LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON THE INTEGRITY COMMISSION AND STATUTORY OFFICE HOLDERS

(Reference: Inquiry into the operation of the 2024 ACT Election and Electoral Act 1992)

Members:

MR E COCKS (Chair)
MR A BRADDOCK (Deputy Chair)
MR T WERNER-GIBBINGS

PROOF TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 9 DECEMBER 2025

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Secretary to the committee:
Ms K de Kleuver (Ph: 620 70524)

By authority of the Legislative Assembly for the Australian Capital Territory

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Amended 20 May 2013

The committee met at 10.00 am

NG, ASSOCIATE PROFESSOR YEE-FUI, Personal capacity

THE ACTING CHAIR (Mr Braddock): Good morning, and welcome to the public hearings of the Standing Committee on the Integrity Commission and Statutory Office Holders for its inquiry into the operation of the 2024 ACT election and Electoral Act 1992. The committee will today hear from a range of witnesses, including academics, individuals, community organisations and the Attorney-General.

The committee wishes to acknowledge the traditional custodians of the lands we are meeting on, the Ngunnawal people. We wish to acknowledge and respect their continuing culture and the contribution they make to the life of the city and the region. We would also like to acknowledge and welcome other Aboriginal and Torres Strait Islander people who may be attending today's event.

This hearing is a legal proceeding of the Assembly and has the same standing as proceedings of the Assembly itself. Therefore, today's evidence attracts parliamentary privilege. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of the Assembly.

The hearing is being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. When taking a question on notice, it would be useful if witnesses used these words, "I will take that question on notice." This will help the committee and witnesses to confirm questions taken on notice from the transcript.

We now welcome Associate Professor Yee-Fui Ng. Please confirm that you are appearing in an individual capacity.

Prof Ng: It is a pleasure to be here, and I am appearing in an individual capacity.

MR BRADDOCK: Thank you. Please note that, as a witness, you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly.

As we are not inviting opening statements, we will now proceed to questions. Mr Cocks?

THE CHAIR: I was interested in your observations around the one complaint that was upheld during the election, regarding the advertising about the deputy Liberal leader at that time, Leanne Castley, and the timeliness of the resolution of that complaint. Do you have any thoughts that you would like to expand on, building on your submission?

Prof Ng: Yes. My submission was based on the report that I wrote, that was supported by McKinnon, on the operation and effectiveness of truth in political advertising laws. It looked at only two jurisdictions in Australia that have those laws—South Australia, the longest running, with the laws in place for 40 years, and the ACT, which, as you know, had its first operation of the laws in the last election. In the ACT, it is still in its

infancy, because it has only been used once, in an electoral context. I feel that it is still in that teething phase of being a new law that is enforced by the Electoral Commission.

If you look at the volume of complaints, it is a lot less in the ACT. There were only three complaints in total. If you compare that to the last South Australian election, there were a hundred-plus complaints. What we see in longer established truth in political advertising laws is that the volume of complaints tends to increase over time, and the issue of timeliness does become more pressing over time, I would say.

There have been complaints, certainly from ACT political participants, about the timeliness of resolutions by the Electoral Commission. At the same time, it is important to emphasise that the Electoral Commission are under incredible pressure during an election. It is only one aspect of the methods they have to administer, so that has led to some delay.

Other factors that affect the delay include the requirement for procedural fairness, in giving the other party the opportunity to respond to the complaint before they make the determination. Over time, we have seen South Australian parties lawyer up. They send it out for legal advice; then the Electoral Commission sends it to the Crown Solicitor. That exacerbates the delays.

At the same time, for these laws to be effective, they must be administered quite quickly, because once the election is over, it is too late to deal with a retraction and so forth. There is that balance, I think, between according the party subject to the complaint procedural fairness and resolving this in a timely manner, so that it is an effective law and you can have a retraction before the election.

THE CHAIR: Are there changes that you think would enable swifter resolution of these complaints?

Prof Ng: Certainly, there could be changes, such as having a timeline for resolution of complaints that is more clearly defined, either within legislation or in guidelines by the Electoral Commission. Another thing could be streamlining things based on the complexity of the complaint.

If you look at the complaint that was upheld, it was quite a nuanced one. With the politician, there was a nuancing of the way that the ad was put, rather than not reflecting her views at all, about abortion. That kind of thing seems to be a little bit on the line, as to how it could go. Maybe it could be subject to more legal scrutiny, compared to a more black-and-white case. I think it is a matter of separating between vexatious complaints that have no basis at all and more complex complaints that need a bit more legal advice and so forth.

MR BRADDOCK: I want to ask about technology developments; in particular, generative AI, which has been moving faster than any regulatory framework could have kept up with. Is it enough that content produced with generative AI simply be marked and disclosed? Is that essential but insufficient for meeting the mischief that you are describing?

Prof Ng: There are two ways of dealing with it, and we can see other countries trying

to deal with it as well. One is to, as you say, disclose the use of generative AI and have a transparency requirement. The other is to ban the use of manipulative and deceptive deepfakes or AI completely. I think that will be an increasing problem in the future.

We have seen it happen in the US elections, where they manipulate the images of politicians and make them say things they did not say. It is used in a very harmful way to damage people's electoral prospects. I think we will see this become an increasingly large problem. I think that the legislation should be amended to deal with, certainly, malicious and deceptive deepfakes and AI.

MR BRADDOCK: Just to make sure I am understanding your answer, are you saying it is not enough that it be marked and disclosed, that there actually need to be further legislative tweaks to address that misinformation, disinformation or impersonation?

Prof Ng: I think there is a range of options. I would probably say a ban would be better, in terms of malicious and deceptive deepfakes, but you would need to have an exclusion for satire and so forth, where it is meant to be funny, and it is not meant to represent the truth. Certainly, a good first step would be having transparency, knowing that this is produced by AI. The EU has gone that way, with transparency marking of AI-generated content.

In the US, there have been bills introduced to try to both have transparency and ban the deceptive and malicious use of deepfakes. Some people have mentioned that, in some Australian elections, they have used AI, but in a joking way, rather than a "I'm trying to trick the populace" way. But you can see that this will become a bigger issue as time goes on.

MR BRADDOCK: I am interested in the Tasmanian approach, which prohibits the naming and depiction of candidates without their consent. Have you had any insight into or reflections on that approach and whether that could work as a way to address the issues with AI?

Prof Ng: One problem with that approach—and that might be a good start—is that when we have malicious or deceptive AI, the authors are not necessarily identified. It is not easy to track down who has put up those images. That is another problem about truth in political advertising laws as well, because they only apply if you can figure out who the author is. If the author is disguised then we cannot easily regulate it.

Similarly, if you are trying to seek consent of the party, someone who is malicious is not going to bother with that; and, if we cannot track them down, how can we enforce the law? That is a problem. That also applies to truth in political advertising laws. If we cannot figure out who the author is, it becomes a lot more difficult to enforce.

MR BRADDOCK: With the current authorisation requirements for electoral material, you are saying that they are not sufficient in terms of those individuals who do not wish to be disclosed or do not wish to identify themselves as being from any particular party; they may still do the mischief without the authorisation.

Prof Ng: Exactly; that is right. If we do not know who it is, we do not know who to punish or sanction for that. I think that is a loophole. If we have political parties that are

up to mischief, or individuals or groups, we do not really know how to track them down, if they are not identified. That is a loophole in the current laws that we do see. If you have unidentified flyers in mailboxes spreading untruths, it is really hard to regulate that, because it depends on us being able to track down who the person is.

MR BRADDOCK: Do we need stronger offences for fraudulent authorisation statements or absence of authorisation statements? Could that potentially help to address that problem?

Prof Ng: Certainly, if we can find the people. I think that detecting the offender is the difficult part here. That is what some parties, groups or individuals have been exploiting as a loophole.

