly answer on their postal vote or pre-poll vote that they are escaping physical violence or some wording along those lines.
- One of the other pluses for us as an organisation, and for the Government as well generally, would be to get some data...So it might give us some sort of evidence base that we are making some headway on domestic violence across our State, which would be a plus on a range of government initiatives.<sup>63</sup>
- 2.56 The Greens noted that pre-polling is now the largest booth in each electoral district and favoured a shorter pre-polling period, citing the demands the growth of pre-polling had placed on party resources:

---

<sup>60</sup> See s114P of the *Parliamentary Electorates and Elections Act 1912*.

<sup>61</sup> Mr Mark Neeham, State Director, Liberal Party of Australia, New South Wales Division, *Transcript of evidence*, 15 June 2012, p. 57.

<sup>62</sup> Mr Ian Smith, Treasurer and Party Agent, Christian Democratic Party, *Transcript of evidence*, 29 June 2012, p. 2.

<sup>63</sup> Mr Digby Hughes, Policy and Research Officer, Homelessness NSW, *Transcript of evidence*, 15 June 2012, p. 45. See also: s114A 1(j) of the *Parliamentary Electorates and Elections Act 1912*.

We also support a shorter time for pre-poll; we are thinking perhaps from the Friday before. It is a fact that there has been an enormous growth in pre-poll voting. I am not sure that particularly regulating it and expanding the number of legitimate reasons or tightening up on the number of reasons you might have to give to pre-pollers is necessarily a necessary thing but now with the availability of options for online voting or postal, if you must, it is becoming quite a demand on parties to deal with the pre-poll vote. There is also the risk of inclement weather over that period and all sorts of other things that make it quite challenging. Also the material that is handed out at pre-poll votes is not subject to registration requirements. It is now routinely the largest booth in each district so I think we need to look at that a little bit and reduce the time.<sup>64</sup>

- 2.57 Rather than shortening the pre-poll period, The Nationals informed the Committee that they support maximum flexibility around pre-polling:

**Mr FRANKLIN:** We would not support a truncated period although we are sympathetic to our party workers who have to man the pre-poll booths. In regional areas there are often two or three centres set up. We understand that on one hand, but on the other hand I agree with Mr Maguire that some time people only come into town once a month and we need to give them the maximum flexibility possible in order for them to prepoll. So, we would not support the truncating of it. As far as the relaxing of the requirements, we hear anecdotally that perhaps they are not enforced as strongly as they could be anyway. So, if it is about encouraging people to vote in the election and if they are not being observed as strongly as they could be anyway, I do not see the need to continue to maintain what in some cases is a bit of a charade.<sup>65</sup>

- 2.58 It was the view of the Electoral Commissioner, that rather than requiring voters to state which category of pre-poll voter they fell into, a declaration that they were unable to vote in person on polling day should suffice:

By and large when people are going along to pre-poll what they are saying is that for a variety of reasons they cannot get to a polling place on election day, it is jolly inconvenient for them or they are working or it could be a case that they will be interstate. There will be a whole raft of reasons...

I am not going to guild the lily here; people are going and getting pre-polls because their lifestyle has changed from the nineteenth century. People do not want to be locked into going to vote on one day. They want choice, and the pre-poll gives them choice. It is, in my view, somewhat cute to be asking people: "Of these seven criteria, which one do you fit into? Oh, it's that one." You people know; it is just silly.<sup>66</sup>

### *Committee comment*

- 2.59 The Committee recognises the steady progress which has been made in recent years toward aligning voting processes with voters' needs and considers that enabling people to vote is the primary consideration, not the convenience of political parties.

---

<sup>64</sup> Mr Christopher Maltby, Registered Officer, The Greens, *Transcript of evidence*, 29 June 2012, p.12.

<sup>65</sup> Mr Benjamin Franklin, State Director, The Nationals, *Transcript of evidence*, 29 June 2012, p. 25.

<sup>66</sup> Mr Colin Barry, Commissioner, NSWEC, *Transcript of evidence*, 29 June 2012, p. 53. See also *Transcript of evidence*, 15 June 2012, pp. 5-6.

- 2.60 As the Electoral Commissioner has stated, voters' lifestyles have changed since the nineteenth century and the electoral process ought to respond to those changes to in order to optimise accessibility.
- 2.61 To this end, the Committee recommends that consideration be given to simplifying the pre-poll application process by dispensing with the current categories and allowing any voter, who cannot attend a polling place on polling day, to apply for pre-poll voting.
- 2.62 The Committee is of the view that the NSWEC is well placed to undertake a review of the pre-poll application process as it will require an assessment of any potential increase in demand for pre-poll voting and the NSWEC's capacity to meet any such demand.

### RECOMMENDATION 3

**The Committee recommends that the NSWEC undertake a review of the pre-poll application process. This review should include consideration as to:**

- **whether the current categories for applicants should be simplified to allow any voter, who cannot attend a polling place on polling day, to apply for pre-poll voting;**
- **what the impact of any recommended changes to the pre-poll application process might be on the resources of the NSWEC and other stakeholders (such as the political parties); and**
- **whether any recommended changes to the pre-poll application process might require adjustments to be made to the pre-poll voting period.**

### Hospitals and declared institutions voting

- 2.63 Some nursing homes, convalescent homes, hospitals or similar institutions are appointed by the NSWEC as declared institutions. Election officials from the Returning Officer's office visit these facilities during the 5 days prior to election day, with voting at declared institutions restricted to inpatients or temporary or permanent residents of the facility.<sup>67</sup>
- 2.64 The submission from The Nationals considered that there were electorates where the number of declared institutions visited appeared to be quite low. Also, during the period of voting at each declared institution, The Nationals had received reports of significantly varied protocols and procedures around the State.
- 2.65 The Nationals recommended that the NSWEC develop communications strategies to increase the number of declared institutions participating in elections.

---

<sup>67</sup> Electoral Commission NSW web page, *Before Election Day*, [http://www.elections.nsw.gov.au/voting/before\\_election\\_day](http://www.elections.nsw.gov.au/voting/before_election_day), <Accessed 14 August 2012>.

- 2.66 They also recommended that the NSWEC provide more detailed explanations to declared institutions of the procedures for voting and that electoral officials be given more training in overseeing the process at each declared institution.<sup>68</sup>
- 2.67 In response to these recommendations, the NSWEC stated that it had contacted every declared institution during the pre-election planning phase to explain the voting process and to ascertain whether they would like a visit from a mobile polling team.<sup>69</sup>
- 2.68 Of those declared institutions, some advised the NSWEC that their residents would rather use iVote or postal voting. The NSWEC considers that the increased take up of those voting options may lead to a decline in number of visits by mobile polling teams in future.
- 2.69 In relation to voting procedures at declared institutions, the NSWEC stated that it would undertake a review of training and standard operating procedures to ensure greater consistency and adherence to procedure at future elections.<sup>70</sup>
- 2.70 Dr Craig Boutlis raised with the Committee the situation of one of his patients, who was denied the opportunity to vote because a mobile voting team was not able to attend to her before the polls closed.<sup>71</sup>
- 2.71 While these circumstances arose during a city council election, rather than the 2011 State election, the Committee considers them to be relevant to this inquiry in so far as they demonstrate the difficulties that may arise for patients wishing to exercise their voting rights at any election.
- 2.72 In its response, the NSWEC considered this to be a highly regrettable incident and advised that a review of operating procedures would ensure that all in-patients had the opportunity to vote at future elections. This would include the ability to call on a reserve team should an existing team be unable to complete inpatient voting by the close of polling.<sup>72</sup>
- 2.73 In his evidence to the Committee, the Electoral Commissioner advised that timely identification of declared institutions was a challenge for the NSWEC:

Declared institutions are always a challenge for us on a couple of fronts. Number one: There is no central register of declared institutions in New South Wales or in Victoria that I can comment on. Consequently, we are always challenged by declared institutions growing like mushrooms. They come up and we have got to in some way determine that they exist. The second challenge that we face is that we always have to approach the administration of the institution to establish whether in fact the residents are capable of voting - there is a judgement there. Secondly, we have to

---

<sup>68</sup> The Nationals, *Submission No.11*, p. 6.

<sup>69</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 12.

<sup>70</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 12.

<sup>71</sup> Dr Craig Boutlis, *Submission No.1*, p. 1.

<sup>72</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 1.

have the agreement of the administration that we can come into the place and conduct voting.<sup>73</sup>

*Committee comment*

- 2.74 The Committee was pleased to hear that the NSWEC would be reviewing its procedures in relation to declared institutions. This is appropriate, following the election and an analysis of the issues raised, and the Committee has some confidence it will result in improved services.
- 2.75 The NSWEC has stated that timely identification of declared institutions has been problematic and the process could be assisted by developing a central register of institutions in NSW.
- 2.76 The Committee is of the view that Ageing, Disability and Home Care, Department of Family and Community Services, is well placed to assist the NSWEC in developing means for the timely identification of declared institutions and recommends that they do so.

**RECOMMENDATION 4**

**The Committee recommends that Ageing, Disability and Home Care, Department of Family and Community Services, assists the NSWEC in developing means for the timely identification of declared institutions for the purposes of elections.**

**INFORMATION PROVIDED TO VOTERS**

- 2.77 At the 2011 election the NSWEC provided information to voters at various stages of the campaign in order to promote voter awareness and increase participation, including for the first time, the use of digital advertising and social media.<sup>74</sup>
- 2.78 Voter information was provided in community languages as well as in accessible formats such as Easy English (produced in consultation with the National Council for Intellectual Disability), AUSLAN and Braille.
- 2.79 In terms of improvements to information services for voters, it was the view of the Australian Centre for Disability Law that AUSLAN interpreters should be available to people with hearing impairment and deaf people, on request, at specified times and booths.<sup>75</sup>
- 2.80 Mr Digby Hughes, Policy and Research Officer, Homelessness NSW, suggested that the NSWEC make some simple improvements to its website, such as including the word "homeless" as a search term:

We think some of the things in our submission are simple and easy to undertake. The first I refer to is the New South Wales Electoral Commission website. I suppose I am bemused at the fact that when I go to the website and to the search part of it and I type in the word "homeless" there is no information available. However, if I

---

<sup>73</sup> Mr Colin Barry, Commissioner, NSWEC, *Transcript of evidence*, 29 June 2012, p. 53. See also *Transcript of evidence*, 15 June 2012, pp. 8-9.

<sup>74</sup> See: NSWEC, *Report on the Conduct of the NSW State Election 2011*, pp. 69-75.

<sup>75</sup> Australian Centre for Disability Law, *Submission No.9*, p. 2.

then type in the words, "elector with no fixed address" it comes up. I am pretty sure that most people who experience homelessness would not think of typing in, "elector with no fixed address"...

We believe it would be fairly simple to get the New South Wales Electoral Commission in line with other electoral commissions, the Australian Electoral Commission and the Victorian Electoral Commission, who are fairly well leading in this area.<sup>76</sup>

- 2.81 Mr Hughes also suggested the NSWEC consider the outreach work being undertaken by the VEC to encourage homeless persons to enrol and vote:

The Victorian Electoral Commission has produced a two-page flyer to go around to the local homelessness services. It states, "Homeless should not mean voteless" and, "How you can work with the Victorian Electoral Commission to ensure your clients get on the role and get to vote." This is probably a fairly easy thing to do. We just ask that the New South Wales Electoral Commission look at that as an idea. If we can do it in Victoria, there is probably no great reason why we cannot do it in New South Wales either.<sup>77</sup>

- 2.82 For Vision Australia, the lack of accessible voter information provided by candidates and parties was an issue:

...one of these days the political parties are going to be hit with a Disability Discrimination Act complaint that they did not provide their information in an accessible format.<sup>78</sup>

- 2.83 Vision Australia's submission considered amending the *Parliamentary Electorates and Elections Act 1912* to require how-to-vote cards to be made accessible to those with print disabilities and to define the role of the NSWEC in promoting the issue to candidates:

... that this committee consider ways of facilitating the New South Wales Electoral Commission to apply more direct pressure on candidates to provide how-to-vote card information in alternative formats so as to provide voters who are blind or have low vision with the same information as that provided to electors at the polling places.<sup>79</sup>

- 2.84 The Christian Democratic Party observed that some confusion existed among voters between the voting procedures for Federal and State elections. Their submission found that in some cases, this confusion extended to the information which was provided to voters by polling booth workers:

Unfortunately, this confusion is not just with voters but more importantly with several polling booth workers who did not understand how the Legislative Council Voting Papers were to be completed. It would seem that this was not an isolated instance and that workers in more than 1 electorate advised voters that they could only put a '1' 'above the line' and no other number.

---

<sup>76</sup> Mr Digby Hughes, Policy and Research Officer, Homelessness NSW, *Transcript of evidence*, 15 June 2012, p. 45.

<sup>77</sup> Mr Digby Hughes, Policy and Research Officer, Homelessness NSW, *Transcript of evidence*, 15 June 2012, pp. 45-46.

<sup>78</sup> Ms Susan Thompson, Advocate, Vision Australia, *Transcript of evidence*, 15 June 2012, p. 42.

<sup>79</sup> Vision Australia, *Submission No. 13*, p. 8.



## JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

### LIST OF SUBMISSIONS

This appears to be a training issue as an attendee at an election meeting where Reverend Fred Nile spoke and who had just participated in a Polling Booth worker training session was adamant that preferences could not be shown above the line, despite Rev Nile trying to advise the correct arrangements.

This was reinforced when both the CDP Office and individual coordinators were contacted by concerned voters who had been advised by Polling Booth workers that their vote would be informal if they put more than one number 'above the line', even though our and the Coalition Party's How-to-votes showed otherwise!<sup>80</sup>

- 2.85 The Christian Democratic Party recommended enhanced training for NSWEC employees on voting procedures and developing a media campaign which educated electors on how to complete voting papers.<sup>81</sup>
- 2.86 In responding to the issues raised by the Christian Democratic Party the NSWEC stated that it regretted the errors by election officials as outlined in the submission. The NSWEC explained that all Polling Place Managers and Deputy Polling Place Managers undergo training on voting procedures and the correct completion of ballots, however, it was not possible to monitor the performance of every individual as over 18,000 officials are employed by the NSWEC on polling day.
- 2.87 In relation to developing a media campaign, the NSWEC noted that it did place advertisements explaining how to complete the ballot papers and a practice voting tool was available on its website.<sup>82</sup>

#### *Committee comment*

- 2.88 The Committee has been impressed by the NSWEC's ability to provide electoral information to voters in a variety of formats and to target that output around critical phases in the 2011 election period.
- 2.89 In terms of improving accessibility, the suggestion from the Australian Centre for Disability Law that AUSLAN interpreters should be available at polling places by arrangement, has merit and the Committee would encourage the NSWEC to examine the practicalities of this.
- 2.90 With regard to the provision of information to homeless voters, the Committee agrees with Homelessness NSW, that the search terms "homeless" and "no fixed abode" are very likely to be search terms used by people who are seeking information on services for homeless voters on the NSWEC web site.
- 2.91 The Committee would encourage the NSWEC to implement the proposal to use those search terms and it would also encourage the NSWEC to consider the outreach work being undertaken by the VEC and assess the merits of adopting a similar approach in NSW.

---

<sup>80</sup> Christian Democratic Party, *Submission No.5*. p. 3.

<sup>81</sup> Christian Democratic Party, *Submission No.5*. pp. 3-4.

<sup>82</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p.4.

- 2.92 On the question of candidates and parties providing voter information in accessible formats, the Committee does not favour mandating this as a requirement in electoral law. However, the Committee does recommend that the NSWEC consider means of facilitating dialogue between disability advocacy groups and parties and candidates on this important issue. For example, hosting workshops around an election period could be a useful means of raising awareness of accessibility issues and promoting current best practice.

## RECOMMENDATION 5

**The Committee recommends that the NSWEC facilitates a dialogue between disability advocacy groups and parties and candidates, on the importance of providing voter information in accessible formats.**

- 2.93 Finally, in regard to the issues around correct voting procedures that were raised by the Christian Democratic Party, this constitutes important stakeholder feedback and the Committee would encourage the NSWEC to utilise this for official and voter education purposes ahead of the next election.

## Chapter Three – Conduct of the Election: Services for candidates and parties

3.1 Having reviewed, in the preceding chapter, services provided by the NSWEC to electors, this chapter will review services that were provided by the NSWEC to candidates and political parties.

### PUBLIC SERVANTS CONTESTING STATE ELECTIONS

3.2 The conditions under which NSW public servants may contest State elections are provided for by section 102 of the *Public Sector Employment and Management Act 2002*:

- public sector employees nominated for election are to be granted a leave of absence until the day on which the result of the election is declared;
- the leave of absence is without pay, unless the employee applies to use available leave entitlements; and
- public sector employees standing for election are not required to resign unless elected.<sup>83</sup>

3.3 The submission from The Greens stated that NSW government departments have different approaches to employees that contest State elections. Some departments allow employees to contest elections without requiring them to take leave and others urge employees to take leave without pay during election periods.<sup>84</sup>

3.4 The Greens submitted that the majority of public servants could not afford to take leave without pay for a three to four week period and, as a result, some were forced to forego contesting election campaigns altogether. The Greens suggested that the requirement to take leave without pay during an election period constituted "...an interference with a democratic right of a citizen to contest an election".<sup>85</sup>

3.5 While The Greens acknowledged that the provisions were in place to avoid potential conflicts of interest,<sup>86</sup> the Party's submission suggested that they were anachronistic and had little relevance in the context of the modern public sector.<sup>87</sup>

---

<sup>83</sup> New South Wales Electoral Commission, *Handbook for Parties, Groups, Candidates and Scrutineers at Legislative Assembly and Legislative Council Elections - NSW State Election 2011*, [October] 2010, p. 12.