THE CHAIR: I might build on this line. I am interested in working this out: to what extent are we talking about a problem with generative AI that is inherent to that—the technology—and to what extent is what we are talking about deceptive conduct? You mentioned flyers in letterboxes, which is clearly not generative AI. It would seem that, with both technologies—the old technology and the new technology—the problem is the deceptive conduct rather than the technology itself.

Prof Ng: Certainly, the problem is that people are spreading untruths and disinformation to try to influence the result of an election. The thing that we are seeing over time is the change in the use of media. In the old days, it was talkback radio, then it became television, and now it has moved on to the age of social media.

The thing that we see with social media is that the spread of the disinformation is exacerbated a lot, because you can spread all the information very broadly, compared to putting letters in the letterbox in the local electorate. I think the turbocharging that we have seen has come from the rise of social media, and the siloing of content and groups. That enables disinformation to spread a lot more broadly and has made it a bigger problem.

THE CHAIR: Just building on that, do you see a difference between the use of generative AI and something like really good Photoshop?

Prof Ng: When you can see a visual of, say, a prominent politician saying certain things or advocating certain things that are completely fake, and the technology is so sophisticated that we cannot tell what is true and what is not anymore, it becomes quite dangerous, because how do we know what we can trust? When you have lies that are peddled on a large scale with generated AI, where you can see that this person seems to be saying this thing that might be quite inflammatory to, say, minority groups or certain parts of the electorate, that can be extremely damaging.

When you have this information peddled in an election, there are a few different harms that can result. The first is the harm to the candidate who is being misrepresented in some way, in terms of their reputation or their electoral prospects. The second is the harm to the electoral process itself. If a lot of people are swayed into changing their vote because of the misleading content, that might actually affect the result of the election itself at a mass scale.

If you do not know what you can trust and what you cannot, that is very damaging as well, because everyone might get too cynical. It becomes difficult to get true information, because we do not know how to filter what is true and what is not.

THE CHAIR: It sounds like the heart of the issue, in a lot of ways, is portrayal of someone as if they have said something that they have not said.

Prof Ng: Yes, that is right. It has been used in that way in US elections. Another one was Nancy Pelosi. Her speech was slowed down and garbled, so that it made her look like she was all muddled up. You can give the impression that someone is not quite at their peak, suffering dementia or something like that, to make them look bad to the electorate.

MR BRADDOCK: We are seeing, from both Elections ACT and, I believe, the South Australian Electoral Commission, a hesitancy to enter a space where they might be seen as the arbiter of truth. They claim that might lead to a perception of bias against their own organisations. Based on your observations and research, has that hesitancy been warranted? Does it have a basis?

Prof Ng: For this project, I have interviewed premiers, former premiers, ministers, MPs, electoral commissions and civil society groups. I can say that, unanimously, everyone still had a very high regard for the electoral commissions and electoral commissioners, and their reputation has been untarnished. Particularly in South Australia, these laws have been in operation for 40 years, yet the South Australian Electoral Commission has maintained its reputation for impartiality, and all the political parties have respected its adjudications. They have not always agreed with them, but they have respected the process.

I would say that they have maintained their reputation, despite administering those laws. I did not have a chance to interview the ACT commissioner for this project, because it was too close to the election; they needed some time, and I had to finish the report. You would probably need to seek their views directly.

MR BRADDOCK: We have. Thank you; I wanted to test that against you. In terms of the lessons learned from South Australia, having done this for 40 years, are there any reforms or changes that we should introduce here in the ACT? We have spoken about the timing, but what about the resourcing of this function, to ensure that it does happen, and can happen in a timely fashion?

Prof Ng: Certainly, the South Australian Electoral Commission has talked about requiring additional resourcing around election times, especially because the volume of complaints has increased over time. One thing that we have started seeing in South Australia is the gaming of the process or the use of complaints as a weapon. Each party started generating lots of complaints and throwing them at the other party to bog each other down.

Having a mechanism where the Electoral Commission can dismiss vexatious complaints or having that threshold of materiality that exists now is good. I think that a periodic review of the legislation is needed, because, as we see the technology and communicative techniques develop over time, having a regular review of the

legislation, say, every three to five years, would be a good thing and necessary, to see whether we are keeping up with generative AI and things like that.

I would remove any requirement for time periods for the operation of truth in political advertising laws. Otherwise, as one of the political participants said, you can lie three years and nine months out of four years, when there is no election happening. I do not see why there should be a time period for allowing people to lie. Clearly, the most salient period is right before the election, but having a time limit, I think, is a bit artificial, if we want more broadly to address disinformation. Those are a few reforms, and my report has quite a lot of detail on each reform and why it is recommended.

MR BRADDOCK: Does South Australia have a penalty for vexatious complaints to prevent gaming?

Prof Ng: No, but I have recommended that. My report is still quite recent, from the end of 2024. It is also a more recent phenomenon that we only saw in the last two elections. The gaming has just started, and we do not see that in the ACT yet, because it is still quite early days, and there has been a very low volume of complaints—just three complaints.

One thing that was pointed out in the ACT by one of the political participants is that it is a very high information electorate. They did focus groups, and they found that the electorate likes having the sources, so they had footnotes in the ads giving the sources, because the electorate seems to like that, which I think is a nerdy thing that is peculiar to the ACT, but quite a good thing, too.

THE CHAIR: With the actual penalties involved, there is a comment in here around the penalty of just having to withdraw the ad not being a sufficient penalty to discourage. Did you have any observations from the study around what the impact of different penalties is or should be?

Prof Ng: Yes, I discussed a range of penalties. The primary penalty is the one that you identified, that the Electoral Commissioner requires the party that has been found to have misled to retract the ad and issue a retraction in the Electoral Commission's words.

One thing that I recommended in my report, because of what some of the political participants have said, is that the forum for the retraction is not necessarily equivalent. If they broadcast a misleading ad on prime-time TV, with an AFL grand final happening, that ad spreads a lot further. If a retraction is issued in a late-night 5 am slot, when no-one is watching, that is not equivalent.

I think that the retraction needs to be in an equivalent forum. If you have a retraction, it can be buried under 20 social media posts, or you do not boost it at the same level. I think the retraction does need to be boosted at a level that is equivalent to that of the primary ad that was misleading. That is a reform that can be made.

Another potential penalty on the political party could be a loss of public funding. We see this kind of penalty imposed for other breaches of electoral law, such as the breaches of political donations laws, for instance. That might be a bigger penalty for the party, if there is a significant financial deterrent.

There are fines in the legislation for breaches of truth in political advertising laws, but they are at such a low level that some of the political participants said, "Actually, it's good value for money. I get all this publicity, and I just have to pay a small fine." A fine should actually be at a higher level, maybe based on the size of the party, so that you are not disproportionately punishing the small or new parties, or you could do it in the sense of loss of public funding.

THE CHAIR: Associate Professor, on behalf of the committee, I thank you for your attendance today. If you have taken any questions on notice—I do not think you have—please provide your answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*. Thank you very much.

Prof Ng: Thank you very much.

MR BRADDOCK: Thank you very much, and thank you for the work that you do.

Prof Ng: That is all right; my pleasure. Let me know if you have any other questions. I am always happy to assist.

THE CHAIR: Thank you.

ZHU, MR ETHAN, Legal Researcher, ANU Law Reform and Social Justice Research Hub

THE CHAIR: We welcome our witness from the ANU Law Reform and Social Justice Research Hub. Please note that, as a witness, you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly.

As we are not inviting opening statements, we will proceed directly to questions. A theme across a few submissions has been around digital campaigning. We have just been talking about AI and generative AI. I was interested that your submission argues that the definition of electoral matter and the private capacity exemption are no longer fit for a digital and AI-driven campaigning environment. Could you expand on that a bit and explain whether you support tightening the private capacity exemption? Where do you think we need to go in this space?

Mr Zhu: The advances in generative AI and digital—for example, social media marketing—means that it is harder to attribute electoral matter and harder to attribute statements made on social media to certain individuals. The challenge that is presented here is that certain material may be exempt because there could be a loophole here, in that it is not electoral matter, and that is the challenge that we have identified here.

THE CHAIR: I think you were talking about a "reasonably capable of influencing voting test"; is that right?

Mr Zhu: Yes. This will widen the net slightly, for what constitutes electoral matter. Even though this is not something that has necessarily been tested, it could be imagined that, for something to likely affect voting, it would be quite a high bar. A different drafting approach would lower that bar.

THE CHAIR: How do you think we can deal with the risk of sweeping in legitimate policy debate by charities, academics or community groups? Have you considered that, in looking through it?

Mr Zhu: Yes, certainly. We have considered that here. This is certainly one of the risks of lowering this bar. But maintaining that—and this is something that would have to be left to the courts to decide, and it would probably be beyond the scope of those kinds of questions.

MR BRADDOCK: I am very keen on this definition of electoral matter. By lowering the bar, are we essentially precluding things like ABC's Vote Compass, which they use for federal electorates but have not been able to utilise for local electorates, or the smartvote Australia project, which was an issue from another contributor from ANU? Do you see the value of those functions happening, to help inform democracy, which are likely to influence how to vote, but are doing so in an informational sense rather than to achieve a political outcome sense?

Mr Zhu: Those are important concerns, and they do have a value in our political system. The key point that our submission makes is that this should continue to be an

objective test. There are exemptions—for example, the private individual exemption, and individuals acting in a private capacity. Those exemptions could be utilised to protect the ABC, for example.

MR BRADDOCK: How would a private individual exemption apply to a corporation like the ABC or the ANU?

Mr Zhu: Could I take that on notice, please?

MR BRADDOCK: Absolutely. That is fine. The other issue is that the Electoral Commissioner has been saying that the definition of electoral matter is woven so heavily throughout the rest of the Electoral Act and it will influence things in terms of campaign reporting. If you are to accept the Electoral Commissioner's recommendation, it would also dictate the public funding for political parties. Is there an issue, if we adjust the bar, that it will cause other flow-on effects throughout the act?

Mr Zhu: I think so, and that was beyond the scope of our research. We simply identified that perhaps this bar could be too high and, by lowering it, we can ensure, for example, that whilst we protect charities, we have a more workable line that could respond to the unique challenges that generative AI will present, and other new technologies that will change the type of electoral matter that we most commonly see.

MR BRADDOCK: Coming back to generative AI, do you simply ban its use? Do you disclose that it has been used? The other solution that I seem to have found in Australia is in terms of the Tasmanian approach, where it precludes individuals from being named or represented without their consent. Do you have any views on whether we should ban use, disclose only, or potentially utilise the requirement for consent to drive this?

Mr Zhu: I think it would be an error to ban the use of AI and generative AI completely. There are a lot of benefits that this technology can provide to our democracy and our political system. Not only have deepfakes, for example, been used to raise awareness of the challenges that this technology can bring; in an educative sense, these technologies can also be used, for example, to translate what politicians are saying. For example, this has been used by political parties to make their statements more accessible to members of the Australian public. Also, there is a genuine place for parody, satire and all those things. I think it would be a mistake to ban it completely.

However, undoubtedly, action does need to be taken in that this is a relatively new technology that can make it literally indiscernible to tell what is real and what is not in media. The Tasmanian approach could be, for example, one way that we model these changes. I would also note that South Australia, just last month, passed new laws, in the Electoral Act, which also ban the use of deepfakes which are deceptive, and require mandatory disclosure.

MR BRADDOCK: Going back a step in my questions, it appears that the definition of electoral matter and electoral expenditure is too narrow for the political participants to capture everything that they do spend money on, but it is too broad for civil society, and it captures those informational elements, so that non-partisan activity and material are getting captured. Would that align with your view of how it works?

Mr Zhu: To be honest, that is slightly beyond the scope of our submission. I think what is most important is that it is an objective test that is applied fairly, and that might be something that needs to be explored and discussed later.

THE CHAIR: I might build on that a little bit more. This is something that I am trying to get to the heart of, with a few submissions and a few discussions. To what extent are we talking about an inherent problem with the technology, and to what extent are we looking to deal with the misuse of a technology, and in particular the deceptive use of the technology? Is that what you were getting to in that discussion of beneficial uses of AI?

Mr Zhu: I think so. Although understandable, it would be difficult to argue that artificial intelligence is inherently a destructive technology. There are many potential benefits for its application. Historically, if you look at, for example, the invention of the printing press, that also coincided with a massive increase in propaganda and misinformation. Similarly, AI will make it much easier and much more affordable for people to disseminate false information. The critical thing is: how can appropriate regulations be applied to prevent the misuse of this technology?

THE CHAIR: In terms of the penalties that we would see applied, do you think that the ACT needs some scalable penalties or AI-specific rules that are attached to things like our truth in political advertising laws?

Mr Zhu: It might be a good idea for deepfakes to attract harsher penalties, given their particular potential for humiliation and misuse. We do support, in our submission, tiered penalties, and we do point to the fact that current penalties may be inadequate, particularly for larger political parties that may see these as the cost of doing business. I would note that, with political parties, especially in the ACT, there have not been a significant amount of complaints in terms of the truth in political advertising provisions. However, with the potential for misuse, it is our view that it could be beneficial to impose a stricter and harsher deterrent for the misuse of AI and deceptive advertising.

THE CHAIR: In that truth in political advertising space, do you think that the type of penalties that should be applied should extend to things like the proposal or suggestion from the last witness, which was looking at reducing election funding—having a financial penalty that applies in addition to retracting statements? Is that the sort of penalty you would like to see in the system?

Mr Zhu: I think so. I think that any penalty that is harsher than what we currently have would be a step in the right direction to create that deterrent effect. The limitation with penalties is that they are always applied after the election. With deepfakes, for example, it is very likely that it would not be possible to disprove or to debunk these deepfakes until after the election, when the damage is already done. We would advocate for a preventive approach first, but also stricter deterrence.

THE CHAIR: It exacerbates that timing issue, to some extent.

Mr Zhu: Yes, definitely.

MR BRADDOCK: Building on from that, for a well-financed party, such a penalty

unit could simply be the cost of doing business, whereas for an independent or a small party, that could basically wipe them out and be detrimental to democracy. Are there any considerations given to how you would set a penalty unit that effectively discourages the behaviour across a range of financially viable parties?

Mr Zhu: I think that is a really important question. As you say, the ability for political parties to finance these campaigns varies widely. Certainly, for example, I would support penalties that reflect the expenditure or the income of a political party; that may be appropriate.

THE CHAIR: One of the recommendations you made—and I am interested in this space, too—was about empowering the Electoral Commission with some tech-focused resourcing. I think it was a tech-focused integrity unit. The Electoral Commission seems to be somewhat reluctant to take on being the arbiter of truth, as we have discussed previously. Do you think the function is something that has to sit with the Electoral Commissioner, or can you maybe speak a bit more to what that function would look like? What is it that is actually required to be able to engage in this space?

Mr Zhu: I think the merit for having this body as opposed to relying on other enforcement mechanisms is the speed and agility with which a resolution could be achieved, certainly compared to, for example, taking a case to court. For example, lengthy defamation proceedings—which is one way that these issues have been resolved in the past—would drag on for much longer, which, as we discussed earlier, might not be appropriate in an age of AI.

I completely understand, and I have read those comments from the Electoral Commission. I think that it is challenging in an age when truth is perhaps more elusive than ever. However, one way that this might be resolved is that the Electoral Commission does not necessarily have to determine what is fake, or what is true or false, which would run into problems with the implied freedom of political communication. It might look like just verifying that all AI-generated content is watermarked and follows the disclosure procedures and other things that ensure that the Australian people have the tools in order to discern what is real and what is not, and to be able to have access to those resources that can help them make an informed decision.