<sup>84</sup> The Greens, *Submission No. 14*, p. 5.

<sup>85</sup> The Greens, *Submission No. 14*, p. 5.

<sup>86</sup> Mr Christopher Maltby, Registered Officer, The Greens, *Transcript of evidence*, 29 June 2012, p. 11.

<sup>87</sup> The Greens, *Submission No. 14*, p. 5.

- 3.6 Consequently, The Greens' submission recommended that "The NSW Government direct that its departments must not force its employees to take leave or leave without pay if they become a state election candidate."<sup>88</sup>

*Committee comment*

- 3.7 The Committee notes that s 102 of the *Public Sector Employment and Management Act 2002* is clear that if a public servant is nominated for election they are to take leave to do so. Only if they do not have sufficient paid leave, are they required to take leave without pay.
- 3.8 The Committee is of the view that this is not an unreasonable requirement for public servants, and is not an undue restraint on an individual's right to participate. For this reason, the Committee is not recommending any legislative change to this requirement.

## PARTY REGISTRATION

- 3.9 S 66D (2) (g) and (g1) of the *Parliamentary Electorates and Elections Act 1912* requires that an application for the registration of a political party must:
- Set out the names and addresses (as enrolled) of 750 electors who are members of the party and on whom the party relies for the purpose of qualifying as an eligible party; and
- Be accompanied by declarations of membership of the party (in the form prescribed by the regulations) completed and signed by the members on whom the party relies for the purpose of qualifying as an eligible party.
- 3.10 S 66D (3) of the Act also states that "An application for the registration of a party must be accompanied by a fee of \$2,000."<sup>89</sup>
- 3.11 The Act further provides that any political party wishing to make use of certain electoral entitlements must be registered with the NSWEC at least 12 months prior to the close of nominations for a State election, and that a minimum of 12 weeks should be allowed for an application for party registration to be considered by the NSWEC (that is, 15 months in total).<sup>90</sup>
- 3.12 The Australian Sex Party and the Liberal Democratic Party argued in evidence that the above provisions were unnecessarily onerous and restricted the development of new political parties.
- 3.13 The submission from the Australian Sex Party acknowledged that while there needed to be guidelines for the registration of political parties, current provisions damage the democratic process.<sup>91</sup>
- 3.14 The submission from the Liberal Democratic Party echoed this sentiment:

---

<sup>88</sup> The Greens, *Submission No. 14*, p. 5.

<sup>89</sup> Section 66D (3) *Parliamentary Electorates and Elections Act 1912*

<sup>90</sup> Section 66FA *Parliamentary Electorates and Elections Act 1912*; and New South Wales Electoral Commission, *Handbook for New and Continued Registration of Political Parties in New South Wales*, [January] 2012, p. 7.

<sup>91</sup> Australian Sex Party, *Submission No. 4*, p. 1.

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS  
LIST OF SUBMISSIONS

The reason there are fewer political parties in NSW state elections is the extraordinarily difficult process of registering them, far harder than any other state. NSW is fast becoming a closed shop for existing political parties.<sup>92</sup>

- 3.15 The submissions from the Australian Sex Party and the Liberal Democratic Party both stated that the NSW requirement of having 750 party members declaring their membership by completing and returning a form to the NSWEC was too great a burden on emerging political parties and their members. The Australian Sex Party noted that the requirement was more restrictive than the comparable requirement for Federal registration and in most other states, that require 500 members.<sup>93</sup>
- 3.16 The Liberal Democratic Party stated that an additional obstacle for emerging parties was the \$2,000 fee that they are subject to when registering with the NSWEC.<sup>94</sup>
- 3.17 A further impediment to emerging parties that was identified by the Australian Sex Party and the Liberal Democratic Party was the requirement of having to register 15 months prior to a State election. Mr Andrew Patterson, Registered Officer, Australian Sex Party, informed the Committee that "...for parties which are developing, that is a very long time frame and clearly can be difficult."<sup>95</sup>
- 3.18 In relation to the above requirements, the Australian Sex Party recommended that all parties contesting State elections should be subject to the same registration verification procedures in order to reduce the inequity between established and emerging political parties.<sup>96</sup>
- 3.19 In responding to this point, the NSWEC acknowledged that although the registration process was perhaps more arduous for parties registering immediately prior to a State election, it may have been intentional and "...would appear to be the intended outcome of amendments to the legislation made subsequent to the 'tablecloth' ballot paper at the 1999 NSW State General Election."<sup>97</sup>

*Committee comment*

- 3.20 The Committee recognises that current registration processes for parties seeking to contest State elections for the first time do place an additional administrative burden on those parties.
- 3.21 The Committee is, however, reluctant to recommend any significant changes to processes that have been put in place to prevent manipulation of the party registration system, such as that which occurred in the March 1999 Legislative Council election.

---

<sup>92</sup> Liberal Democratic Party, *Submission No. 3*, p. 1.

<sup>93</sup> Australian Sex Party, *Submission No. 4*, p. 2.

<sup>94</sup> Liberal Democratic Party, *Submission No. 3*, p. 2.

<sup>95</sup> Mr Andrew Patterson, Registered Officer, Australian Sex Party, *Transcript of evidence*, 29 June 2012, p. 28.

<sup>96</sup> Australian Sex Party, *Submission No. 4*, p. 1.

<sup>97</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 2.

- 3.22 Consequently, the Committee is of the view that the measures that are currently in place in respect of party registration are appropriate to achieving this end and should be retained.

## REGISTRATION OF ELECTORAL MATERIAL

- 3.23 Sections 151F, 151G and 151GA of the *Parliamentary Electorates and Elections Act 1912* provide regulations in relation to the content of registrable electoral material (how-to-vote cards and election-related handbills, pamphlets or notices) and also the extent to which registered electoral material may be accessed by the public.

- 3.24 In regards to the Act's requirements for electoral material, Mr Antony Green, Election Analyst, submitted that they were overly complex<sup>98</sup> and went into too much detail:

The registration of electoral material began in New South Wales in 1988 and the provisions have become more and more complex. There are all sorts of funny rules about what you can and cannot say on how to votes, what images you can put on how to votes, whether you can or cannot recommend votes between the two Houses of Parliament.<sup>99</sup>

- 3.25 Mr Green recommended that the Act should be modified in order to simplify the electoral material guidelines in relation to what can and cannot be registered and distributed in NSW.<sup>100</sup>

- 3.26 In response to the above recommendation, the NSWEC acknowledged that the provisions governing the registration of electoral material in NSW was complex, but noted that they had been put in place in order to close specific loopholes.<sup>101</sup>

- 3.27 In his submission, Mr Green also suggested that the provision in the Act governing public access to registered electoral material was too restrictive.<sup>102</sup> Mr Green's view stemmed from the fact that public access to registered material is currently prohibited prior to election day, and that even on election day registered electoral material could only be accessed from a returning officer at a polling place in the district for which the material relates.<sup>103</sup>

- 3.28 By comparison, Mr Green's submission drew attention to Victoria, where the VEC must publish all registered electoral material on its website as soon as is practicable after the material has been registered.<sup>104</sup>

- 3.29 Mr Green supported the Victorian model because, in his view, "The regulation of how-to-vote material works best if all involved have access to the registered material."<sup>105</sup>

---

<sup>98</sup> Mr Antony Green, *Submission No. 8*, p. 4.

<sup>99</sup> Mr Antony Green, Election Analyst, *Transcript of evidence*, 15 June 2012, p. 25.

<sup>100</sup> Mr Antony Green, *Submission No. 8*, p. 4.

<sup>101</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 8.

<sup>102</sup> Mr Antony Green, *Submission No. 8*, p. 4.

<sup>103</sup> Mr Antony Green, *Submission No. 8*, p. 4.

<sup>104</sup> Mr Antony Green, *Submission No. 8*, p. 4.

- 3.30 Consequently, Mr Green recommended that the Act be modified to provide that registered electoral material is accessible to the public prior to an election and that electors are able to more easily access that material on polling day.<sup>106</sup>
- 3.31 In its response to Mr Green's submission the NSWEC stated that it did not support the above recommendation simply because it hadn't been made aware of any demand from parties or candidates for the material prior to election day.<sup>107</sup>

*Committee comment*

- 3.32 While the Committee acknowledges that the legislation governing the content of registrable electoral material is complex, the Committee also understands the NSWEC's argument (as an administrator of elections) that this complexity is a necessary consequence of the need to close certain loopholes.
- 3.33 The Committee is, however, of the strong view that, wherever possible, the form and content of legislation should be simple in order to assist with understanding and compliance. Consequently, the Committee recommends that the NSW Government amend sections 151F, 151G and 151GA of the *Parliamentary Electorates and Elections Act 1912* to simplify the requirements for the registration of electoral material so they are clear and precise.

## RECOMMENDATION 6

**The Committee recommends that the NSW Government amend sections 151F, 151G and 151GA of the *Parliamentary Electorates and Elections Act 1912* to simplify the requirements for the registration of electoral material so they are clear and precise.**

- 3.34 In regards to the matter of making registered electoral material more accessible, the Committee notes the response of the NSWEC that there has been no demand from parties or candidates for this information.<sup>108</sup>
- 3.35 However, the Committee does not consider that the provision of this material should be demand driven and it agrees with Mr Green's view that regulation works best when all stakeholders in an election are able to access and scrutinise registered material.
- 3.36 Unless there are any issues of principle or practicality on the part of the NSWEC that the Committee is unaware of, then it would appear to the Committee that making electoral material available at NSWEC offices and on its website, as soon as is practicable after the deadline for registration, should be done in order to facilitate enhanced scrutiny.

---

<sup>105</sup> Mr Antony Green, *Submission No. 8*, p. 4.

<sup>106</sup> Mr Antony Green, *Submission No. 8*, p. 5.

<sup>107</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 8.

<sup>108</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 8.

## RECOMMENDATION 7

**The Committee recommends that the NSWEC publish registered electoral material at NSWEC offices and on its website, as soon as is practicable after the deadline for registration, with a view to increasing public access to this material during future elections.**

### INFORMATION SESSIONS FOR CANDIDATES

3.37 The NSWEC held 'Candidate Briefing Sessions' throughout NSW in October and November 2010, and then again in February 2011 after legislative amendments were passed in the Parliament (see Chapter 1). The briefing sessions provided information to candidates on various subjects:

- recent legislative changes;
- the election timetable;
- election advertising;
- the electoral roll;
- nominations for the Legislative Assembly and Legislative Council;
- electoral material ('how to vote' cards, posters etc.);
- voting (pre-poll, polling places, postal voting, absent voting etc.);
- scrutineering;
- counting of results; and
- election funding and disclosure.<sup>109</sup>

3.38 The submission from The Nationals drew the Committee's attention to anecdotal reports that the Party had received about the consistency of the standard of the NSWEC's Candidate Briefing Sessions.<sup>110</sup>

3.39 The Nationals submitted that reports about the sessions varied from praise for the knowledge and assistance provided by NSWEC staff at some sessions, to criticism of presenters' inability to answer simple questions at others.<sup>111</sup>

3.40 In order to ensure that the standard of the Candidate Briefing Sessions is consistently higher in the lead up to the next State election, The Nationals recommended that the NSWEC instigate a review of the procedures for the selection and training of staff.<sup>112</sup>

---

<sup>109</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, pp. 142-143.

<sup>110</sup> The Nationals, *Submission No.11*, p. 10.

<sup>111</sup> The Nationals, *Submission No.11*, p. 10.

<sup>112</sup> The Nationals, *Submission No.11*, p. 10.



- 3.41 In response to The Nationals' recommendation the NSWEC stated that only experienced staff were used for the Candidate Briefing Sessions and that all efforts were made to ensure that information provided at the sessions was consistent and reliable. The NSWEC went on to state that what may have appeared to be inadequate responses by presenters were often the result of questions that were vague or lacking in detail.<sup>113</sup>

*Committee comment*

- 3.42 The Committee did not receive any other evidence in relation to the consistency and reliability of the Candidate Briefing Sessions outside of the anecdotal reports that were provided by The Nationals. Consequently, the Committee is reluctant to recommend a wholesale review of the procedures for the selection and training of NSWEC staff.
- 3.43 However, in the interests of promoting consistency in relation to the Candidate Briefing Sessions, the NSWEC might consider establishing a mechanism through which participants are able to provide feedback that is specifically targeted towards maintaining the high standards of the sessions and making improvements when it is deemed necessary.

**INTERFERENCE WITH ELECTORAL MATERIAL AT POLLING PLACES**

- 3.44 Submissions made by the Australian Sex Party and The Greens gave accounts of two separate incidents in which the display of compliant electoral material was interfered with by representatives of the owners of the venue being used as a polling place on election day.
- 3.45 The submission from the Australian Sex Party submitted that a church official instructed Party volunteers to remove posters from the fence outside a polling booth located at a church hall. The submission states that while other parties had posters affixed to the fence, in accordance with the guidelines governing the placement of election posters on election day, it was only the Australian Sex Party that was instructed to remove its posters, and that this was a clear interference with the election process:

This was a clear interference by a religious representative, who clearly did not agree with our Party's views. Whilst we fully acknowledge [the] right to disagree with our political views, what we cannot accept is...interference in the conduct of an election."<sup>114</sup>

- 3.46 The submission from The Greens cited a similar incident at another church being used as a polling place, in which a Party member handing out how to vote cards was instructed by a representative of that church to "get off his property". The Greens' submission goes on to state that when a member of NSWEC staff was called on to resolve the situation, the representative of that church then demanded that the Party member remove the two Greens posters that were mounted on the church hall fence. This was upheld by NSWEC staff member on

---

<sup>113</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 13.

<sup>114</sup> Australian Sex Party, *Submission No. 4*, pp. 2-3.

the grounds that "...it was the "landlord's" right to decide which posters were allowed."<sup>115</sup>

3.47 Both parties considered that the electoral material in question (the posters and how to vote cards) had been accepted by the NSWEC and contained no content that might be deemed offensive. Consequently, in each case it was held by the respective party that the material had been ordered to be removed on the basis of different political opinions between the parties and the venue owners.

3.48 Both parties contended that because venues are leased by the NSWEC for the purpose of hosting polling booths on election day, leasing arrangements should be made on the strict basis that it is the NSWEC and not the venue owners that determine the conduct of polling places on election day. For example, The Greens suggested the agreements should be reviewed:

The NSWEC should review its standard agreement with the owners of lands where polling places are to be located to make it clear that there is to be no discrimination for/against any candidate or candidates or their representatives or parties, including the installation of temporary signs, etc.<sup>116</sup>

3.49 The submission from the Australian Sex Party further suggested that religious venues should not be used as polling booths:

...ideally, in our secular society, election polling booths should be conducted in secular settings, and church premises are not appropriate for this purpose. In the logistical event that church halls are deemed essential to provide sufficient polling booths, then the Electoral Commission has a responsibility to ensure that no political party or candidate is disadvantaged by virtue of a priest imposing his non-secular views on the electoral process.<sup>117</sup>

3.50 In its response to the Australian Sex Party's submission the NSWEC explicitly stated that venue owners should not interfere in the electoral process by, for example, demanding that legitimate electoral material is removed from polling places.<sup>118</sup>

#### *Committee comment*

3.51 It is the Committee's view that it is totally unacceptable for compliant electoral material to be interfered with in any way by those who have leased their premises to the NSWEC for the purposes of providing polling places.

3.52 Consequently the Committee recommends that the NSW Government introduce legislation that applies penalties against providers of premises to the NSWEC for the purposes of polling who interfere with the display of compliant electoral material.

---

<sup>115</sup> The Greens, *Submission No. 14*, pp. 5-6.

<sup>116</sup> The Greens, *Submission No. 14*, p. 6.

<sup>117</sup> Australian Sex Party, *Submission No. 4*, p. 3.

<sup>118</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 4.

## RECOMMENDATION 8

**The Committee recommends that the NSW Government introduce legislation that applies penalties against providers of premises to the NSWEC for the purposes of polling who interfere with the display of compliant electoral material.**

- 3.53 This report has already recommended that buildings in receipt of a State benefit should, if required, be available to the NSWEC for use as a polling place (see Chapter 2). This recommendation has been made with the intention of enhancing the NSWEC's choice of suitable venues.
- 3.54 The Committee is currently conducting a review of the *Parliamentary Electorates and Elections Act 1912* and the *Election Funding, Expenditure and Disclosures Act 1981* and will consider as part of its terms of reference:
- whether the offences and penalties prescribed by the PE&E Act remain appropriate.
- 3.55 The Committee has received submissions on this matter and these will form part of its report which is expected to be made to Parliament in April 2013.