THE CHAIR: What sort of resources or capability do you think that this type of unit would need to have?

Mr Zhu: Certainly, from a legal perspective, this is tricky, and this would run into all the problems with the freedom of political communication. As a starting point, I do think, however, that more needs to be done, as I said, to equip voters with the ability to discern fact from fiction. The current implementation of watermarks in, for example, the content credential system now deployed by certain large corporations is a step in the right direction, but it probably lacks the enforcement and the universality that would be required for a system like that to be truly effective.

THE CHAIR: Going back to the private capacity exemption discussion that we were having before, what safeguards do you think need to be built into the whole electoral matter discussion to prevent government-funded communications from being used as a back door to partisan campaigning?

Mr Zhu: I think that this is an issue that is perhaps not necessarily prominent, but it is one that could be, again, hypothetically imagined to occur with the current legislation. The exception in section 4, which allows for publications or material produced or authorised by the Assembly to be exempt from the electoral matter classification, could potentially mean that, for example, certain newsletters or publications by committees could be counted as not being electoral matter, when it could very much influence the way that people vote, and impact elections. It is my view that the intention of this clause probably is more to protect specific procedural documents and a rather narrow subset of documents produced by the Assembly, and I think that could be reflected here.

THE CHAIR: Do you think that combining a tightening of that provision with, I think, your proposal around—was it the dominant purpose?

Mr Zhu: Yes, in the ordinary course of its proceedings.

THE CHAIR: If you combined those, would that help navigate things that are very likely to sway a political decision versus those that are engaging with a legitimate purpose of the Assembly?

Mr Zhu: Yes, I would certainly imagine so. What we write here is that the exemption, for example, could potentially cover a newsletter produced by the MLA using parliamentary resources, whereas the phrasing "in the ordinary course of its proceedings" would limit it to, for example, official inquiries and *Hansard*.

Importantly, even though this is perhaps not a massive issue that we have seen in the elections, it is all about safeguarding this piece of legislation for a future when a lot of electoral matter might be AI-generated, and with a lot of, for example, as we are seeing, robocalls. The threat there is astroturfing, so this would help to limit that and prevent that from occurring.

THE CHAIR: On that astroturfing—I think you called it automated amplification—do you think there should be an explicit rule that a person is not acting in a private capacity where that content is, say, coordinated, funded or automated?

Mr Zhu: I think it would be a good idea to see how the South Australian laws which banned robocalling perform. Certainly, these kinds of automated messaging technologies could be a problem. They could also be good. They could improve the ability to spread targeted information and improve voter education, but they could also definitely be used for nefarious purposes.

THE CHAIR: On behalf of the committee, I thank you for your attendance today. If you have taken any questions on notice, please provide your answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*.

HARRINGTON, DR MORGAN, Research Manager, The Australia Institute
PREDAVEC, MS SKYE, Researcher, The Australia Institute
WEATHERILL, THE HON JAY, Executive Director, Democracy and Engagement, McKinnon

THE CHAIR: On behalf of the committee, we welcome witnesses from McKinnon and the Australian Institute.

Please note that as witnesses you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. As we are not inviting opening statements, we will now proceed to questions.

MR BRADDOCK: My first set of questions are to the Australian Institute about the 100-metre rule. I am just seeking some clarification on what your advice is there. Are you suggesting it is clear that the 100-metre rule is not working as intended, and something needs to change with that rule?

Ms Predavec: Yes, I would say that is an accurate characterisation of what we are saying. It is pretty clear that the 100-metre rule is intended to try and make voting more accessible. In fact, it often does the opposite. It often means that campaigners, instead of talking to people who are actually going to vote, end up talking to people who have already voted, or who are not eligible to vote, or who are not trying to go to vote right now—and end up disrupting things like shops and thoroughfares, and just making everything around elections more inaccessible and harder for people who do not want to engage. But it also means that those people who do want to engage have a harder time doing it. It means that people going to vote are less likely to see political information, and that sort of thing. So, we do think it is not working at the moment.

MR BRADDOCK: So, if the 100-metre rule simply moves the campaigning activity to high-traffic locations, would it be preferable to actually invert the status quo, and expressly bring those campaigners closer to where people are about to vote?

Ms Predavec: Yes, I would say that would be preferable; more like the rules are at a federal level.

MR BRADDOCK: Has there been any consideration in terms of part of the reasons behind a 100-metre rule being to prevent, let's say, influencing the order of voting within a particular party column—which Robson rotation is meant to prevent. Do you see any risk of that, or is that quite acceptable in order to meet that need of helping inform the voters as they are proceeding to vote?

Ms Predavec: I do not think we have really looked at that specifically. But, in general, I think that is a normal part of political campaigning. If that is what parties and candidates and independents are going to be handing out, trying to influence the order, then it would be the voter's decision at the end of the day. It is part of normal political campaigning.

MR BRADDOCK: All right. Thank you.

MR EMERSON: I wanted to ask about public funding. Your submission talks to this. I wanted to just dig in a little bit more, first of all, on the per-vote election funding. Is your assessment that that is a problem which should be addressed in the current system?

Ms Predavec: Yes. At present I would say it is not working completely as intended, in terms of leveling the playing field of elections.

MR EMERSON: And your thinking on that, is that on the basis that you need to have money to fund a campaign and then get reimbursed for it thereafter?

Ms Predavec: Yes. It means that a first-time candidate, or an emerging political party or independent, does not have the opportunity to get public funding before they are running for election. So, compared to an established party which can use the votes it got for the last election, or the administrative funding it gets as well, to fund its next campaign. It does mean that someone new does not have access to that resource.

MR EMERSON: So, you see the funding system, as is currently in place, as a barrier for non-incumbents?

Ms Predavec: Yes, it really can be.

MR EMERSON: Do you have views on the amount of funding provided in the ACT; how generous the scheme is?

Ms Predavec: You know, it is quite a generous level of funding. It is, I believe, one of the highest in Australia; around $10 per vote. I think our main recommendation around this topic is less about tweaking the amount of funding, or when it works. It is to do with a more innovative proposal. For example, in the city of Seattle in the United States, what they do is they give everyone vouchers of public funding that they can spend on candidates that they like. And they found, there, that that has really helped level the playing field and allow for the new entrants, and a more diverse group of people get elected.

MR EMERSON: How far out from the election do they issue those vouchers?

Ms Predavec: I do not remember off the top of my head, but generally I think it is long out enough, in that case, that it has managed to fund campaigns.

MR EMERSON: One of the solutions, I suppose, here, is using more of the funding—rather than allocating it to candidates—to generally spread the message that candidates are trying to communicate. So, for instance, we have got our candidate statements which go up on the Elections ACT website. One proposal might be to mail those out to all residents as a way of more evenly spreading the word—candidate's own words—about why they are running. Is that something that could also be explored, that you might consider as a way to level the playing field?

Ms Predavec: Yes. Obviously, I have not looked at that specifically, but any measures along those lines that would help broaden who is able to get their message out, I think, are broadly good things in this context.

MR EMERSON: You also touched on the administrative funding—you have mentioned it just now as well—which I believe is over $27,000 a year per MLA, at this point. Are there comparable schemes in other jurisdictions, where sitting members are provided with that level of funding?

Ms Predavec: I think we have done a lot of research into different parliaments and how that looks in Australia. Generally, it is the case in a lot of Australian jurisdictions that they are structured in a way where sitting MPs do get a lot of financial resources. But the fact that everywhere else does it does not necessarily mean that the ACT should too. And generally, those amounts of resources and funding, and the ability to get your name out there does give incumbents a level of inherent advantage.