## ELECTORAL EXPENDITURE - PROCESSING CLAIMS

- 3.56 Significant legislative reforms to the *Parliamentary Electorates and Elections Act 1912* and the *Election Funding, Expenditure and Disclosures Act 1981* were put in place in the lead up to the 2011 election.
- 3.57 The amendments put in place certain restrictions on political donations and expanded the existing public funding scheme to reduce political parties' reliance on political donations.
- 3.58 A number of political parties submitted that they had experienced significant delays in having their claims for public funding processed and paid following the 2011 election.
- 3.59 For example, in its submission NSW Labor expressed concerns about the time it had taken for the EFA to review, process and pay the Party's claims for public funding, citing possible factors such as inadequate resourcing of the EFA and the absence of an established legislative deadline by which all claims for payment must be reviewed and processed.<sup>119</sup>
- 3.60 As previously noted in this report, the Committee is currently undertaking a review of the *Parliamentary Electorates and Elections Act 1912* (excluding part 2) and the *Election Funding, Expenditure and Disclosures Act 1981* (the Review of the Electoral Acts Inquiry).
- 3.61 Based on the submissions that it has received to the Review of the Electoral Acts Inquiry, it is the Committee's view that the matter of delays in the payment of claims for public funding that were experienced by political parties following the 2011 election can be more comprehensively examined as part of the Committee's review of the *Election Funding, Expenditure and Disclosures Act 1981*.

---

<sup>119</sup> NSW Labor, *Submission No. 10*, p. 5.

- 3.62 The Committee will report on its Review of the Electoral Acts Inquiry by April 2013.
- 3.63 The Committee also examined the issue of delays in the payment of claims from the administration fund in its report on the *Inquiry into Administrative funding for minor parties*, which it tabled in the Parliament on 15 November 2012.<sup>120</sup>

## COUNTING PROCEDURES

- 3.64 The Committee received evidence about the vote counting procedures that the NSWEC utilised for the 2011 election in relation to:
- the Legislative Council count; and
  - the Legislative Assembly two candidate preferred count.

### Legislative Council vote

- 3.65 Mr Antony Green, Election Analyst, informed the Committee that the NSWEC's procedure for counting Legislative Council votes was to only count 'above the line' (group voting ticket) votes on election night, with 'below the line' votes being counted at a later time once the vote data had been entered and collated electronically.<sup>121</sup>
- 3.66 Mr Green submitted that the NSWEC's counting procedure had resulted in an inaccurate early indication of an Independent candidate's (Ms Pauline Hanson) percentage of the final vote during the 2011 election. This was primarily because 20% of the votes for Ms Hanson had been 'below the line'.<sup>122</sup>
- 3.67 Mr Green suggested that such inaccuracies could be avoided if the NSWEC was to follow the counting procedure utilised by the AEC in respect of Senate elections. Mr Green advised the Committee that the AEC tallies both above and likely below the line votes on election night, and although some below the line votes prove to be informal once the vote data has been electronically recorded "...there is an awareness of the real level of vote for a candidate or party at the start of the count."<sup>123</sup>
- 3.68 The NSWEC report states that the number of Legislative Council votes that were marked below the line represented 2.1% of the total formal votes.<sup>124</sup>

### Committee comment

- 3.69 The Committee acknowledges the point made by Mr Green in relation to potential difficulties with predicting Legislative Council vote numbers as a result of the NSWEC's current counting procedure, as evidenced by the circumstances surrounding Ms Hanson's candidacy.

---

<sup>120</sup> Joint Standing Committee on Electoral Matters, *Inquiry into Administrative funding for minor parties*, Report No. 1, Sydney, November 2012, pp. 11-12.

<sup>121</sup> Mr Antony Green, *Submission No. 8*, p. 6.

<sup>122</sup> Mr Antony Green, Election Analyst, *Transcript of evidence*, 15 June 2012, p. 26.

<sup>123</sup> Mr Antony Green, *Submission No. 8*, p. 6.

<sup>124</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 36.

- 3.70 However, given the small percentage of 'below the line' votes that were cast in the 2011 election and the relatively few issues that have arisen as a result of the current arrangements, the Committee is of the view that, at present, there is not a sufficient case to recommend a review of the NSWEC's counting procedure in respect of the Legislative Council vote.

### Legislative Assembly two candidate preferred count

- 3.71 The NSWEC defines a two *candidate* preferred (TCP) count as a distribution of preferences of the two candidates who are expected to come first and second in each electoral district, noting that often, but not always, these will be the candidates representing the Labor Party and the Coalition.<sup>125</sup>
- 3.72 When an electoral district *was not* won on first preference in the 2011 election, the NSWEC selected the TCP candidates for those districts.<sup>126</sup> That is, when an electoral district was not won by an absolute majority, the two candidates selected by the NSWEC as being likely to receive the most number of votes in that electoral district could be from any political party or Independent.
- 3.73 A two *party* preferred (TPP) count indicates results where preferences are distributed between the two major party candidates (Labor and the Coalition) only and not, for example, to minor party or Independent candidates.<sup>127</sup>
- 3.74 When an electoral district *was* won on first preference in the 2011 election, the NSWEC selected the TPP candidates as the TCP candidates for those districts.<sup>128</sup> That is, when an electoral district was won by an absolute majority, the two candidates selected by the NSWEC as the first and second candidates for that district were from the Labor Party and the Coalition.
- 3.75 The NSWEC report noted that this approach concerned some Greens and Independent candidates, who believed that they should have been included in the TCP count as they were one of the expected first two candidates in a number of electoral districts.<sup>129</sup>
- 3.76 The Greens submission to the inquiry considered the NSWEC's methodology to have understated the Party's performance at the election:

The Greens came first or second in 14 electorates on primary vote and after distribution of preferences but only in two of these electorates are the Greens displayed on the NSWEC website as being in the two candidate preferred count. Inexplicably the NSWEC includes the Labor candidate in the TCP count when the candidate came third or worse.

This is completely misleading for the general public and media and will continue to be so until after the 2015 election. It understates and is inaccurate in relation to the

---

<sup>125</sup> Electoral Commission NSW web page, *Glossary*, [http://www.elections.nsw.gov.au/glossary#Glossary\\_t](http://www.elections.nsw.gov.au/glossary#Glossary_t), <Accessed 28 September 2012>.

<sup>126</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 67.

<sup>127</sup> Australian Electoral Commission webpage, *Glossary*, <http://www.aec.gov.au/footer/Glossary.htm#t>, <Accessed 29 October 2012>.

<sup>128</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 67.

<sup>129</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 67.

ADMINISTRATION OF THE 2011 NSW ELECTION  
CONDUCT OF THE ELECTION: SERVICES FOR CANDIDATES AND PARTIES

performance of Greens candidates in those electorates. The error should be corrected as soon as possible.<sup>130</sup>

- 3.77 The Greens recommended that the NSWEC conduct a full TCP count in every electorate (including a full distribution of preferences) and that these results be displayed on the NSWEC's website.
- 3.78 The Nationals submitted that the NSWEC should adopt three recommendations which, they noted, echoed the current practice of the AEC.
- 3.79 Firstly, while acknowledging that the NSWEC's selection of TPP (Labor and Coalition) candidates as the TCP candidates might generally work in metropolitan areas, The Nationals suggested that it may not be appropriate in rural areas:
- there is far more volatility in election results in regional areas due to the relative prominence of independent candidates and the weakness of the Labor Party.<sup>131</sup>
- 3.80 To rectify possible discrepancies between the actual numbers of votes received by candidates and the information that is presented by selecting TPP candidates as the first two candidates for electoral districts won on first preference, The Nationals recommended that a TCP count should be done in all electoral districts, irrespective of whether they have been won by an absolute majority or not:
- The Electoral Commissioner, in consultation with the major political parties, [should] conduct the notional Two Candidate Preferred count in every electorate using the two candidates considered most likely to be the [first] two candidates in a full distribution of preferences.<sup>132</sup>
- 3.81 Secondly, in order to provide parties, political commentators and the NSWEC with accurate figures, The Nationals recommended that the NSWEC conduct a full distribution of preferences for each of the electorates where this had not been done for the 2011 election, with priority given to the 17 electoral districts which did not have accurate TCP counts, and that a full distribution of preferences be done as a matter of course for all electorates in future elections.
- 3.82 Thirdly, The Nationals recommended that in addition to a full distribution of preferences in all electorates, the NSWEC should conduct supplementary Two Party Preferred counts for those electorates where a third party finishes among the top two candidates.
- 3.83 In their view this would provide a clearer picture of the electoral landscape at a state-wide level and facilitate the calculation of Two-Party Preferred swings for use in electoral commentary and analysis.<sup>133</sup>
- 3.84 In relation to the recommendation that a full distribution of preferences be undertaken for each of the electorates where this had not been done, the NSWEC responded that it had conducted a full distribution for the 17 electorates which

---

<sup>130</sup> The Greens, *Submission No. 14*, p. 6.

<sup>131</sup> The Nationals, *Submission No.11*, p. 7.

<sup>132</sup> The Nationals, *Submission No.11*, p. 8.

<sup>133</sup> The Nationals, *Submission No.11*, pp.7-9.

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS  
LIST OF SUBMISSIONS

the NSW Nationals had listed in their submission. This had been done for the purpose of providing this information to the candidates and parties concerned and to political commentators.

- 3.85 In its response the NSWEC also stated that it did not consider it necessary to undertake a full distribution of preferences where a candidate had won the contest on an absolute majority of votes on first preference.
- 3.86 It was the NSWEC's view that if parties or candidates wished a distribution of preferences to be conducted in these circumstances then it recommended that this should be at the expense of the candidate or party making the request and that it should only then be undertaken after NSWEC staff had completed all other essential election tasks.
- 3.87 Finally the NSWEC noted that:
- if all Legislative Assembly ballot papers were data entered into the computer count system parties could sort the results in many ways.<sup>134</sup>

*Committee comment*

- 3.88 Rather than seek to prescribe particular counting procedures for the NSWEC, it would appear to the Committee that the best way forward in relation to the provision of count information would be for the NSWEC to conduct consultations directly with stakeholders, in order to gain a full understanding of their needs in advance of the 2015 election.
- 3.89 Such a dialogue would not only provide the NSWEC with a fuller picture of those stakeholders' needs but would, in turn, enable the NSWEC to provide information to those stakeholders on its current practices and resources.

---

<sup>134</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 13.

See also: NSWEC, *Report on the Conduct of the NSW State Election 2011*, [November] 2011, p.193.

## Chapter Four – Innovations in electoral practices

- 4.1 In 2008, the previous Committee on Electoral Matters reported upon a trial of initiatives to improve elector enrolment and to broaden voting options for rural and remote electors and electors with a disability.<sup>135</sup>
- 4.2 It recommended that the NSWEC continue to develop a Smart Electoral Enrolment System as a means to improve elector enrolment; and examine the use of electronic voting.<sup>136</sup> The 2011 election provided the first opportunity for those initiatives to be put to the test.
- 4.3 This Chapter looks at those innovations both in terms of their performance in the 2011 election and their utility for the 2015 election.

### SMARTROLL

- 4.4 SmartRoll enables electors to be directly enrolled, removing the need for written applications to enrol or to change address details.
- 4.5 The SmartRoll system:
- accesses and loads data from other agencies;
  - uses data matching to produce a list of eligible but unenrolled or incorrectly enrolled people to process;
  - manages contact with electors, initially by a rolling SMS, email or letter process;
  - updates the system once an enrolment is made and supply new enrolled data to the AEC; and
  - produces 'roll products' for specific election events when needed.<sup>137</sup>
- 4.6 The Electoral Commissioner described the legislation enabling SmartRoll as the:
- ...most significant piece of electoral legislation that has been introduced into any parliament in New South Wales. New South Wales now has modern provisions to enable the electoral roll to be as accurate as one could possibly anticipate.<sup>138</sup>
- 4.7 Whilst the Electoral Commissioner considered that the enabling legislation for SmartRoll had not been proclaimed early enough for SmartRoll to reach its full

---

<sup>135</sup> See Joint Standing Committee on Electoral Matters, *Administration of the 2007 NSW Election and Related Matters*, report no. 1, Sydney, May 2008, pp. 9-11, 37-43.

<sup>136</sup> Joint Standing Committee on Electoral Matters, *Administration of the 2007 NSW Election and Related Matters*, pp. 10-11, pp. 37-44.

<sup>137</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 85.

<sup>138</sup> Mr Colin Barry, Commissioner, NSWEC, *Transcript of evidence*, 15 June 2012, p. 4.



potential at the 2011 election, it had been effective in reaching electors and further benefits would be realised in the 2012 local government elections:

We know that in New South Wales there are approximately in 500,000 to 600,000 electors who change address every year. If you multiply that by four years there are approximately 2.5 million electors in New South Wales who change address between State elections. In the past these people have had to fill out a form and send it to the Australian Electoral Commission in order to have their enrolment changes effected. There is evidence of an increasing number of these electors not getting around to updating their enrolment. Fortunately for us the automatic enrolment provisions have now given us the ability to automatically change these people's enrolment address where we are satisfied they live at another address. The SmartRoll has also enabled us to eat into the missing electors, of which there are a considerable number in New South Wales. By the September 2012 local government elections we will have newly enrolled, from the missing, approximately 150,000 electors. As well as that we will have changed the address of approximately 400,000 people. This is hard evidence of the success of the project.<sup>139</sup>

- 4.8 The Commissioner was of the view that initiatives such as SmartRoll offer a necessary departure from the previous paper based processes, as these no longer fully suited a changing demographic:

We know from the surveys that we have undertaken with young people when we have SmartRolled them they actually think this was the way it worked anyway. They are surprised to find out that they had to fill out a form in the past. The challenge that we face in the future is that as the population ages and the bulk of electors get to the end of their working life over the next 10 to 20 years the younger electors coming through are going to demand from legislators that the legislation keep up with their expectations on how enrolment and voting will work. The nineteenth century approach served us well but we have to move on into the future.<sup>140</sup>

- 4.9 The Committee heard a very different view from the Liberal Party, who did not believe the State has the right to put people on the electoral register:

We do not believe that it is the right of the State to put people on the register. That is a personal responsibility and an imposition on them. We believe in small government and it is the responsibility of the individual to enrol to vote, not the State to interfere in those matters.<sup>141</sup>

- 4.10 In addition to that point of principle, the Liberal Party expressed concerns as to the reliability of the data collected and the accountability of automatic enrolment given the lack of a signature or consent requirement.<sup>142</sup>

- 4.11 The Liberal Party also noted that voters enrolled through SmartRoll were not enrolled for Federal elections. As those voters would not necessarily know that

---

<sup>139</sup> Mr Colin Barry, Commissioner, NSWEC, *Transcript of evidence*, 15 June 2012, pp. 3-4.

<sup>140</sup> Mr Colin Barry, Commissioner, NSWEC, *Transcript of evidence*, 15 June 2012, p. 4.

<sup>141</sup> Mr Mark Neeham, State Director, Liberal Party of Australia, New South Wales Division, *Transcript of evidence*, 15 June 2012, p. 50.

<sup>142</sup> Liberal Party of Australia, New South Wales Division, *Submission No. 15*, p. 1.

SmartRoll voters were not accepted by the AEC and therefore could not vote in a Federal election, this could some cause confusion and anger.<sup>143</sup>

*Committee comment*

- 4.12 Firstly, the Committee commends the NSWEC's considerable achievement in implementing SmartRoll in time for the 2011 election and notes that of the 42,172 SmartRolled voters, 72% exercised their right to vote.<sup>144</sup>
- 4.13 Having been encouraged by the Committee in the previous Parliament to look at initiatives to increase voter enrolment that were not paper-based or elector-initiated, the NSWEC has, in the Committee's view, delivered a product of great utility.<sup>145</sup>
- 4.14 The Committee acknowledges the concerns of the Liberal Party in regard to the State having the right to put people on the register. However, those concerns were not apparent in feedback received by the NSWEC:
- Less than 2% of people contacted disagreed with the NSWEC proposal to place them on the Electoral Register. The majority of those disagreeing did so because of errors in data or changes in their circumstances. Less than 0.1% of people objected to the NSWEC using data they had provided to other government agencies.<sup>146</sup>
- 4.15 Given that it is a statutory requirement that individuals enrol and keep their enrolment up to date,<sup>147</sup> the Committee sees SmartRoll as a means of facilitating compliance and increasing participation that outweighs any imposition on the individual.
- 4.16 On the issue of growing disparity between the Federal and State rolls, the Committee is confident that this issue will begin to be resolved following the recent passage of the *Electoral and Referendum Amendment (Maintaining Address) Bill 2011* and the *Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012* through the Commonwealth Parliament.
- 4.17 The *Electoral and Referendum Amendment (Maintaining Address) Bill 2011* includes provision to allow the Electoral Commissioner to update an elector's enrolled address following receipt and analysis of reliable and current data sources from outside the Electoral Commission, and the *Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012* includes provision to allow the Electoral Commissioner to directly enrol a person if the Electoral Commissioner is satisfied that the person has met certain criteria.
- 4.18 The Committee is, however, of the view that the NSWEC should investigate issues that have arisen as a result of the implementation of SmartRoll, for example in relation to the reliability of the data being collected, and that it should engage in consultations with relevant stakeholders to resolve any issues that have arisen.

---

<sup>143</sup> Liberal Party of Australia, New South Wales Division, *Submission No. 15*, pp. 1-2.

<sup>144</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 86.

<sup>145</sup> JSCEM, *Administration of the 2007 NSW Election and Related Matters*, pp. 9-11.

<sup>146</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 87.

<sup>147</sup> See: s27 of the *Parliamentary Electorates and Elections Act 1912*.

## IVOTE

- 4.19 The *Parliamentary Electorates and Elections Act 1912* provides for eligible electors to use technology assisted voting. This is defined in the Act as a method of voting where an eligible elector votes, by means of a networked electronic device, such as by a telephone or by a computer linked to the internet.<sup>148</sup>
- 4.20 The technology assisted voting system which was implemented by the NSWEC at the 2011 election is known as iVote. iVote enables the following groups of electors to cast a ballot by telephone or via the internet:
- people with blindness or low vision;
  - people with a disability;
  - people who live 20 kilometres or more from a polling place; and
  - people who were going to be outside of NSW on election day.<sup>149</sup>

### iVote and accessibility

- 4.21 The NSWEC report found that iVote increased accessibility for certain voters:
- iVote was effective in facilitating a secret and independently verifiable vote for electors who were blind or had vision impairment and that the system enfranchised a lot of people who would not have otherwise voted.<sup>150</sup>
- 4.22 The Committee heard evidence from witnesses from Vision Australia and the Australian Centre for Disability Law who considered that the introduction of iVote had allowed them to cast a secret ballot for the very first time:
- We applaud the introduction of technology-assisted voting which enabled persons to cast their vote via the phone or Internet in the 2011 New South Wales State election, as this enabled many persons with disability, in particular persons with vision impairments and persons with dexterity impairments to vote in secret for the first time.<sup>151</sup>
- 4.23 For Ms Susan Thompson, Advocate, Vision Australia, this was a liberating experience:
- Secret voting is not having somebody read for you like a friend or a relative, it is not having a polling official do it for you, and it is not having two people on the other end of the phone in a call centre scribing for you, as happened in the 2010 Federal election, which was also very disappointing. It is being able to read the candidate names for yourself, review the names, review your choices and be able to do so in secret and without the intervention of anybody else. I note with immense pleasure the steps forward made by the New South Wales Government in the 2011 election in the form of iVote. I cannot begin to express how incredibly liberating it was to be able to use my computer with my screen reading software, cast an independent

---

<sup>148</sup> See: Division 12A of the *Parliamentary Electorates and Elections Act 1912*.

<sup>149</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 89.

<sup>150</sup> NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 93.

<sup>151</sup> Ms Fiona Given, Policy Officer, Australian Centre for Disability Law, *Transcript of evidence*, 15 June 2012, p. 33.

vote, verify what selections I had made as in reviewing them and to be able to complete this totally under my control and in privacy.<sup>152</sup>

- 4.24 The submission from The Nationals anticipated that iVote would be of immense value to those unable to attend a polling booth:

On the whole, the expansion of the iVote system looks to be successful, and as it is refined will be of immense value to those electors who are unable to attend polling booths.<sup>153</sup>

- 4.25 The Committee also received a submission from Homelessness NSW which praised iVote and:

[supported] the continued use of iVote as an engagement strategy to allow, particularly, young people experiencing homelessness to participate in the electoral process.<sup>154</sup>

### *iVote's telephone option*

- 4.26 iVote's telephone option is provided as an alternative to a voting via the internet. Telephone voting has been provided by the NSWEC in two different formats.

- 4.27 At the 2011 election, those choosing to cast their vote via the telephone could do so by making their selection on the telephone keypad, also known as dual tone multi frequency dialling (DTMF).

- 4.28 At the Clarence by-election, those choosing to cast their vote via the telephone could do so by contacting the iVote call-centre and providing their selections to an operator who keyed these into the iVote system.

- 4.29 For Ms Thompson of Vision Australia, telephone voting represented an important alternative to iVote's internet option:

While the Electoral Commission did an immense amount of work and a terrific job with the computer interface to iVote, it was still inherently a very visual layout, which means that for someone who is blind using a computer, it needed somebody with a high level of skill in using the adaptive technology. So I think it actually locked out a lot of older people who are not familiar with computers but are familiar with telephones. That is why the telephone option was so incredibly important.<sup>155</sup>

- 4.30 Ms Thompson was concerned that the telephone keypad option for iVote might not be retained for future elections, thus discriminating against those persons who found using a telephone easier than navigating through a ballot paper on a computer using adaptive technology.

- 4.31 Using a telephone keypad to cast a vote was a secret ballot, in Vision Australia's view, whereas using the telephone to contact a call-centre was not:

---

<sup>152</sup> Ms Susan Thompson, Advocate, Vision Australia, *Transcript of evidence*, 15 June 2012, p. 38.

<sup>153</sup> The Nationals, *Submission No. 11*, p. 5.

<sup>154</sup> Homelessness NSW, *Submission No. 12*, p. 4.

<sup>155</sup> Ms Susan Thompson, Advocate, Vision Australia, *Transcript of evidence*, 15 June 2012, p. 38.

...a call centre-style telephone option, is contrary to the democratic and human rights of people who are blind or have low vision. It does not constitute either a secret vote nor a dignified experience for someone to have to convey their vote to someone over a phone line, while a third party looks on to verify the accuracy. It is not a situation a non-disabled voter would accept, and it would not be acceptable to a great many of our clients.<sup>156</sup>

- 4.32 The NSWEC's response to this concern was that the telephone keypad option which had been made available at the 2011 election, was a complex and expensive option in comparison to the call-centre based approach that had been used at the Clarence by-election.<sup>157</sup> If the NSWEC was required to roll out iVoting for Local Government elections, then it would not be possible for it to offer the telephone keypad option which had been offered at the 2011 election:

If we continue to roll out a full telephone voting option at the next State election, yes, the peak bodies will be well and truly satisfied but we will never be able to implement it at local government elections. We will either have to have the Clarence model or no model. That is the dilemma that you face.<sup>158</sup>

- 4.33 The NSWEC stated that it would be using the call-centre based approach in all by-elections between now and the next State election. It would also be investigating the use of voice actuated phone voting for the next State election and surveying users on all three options (DTMF, voice actuated and call centre based voting) before reporting those findings to the Government.<sup>159</sup>

#### *iVote's in polling booths*

- 4.34 For Ms Given, from the Australian Centre for Disability Law, it was important that iVote be made available in polling booths so that persons with a disability did not have to cast their vote differently to other electors:

Persons with disability feel that it is important that they are visible at polling booths so that on polling day certain political parties and other candidates are aware that they are an important part of their constituency and that their issues are brought to the political forefront.<sup>160</sup>

- 4.35 The NSWEC's response to this was that this would not be a viable and cost effective option as it was constrained by the amount of hardware which would be required to make iVote available in polling booths. It would also be difficult to have a reliable internet connection in all polling booths.<sup>161</sup>

---

<sup>156</sup> Vision Australia, *Submission No. 13*, p. 8.

<sup>157</sup> Vision Australia, *Answers to questions on notice / Additional answers*, 13 July 2012, p. 1, [http://www.parliament.nsw.gov.au/prod/parlament/committee.nsf/0/4b2ed7afd47c05d7ca257aa70073f59b/\\$FILE/Vision%20Australia.pdf](http://www.parliament.nsw.gov.au/prod/parlament/committee.nsf/0/4b2ed7afd47c05d7ca257aa70073f59b/$FILE/Vision%20Australia.pdf)

<sup>158</sup> Mr Colin Barry, Commissioner, NSWEC, *Transcript of evidence*, 15 June 2012, p. 60.

<sup>159</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 16.

<sup>160</sup> Ms Fiona Given, Policy Officer, Australian Centre for Disability Law, *Transcript of evidence*, 15 June 2012, p. 33.

<sup>161</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 8.

*Committee comment*

- 4.36 On the basis of the evidence which it has received, the Committee is of the view that iVote technology has been effective in enhancing voter accessibility.
- 4.37 The Committee recognises the difficulties which arise for the NSWEC when seeking to provide iVote options to voter groups that meet the requirements of those groups but are also viable and cost effective for the NSWEC.
- 4.38 To this end, the Committee is pleased to note the NSWEC's ongoing consultations with peak bodies representing disability groups and its efforts to survey user preferences and identify solutions for the 2015 election.

**Extending iVote**

- 4.39 As well as the views of advocacy groups, the Committee received a number of recommendations from NSW Labor and from The Nationals in relation to extending iVote.
- 4.40 NSW Labor considered that the larger than expected volume of votes cast at the 2011 election using iVote indicated that the system was assisting voters and recommended that it be extended to the 2012 Local Government elections.
- 4.41 The Party also recommended that the current system of classifying iVotes alongside postal votes be discontinued and that the two should be counted separately:
- First, it should be public information how many votes are cast in each category.
- Secondly, iVotes are likely to be cast by a very different demographic to 'classic' postal votes. Anyone who feels comfortable casting their vote online is likely to be younger, more mobile and more computer-literate than the typical postal voter. As a result, the voting patterns of the two groups are likely to be quite different. Postal votes are therefore not comparable to combined postal/iVotes.
- If relatively obscure categories such as enrolment new votes and provisional/silent votes can be counted separately, so too should iVotes.<sup>162</sup>
- 4.42 This was supported by the NSWEC who recommended that the legislation be changed to allow iVote results to be counted separately to postal votes at the next State election and future by-elections.<sup>163</sup>
- 4.43 In relation to extending iVote to the 2012 local government elections, the NSWEC considered that this was a matter for consideration by the Government.<sup>164</sup>
- 4.44 The Nationals also considered iVote to have been successful. However, they recommended that greater promotion of the service and a greater familiarity on

---

<sup>162</sup> NSW Labor, *Submission No. 10*, p. 3. See also s120AF of the *Parliamentary Electorates and Elections Act 1912*.

<sup>163</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 11.

<sup>164</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 10.

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS  
LIST OF SUBMISSIONS

the part of NSWEC staff with the conventions of rural property addresses would be areas for improvement.<sup>165</sup>

- 4.45 The Nationals recommended that for by-elections only, iVote eligibility should be extended to electors who will be more than 20 km outside their electorate on polling day:

Currently, an elector is only eligible to use iVote if they will be outside NSW on polling day for an election. This is an appropriate requirement for general elections due to the availability of absentee voting throughout the state. However, at a by-election, this requirement is problematic for people who are travelling outside their home electorate but within the state.<sup>166</sup>

- 4.46 The NSWEC supported this, recommending that the categories for eligible iVoters be changed in s 120AB(d) of the *Parliamentary Electorates and Elections Act 1912* for by-elections from saying "not...be within New South Wales" to "not...be within the district" on polling day.<sup>167</sup>

- 4.47 On the issue of rural property addresses the NSWEC advised the Committee that it would improve staff training to ensure that this did not reoccur.<sup>168</sup>

- 4.48 In relation to the proposal by The Greens for a shorter pre-poll voting period (see para 2.65) the NSWEC recommended that iVote could be extended to allow it to be used by eligible pre-poll voters. The NSWEC did not consider that this recommendation should be linked to the consideration of a shorter pre-polling period.<sup>169</sup>

*Committee comment*

- 4.49 On the proposal to extend iVote to eligible voter groups for Local Government elections, this is not a matter which the Committee has considered, as it does not fall within the terms of reference for this inquiry.
- 4.50 The Committee notes that iVote was not available at the 2012 Local Government elections. Were the Committee to receive terms of reference which enabled it to examine the question of whether technology assisted voting might be made available for future Local Government elections, it would report to Parliament on that matter.
- 4.51 In November 2012 the Committee resolved to conduct an inquiry into the Administration of the 2012 NSW Local Government elections. If the issue of the availability of iVote for Local Government elections is raised, it will be examined during that inquiry.

---

<sup>165</sup> The Nationals, *Submission No. 11*, p. 5.

<sup>166</sup> The Nationals, *Submission No. 11*, p. 5.

<sup>167</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 12.

<sup>168</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 12.

<sup>169</sup> NSW Electoral Commission, *Response to iVote related submissions*, p. 23.

- 4.52 With regard to allowing iVote results to be counted separately from postal votes, the Committee considers this proposal to have merit, in that it rightly recognises electronic voting as a distinct 'vote type'.
- 4.53 Accordingly, the Committee recommends that the NSW Government considers introducing legislation to amend the *Parliamentary Electorates and Elections Act 1912* to enable technology assisted voting (iVote) results to be counted separately to postal votes at State elections and by-elections.

#### RECOMMENDATION 9

**The Committee recommends that the NSW Government considers introducing legislation to amend the *Parliamentary Electorates and Elections Act 1912* to enable technology assisted voting results to be counted separately to postal votes at State elections and by-elections.**

- 4.54 The proposal to provide iVote at by-elections to those electors who will be more than 20 km outside their electorate on polling day, appears to the Committee to be a reasonable practical step to assist voters. This is because during a by-election, those voters would not have the option of absent voting at a polling place in another electoral district, which they would otherwise have during a State election.<sup>170</sup>
- 4.55 Consequently, the Committee recommends that the NSW Government considers introducing legislation to amend the *Parliamentary Electorates and Elections Act 1912*, to enable electors at a by-election, to use technology assisted voting (iVote) if they are to be more than 20 km outside their electorate on polling day.

#### RECOMMENDATION 10

**The Committee recommends that the NSW Government considers introducing legislation to amend the *Parliamentary Electorates and Elections Act 1912*, to enable electors at a by-election, to use technology assisted voting if they are to be more than 20 km outside their electorate on polling day.**

#### iVote's verifiability and transparency

- 4.56 The Committee received evidence from the Computing Research and Education Association of Australasia (CORE) which raised concerns about the iVote system's verifiability and transparency. This section of the report summarises the verifiability and transparency issues raised by CORE and the responses of the NSWEC and of Everyone Counts (the company engaged by the NSWEC to supply iVote's core software).

##### *Verifiability*

- 4.57 Dr Vanessa Teague of CORE informed the Committee that 'verifiability' referred to evidence that a particular election outcome was correct, with all votes correctly recorded, transmitted and printed:

---

<sup>170</sup> At the 2011 election, for example, those electors who were unable to vote in their electoral district could absent vote. All polling places were able to issue ballot papers for electoral districts other than the one in which the polling place was situated. See: NSWEC, *Report on the Conduct of the NSW State Election 2011*, p. 125.



Verifiability is obviously a matter of crucial importance for the integrity of the election because a system that does not provide good evidence that it got the correct answers is a system that could potentially be manipulated. I am not talking about coercion, although that is important too; I am talking about somebody actually altering the digital record of somebody else's vote to produce a different set of votes and hence try to influence the outcome of the election.<sup>171</sup>

- 4.58 Dr Teague did not believe that any internet voting protocol could provide a degree of verifiability and security comparable to postal voting, including iVote:

I disputed the verifiability of this system before I knew that it had demonstrably misrecorded 43 ballots but I hope that fact focuses attention on what, to me, has always been the main point - namely, that the other 46,000 and something do not come with any solid evidence that they correctly recorded, transferred and printed out eligible voters' votes. If a disgruntled losing candidate had challenged the iVote results and demanded evidence that they deserved to lose, that evidence would not have existed.<sup>172</sup>

- 4.59 The Committee put the question of verification and proof of the system's security to the NSWEC. In response, Mr Ian Brightwell of the NSWEC described how the iVote system had been tested for reliability:

The evidence in terms of voting verification, at the time of tendering we asked for a system which had verification. The term "verification" at any point in time if you ask any person could mean a range of things. What it wound up being in terms of verification for the purpose of the system we procured was verification that the vote had actually passed through the system and been available to the count. The provider did not provide the elector with any evidence of the preference markings on the ballot paper being in any certain way; it just indicated it had got to the point where it was going to be part of the count.

...

**Mr BRIGHTWELL:** The processes by which the system was tested and in fact implemented was our main confidence for that particular aspect of the system. Can I say though that at the time of the tender and the actual receipt of the tender that was a normal and accepted approach. Technology being what it is, things moving forward, we are perfectly of a similar view to the CORE presentation - and we have stated so in our responses - that we would see a verifiable vote with preferences being verified back to the elector as something which we should have within the next general election operation of the system that would be consistent with the available technology and our abilities at that time.<sup>173</sup>

- 4.60 The Committee also heard from Mr Mark Radcliffe, Business Development Manager, Everyone Counts, in relation to the 43 ballots that displayed the letter 'N' on the ballot rather than numeric preferences.
- 4.61 Mr Radcliffe explained that for blind and low-vision voters, a piece of JavaScript was provided which enabled those users to navigate through the preferences on

---

<sup>171</sup> Dr Vanessa Teague, CORE, *Transcript of evidence*, 15 June 2012, p. 11.

<sup>172</sup> Dr Vanessa Teague, CORE, *Transcript of evidence*, 15 June 2012, p. 11.