MR EMERSON: You have reflected in your submission on the risk that would be inherent in a refund-based election funding model. Would part of that risk be that the administrative funding cannot be used for electoral expenditure but, of course, it can be used to support candidates in a way that helps them with their election? Is this one of the risks with a refund-based model as well, that it would not capture the entirety of what one actually expends on election?

Ms Predavec: Yes, I think that is definitely part of the risk. And, of course, the biggest risk, which we have identified in our submission, is that generally the more major parties and better-established parties spend more per vote, and that means that on a reimbursement-based model they would just get more money than smaller parties and new entrants.

THE CHAIR: Thank you. On that last point, what costs are you suggesting are incurred that do not count as electoral expenditure?

Ms Predavec: I was not really saying that there was anything specifically. It is more that there is a variety of benefits that incumbent politicians end up getting in Australia—both direct and indirect, with things like name recognition and being a paid full-time politician—that someone who is trying to challenge that position does not have. So, it is something to take into account, is more what our research is saying.

THE CHAIR: In terms of the Seattle experience, can you tell me: is there any evidence around whether that has been successful or not? Or if there have been any other issues arise?

Ms Predavec: Yes, I can. I do not have it with me, but I would be happy to provide it on notice. From memory, there has been research that has shown that model has led to a lot more grassroots candidates who would not necessarily be running for election if the model was not in place. Especially, more diverse voices from lower income communities and migrant communities in Seattle have been able to get elected. It has actually really substantially brought more diversity to the politics of that city.

THE CHAIR: And just trying to understand the underlying problem that you are looking to address with the idea of, essentially, vouchers. Is the problem you are looking to address that it is difficult for people to get the resources to run in the first place?

Ms Predavec: Yes. That is one of the major problems that we think this would be really

helpful in addressing. With public funding at the moment, the fact that it comes in after the election means that if you want to try and rely on public funding to run your campaign then you have to take loans and take a really big bet on your success. With a voucher scheme, you get money up front based on people's enthusiasm for your candidacy. That is one of the really big reasons for it. I would say the other big reason is that it means that people who have less money, and less ability to donate, can get further—based on grassroots and broader community enthusiasm for what they are campaigning on.

MR WERNER-GIBBINGS: I have a question for Mr Weatherill. If this has been asked, please tell me; I have some other questions. The misinformation in ACT elections: It is difficult to identify where the line is between what is misinformation and what is a political view, and then the extent of who will see what—because everyone's social media feeds are curated, et cetera. Do you think, from what is within the electoral commission's control or the ACT government's control, there are sufficient measures in place to counter misinformation in ACT elections, as it stands at the end of 2025—noting that it is going to be a never-ending chase and there will be more needed to be done and prepared for in 2028? And if not, suggestions for improvement would be brilliant.

Mr Weatherill: That is a really good question. Just going back to first principles, if you cannot have a debate based on facts, then you cannot get to the truth. If you cannot get to the truth, you cannot create a sense of trust. If you do not have trust, then you cannot have the debate, which, I imagine, has really solved the big challenges that face the community. So, it all ladders up to whether you have got a successful democracy. So, that is just, sort of, the background music.

I suppose all of these things that we are talking about are, to a degree, in an overall attempt to try and lift the quality of dialogue and debate, and public discourse. I mean, truth in political advertising does not take you the whole distance; it just eliminates those things which are factually incorrect. So, it does not attach opinions. It depends on what you mean by misinformation, because some people might characterise an outrageous opinion as misinformation.

Really, truth in political advertising does not take you there. Having experienced it in South Australia, it does have a chilling impact, I think, on some of the worst excesses of lies and misleading behaviour in politics, because, even though the remedies are a little bit clunky at the moment, just the fact of a declaration by an independent body that something is false and misleading during the course of an election campaign is quite a deterrent to that sort of misbehaviour.

That is a bad day in the campaign, if you have got some independent authority telling you that you have made false and misleading conduct. It can completely derail a day of campaigning. In my experience, from a practical level, any intelligent party secretary looking at a piece of material and deciding whether it should be published is going to take quite a risk-averse approach to the publication of that material, on that basis. So, I think it does a lot of work.

Obviously, you have the experience of this election to analyse the effect that it is having, but I can certainly tell you in the South Australian context it has changed the behaviour

of party officials about what they do and do not publish—and the scrutiny that they apply to it.

But the whole mis- and disinformation world also travels into the behaviour of the platforms, and what they publish and do not publish—which is a much bigger exercise that travels well beyond the jurisdictional boundaries, I think, of the ACT. But I am not addressing that at the moment, because that is a much bigger question.

THE CHAIR: How important is speed of resolution to these questions? Because, in the ACT experience, the one substantiated complaint was not resolved until the day before the election; and in the federal election we saw examples where one party was handing out what many would consider quite misleading "how to vote" cards in the colours of another party.

Mr Weatherill: That is a really good question. In my personal experience, one of the great failings of the South Australian system was that one or other party can keep taking natural justice points on the process, and keep requesting more and more time to submit more and more information, to try and substantiate the truth or otherwise of their statements.

I had an identical experience, actually, about an ad that was promulgated by our political opponents around something to do with electricity prices or something, and it took the whole of the election campaign. This was published six weeks before the election. I think it was the day before the election, the declaration was made that it was false and misleading. And, to a degree, that robbed us of the opportunity of using that because I think we were then within the blackout, which I think was the tactical objective of our opponents.

That ended up just being a matter of practice, I suppose that the electoral commission just permitted, in the sense, for the clock to be run down in that way. I am sure there could be things to be done because, I mean, strictly speaking, going back to that point I made earlier, the party secretary, in our case, insisted on a dossier of material being submitted along with the material so that if it was ever questioned, they could simply refer to it.

Now, that should be routine. It should not actually require you to go around digging for a month to try and justify your stuff. You should be able to justify it almost immediately, if that challenge is made. I think that is something which is a failing, certainly the South Australian system, and it seems in your experience in the ACT system. So, yes, I would support.

I do not know quite how you would do it—because you need some discretion, I suppose—but I think that in the ordinary course, people should be able to make a response within a relatively short period of time. As you know, once a lie is promulgated, it can capture a life of its own, and the damage can be done. It can be difficult to unravel. Then the real remedy, of course, is to go to the Court of Disputed Returns—but that is a very difficult question of causation, to be able to demonstrate the lie to courts, the loss of votes, depending on the size of the margins.

THE CHAIR: I wonder whether that timing issue is exacerbated, with the degree to

which we see early voting now?

Mr Weatherill: Exactly, of course.

MR BRADDOCK: In terms of a previous witness, Associate Professor Yee-Fui Ng raised the example in South Australia where political parties were lodging a lot of complaints that were possibly vexatious, with the view to trying to tie up their political opponents. Does that match up with your experience? Do you have any views on how that can be managed?

Mr Weatherill: It certainly did. It seemed to accelerate. In the early years of the operation of the act, it did not seem to be an issue, but it did seem to accelerate. It was partly a tactical proposition to try and do. If somebody made a complaint about you, it was nice to be able to say that you were also—so in other words, you just "pox on both your houses" and both people were thrown into that world. Someone's quite trivial and minor error, which did lead to a finding of "false and misleading", was then juxtaposed next to quite an egregious lie—but there was a sort of false equivalence. But that, tactically, was quite advantageous to say, "Well, they did it as well."

I am not entirely sure. I suppose you could introduce some penalty for vexatious complaints, which might have an effect. I must say I am attracted to linking the false and misleading advertising regime, the political advertising regime to the public funding regime. At the moment, people get public funding with no strings attached. If the penalty settled in some docking, if you like, of the political financing, that could also have a chilling effect on the sort of material that might be put into play.

So, I do not have a simple answer to the multitude of things. I suppose if they are baseless, they get rejected. I suppose, the real question then comes if they are completely baseless, do you have a vexatious complaint?