<sup>173</sup> Mr Ian Brightwell, Director Information and Technology, NSWEC, *Transcript of evidence*, 15 June 2012, p. 62. See also: NSWEC, *Response to iVote related submissions*, p. 12.

the ballot paper by pressing the letter N on the keyboard. In certain circumstances users had pressed the letter N on the keyboard before the piece of JavaScript had run:

So, this little piece of JavaScript, in certain instances where a blind person in particular was using a screen reader, which has to be reading it out to them and it has to run on their PC and interact with everything they are doing on every website, so it will slow down their PC, that combined with a very slow Internet connection in some cases caused them to be able to operate the keys before the JavaScript had started to run. That meant their first preferences, the first time they hit the N key and in some extreme cases more than the first one, but two or three, they hit the N and it showed an N instead of putting the next number in.

... In every one of these 43 cases the person was shown, or if they were using a screen reader it read to them their selection. It told them there was an N there, not a 1, and it said it would not be counted because it was invalid. Then they still hit the submit button. This was part of the reason for the determination of the commissioner that that was how they had actually submitted the vote. It was a failing in the system and it has subsequently been fixed. It was not something that any of our testers found.<sup>174</sup>

### *Transparency*

4.62 Dr Roland Wen of CORE informed the Committee that transparency was vital to integrity and trust in secret ballot elections. While paper-based elections could be subject to rigorous, open and inclusive scrutiny this was not so easy with the internet and computers, which were not by their nature transparent and were vulnerable to software errors and security vulnerabilities.

4.63 In the view of CORE, iVote could not be properly scrutinised because it is a "closed source system":

...the iVote system is what is called closed source; it is not an open source system. This means that the source code is only provided for review to selected people under a highly onerous non-disclosure agreement. This arrangement goes completely against the principles and practices of election transparency and scrutiny.

...With iVote what has happened is New South Wales has really fallen behind other jurisdictions by exposing its elections to unnecessary risk. To reduce the chance of catastrophic failure, New South Wales must set clear verifiability, transparency and scrutiny requirements well in advance of considering whether to use internet voting again.<sup>175</sup>

4.64 While noting that making an insecure system open source did not then make it secure, CORE was of the view that by allowing extensive scrutiny months before an election, security would be enhanced as a wide range of people would be then able to test the system. Dr Teague cited Victoria as a transparent, open source system:

---

<sup>174</sup> Mr Mark Radcliffe, Business Development Manager, Everyone Counts, *Transcript of evidence*, 15 June 2012, p. 22. See also: NSWEC, *Response to iVote related submissions*, p.14.

<sup>175</sup> Dr Roland Wen, CORE, *Transcript of evidence*, 15 June 2012, p. 12.

...it too is going to be completely openly readable source code. It is going to be developed in the context of exactly what I just said: A very transparent process that will be open over a long period of time with the expectation that that will provide an extensive period for outside review, and with the expectation that the Electoral Commission will find out about as many bugs as possible because there will be enough time for a large number of different people to scrutinise the source code.<sup>176</sup>

- 4.65 Whilst recognising the case for an open source code, Mr Radcliffe noted that such an approach would have cost implications, comparing the NSW system to that in Norway:

That was a particularly expensive project compared to ours, for example, in Norway. Add an extra digit, basically. The issues there for our competitor to disclose a source code would be the same that we would face. That is, you would want to have a premium in the pricing to cover the risk but you would still probably, for a high profile project, be quite prepared to do so. To a certain extent it is whether the request for tender requires you to do so and then you would price appropriately for disclosing the source code. As a company we would not say no but we would make a commercial decision based upon the particular project we were prepared to bid on.<sup>177</sup>

- 4.66 In response to a question taken on notice, the NSWEC considered the Norwegian electronic voting project to be a useful case study, but not one which should be adopted as best practice for NSW. The NSWEC cited evaluations of the Norwegian project that noted the difficulties that had been experienced in disclosing all of the source code for that system (the final Norwegian source code was not released until one month after the election); and considered whether open source codes did lead to meaningful reviews by stakeholders. Consequently, the NSWEC considered that:

...unfettered access to source code by the general public is not the way to increase transparency.<sup>178</sup>

- 4.67 Rather than open source code, the NSWEC plans to provide the code to expert reviewers:

The NSWEC proposes that expert reviewers have access to the source code under an NDA [non disclosure agreement]. The findings from these reviews will then be published on the NSWEC website along with NSWEC comments and a statement of conflict of interest and reviewer resume. The resume will outline the "expert"

---

<sup>176</sup> Dr Vanessa Teague, CORE, *Transcript of evidence*, 15 June 2012, p. 13. See also: CORE, *Answers to questions on notice / Additional answers*, 28 June 2012, pp. 5-6.  
[http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/Oda5396784d04022ca257aa700738dbc/\\$FILE/Answer%20to%20QONs%20-%20CORE%20\(28062012\).pdf](http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/Oda5396784d04022ca257aa700738dbc/$FILE/Answer%20to%20QONs%20-%20CORE%20(28062012).pdf)

<sup>177</sup> Mr Mark Radcliffe, *Everyone Counts*, *Transcript of evidence*, 15 June 2012, p. 20.

<sup>178</sup> NSWEC *Answers to questions on notice / Additional answers*, 13 July 2012, p. 7.  
[http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/f4f2d49028cd833cca257aa70073aa85/\\$FILE/NSW%20Electoral%20Commission%20\(13072012\).pdf](http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/f4f2d49028cd833cca257aa70073aa85/$FILE/NSW%20Electoral%20Commission%20(13072012).pdf)

reviewer's eVote credentials thus allowing an informed assessment of the findings by the public.<sup>179</sup>

*The NSWEC's recommendations for iVote*

- 4.68 In considering the issues raised by CORE, the NSWEC made a number of recommendations in relation to iVote:<sup>180</sup>
- that technology should be implemented where it provides an improvement over traditional channels of voting in respect of elector enfranchisement and/or the accuracy and reliability of vote processing and does not reduce voters' current level of secrecy and process transparency and/or security;
  - that after the 2015 election the NSWEC would facilitate scrutiny and transparency by:
    - conducting a public presentation outlining the architecture and technical features of iVote;
    - publishing an audit report (similar to that prepared for the 2011 election);
    - publishing the iVote Standard and Risk Register; and
    - publishing a section of other security and system architecture reports which the Commissioner deems appropriate.
  - that the iVote system would provide voter preference verification in such a way as to not reduce the secrecy of the voters' ballot;
  - that should phone voting not be implemented at the 2015 election it would consider using client side encryption of votes; and
  - that at the 2015 election it would again engage suitably qualified and independent audit organisation/s that have extensive knowledge and experience in areas appropriate to the iVote project, including cryptography, security, software engineering and fault-tolerant systems.
- 4.69 The NSWEC also raised the following issues in relation the administration of the iVote system for future NSW elections:
- what prescribed level of access the NSWEC should allow to software and documentation;
  - who should have access;
  - who is responsible for scrutinising the system; and

---

<sup>179</sup> NSWEC *Answers to questions on notice / Additional answers*, 13 July 2012, p. 7.  
[http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/f4f2d49028cd833cca257aa70073aa85/\\$FILE/NSW%20Electoral%20Commission%20\(13072012\).pdf](http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/f4f2d49028cd833cca257aa70073aa85/$FILE/NSW%20Electoral%20Commission%20(13072012).pdf)

<sup>180</sup> NSWEC, *Response to iVote related submissions*, pp. 5-18.

- should there be a limitation to the period for which information access is permitted after an election.<sup>181</sup>

*The Victorian system*

4.70 During the inquiry, reference was made to a VEC project to develop an electronic voting system for the 2014 Victorian State election.

4.71 CORE stated in their submission that they were collaborating on this project with VEC and other local and international experts and proposed the Victorian system as a good model for NSW:

The project has commenced years before the next election is due (2014) and the system will be genuinely verifiable and have openly published source code. After careful consideration, the VEC has recognised that this is the best way to ensure the system provides strong security guarantees, is highly transparent and undergoes thorough scrutiny. Importantly, this collaboration will also help to ensure in-house expertise and understanding of the system.<sup>182</sup>

4.72 The NSWEC also referred to the Victorian project stating that they would be monitoring its development and implementation:

The NSWEC will be tracking the VEC development very closely and would consider, for the state general election in 2015, possibly using the VEC system. However the system would have to be technically proven and functionally suitable, and at the time of the NSW election the NSWEC would have to have access to a skilled and experienced support team.<sup>183</sup>

4.73 With regard to verification, the Committee understands that the Victorian project known as vVote, aims to offer 'captured as cast' verification to certain eligible voters whether they are voting from a remote location via the internet, or a supervised location such as an early voting centre in Victoria or an interstate or overseas centre provided by VEC.<sup>184</sup>

4.74 At a supervised location, electors would be issued with a voting slip which they would insert into a reader attached to a voting tablet which is capable of interfacing with assistive technologies and offering VEC supported languages. Once the voter had made their selection and confirmed those choices, they would then have a completed voting slip which would provide them with proof that their vote had been recorded by the system as they had intended it. The voting slip would then torn in half along a provided perforation, this would be done in order to remove the candidate names from the vote but leave the voter with a receipt displaying a shuffled list of preferences. This receipt would be scanned (in place of the ballot box) and the voter could then discard it or take it with them.

---

<sup>181</sup> NSWEC, *Response to iVote related submissions*, pp.8-9.

<sup>182</sup> CORE, *Submission No. 7*, pp.15-16.

<sup>183</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 17.

<sup>184</sup> Information provided to the Committee by the Victorian Electoral Commission. See for also: Chloe Herrick, *VEC develops tablet-based e-voting system*, Computerworld, 5 April 2012. [http://www.computerworld.com.au/article/420681/vec\\_develops\\_tablet-based\\_e-voting\\_system/](http://www.computerworld.com.au/article/420681/vec_develops_tablet-based_e-voting_system/), <Accessed 26 September 2012>.

- 4.75 If the voter chose to take their receipt with them then they could then use it to check their preferences against the VEC's recording of their vote via the VEC's website.
- 4.76 While there is currently no legislative provision for remote electronic voting in Victoria, the vVote project is nonetheless considering a 'captured as cast' option for remote voters, should this form of voting be made available. It is envisaged that those registering to vote remotely, from an unsupervised location such as their home, would then be issued with a USB-key (or token) by the VEC. This would then be plugged into their PC enabling them to vote via the VEC website. Voters would be able to use assistive technologies and vote in VEC supported languages.
- 4.77 An encrypted vote would be transmitted to the VEC and an unencrypted vote would be retained on the USB-key. A voter seeking 'captured as cast' verification of their vote would be able to use their USB-key to check their vote against the encrypted copy of that vote on the VEC website.
- 4.78 While the token would display to the voter the entire vote which they had cast (thus potentially allowing this to be revealed by a third party) the encrypted vote would remain secret from the VEC.
- 4.79 It is also intended that vVote would allow a member of the general public, with some expertise, to check that the mass of votes were not altered or removed by the VEC during the voting process.
- 4.80 With regard to transparency, the Committee understands that the vVote system would consist of two parts, one of which would be fully open to public scrutiny.
- 4.81 The part which would be entirely open source would be the voting system, which serves and collects ballots electronically. It is the project's intention that this open part could be downloaded and accessed under a GPL license.
- 4.82 The second part, an internal VEC management system used by VEC staff to manage and monitor of the e-voting system, would not be open source as it would be an internal application specific to the VEC's business processes.

*Committee comment*

- 4.83 During this inquiry and in other forums, there has been a robust debate about whether iVote had vulnerabilities which could have affected the integrity of the 2011 election.<sup>185</sup>
- 4.84 The submissions, hearing transcripts and other documents that form the evidence base for this inquiry, contain comment that is both critical and supportive of the performance of iVote.<sup>186</sup>

---

<sup>185</sup> See for example: Parliament of Victoria, Electoral Matters Committee, *Inquiry into the conduct of the 2010 Victorian state election and matters related thereto*, May 2010, pp. 105-106. [http://www.parliament.vic.gov.au/images/stories/committees/emc/2010\\_Election/20120523\\_emc.finrep-electoralconduct.pdf](http://www.parliament.vic.gov.au/images/stories/committees/emc/2010_Election/20120523_emc.finrep-electoralconduct.pdf), <Accessed 6 September 2012>.

- 4.85 The Committee welcomes this debate as it is a legitimate and necessary scrutiny of a critical element of the voting process. However, the Committee also recognises the limitations of this particular inquiry as a means of addressing all of the specific technical issues that have been raised in relation to iVote. Consequently the Committee's broad comments focus on verifiability and transparency, as these appear to be key areas where the experience of the 2011 election may be useful in planning for future elections.
- 4.86 A key criticism of iVote at the 2011 election, with which the Committee concurs, is that a voter was unable to verify that their vote was recorded as they intended it. The Committee is of the view that developing a verification process of this type should be a key goal for the NSWEC before the 2015 election.
- 4.87 To this end, the Committee is pleased to note the NSWEC's recommendation that iVote should provide voter preference verification (in such a way as to not reduce the secrecy of the voters' ballot) and this recommendation is supported.

## RECOMMENDATION 11

**The Committee recommends that the NSWEC develop and implement voter preference verification for voters using iVote at the 2015 State election.**

- 4.88 The Committee is also pleased to note that the NSWEC is following the VEC's progress in developing an electronic voting system that is capable of providing 'captured as cast' verification to voters.
- 4.89 On the issue of transparency, the Committee notes differing stakeholder views as to the best way to evaluate electronic voting systems, whether it be via expert review under non-disclosure agreements as favoured by the NSWEC or open review through unlimited access to the source code such as that being developed for vVote.
- 4.90 Should the NSWEC adopt the expert review approach, the Committee strongly encourages it to give careful consideration to the form of those non-disclosure agreements, so that independent expert evaluation is supported and the right balance is struck between confidentiality and inclusivity.
- 4.91 In conclusion, the Committee supports technology assisted voting and recognises the NSWEC's considerable progress to date. In the run-up to the 2015 election it is to be hoped that further technological developments and the experiences of electronic voting from in other jurisdictions will provide the NSWEC with the means to make further progress and address some of the issues raised during the inquiry, particularly in relation to transparency and verifiability.

---

<sup>186</sup> See the submission from CORE and the answer provided to a question taken on notice, the submission from Everyone Counts and the NSWEC and EFA, *Response to iVote related submissions*, pp. 5-18.  
[http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/67F2055C4D085409CA25795A0017CF2C?open&refnavid=CO3\\_1](http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/67F2055C4D085409CA25795A0017CF2C?open&refnavid=CO3_1)

## Chapter Five – Future options for voting

- 5.1 Having reviewed, in the preceding chapters, services provided by the NSWEC to electors and parties at the 2011 election, this chapter discusses a number of proposals to change the way in which future elections are conducted.
- 5.2 Those proposals are: fixing a date for the issue of the writs; requiring that voters provide proof of identity; and a proposal for a moratorium on significant electoral changes one year out from a State Election.

### FIXING A DATE FOR THE ISSUE OF THE WRITS

- 5.3 In his submission to the Inquiry, Mr Antony Green noted that since the introduction of fixed-term parliaments in 1995, NSW had conducted elections with fixed dates for the dissolution of the Legislative Assembly and the day of polling, but with a variable date for the issue of writs.<sup>187</sup>
- 5.4 Given that the beginning and the end of the election period were fixed, there was, in his view, no reason to retain a variable writ date as this only caused administrative delays for the NSWEC:

This variable date for the writ creates problems. While the Electoral Commission can publicise the date of the election in advance, it cannot publicise the date for the close of the rolls or close of nominations, as these dates cannot be set until the writ is issued...

Given the fixed dates that start and end the election period, it makes administrative sense to change the Parliamentary Electorates and Elections Act so that the date for the issue of the writs and the close of nominations are also fixed and determined in advance.<sup>188</sup>

- 5.5 Mr Green recommended fixing the date for the issue of the writs and for the close of nominations. This recommendation was supported by the NSWEC:

The NSWEC agrees with this recommendation as we cannot publicise the date for the close of the authorised roll or close of nominations, due to the fact that these dates cannot be set until the writ is issued.<sup>189</sup>

### *Committee comment*

- 5.6 The Committee supports fixing the date for the issue of the writs and for the close of nominations as it would accord with the existing fixed dates in the election period and be of assistance to the NSWEC in their task of administering the elections.

---

<sup>187</sup> The Writ is the document by which the Governor directs returning officers to conduct an election. Its central purpose is to set out an election timetable. See Orr, Graeme, *The Law of Politics*, Federation Press, Sydney, 2006 p. 73.

<sup>188</sup> Mr Antony Green, *Submission No. 8*, p. 2-3.

<sup>189</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 7.



## RECOMMENDATION 12

**The Committee recommends that the NSW Government introduce legislation to amend Section 68 of the *Parliamentary Electorates and Elections Act* to fix the date for the issue of writs for a normal quadrennial election.**

**The provisions should also fix the date for the close of nominations, or**

**Where Section 24B(4) is invoked to vary the date for a quadrennial election, or an early dissolution occurs, the date should be similarly fixed.**

## VOTER IDENTIFICATION

5.7 During the course of the inquiry, the Committee considered the offences of multiple voting by an individual and of impersonating another elector for the purposes of voting.<sup>190</sup>

5.8 In relation to multiple voting, the Commissioner suggested that the mark-off process whereby electoral officials marked voters off the rolls using pencils and paper could be improved by the use of smartphone technology:

Election day multi-voting is an old chestnut that is raised at every joint standing committee meeting held around the country. Electoral authorities have been unable to dispel the perception that widespread multi-voting occurs on election day because of the limitation of mark-off using pencils and paper rolls. As we know, it is currently possible for an elector to vote at many polling places in an electorate on election day...

We believe that smartphone technology may offer a solution to this issue. We currently use electronic mark-off with laptops at pre-poll voting. However, the cost of providing election officials at polling places with electronic devices is prohibitive. The cost could be addressed by using smartphone devices already owned by election officials that can be configured with our electronic mark-off system. That is, they can use their smartphone to access a website where they can mark the roll. That mark-off can then be sent to a central database. The same technology can be used to perform statewide hook-ups, to register iVoters in polling places for absentee votes and also to allow results from polling places on election night to be returned more rapidly. As an added advantage, it would reduce paper usage by some two million A4 pages.<sup>191</sup>

5.9 In response to a question on the extent of multiple voting, the Electoral Commissioner informed the Committee that in the limited instances where there had been grounds for suspecting an individual, attempts to prosecute had not been successful:

...there are fewer than a handful of people who appear to have voted more than twice - people who might try to vote three, four or five times. We did have a person - and I cannot remember whether it was the 2007 or the 2011 election, it may have been the 2007 election - who turned up at about seven or eight polling places, one person, and had their name marked off. So we had the evidence that this happened.

---

<sup>190</sup> See s112 of the *Parliamentary Electorates and Elections Act 1912*.

<sup>191</sup> Mr Colin Barry, Commissioner, NSWEC, *Transcript of evidence*, 15 June 2012, pp. 4-5.

We sent the police around and they came back and said, "The person is not mentally balanced". We took it further to the Crown Solicitor and the Crown Solicitor said, "You are not going to be able to get a successful prosecution, because all you can prove, at best, is that the person went and got their name marked off the roll but that does not mean they voted". So the law would have to be changed that it was illegal to have your name marked off a roll more than once, because having your name marked off the roll is not the same as voting. That was an interesting comment from the Crown Solicitor on it.<sup>192</sup>

5.10 Mr Barry also admitted that a lack of evidence around impersonation was also a problem.<sup>193</sup>

5.11 On the question of using a voter identification card to counteract multiple voting or impersonation, the Commissioner did not raise any philosophical or administrative difficulties in issuing voters with a voter identification card, or requiring the production of some other form of identification.<sup>194</sup>

5.12 Whilst the majority of voters would have a form of identification which could be accepted for the purposes of voting; the Commissioner perceived the challenge would lie in determining what arrangements would need to be made for those voters who simply did not have a commonly accepted form of photographic identification such as a drivers licence:

... for the vast majority of people having a drivers licence will cut the mustard for them; but it is the ones that get to the edge that you are either going to have to accept and say that is fine but we have to have some other arrangements for those people. I am not personally against the idea of having any sort of proof of identity to vote.<sup>195</sup>

5.13 Mr Green did not consider impersonation or multiple voting to be extensive and consequently did not favour requiring voters to present identification. However, Mr Green did consider two measures to be worthy of consideration. Those were giving the NSWEC the power to declare certain individuals to be "suspect voters" and marking off the rolls electronically:

I suspect that there are people who turn up and vote for their children who are overseas thinking they are avoiding their children getting fined. The numbers are probably quite small. I do not think there is any systematic rotting of the rolls of voting for party purposes. Mainly because you would have to know that somebody is not voting to be able to vote on their behalf. There could be some questions there in terms of impersonation. In terms of multiple voting I do not think there is anything systematic there. There are some people who seem to have an anarchic view that they can undermine the whole process by voting multiple times. As Colin Barry referred to earlier, there are one or two people that are known to do that. My view would be if the Electoral Commission was given the right to declare somebody as a suspect voter so they have to present identification that would be better than making everybody present identification.

---

<sup>192</sup> Mr Colin Barry, Commissioner, NSWEC, *Transcript of evidence*, 15 June 2012, p. 8.

<sup>193</sup> Mr Colin Barry, Commissioner, NSWEC, *Transcript of evidence*, 15 June 2012, p. 8.

<sup>194</sup> Mr Colin Barry, Commissioner, NSWEC, *Transcript of evidence*, 15 June 2012, p. 7.

<sup>195</sup> Mr Colin Barry, Commissioner, NSWEC, *Transcript of evidence*, 15 June 2012, p. 10.

...[Electronic mark off] was trialled at a by-election in Western Australia. All the polling places had wireless technology and the names were marked off. A very small number of people tried to vote more than once and they were told that they had already voted at another polling booth. Impersonation can lead to multiple voting with someone else turning up at another place or it can be a clerical error. If you go down the path of having a central marking system, you must have a facility whereby someone can turn up to be told they have already voted and then be allowed to cast a declaration vote.<sup>196</sup>

- 5.14 Mr Digby Hughes, Policy and Research Officer, Homelessness NSW, told the Committee that a requirement for voter identification would be problematic for many homeless people who would have some forms of identification (or capacity to obtain it) but would not have it with them at all times:

Obviously a lot of people who are street homeless do not have a lot of identification with them. They minimise their belongings. That is one of the issues they have when trying to obtain accommodation or talking to Centrelink. If everybody is forced to produce identification on voting day it will be an issue.<sup>197</sup>

- 5.15 The Christian Democratic Party also supported a requirement that voters provide some form of identification:

I do not think it is unreasonable that people provide some form of identification. People can do that easily by showing a driver's licence; it has your photo on it and you can be identified that way. For those that do not have a drivers licence some alternative means of identification can be easily produced such as a disabled parking certificate.

...There are forms of identification that are readily available and I do not think it is a big issue to show that quickly to the attendant behind the desk at the polling booth.<sup>198</sup>

### *Committee comment*

- 5.16 The Committee notes the evidence from the NSWEC that instances of multiple voting and voter impersonation do exist and may lead to potential fraud. These risks can be mitigated by the simple step of requiring voters to provide proof of identity.
- 5.17 To neglect to do so would be to place the critical act of voting on a less secure footing than many routine transactions in NSW that require the production of personal identification.
- 5.18 The Committee acknowledges that there is a challenge in selecting acceptable forms of identification to which all electors in NSW would have ready access. It is of the view that a thorough feasibility study, leading to well drafted legislation and complemented by a well resourced voter education campaign are effective means of meeting that challenge.

---

<sup>196</sup> Mr Antony Green, Election Analyst, *Transcript of evidence*, 15 June 2012, pp.30-32.

<sup>197</sup> Mr Digby Hughes, Policy and Research Officer, Homelessness NSW, *Transcript of evidence*, 15 June 2012, pp. 45-47.

<sup>198</sup> Mr Leighton Thew, Acting State Manager, Christian Democratic Party, *Transcript of evidence*, 29 June 2012, p. 9.

### RECOMMENDATION 13

**The Committee recommends that the NSW Government gives consideration to introducing legislation to require that voters provide proof of identity at the time of casting their vote.**

### RECOMMENDATION 14

**The Committee recommends that the NSWEC investigate and report back to the Committee on the future use of an electronic system to mark-off voters.**

## AN ALTERNATIVE VERSION OF THE LEGISLATIVE COUNCIL BALLOT PAPER

5.19 Mr Antony Green's evidence to the Committee considered the practicalities of the current Legislative Council ballot paper, noting that only a small percentage of voters at the 2011 election chose to vote below the line:

... the sheer size of the Legislative Council ballot paper is getting in the way of the elections in this State. This gigantic ballot paper gets in the way of voters trying to vote, gets in the way of people trying to count votes, and you get vast numbers of these big, blank ballot papers being left over at the end of the count. You have no idea, except for the squiggle on the back, whether these have come straight from the pile or whether they have actually been through the hands of the voters. Only 2 per cent of people are voting below the line anyway. For the other 98 per cent of ballot papers, 80 per cent of them have a single "1" and about 18 per cent have a number sequence above the line. So we are handling several million gigantic ballot papers to cope with a very small number who vote below the line.<sup>199</sup>

5.20 Mr Green suggested that it may be time to offer voters a choice of ballot papers. Voters could use the current ballot paper if they wish to choose between candidates or they could be offered a new smaller ballot paper that only lists the parties or groups. The smaller ballot paper would have the advantage that it could be scanned using optical recognition technology, something that is not possible with the current ballot paper because of its size. However, devising a new smaller ballot paper would, in Mr Green's view, require a re-examination of the way in which unaffiliated groups are listed:

At the 2011 election, two groups of Independents contested the election, one headed by John Hatton and a second by Pauline Hanson. Under existing legislation, neither could be identified above the line. Were such an approach repeated with a party/group only ballot paper, both groups would have had no identification on the ballot.<sup>200</sup>

5.21 The NSWEC supported consideration of this proposal noting that the advantage for the majority of voters who chose to vote above the line would be that they would not have to contend with a large unwieldy ballot paper. The advantage for the NSWEC would be a quicker and cheaper Legislative Council count through the use of scanning technology instead of the current data entry. However those savings would have to be weighed against the increased costs of a smaller print

---

<sup>199</sup> Mr Antony Green, Election Analyst, *Transcript of evidence*, 15 June 2012, pp. 26-27.

<sup>200</sup> Mr Antony Green, *Submission No.8*, p. 7.

run of the full Legislative Council ballot paper and the additional cost of printing the new ballot papers which only listed parties or groups.

- 5.22 The NSWEC also perceived a cost in raising awareness and in educating electors and election officials about the choices of ballot paper on offer.<sup>201</sup>

*Committee comment*

- 5.23 The proposal to offer voters an alternative Legislative Council ballot paper would appear to have considerable merit, in that it increases voter choice and convenience and has the potential to deliver administrative efficiencies.
- 5.24 That being said, as Mr Green noted in his evidence, there would need to be a re-examination of the way in which unaffiliated groups are listed, and in the Committee's view, no steps should be taken to change the current arrangements, without undertaking a full consultation with stakeholders.
- 5.25 While the Committee did not receive sufficient evidence to support a recommendation in relation to the provision of an alternative Legislative Council ballot paper, it will keep a watching brief on the matter.

## MORATORIUM ON SIGNIFICANT ELECTORAL CHANGES

- 5.26 The Christian Democratic Party considered that Parliament ought to be mindful of the time required by the NSWEC, the EFA and other key stakeholders, to adjust to significant electoral reform:

The EC and the EFA as well as affected entities had to cater for many substantial changes to the processes, rules and procedures covering the whole gamut of election activity; from Party Funding right through to Voting Methods before the 2011 State Election.

Most of these changes had significant computer and manual system impacts as well as needed many new forms to be designed or old ones re-designed. These changes then had to be conveyed to effected entities by way of training or communication.<sup>202</sup>

- 5.27 While commending the NSWEC and the EFA, the Christian Democratic Party recommended a moratorium on significant electoral changes should be in place one year out from a State election. This would be to ensure that systems and procedures, including training and communication, can be implemented well in advance of the actual election.
- 5.28 The NSWEC noted that its development of systems and procedures commences approximately two years in advance of a State election, and that the timing of legislative changes affects those preparations, potentially in an adverse way.<sup>203</sup>

---

<sup>201</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p.8.

<sup>202</sup> Christian Democratic Party, *Submission No. 5*, p. 4.

<sup>203</sup> NSWEC and EFA, *Responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters*, p. 4.

*Committee comment*

- 5.29 The Committee acknowledges the considerable achievements of the NSWEC in successfully administering the 2011 election so shortly after major changes were made to the electoral legislation.
- 5.30 Considering substantive proposals to change electoral law can be a lengthy procedure involving parliamentary and executive processes that do not always align with the administrative planning undertaken by electoral agencies and other key election stakeholders. Nonetheless, whilst appreciating the impacts of enacting legislation immediately prior to an election, the Committee would not in any way wish to see Parliament limit its own ability to deliberate and legislate on electoral matters, by way of a moratorium.

## Appendix One – List of submissions

1	Dr Craig Boutlis
3	Liberal Democratic Party
4	Australian Sex Party NSW
5	Christian Democratic Party
6	Everyone Counts Pty Ltd
7	Computing Research and Education Association of Australasia
8	Mr Antony Green
9	Australian Centre for Disability Law
10	Australian Labor Party (NSW Branch)
11	The Nationals (NSW Branch)
12	Homelessness NSW
13	Vision Australia
14	The Greens NSW
15	The Liberal Party of Australia – NSW Division

## Appendix Two – List of witnesses

15 JUNE 2012, JUBILEE ROOM PARLIAMENT HOUSE

Witness	Organisation
Mr Colin Barry, Electoral Commissioner Mr Paul Beeren, Director Enrolment Mr Ian Brightwell, Director Information and Technology Mr Brian Decelis, Director Funding and Disclosure	Electoral Commission of NSW
Dr Roland Wen Dr Vanessa Teague	Computing Research and Education Association of Australia
Mr Mark Radcliffe, Business Development Manager (International Sales)	Everyone Counts Pty Ltd
Mr Antony Green, Election Analyst	
Ms Fiona Given, Policy Officer	Australian Centre for Disability Law
Ms Susan Thompson, Advocacy Officer	Vision Australia
Mr Digby Hughes, Policy and Research Officer	Homelessness NSW
Mr Mark Neeham, State Director Mr Simon McInnes, Finance Director	Liberal Party of Australia, NSW Division



**29 JUNE 2012, JUBILEE ROOM PARLIAMENT HOUSE**

---

<b>Witness</b>	<b>Organisation</b>
Mr Ian Smith, Party Agent Mr Leighton Thew, Acting State Manager	Christian Democratic Party
Mr Chris Maltby, Registered Officer Ms Lesa De Leau, State Election Campaign Co-ordinator	The Greens NSW
Mr Ben Franklin, State Director Mr Greg Dezman, Deputy State Director	The Nationals (NSW Branch)
Mr Andrew Patterson, Registered Officer	Australian Sex Party
Mr Brett Holmes, General Secretary Mr Tony O'Grady, Manager Projects & Compliance	NSW Nurses' Association
Mr Mark Lennon, Secretary Mr Paul Doughty, Industrial and Campaigns Officer	Unions NSW
Mr Colin Barry, Electoral Commissioner Mr Brian Decelis, Director Funding and Disclosure	Electoral Commission of NSW

---

## Appendix Three – Extracts from minutes

### MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 1)

1.02 pm, Thursday, 23 June 2011

Room 1153, Parliament House

#### Members Present

Mr Borsak, Ms Fazio, Mr Fraser, Mr Khan, Mr Primrose and Mr Ward

#### Apologies

An apology was received from Dr Phelps.

#### 1. Introduction

The Clerk-Assistant (Committees) opened the meeting and read the following extracts from the Votes and Proceedings of the Legislative Assembly and the Minutes of the Legislative Council –

Legislative Assembly Votes and Proceedings, Wednesday 22 June 2011, no. 23, entry no. 12 –

(7) Joint Standing Committee on Electoral Matters

That:

- (1) A Joint Standing Committee, to be known as the Joint Standing Committee on Electoral Matters, be appointed.
- (2) The Committee inquire into and report upon such matters as may be referred to it by either House of the Parliament or a Minister that relate to:
  - (a) The following electoral laws:
    - (i) *Parliamentary Electorates and Elections Act 1912* (other than Part 2);
    - (ii) *Election Funding Act 1981*; and
    - (iii) Those provisions of the *Constitution Act 1902* that relate to the procedures for, and conduct of, elections for members of the Legislative Assembly and the Legislative Council (other than sections 27, 28 and 28A);
  - (b) The administration of and practices associated with the electoral laws described at (a).
- (3) All matters that relate to (2) (a) and (b) above in respect of the 26 March 2011 State Election, shall stand referred to the Committee for any inquiry the Committee may wish to make. The Committee shall report on the outcome of any such inquiry within 12 months of the date of this resolution being agreed to by both Houses.
- (4) The Committee consist of seven members, as follows:
  - (a) two members of the Legislative Assembly, and
  - (b) five members of the Legislative Council.
- (5) Mr Andrew Fraser and Mr Gareth Ward be appointed to serve on such committee as the members of the Legislative Assembly.

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS  
EXTRACTS FROM MINUTES

- (6) Notwithstanding anything contained in the Standing Orders of either House, at any meeting of the Committee, any four members of the Committee shall constitute a quorum, provided that the Committee meets as a joint committee at all times.
- (7) The Committee have leave to sit and transact business during the sittings or any adjournment of either House, and despite any prorogation of the Houses of Parliament.
- (8) The Committee have leave to make visits of inspection within the State of New South Wales and other States and Territories of Australia.
- (9) A message be sent acquainting the Legislative Council of the resolution and requesting the Legislative Council to appoint five of its members to serve with the members of the Legislative Assembly upon the Committee, and to fix a time and place for the first meeting.