MR BRADDOCK: Thank you.

MR EMERSON: You touched on how, I think you said, lies can take on a life of their own, or something to that effect. But you also mentioned that, with having these laws in place, the threat of reputational damage could lead to behavioural change. I am curious about what role you see for electoral commissions—Elections ACT, in our case—in amplifying that reputational damage. I want to give you an example. During our election campaign, one major party put out a misleading advertisement about the leader of the other party. It was found to be misleading. It became a story, the effect of which I would say led to more public awareness of the false claims they were making about the opposition leader, as opposed to having a detrimental impact on the party who had made the misleading ad. Is there a role for Elections ACT in amplifying that reputational harm?

Mr Weatherill: I think there is a real question of remedies here and what can be done. You are right; they are repeating the lie. I remember some research from the US that, with some lie, four per cent of the people knew about it; somebody published a retraction and 16 per cent of the people knew about the original lie. You are hanging yourself, in a way. That is a challenge.

That is why I am attracted to the idea potentially of connecting the public financing, as part of the remedy. If you are found to have a false and misleading ad, which you presumably financed through the money that you received through public funding, that leads to a deduction or a penalty of some sort. It would have to be sufficiently large, because what you want to do is stop these things in the first place. I think there is an extent to which the damage is done, once they are published. As many things as you can possibly do to discourage the behaviour in the first place, obviously, is ideal.

THE CHAIR: Just to round this one out, I think there was a figure of 74 per cent support in your research for restricting public funding being used for attack or negative ads.

Mr Weatherill: Yes.

THE CHAIR: Is that something that you think can be drafted tightly enough to avoid subjective policing of robust critique?

Mr Weatherill: We have not done the detailed policy work on this, but our thesis is that you link the treatment of political advertising legislation to the public financing legislation. It is the point I was making before. Rather than saying that an unkind ad is something we want to ban—what does that mean?—you could link it to something which has an objective basis. There is enough case law now on false and misleading advertising, both in the commercial context and, of course, now in South Australia and the ACT, that gives you a more objective foundation on which you can attach that behaviour.

Linking it, in some way, to the public funding could be quite powerful. As you know, 74 per cent of people support it. People hate negative advertising. Would this eliminate all negative advertising? No, but there is a counterpart reform which we are also advancing, which is an obligation to publish a manifesto. This whole idea that public funding should be used for public purposes and not for political attacks is, I think, a really powerful idea in the community. While people have fundamental support for our electoral system, they hate the way it operates in practice. They like the game but not the players, as it were, and there is a real demand for it to be different.

THE CHAIR: The other 74 per cent number in your submission is that 74 per cent of respondents supported public funding going towards properly costed policy programs from political parties and candidates. Could you speak a bit more to what that message is?

Mr Weatherill: Yes. It is the idea of a manifesto—the idea that you should be obliged to publish your policies before the election, which is, you would have thought, a pretty orthodox idea. In the course of our policy work, we have identified that there is a tendency towards, obviously, an approach on negative attack ads rather than the contest of policies and ideas. There is a shrinking contest of the real debate around policies in the lead-up to an election.

It is an attempt to oblige people to be accountable through the publication of the policy work. There might have to be some counterpart improvement in the capacity of political parties to produce material of this sort. One of the other things that we have observed

through speaking to political parties is that they are quite impoverished in the resources that they have to apply to policymaking. With some jurisdictions, obviously, the commonwealth has the Parliamentary Budget Office. That does provide some policy support, but I think there is a strong argument for trying to lift the capability of political parties to produce properly costed and reasoned policies.

To the extent that they have to rely upon non-government agencies, many of them are—and this largely came from the centre-right parties—finding it difficult to find high-quality advice that is not highly influenced by large donors that have a particular skew for their policy work. Generally speaking, it is a pretty impoverished environment for political parties, in their capacity to produce policy. Parties of government tend to be overwhelmed by the challenges of governing. Parties of opposition are pretty impoverished and do not have access to the resources. What you find is a pretty meagre offering, in terms of what is put before people at elections.

This is an attempt to put some strings attached through public funding. Don't spend it on negative attack ads; do spend it on positive policies. That is the common sense of it. And it is wildly popular; that is the other thing that I am saying.

THE CHAIR: It sounds like there are two streams to that; one is the capacity of parties to develop good policy, and the other is presenting fully costed policies during an election. One of the concerns at the end of the most recent election was the number of policies from one party in particular that had been submitted right at the closing date, and there was not enough capacity in Treasury to cost those policies before the election. Is that the sort of thing that you think we should be seeking to overcome here?

Mr Weatherill: There are lots of different dimensions to this. The political parties themselves have become quite stripped out, in terms of their own internal capacities. To the extent that we are asking public officials to verify this material, the resources need to be available for them to be able to do that. If you have a fixed-term election, this becomes easier to do, because you know there is a certain date by which the material could be submitted. That can also be important because, obviously, this phenomenon of early voting is something which interacts with this whole question.

It may well be, though, that there has to be some increase in the resources that are made available for these purposes. Parties have to run a campaign and also apply some of the resources that otherwise would come to them. I suppose there is a saving if you are not spending money on negative attack ads, and you are spending it on promoting public policies, or policy development; there might be some offsetting.

MR BRADDOCK: I have a question about financing of parties. The Australia Institute have a recommendation to "extend the property developer ban to other industries with a particularly strong vested interest in government decision-making". Is there anything you can point to as evidence of those corrupting influences or something similar that would justify such a ban that is acceptable under the Constitution's implied freedom of political speech?

Ms Predavec: Obviously, there is some level of ban that works constitutionally, as there is currently a property developer ban. In general, I think this is about public expectations of politics, about not having industries that people would consider

harmful—things like tobacco or gambling—as well as making sure that those harmful industries are not able to influence our politics.

MR BRADDOCK: You also described in your submission preferring a mega-donor cap instead of a donation cap. I think you are suggesting matching it to two candidates, and I am wondering why you selected two and not one. A running mate means there is a party, but that does not necessarily mean there is broad support for that particular person or party, as you might describe it.

Ms Predavec: The exact level of this could be up for debate. That specific cap was basically to try and find a balance between ensuring that donations are not too limited, while also making sure that some billionaire cannot completely bankroll a political campaign by themselves.

MR BRADDOCK: That brings me to a question about expenditure caps. I want to clarify your position there. From your submission, you dislike them in the federal context, but you qualify that when it comes to the Hare-Clark system, which we have in the ACT. Is there any way that you might reform our system caps to make it more equitable without inviting the inevitable tsunami, whether it be a billionaire or a single cashed-up fund, supporting one particular party?

Ms Predavec: With the way it works at a federal level, we have a lot of concerns, and a lot of other integrity groups have a lot of concerns, about the way those are operating, making it harder for non-incumbent and non-major-party candidates to have their say. There is not a huge amount in particular that we would suggest on spending caps. It is a fraught question as to how these should operate.

The biggest thing pretty much is about allowing parties with larger tickets to have much larger spending caps when someone is ungrouped or an independent; they have one-fifth of the resources, even though realistically they are competing for the same pool of votes, in a lot of ways. That can be really problematic for those smaller groupings.

MR BRADDOCK: I have a question about the South Australian political finance reforms. I totally understand, in terms of how the democracy sausage was made there. Without prejudice, and also noticing that you have been advocating for democracy vouchers in your submission, if ACT moved in a similar direction as those South Australian reforms, that could meet your nine principles; is that something you would support as a direction for the ACT to examine?

Ms Predavec: We have a lot of problems with the way that the South Australian reforms work, both with how the sausage is made, as you mentioned, and with how they tend to advantage larger incumbent parties over new entrants. They have similar problems to the problems with public funding that I mentioned earlier, with getting money before or after an election and giving money to incumbents more than they do to new entrants. We would not say that it is a good direction for the ACT to head in.