Legislative Council Minutes, Wednesday 22 June 2011, minutes of proceedings no.23, entry no 30—

(5) Joint Standing Committee on Electoral Matters

- (1) That this House agrees to the resolution in the Legislative Assembly's message of Wednesday 22 June 2011 relating to the appointment of a Joint Standing Committee on Electoral Matters.
- (2) That the representatives of the Legislative Council on the Joint Standing Committee be Mr Trevor Khan, Mr Peter Phelps, Mr Peter Primrose, Ms Amanda Fazio and Mr Robert Borsak.
- (3) That the time and place for the first meeting be Thursday 23 June 2011 at 1:00 pm in Room 1153.

2. \*\*\*

3. \*\*\*

4. \*\*\*

The committee adjourned at 1.06 pm until a time and date to be determined.

**MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE  
ON ELECTORAL MATTERS (NO. 2)**

9.30 a.m. Wednesday 3 August 2011

Waratah Room, Parliament House

**Members Present**

Mr Khan (Chair), Mr Borsak (Deputy Chair), Mr Fraser, Dr Phelps and Mr Primrose.

The Chair opened the meeting at 9.34 a.m.

**1. Confirmation of Minutes**

Resolved on the motion of Mr Fraser, seconded by Mr Borsak:

"That the Minutes of the meeting of 23 June 2011 be adopted".

**2. Apologies**

Apologies were received from Ms Fazio and Mr Ward.

### 3. Review of the 2011 Election

The Committee noted that in November 2007, the Electoral Commissioner tabled in the House an extensive review of the conduct and administration of the 2007 State Election, and that the Commission is currently drafting its review of the 2011 Election.

Resolved on the motion of Mr Fraser, seconded by Mr Primrose:

"That the Committee defer commencing its review of the 2011 State Election until after the NSW Electoral Commission tables its review of the conduct and administration of that Election.

4. \*\*\*

5. \*\*\*

6. \*\*\*

The Committee adjourned at 9.46 a.m. until 9.00 a.m. on Wednesday 24 August 2011.

## MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 4)

8.34 am, Friday, 25 November 2011

Committee Room 1136, Parliament House

### Members Present

Mr Khan (Chair), Mr Fraser, Dr Phelps, Mr Primrose, Mr Ward.

### Apologies

Mr Borsak, Ms Fazio.

*Officers in attendance:* Ms Vicki Buchbach, Mr Rohan Tyler.

### 1. Confirmation of Minutes

Resolved on the motion of Mr Fraser, seconded by Mr Ward: That the minutes of the meeting of 24 August 2011 be adopted.

### 2. Administration of the 2011 New South Wales State Election

The Committee noted that, on Thursday, 24 November 2011, the Premier tabled the report of the New South Wales Electoral Commission entitled Report on the Conduct of the NSW State Election 2011.

Resolved on the motion of Mr Fraser, seconded by Mr Ward:

1. That in accordance with the Committee's terms of reference, the Committee commence an inquiry into the administration of the 2011 New South Wales State Election and related matters;
2. That an advertisement calling for submissions to the inquiry be placed in the press; and
3. That the closing date for the receipt of submissions be Friday, 17 February 2012.

The secretariat undertook to provide the Committee members with a hard copy and an electronic copy of the New South Wales Electoral Commission's report.

3. \*\*\*

The Committee adjourned at 8.39 am until 8.30 am, Wednesday, 22 February 2012.

## MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 5)

8.35 am, Wednesday, 22 February 2012

Committee Room 1136, Parliament House

### Members Present

Mr Khan (Chair), Mr Borsak (Deputy Chair), Ms Fazio, Mr Fraser, Mr Primrose and Mr Ward.

### Apologies

An apology was received from Dr Phelps.

*Officers in attendance:* Ms Vicki Buchbach, Mr Jonathan Elliott and Mr Rohan Tyler.

### 1. Confirmation of Minutes

Resolved on the motion of Mr Fraser, seconded by Mr Ward: That the minutes of the meeting of 25 November 2011 be adopted.

2. \*\*\*

### 3. Inquiry into the Administration of the 2011 New South Wales Election and Related Matters

The Committee noted:

- a. The submissions received to date;
- b. Other expected submissions; and
- c. A letter dated 3 February 2012 from Mr Ross Woodward, Chief Executive, Division of Local Government, Department of Premier and Cabinet, advising that the Division will not be making a submission.

Resolved, on the motion of Mr Ward, seconded by Mr Fraser:

That the Committee accepts the submissions and agrees:

- To publish those submissions, or parts of submissions, that are not confidential in the table on its website; and
- To treat as confidential those listed as such in the circulated table.

### 4. Future Work Programme - Inquiry into the Administration of the 2011 New South Wales Election and Related Matters

The Committee discussed its future inquiry work programme, including possible dates on which to schedule public hearings.

The Committee noted that should it receive a referral to review the *Parliamentary Electorates and Elections Act 1912* and the *Election Funding, Expenditure and Disclosures Act 1981* there would be merit in conducting the reviews concurrently with the inquiry into the administration of the 2011 NSW election and related matters.

Resolved, on the motion of Ms Fazio, seconded by Mr Ward:

That the Chair seek the agreement of the Houses to extend the reporting date of the Committee's inquiry into the administration of the 2011 NSW election and related matters until the end of December 2012.

5. \*\*\*

6. \*\*\*

The Committee adjourned at 8.53 am, sine die.

## MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 6)

1:30 pm, Wednesday, 14 March 2012

Committee Room 1153, Parliament House

### Members Present

Mr Khan (Chair), Mr Borsak (Deputy Chair), Ms Fazio, Mr Fraser, Dr Phelps, Mr Primrose and Mr Ward.

### Apologies

All members were present.

*Officers in attendance:* Ms Vicki Buchbach, Mr Rohan Tyler and Ms Mohini Mehta.

### 1. Confirmation of Minutes

Resolved, on the motion of Mr Fraser:

That the minutes of the meeting of 22 February 2012 be adopted.

### 2. Inquiry into the Administration of the 2011 New South Wales Election and Related Matters

Resolved, on the motion of Mr Ward:

To publish those submissions, or parts of submissions, that are not confidential in the table on its website; and

To treat as confidential any listed as such in the table.

3. \*\*\*

4. \*\*\*

The Committee adjourned at 1:35 pm, sine die.

## MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 7)

1:29 pm, Tuesday, 3 April 2012

Committee Room 1153, Parliament House

### Members Present

Mr Khan (Chair), Mr Borsak (Deputy Chair), Mr Fraser, Dr Phelps and Mr Primrose.

### Apologies

Apologies were received from Ms Fazio and Mr Ward.

*Officers in attendance:* Ms Vicki Buchbach, Mr Jonathan Elliott, Mr Rohan Tyler and Ms Mohini Mehta.

### **1. Confirmation of Minutes**

Resolved, on the motion of Dr Phelps:

That the minutes of the meeting of 14 March 2012 be confirmed.

### **2. Inquiry into the Administration of the 2011 New South Wales Election and Related Matters**

The Committee noted the correspondence from the Leader of the House, the Hon. Brad Hazzard MP, agreeing to the Committee's request that the reporting date for the inquiry be extended to 21 December 2012.

### **3. \*\*\***

The Committee adjourned at 1:35 pm, sine die.

## **MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 8)**

1:15 pm, Thursday, 10 May 2012

Committee Room 1153, Parliament House

### **Members Present**

Mr Borsak (Deputy Chair), Mr Fraser, Dr Phelps and Mr Primrose.

The Deputy Chair opened the meeting at 1.20 pm.

### **Apologies**

Apologies were received from Ms Fazio, Mr Khan (Chair), and Mr Ward.

### **1. Confirmation of Minutes**

Resolved, on the motion of Mr Fraser:

That the minutes of the meeting of 3 April 2012 be confirmed.

### **2. Inquiry into the Administration of the 2011 New South Wales Election and Related Matters**

Resolved, on the motion of Mr Fraser:

That the Committee publishes correspondence in relation to the Election Funding Authority of NSW auditing processes of claims for public funding on the webpage for its inquiry into the Administration of the 2011 NSW election and related matters.

### **3. Inquiry into the Administration of The 2011 NSW Election and Related Matters and Review of the *Parliamentary Electorates and Elections Act 1912* and the *Election Funding, Expenditure and Disclosures Act 1981* - Potential witnesses for public hearings**

The Committee considered potential witnesses it wishes to examine at public hearings on Friday 15 June 2012 and Friday 29 June 2012:

Resolved on the motion of Mr Fraser:

That the Committee invite the groups and individuals listed below and any other stakeholders identified by Committee members:

Electoral Commission of NSW;  
Christian Democratic Party;  
Everyone Counts Pty Ltd;  
Computing Research and Education Association of Australia;  
Mr Antony Green;  
Australian Centre for Disability Law;  
Homelessness NSW;  
Australian Labor Party;  
The Nationals;  
The Greens;  
Liberal Party of Australia;  
Shooters and Fishers Party; and  
Vision Australia.

The Committee adjourned at 1:22 pm, sine die.

## **MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 9)**

9:00 am, Wednesday, 13 June 2012

Committee Room 1153, Parliament House

### **Members Present**

Mr Khan (Chair), Mr Borsak (Deputy Chair), Ms Fazio, Mr Fraser, Dr Phelps and Mr Primrose.

The Chair opened the meeting at 9.03 am.

### **Apologies**

An apology was received from Mr Ward.

#### **1. Confirmation of Minutes**

Resolved, on the motion of Dr Phelps:

'That the minutes of meeting no. 8 held on 10 May 2012 be confirmed.'

2. \*\*\*

3. \*\*\*

#### **4. Arrangements for the forthcoming public hearings on 15 and 29 June**

Members considered a briefing paper from the Committee staff in relation to the hearings.

It was noted that Ms Fazio was an apology for the hearing on 15 June and that Mr Fraser was an apology for 29 June.

The Chair informed the Committee that the Australian Sex Party, the NSW Nurses' Association and Unions NSW had put together considered submissions to the Act reviews or were in the process of doing so.



JOINT STANDING COMMITTEE ON ELECTORAL MATTERS  
EXTRACTS FROM MINUTES

The Chair proposed that as there was capacity in the schedule to examine additional witnesses, consideration might be given to inviting those organisations to give evidence.

Discussion ensued and it was resolved on the motion of Mr Fraser:

'That the Committee invite the Australian Sex Party, the NSW Nurses' Association and Unions NSW to give evidence at the public hearing on Friday 29 June'.

The Committee adjourned at 9:12 am, until Friday 15 June.

**MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE  
ON ELECTORAL MATTERS (NO. 10)**

10:00 am, Friday, 15 June 2012

Jubilee Room, Parliament House

**Members Present**

Mr Khan (Chair), Mr Fraser, Dr Phelps, Mr Primrose and Mr Ward.

The Chair opened the meeting at 10.02 am.

**Apologies**

Apologies were received from Mr Borsak and Ms Fazio.

**Hearing - Administration of the 2011 NSW election; and Review of the  
*Parliamentary Electorates and Elections Act 1912* and the *Election Funding,  
Expenditure and Disclosures Act 1981***

Mr Colin Barry, Electoral Commissioner, Electoral Commission NSW and Mr Paul Beeren, Director Enrolment, Electoral Commission NSW, affirmed and examined.

Mr Ian Brightwell, Director Information and Technology, Electoral Commission NSW, sworn and examined.

Mr Barry agreed to take a Question on Notice and to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witnesses withdrew.

Ms Vanessa Teague, Honorary Fellow, University of Melbourne and Mr Roland Wen, Research Fellow, University of New South Wales, sworn and examined.

Ms Teague agreed to take a Question on Notice and she and Mr Wen agreed to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witnesses withdrew.

The Committee adjourned for morning tea at 11:20 a.m.

The Committee reconvened at 11:36 a.m.

Mark Radcliffe, Business Development Manager, Everyone Counts, affirmed and examined.

Mr Ian Brightwell, Director Information and Technology, Electoral Commission NSW, on previous oath, examined.

Mr Brightwell agreed to provide the Committee with a copy of the Procedure Information Technologies Conditions of Engagement document and he and Mr Radcliffe agreed to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witnesses withdrew.

Mr Antony Green, Election Analyst, affirmed and examined.

Mr Green agreed to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witness withdrew.

The Committee adjourned for lunch at 12:30 p.m.

The Committee reconvened at 1:35 p.m.

Ms Fiona Given, Policy Officer, Australian Centre for Disability Law, affirmed and examined.

Ms Given was assisted by Ms Rozsa Brown, communication support worker.

Ms Given agreed to take a Question on Notice and to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witness withdrew.

Ms Susan Thompson, Advocate, Vision Australia, sworn and examined.

Ms Thompson was assisted by Ms Susan Crane.

Ms Thompson agreed to take a Question on Notice and to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witness withdrew.

Mr Digby Hughes, Policy and Research Officer, Homelessness NSW, affirmed and examined.

Mr Hughes tendered, for the information of members, a document published by the Victorian Electoral Commission entitled "Homeless shouldn't mean voteless".

The Chair having sought leave of the Committee to accept the document, document accepted.

Mr Hughes agreed to take a Question on Notice and to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witness withdrew.

The Committee adjourned for afternoon tea at 3:03 p.m.

The Committee reconvened at 3:18 p.m.

Mr Mark Neeham, State Director, Liberal Party of Australia, sworn and examined.

Mr Simon McInnes, Finance Director, Liberal Party of Australia, affirmed and examined.

Mr Neeham and Mr McInnes agreed to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witnesses withdrew.

Mr Brian Decelis, Director Funding and Disclosure, Electoral Commission NSW, sworn and examined.

Mr Colin Barry, Electoral Commissioner, Mr Ian Brightwell, Director Information and Technology, Electoral Commission NSW, on previous oath, examined.

Mr Fraser withdrew at 4:46 p.m.

Mr Barry agreed to take two Questions on Notice and to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witnesses and public withdrew at 4:49 p.m.

## MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 11)

9:00 am, Wednesday, 21 June 2012

Parkes Room, Parliament House

### Members Present

Mr Khan (Chair), Mr Borsak (Deputy Chair), Dr Phelps, Mr Primrose and Mr Ward.

The Chair opened the meeting at 9.01 am.

### Apologies

Apologies were received from Ms Fazio and Mr Fraser.

#### 1. Confirmation of Minutes

Resolved, on the motion of Mr Ward:

'That the minutes of meeting no. 9 held on 13 June 2012 be confirmed.'

#### 2. Public hearing in relation to the Administration of the 2011 NSW election; and Review of the *Parliamentary Electorates and Elections Act 1912* and the *Election Funding, Expenditure and Disclosures Act 1981*

Resolved on the motion of Mr Ward:

'That the Committee agrees to publish the transcript of evidence for the public hearing on 15 June 2012, once any corrections for inaccuracy have been made.'

#### 3. \*\*\*

#### 4. Arrangements for the Public hearing on 29 June 2012.

Members noted the revised hearing schedule.

The Committee adjourned at 9:03 am, until Friday 29 June 2012.

## MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 12)

9.30 a.m., Friday, 29 June 2012

Jubilee Room, Parliament House

### Members Present

Mr Rowell (Chair), Mr Borsak (Deputy Chair), Mr Khan, Mr Lynch, Mr Maguire, Dr Phelps and Mr Primrose.

The Deputy Chair opened the meeting at 9.30 a.m.

#### 1. Apologies

Apologies were received from Ms Fazio, Mr Fraser and Mr Ward.

#### 2. Confirmation of minutes

Resolved, on the motion of Dr Phelps:

'That the minutes of meeting No. 10 held on 15 June 2012 and Meeting No. 11 held on 21 June 2012 be confirmed.'

3. \*\*\*

4. \*\*\*

5. \*\*\*

**6. Hearing - Administration of the 2011 NSW election; and Review of the *Parliamentary Electorates and Elections Act 1912* and the *Election Funding, Expenditure and Disclosures Act 1981***

The press and public were admitted at 10.00 a.m.

Mr Ian Smith, Treasurer and Party Agent, Christian Democratic Party and Mr Leighton Thew, Acting State Manager, Christian Democratic Party, sworn and examined.

Mr Smith agreed to take three Questions on Notice and Mr Smith and Mr Thew agreed to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witnesses withdrew.

Mr Christopher Maltby, Registered Officer, The Greens and Ms Lesa de Leau, State Election Campaign Coordinator, The Greens, affirmed and examined.

Mr Maltby and Ms de Leau agreed to take five Questions on Notice and also to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witnesses withdrew.

The Committee adjourned for morning tea at 11.22 a.m.

The Committee reconvened at 11.45 a.m.

Mr Ben Franklin, State Director, The Nationals (NSW Branch) and Mr Greg Dezman, Deputy State Director, The Nationals (NSW Branch) sworn and examined.

Mr Franklin and Mr Dezman agreed to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witnesses withdrew.

Mr Andrew Patterson, Registered Officer, The Australian Sex Party, affirmed and examined.

Mr Patterson agreed to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witness withdrew.

The Committee adjourned for lunch at 12.35 p.m.

The Committee reconvened at 1.45 p.m.