MR BRADDOCK: You would fall back on your nine principles of trying to ensure there is something that encourages and helps new entrants, and costs it in advance of the election day; that is a system that you would be encouraging us to take up?

Ms Predavec: Yes, exactly. That is much better.

MR WERNER-GIBBINGS: I have a question on extending the ban on property developers giving larger donations to include the fossil fuel, gambling and alcohol industries. At some point, the legislation would have to be explicit about where the line would be, or what the threshold would be, in both amounts and who is involved in, for instance, the alcohol industry. Woolworths and Coles are heavily involved in the alcohol industry. Would they be included? These are not manufacturers of internal combustion engines, heavily involved in the fossil fuel industry. There would have to be a useful or a justifiable threshold for where and when. Has there been thinking that the institute has done or that you have seen elsewhere as to where those thresholds have landed?

Ms Predavec: I am not sure, off the top of my head. Obviously, there have been some bans, including the property developer ban in some places. I would assume that there was some kind of principle used along those lines. Obviously, there is not a clean break with property developers, either, even though some of these other topics might be more complicated. It will always be a somewhat fraught question about where you draw that line. More than exactly where it should be, we are saying that that line should be drawn.

MR WERNER-GIBBINGS: Particularly in the ACT, because it is inherently influenced or prone to being influenced by the fossil fuel industry and gambling? There is some understanding of why property development is such an important issue within the ACT, but gambling and fossil fuel are more Australia-wide players, in terms of where they would be seeking to get influence, as opposed to just the ACT. Is it a matter of the ACT setting an example?

Ms Predavec: The ACT setting an example is a big part of it. The ACT has often acted as a laboratory for Australian democracy, coming up with ideas that then get adopted in other jurisdictions. There are a number of examples of this. Also, these are Australia-wide issues. That means we would make very similar or exactly the same recommendations to other inquiries about what to do about these sorts of donations. Letting fossil fuels and these other harmful industries have a large amount of influence in politics is a pretty bad thing for our democracy, regardless of where you are in Australia.

THE CHAIR: One of the criticisms of the developer ban is that it has been too broad; it has taken in people who are not the big developers that you have to worry about. They are people who are just doing some development on the side; otherwise they are essentially just ordinary citizens.

There is a question for me around banning particular industries and groups. At the moment it feels like there is a group of people that do not like this industry, so we should ban it. A group of people do not like that industry, so we should ban donations from them. Is there some sort of objective test that could be applied across industries, or do we have to just pick and choose?

Ms Predavec: I think there is a level where these are always going to have to be decisions that are made through democratic processes rather than trying to come up

with some kind of all-encompassing procedural way of dealing with this question. The reason in the end that property developers are banned is because generally in the ACT people are worried about the political influence of property developers. In other jurisdictions where similar bans have happened, it is because there is a public perception that these are problematic industries. It will always be really hard to come up with some objective way of making that happen. I think it is really on a case-by-case basis.

THE CHAIR: Is there something consistent? I am trying to work out: is there a way to move away from the risk of tyranny of the majority? Fifty-one per cent could say, "We don't like this specific group; they shouldn't be able to donate." If you look at other historical examples, it may have been on the basis of race, gender or all sorts of other criteria. How do we get away from just picking on group by group? Is there any way to get away from that?

Ms Predavec: I would hope that human rights and constitutional protections would prevent examples like you brought up that have happened earlier. In general, it is really difficult to try and find some objective answer to this question. At the end of the day, these are choices that have to be made by the people living in our democracy about who we want to see influencing that democracy. The best way of trying to make these decisions is by whether or not people do not want to see these industries which harm people they know influencing their politics.

THE CHAIR: Should we be considering things like donations from media organisations or other politically interested organisations like unions, for example?

Ms Predavec: We have not recommended that. Our research on this topic is really focused on extending this ban to industries with a particularly strong vested interest in government decision-making and have harmful effects on the population. There could be consideration of wider bans, but, right now, what we are talking about is a more specific question, for our research.

THE CHAIR: You have just focused on the narrow question of those particular industries.

Ms Predavec: Yes, on particularly harmful industries that have a strong vested interest in—

MR BRADDOCK: Would that definition of "vested interest" include where there has been demonstrated corruption or there is risk of corruption due to a high level of regulation from government; hence the possibility for government to influence the outcomes for those particular industries?

Ms Predavec: Generally, what we are concerned about, and the reason we think banning political contributions from harmful industries is a good idea, is the ability of those industries to use their political influence to make themselves less regulated, to try and stop regulation or to influence government decision-making in a way that benefits them above the people voting in a democracy. I think that could fall under that kind of area.

MR BRADDOCK: Thank you for adding that point about harm to the population.

Mr Weatherill, does the McKinnon Institute have anything in terms of its perspective on potential industries or areas where there should be a restriction on their ability to donate to the political process?

Mr Weatherill: No. I think you get into a tangle. I think that the South Australian solution is the most elegant solution, where you just ban donations. I do not think it is impossible to solve some of the problems about new parties, third parties or small parties. Indeed, the original bill that the Australia Institute was commenting on had about 19 amendments that were sponsored by the Centre for Public Integrity, which sought to address those questions.

If nobody can make a donation, you do not have to worry about these things. I find it a little bit difficult conceptually to work out what is a harmful industry. One person's harm will be another person's public interest. Maybe somebody says that a union is damaging the economy, or they might say it is trying to protect the interests of working people. I have difficulty with being able to separate some of these things out. One person's harmful developer destroying urban amenity in a local community might be somebody else's affordable housing.

The question really becomes: how do you get rid of undue influence, where powerful voices get above-average influence on the political process? I am very attracted to the South Australian model. It will be interesting to see whether it is able to survive a constitutional challenge. Obviously, the implied freedom of political communication will come into play. That has a big reasonableness overlay.

I think that, in its original form, it would probably have been able to be attacked, because it did significantly damage the interests of minor parties. But I think it has a chance of surviving in its present form.

MR WERNER-GIBBINGS: I have a question for the Australia Institute. With voters' options on preferential voting, what wording are you aware of or have you seen that you suggest should be included to clarify voters' options for preferential voting? I have a follow-up question: would you change electronic voting in any way to encourage more people to use preferences beyond the first five?

Ms Predavec: On that first point, we do not have a completely ironclad, specific thing. What we suggested in our submission was something like, "Your vote is most effective if you number every box," to try and emphasise to a voter that it is not just an ephemeral, optional thing to number further; it is actually really useful to make sure that their voice is heard.

On that second point, I am not sure if there is a specific thing with electronic voting at the moment where people are less likely to number preferences.

MR WERNER-GIBBINGS: No, I am not sure, either.

Ms Predavec: I have not looked into that specifically.

THE CHAIR: Are there any concerns around use of electronic voting in particular and the ability of someone to choose whether they are voting electronically or not voting

electronically, whether that introduces any concerns around people's confidence in the system?

Ms Predavec: I am not aware of any particular problems that the ACT has had around that. With any kind of voting system, if people are worried about it, and if it is something that makes them lack confidence in the election system in general, it could be really problematic. I have not looked into it very much, but I am not aware that that has happened in the ACT very much.

THE CHAIR: On the preferencing question, I think the data suggested it actually goes the other way. People are more likely to vote formally if it is electronic rather than paper-based. Are there concerns that suggesting people must vote more than the one to five may result in them directing preferences to people they do not want to see elected?

Ms Predavec: We would not want voting instructions to say they must vote other than five. It does seem like a relatively good balance at the moment that it is optional past that point for Hare-Clark. What we want to do is communicate that they can do this—not only that they can do this, but that it is actually useful for making their vote more effective. If they do not want to, we want it to be clear that they do not have to, but if they think that they might want to see someone else elected if their ones do not get up, it would be really useful.

THE CHAIR: Thank you; that is helpful.