Mr Brett Holmes, General Secretary, NSW Nurses' Association and Mr Tony O'Grady, Manager Projects and Compliance, NSW Nurses' Association, affirmed and examined.

Mr Holmes tendered, for the information of members, an example from The Lamp journal of where the NSW Nurses' Association published information for candidates during the 2011 State Election.

The Chair having sought leave of the Committee to accept the document, document accepted.

Mr Holmes agreed to take two Questions on Notice and Mr Holmes and Mr O'Grady also agreed to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witnesses withdrew.

Mr Mark Lennon, Secretary, Unions NSW and Mr Paul Doughty, Industrial and Campaigns Officer Unions NSW, sworn and examined.

Mr Lennon agreed to take one Question on Notice and Mr Lennon and Mr Doughty agreed to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witnesses withdrew.

Mr Colin Barry, Electoral Commissioner, Electoral Commission NSW and Mr Brian Decelis, Director Funding and Disclosure, Electoral Commission NSW, on previous oath, examined.

Mr Barry tendered, for the information of members, a diagram of the Commission's proposed model for electoral administration and a report prepared for the Commission by Dr Graeme Orr, entitled *Modernising the Electoral Act: Legislative Form and Judicial Role*.

The Chair having sought leave of the Committee to accept the documents, documents accepted.

Mr Barry agreed to take one Question on Notice and Mr Barry and Mr Decelis agreed to provide a written reply to any further questions the Committee might have.

Evidence concluded, the witnesses and public withdrew at 3.52 p.m.

#### **7. Administration of the 2011 NSW election; and Review of the *Parliamentary Electorates and Elections Act 1912* and the *Election Funding, Expenditure and Disclosures Act 1981***

Resolved on the motion of Mr Lynch:

'That the Committee agrees to publish the transcript of evidence for the public hearing on 29 June 2012, once any corrections for inaccuracy have been made.'

The Chair noted that evidence which might reflect adversely on third parties had been suppressed in the published versions of submissions and proposed that the corrected transcript for the hearing on the 29 June be similarly amended.

Discussion ensued.

Resolved on the motion of Mr Primrose:

'That committee staff amend the transcript for the hearing on the 29 June in line with the Committee's previous resolutions on suppressing content in submissions'.

The Committee adjourned at 3:55 pm, sine die.

### **MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 13)**

12.30 p.m., Wednesday, 25 July 2012

Via teleconference

#### **Members Present**

Mr Rowell (Chair), Mr Borsak (Deputy Chair), Mr Fraser, Dr Phelps, Mr Primrose and Mr Ward

The Chair opened the meeting at 12.30 p.m.

## 1. Apologies

Apologies were received from Ms Fazio, Mr Khan, Mr Lynch and Mr Maguire.

## 2. Confirmation of minutes

Resolved, on the motion of Dr Phelps, seconded by Mr Borsak:

'That the minutes of meeting No. 12 held on 29 June 2012 be confirmed.'

## 3. \*\*\*

## 4. Review of *the Parliamentary Electorates and Elections Act 1912* and the *Election Funding, Expenditure and Disclosures Act 1981* – Documents received by the Committee

Resolved, on the motion of Mr Primrose, seconded by Dr Phelps:

'That the Committee publish the following documents it has received on the relevant inquiry web pages:

1. *NSW and EFA responses to submissions to the inquiry into the Administration of the 2011 NSW election and related matters* (NSW Electoral Commission);
2. *Homeless shouldn't mean voteless* (Homelessness NSW);
3. *NSW Election 2011 – What the parties are promising* (NSW Nurses' Association);
4. Diagram of the NSW Electoral Commission's proposed model for electoral administration (NSW Electoral Commission); and
5. *Modernising the Electoral Act: Legislative Form and Judicial Role* (NSW Electoral Commission).'

The Committee adjourned at 12.34 p.m., sine die.

## MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 15)

12:30 pm, Wednesday, 19 September 2012

Room 1254, Parliament House

### Members Present

Mr Rowell (Chair), Mr Borsak (Deputy Chair), Ms Fazio, Mr Fraser, Mr Khan, Mr Lynch, Mr Maguire, Dr Phelps and Mr Primrose.

*Staff in attendance:* Ms Rachel Simpson, Mr Jonathan Elliott, Mr Rohan Tyler and Ms Meike Bowyer.

The Chair opened the meeting at 12.33 pm.

## 1. Apologies

An apology was received from Mr Ward.

## 2. Confirmation of minutes

Resolved, on the motion of Mr Fraser, seconded by Mr Khan, that the minutes of the deliberative meeting No. 14 be confirmed.

3. \*\*\*

#### 4. General business

The Chair referred to anecdotal evidence that some electors were being simultaneously registered to vote at more than one address, through the Commission's SmartRoll system.

Resolved, on the motion of Mr Fraser, that the Committee write to the NSW Electoral Commission to seek information on the Commission's administrative procedures for maintaining the integrity of the roll.

5. \*\*\*

The Committee adjourned at 1:19 p.m., sine die.

### MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 16)

12:30 pm, Wednesday, 17 October 2012

Room 1136, Parliament House

#### Members present

Mr Rowell (Chair), Mr Borsak (Deputy Chair), Mr Fraser, Mr Khan, Mr Maguire, Dr Phelps and Mr Primrose.

*Staff in attendance:* Ms Rachel Simpson, Mr Jonathan Elliott, Mr Rohan Tyler and Ms Meike Bowyer.

The Chair opened the meeting at 12:31 pm.

#### 1. Apologies

Apologies were received from Ms Fazio, Mr Lynch and Mr Ward.

#### 2. Confirmation of minutes

Resolved, on the motion of Dr Phelps, seconded by Mr Borsak, that the minutes of the deliberative meeting No. 15 be confirmed.

3. \*\*\*

4. \*\*\*

#### 5. Inquiry into the Administration of the 2011 NSW Election and related matters.

The Committee noted correspondence that it had received in relation to the Victorian Electoral Commission's proposed e-voting system.

6. \*\*\*

The Committee adjourned at 12:34 pm until 12:30 pm, Wednesday 24 October 2012.

### MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 17)

12:30 pm, Wednesday, 24 October 2012

Room 1254, Parliament House

## Members present

Mr Rowell (Chair), Mr Borsak (Deputy Chair), Mr Khan, Mr Maguire and Mr Primrose.

*Staff in attendance:* Ms Rachel Simpson, Mr Jonathan Elliott, Mr Rohan Tyler, Ms Emma Matthews and Ms Meike Bowyer.

The Chair opened the meeting at 12:30 pm.

### 1. Apologies

Apologies were received from Ms Fazio, Mr Fraser, Mr Lynch, Dr Phelps and Mr Ward.

### 2. Confirmation of minutes

Resolved, on the motion of Mr Maguire, seconded by Mr Borsak, that the minutes of the deliberative meeting No. 16 be confirmed.

### 3. Correspondence

a) \*\*\*

b) The Chair advised that correspondence had been received from the Electoral Commissioner in relation to the Commission's procedures for maintaining the integrity of the electoral roll.

Resolved, on the motion of Mr Primrose, seconded by Mr Maguire, that the Committee publish the correspondence on its website.

c) \*\*\*

4. \*\*\*

### 5. Answers to questions on notice and additional questions.

Resolved, on the motion of Mr Primrose, seconded by Mr Borsak, that the Committee publish the answers to questions on notice and additional questions, from the public hearings on 15 and 29 June 2012, on its website.

6. \*\*\*

The Committee adjourned at 12:36 pm sine die.

## MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS (NO. 19)

1:00 pm, Wednesday, 21 November 2012

Room 1153, Parliament House

## Members present

Mr Rowell (Chair), Mr Borsak (Deputy Chair), Ms Fazio, Mr Fraser, Mr Khan, Mr Lynch, Mr Maguire, Dr Phelps, Mr Primrose and Mr Ward.

*Staff in attendance:* Ms Rachel Simpson, Mr Jason Arditi, Mr Jonathan Elliott and Mr Rohan Tyler.

The Chair opened the meeting at 1:08 pm.

### 1. Apologies

None received.



## 2. Confirmation of minutes

Resolved, on the motion of Mr Fraser, that the minutes of the deliberative meeting No. 18 be confirmed.

## 3. Administration of the 2011 NSW election and related matters.

The Chair noted Legislative Assembly Standing Order 301(3).

Resolved, on the motion of Ms Fazio, to consider the report chapter by chapter.

### *Chapter 1*

Dr Phelps moved that Chapter 1, as drafted, stand part of the report.

Discussion ensued. Question put.

Resolved, on the motion of Dr Phelps, that the Committee adopt Chapter 1.

### *Chapter 2*

#### *Paragraph 2.59*

Ms Fazio moved that paragraph 2.59 be amended to insert after the word "needs" the words "and considers that enabling people to vote is the primary consideration not the convenience of political parties".

Discussion ensued.

Resolved, on the motion of Ms Fazio, that paragraph 2.59 be amended as follows:

*"The Committee recognises the steady progress which has been made in recent years toward aligning voting processes with voters' needs and considers that enabling people to vote is the primary consideration not the convenience of political parties".*

#### *Paragraph 2.63*

Ms Fazio moved that paragraph 2.63 line four be amended to omit the word "days" and insert the word "day".

Discussion ensued.

Resolved, on the motion of Ms Fazio, that paragraph 2.63 be amended as follows:

*"Some nursing homes, convalescent homes, hospitals or similar institutions are appointed by the NSWEC as declared institutions. Election officials from the Returning Officer's office visit these facilities during the 5 days prior to election day, with voting at declared institutions restricted to inpatients or temporary or permanent residents of the facility".*

#### *Paragraph 2.92 and Recommendation 5*

Ms Fazio moved that paragraph 2.92 and Recommendation 5 be amended to omit the word "dialog" and insert the word "dialogue".

Discussion ensued.

Resolved, on the motion of Ms Fazio, that paragraph 2.92 and Recommendation 5 be amended as follows:

*"On the question of candidates and parties providing voter information in accessible formats, the Committee does not favour mandating this as a requirement in electoral law. However, the Committee does recommend that the NSWEC consider means of facilitating dialogue between disability advocacy groups and parties and candidates on this important issue. For example,*

*hosting workshops around an election period could be a useful means of raising awareness of accessibility issues and promoting current best practice.*

**RECOMMENDATION 5**

*The Committee recommends that the NSWEC facilitates a dialogue between disability advocacy groups and parties and candidates, on the importance of providing voter information in accessible formats".*

Dr Phelps moved that Chapter 2, as amended, stand part of the report.

Discussion ensued. Question put.

Resolved, on the motion of Dr Phelps, that the Committee adopt Chapter 2.

**Chapter 3**

**Paragraph 3.36**

Ms Fazio moved that paragraph 3.36 be amended to omit the words "registering it, should be done in order to facilitate enhanced scrutiny" and insert the words "as soon as is practicable after the deadline for registration".

Discussion ensued.

Resolved, on the motion of Ms Fazio, that paragraph 3.36 be amended as follows:

*"Unless there are any issues of principle or practicality on the part of the NSWEC that the Committee is unaware of, then it would appear to the Committee that making electoral material available at NSWEC offices and on its website, as soon as is practicable after the deadline for registration, should be done in order to facilitate enhanced scrutiny".*

**Recommendation 7**

Ms Fazio moved that Recommendation 7, as drafted, be omitted and replaced with "The Committee recommends that the NSWEC publish registered electoral material at NSWEC offices and on its website, as soon as is practicable after the deadline for registration with a view to increasing public access to this material during future elections".

Discussion ensued.

Resolved, on the motion of Ms Fazio, that Recommendation 7 be amended as follows:

**"RECOMMENDATION 7**

*The Committee recommends that the NSWEC publish registered electoral material at NSWEC offices and on its website, as soon as is practicable after the deadline for registration with a view to increasing public access to this material during future elections".*

**Paragraph 3.89**

Ms Fazio moved that paragraph 3.89 be amended to omit the word "dialog" and insert the word "dialogue".

Discussion ensued.

Resolved, on the motion of Ms Fazio, that paragraph 3.89 be amended as follows:

*"Such a dialogue would not only provide the NSWEC with a fuller picture of those stakeholders' needs but would, in turn, enable the NSWEC to provide information to those stakeholders on its current practices and resources".*

Dr Phelps moved that Chapter 3, as amended, stand part of the report.

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS  
EXTRACTS FROM MINUTES

Discussion ensued. Question put.

Resolved, on the motion of Dr Phelps, that the Committee adopt Chapter 3.

*Chapter 4*

Dr Phelps moved that Chapter 4, as drafted, stand part of the report.

Discussion ensued. Question put.

Resolved, on the motion of Dr Phelps, that the Committee adopt Chapter 4.

*Chapter 5*

*Paragraph 5.16*

Ms Fazio moved that paragraph 5.16 be amended to omit the words "instances of multiple voting and voter impersonation do exist and may lead to potential fraud. These risks can be mitigated by the simple step of requiring voters to provide proof of identity" and insert the words "claims of multiple voting and voter impersonation are rare".

Discussion ensued. Question put that Ms Fazio's amendment be agreed to.

The Committee divided.

Ayes: Ms Fazio, Mr Khan, Mr Lynch and Mr Primrose.

Noes: Mr Rowell, Mr Borsak, Mr Fraser, Mr Maguire, Dr Phelps and Mr Ward.

Question resolved in the negative.

*Paragraph 5.17*

Ms Fazio moved that paragraph 5.17 be omitted.

Discussion ensued. Question put that Ms Fazio's amendment be agreed to.

The Committee divided.

Ayes: Ms Fazio, Mr Khan, Mr Lynch and Mr Primrose.

Noes: Mr Rowell, Mr Borsak, Mr Fraser, Mr Maguire, Dr Phelps and Mr Ward.

Question resolved in the negative.

*Paragraph 5.18*

Ms Fazio moved that paragraph 5.18 be amended to omit the words "It is of the view that a thorough feasibility study, leading to well drafted legislation and complemented by a well resourced voter education campaign are effective means of meeting that challenge".

Discussion ensued. Question put that Ms Fazio's amendment be agreed to.

The Committee divided.

Ayes: Ms Fazio, Mr Lynch and Mr Primrose.

Noes: Mr Rowell, Mr Borsak, Mr Fraser, Mr Khan, Mr Maguire, Dr Phelps and Mr Ward.

Question resolved in the negative.

*Recommendation 13*

Ms Fazio moved that Recommendation 13 be omitted.

Discussion ensued. Question put that Ms Fazio's amendment be agreed to.

The Committee divided.

Ayes: Ms Fazio, Mr Khan, Mr Lynch and Mr Primrose.

Noes: Mr Rowell, Mr Borsak, Mr Fraser, Mr Maguire, Dr Phelps and Mr Ward.

Question resolved in the negative.

*Recommendation 14*

Ms Fazio moved that Recommendation 14 be omitted.

Discussion ensued. Question put that Ms Fazio's amendment be agreed to.

The Committee divided.

Ayes: Ms Fazio, Mr Lynch and Mr Primrose.

Noes: Mr Rowell, Mr Borsak, Mr Fraser, Mr Khan, Mr Maguire, Dr Phelps and Mr Ward.

Question resolved in the negative.

Mr Khan moved that Recommendation 14 be amended to omit the words "investigate the future use of an electronic system to mark-off voters, incorporating the use of smartphone technology, to reduce the potential of electoral fraud" and insert the words "introduce an electronic system to mark-off voters".

Discussion ensued. Question put that Mr Khan's amendment be agreed to.

The Committee divided.

Ayes: Ms Fazio, Mr Khan, Mr Lynch and Mr Primrose.

Noes: Mr Rowell, Mr Borsak, Mr Fraser, Mr Maguire, Dr Phelps and Mr Ward.

Question resolved in the negative.

Mr Borsak moved that Recommendation 14 be amended to omit the words "the future use of an electronic system to mark-off voters, incorporating the use of smartphone technology, to reduce the potential of electoral fraud" and insert the words "and report back to the Committee on the future use of an electronic system to mark-off voters".

Discussion ensued. Question put that Mr Borsak's amendment be agreed to.

Ayes: Mr Rowell, Mr Borsak, Mr Fraser, Mr Maguire, Dr Phelps and Mr Ward.

Noes: Ms Fazio, Mr Khan, Mr Lynch and Mr Primrose.

Question resolved in the affirmative.

Resolved, on the motion of Mr Borsak, that Recommendation 14 be amended as follows:

*"The Committee recommends that the NSWEC investigate and report back to the Committee on the future use of an electronic system to mark-off voters".*

Dr Phelps moved that Chapter 5, as amended, stand part of the report.

Discussion ensued. Question put.

Resolved, on the motion of Dr Phelps, that the Committee adopt Chapter 5.

Resolved, on the motion of Dr Phelps, that the Report, as amended, be the Report of the Committee and that it be signed by the Chair and presented to the House.

Resolved, on the motion of Dr Phelps, that the Chair and the Secretariat be permitted to correct stylistic, typographical and grammatical errors.

Resolved, on the motion of Dr Phelps, that once tabled, the Report be placed on the Committee's website.

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS  
EXTRACTS FROM MINUTES

4. \*\*\*

5. \*\*\*

The Committee adjourned at 1:55 p.m., sine die.