MR EMERSON: The ballot paper says to number five boxes from one to five. I have a bit of a sense that this can give voters a feeling that they might have five votes as opposed to one vote. Is that anything that you have come across, as to whether there is a lack of understanding among voters around exactly how the preferential voting system works?

Ms Predavec: I think there is a broad problem in Australia. There is a surprising level at which people do not quite understand how the voting system works and, because of that, are not able to use that to its full effectiveness. We have advocated for more involved civic participation and civic education to try and help with that, as well as having more clarity around voting instructions.

MR EMERSON: One solution might be to say, "You must number at least one box," which is what is required for it to be a valid vote, but with strong encouragement, going to your point, to number them all.

Ms Predavec: That could be a solution. In general, trying to communicate that more voting is good, and having savings provisions—it is my understanding that we have those now—is a good enough way for that to work. It is difficult, in any system where you are electing multiple people, to avoid the feeling that someone has multiple votes, unless you have proper education around it and have very clear voting instructions.

MR EMERSON: The submission's mention of the clarity of voting instructions to inform voters of the power of their vote made me think about the election funding as well. Is it your sense that, in general, people across the ACT are aware of the power of their vote, from a financial perspective—that it is worth 10 bucks?

Ms Predavec: From personal experience, I think there is a very low amount of knowledge, and that is true both federally and in the ACT. People are not aware that they are effectively giving a level of funding, along with their vote, when they are preferencing No 1.

MR EMERSON: Do you think we should consider including that on the ballot paper?

Ms Predavec: I think it could be a consideration. Having too much information around how the vote works could confuse voters, in some ways, but it could be something to be included.

MR EMERSON: We might end up with more informal votes because people do not want to give their money to anyone.

MR BRADDOCK: Unintended consequences. Your position is that voters are more likely to have their vote elect the candidate of their choice if they number as many boxes as possible, but still retain the same savings provisions, just in case their vote does exhaust somewhere along the way.

Ms Predavec: Yes. Having a good savings provision is really important in preferential voting, because it means that more votes are counted. We are saying that, at the moment, the voting instructions mostly encourage people to limit their number of votes to the number that they have to do, rather than communicating to them that there is that strong ability to put more preferences down, and that their vote is more powerful if they do that.

MR BRADDOCK: And only numbering five boxes increases the likelihood that their votes will not contribute to someone of their choice being elected.

Ms Predavec: Yes, exactly.

THE CHAIR: Rather than necessarily helping their number one choice to get elected, it is about having someone who they think ought to be able to be elected—sticking to the least worst option, I guess.

Ms Predavec: Yes, exactly.

MR BRADDOCK: I have a question about expanding the franchise. Your submission is very explicit in supporting expanding the franchise to 16- and 17-year-olds. I want to clarify whether that extends to expanding the franchise to permanent residents.

Ms Predavec: We did also, as you say, look at expanding the franchise to permanent residents. Especially at a territory level, we think it is a good thing if everyone who has a stake in how the city is run, how the territory is run, is able to have a voice in how it is run.

THE CHAIR: On the question of reducing the age for voting, one of the concerns I hear from parents is about their children being targeted, from a number of years before they can vote, to encourage them eventually to vote for a particular party. Did you look

at all at the question of whether that threshold would be lowered further? For example, we have four-year fixed terms; are we going to see targeting of 12-year-olds, to try and get them to vote in a particular way once they are able to vote?

Ms Predavec: I am not particularly aware of a huge phenomenon at the moment of parties attempting to influence the votes of 14- and 15-year-olds. In general, it seems unlikely that that would be one of the main effects. It seems unlikely that this would mean campaigners would focus their efforts on younger age groups, when instead they could be going after the people who are more likely to have their message heard more recently, when they are going to vote.

In general, we think that one of the big advantages of lowering the voting age to 16 is that they have had civics education more recently, so they are definitely more able to understand how their vote will work and how our democracy functions.

THE CHAIR: This is what I think is probably one of the trickiest things to navigate here: what do you think the impact of a federal social media ban for anyone under 16 would be? Can someone really be fully informed if such a big proportion of their engagement politically is social media? Can they be really fully informed if they are not able to access that until, potentially, the day before the election?

Ms Predavec: I think—

MR BRADDOCK: Only people on social media can vote?

THE CHAIR: No, that is not what I am saying. You know that it is not what I am saying. Is there a detrimental effect to people because there is not a capacity to fully engage, through social media, at least, ahead of the election?

Ms Predavec: Obviously, we have seen social media become more and more important in our elections generally. The intent behind the social media ban is to keep people safe from harmful content. In an election context, for example, if we are worried about things like AI or harmful content online being part of our elections, the social media ban, you would think, would help to make sure that 16- and 17-year-olds are less exposed to that kind of content as well.

Generally, in elections, before social media, there was still a really good ability to get informed about how an election would work, and the different parties and their policies. I do not think that the social media ban would change that, anywhere near the extent to which it would make it harder for 16- and 17-year-olds to cast an informed vote.

MR EMERSON: Do you think it is a bad thing if political parties engage more with younger voters?

Ms Predavec: I do not think that is a bad thing, no.

MR EMERSON: I wanted to let you get that on the record.

THE CHAIR: We can possibly get unanimous agreement. On behalf of the committee, I thank you for your attendance today. If you have taken any questions on notice, please

provide your answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*. The committee will now suspend the proceedings for a break and reconvene at 1 pm.

Hearing suspended from 11.49 am to 1.00 pm

FLETCHER, MR MARK

THE CHAIR: We welcome Mr Mark Fletcher. Please note that as a witness you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. As we are not inviting opening statements, we will proceed to questions.

MR WERNER-GIBBINGS: Mr Fletcher, thank you very much. These are a couple of questions about the specificities of some of your recommendations. Well, I will start with one, so the recommendation of repealing section 110A of the act so that the electoral commission is no longer required to publish candidate statements. So I am unclear about the reasoning of this, sort of in totum, other than the single example that there was a poorly worded statement that had a word redacted. Why should the electoral commission not publish candidate statements, or what would you hope that this recommendation would achieve?

Mr Fletcher: Thank you for the question and I acknowledge the privilege statement. One thing that is consistent throughout my submission is I am very keen on having the electoral commissioner be independent and at arm's length from the political process of the elections. I am a massive fan of the electoral commissioner. Nothing that I wrote suggested that I do not think we have an excellent commissioner. But we do put all these obligations on the commissioner that require them to move sort of into political spaces. 110A, where it requires the electoral commissioner to publish political statements, is a space where now they are responsible for publication of it, they are responsible for the redactions that go into it. This moves them into the political space of the election rather than keeping them nicely quarantined into the mere mechanics of the election.

MR WERNER-GIBBINGS: Right, okay. So that abrades against the commissioner's responsibility of making electoral information available as broadly as possible and keeping people informed about X, Y and the options and bits and pieces.

Mr Fletcher: That is right.

MR WERNER-GIBBINGS: So it would be presumably up to the parties perhaps or people themselves to publish their information. Then it would be incumbent upon the polity to do their own research?

Mr Fletcher: That is right.

THE CHAIR: So I guess at a relatively high level, your submission argues that the Electoral Act is overdue for serious review.

Mr Fletcher: Yes.

THE CHAIR: You raise some key definitions and suggest they are outdated and overly complex. So from your perspective, how would aligning the ACT's electoral matter definition with the commonwealth's and narrowing sort of third-party campaigner rules improve the fairness and transparency in funding and compliance?

Mr Fletcher: Can I take that in two parts? Because you effectively asked two elements to that one, which is, "How do you use these definitions," and then the third-party rules, and I think they flow on. One follows from the other answer. One thing that you are rightly concerned about is electoral expenditure and donations, right. But that puts, in a democratic sense, a moral obligation on ensuring that the act is as efficient as possible for parties and candidates to be able to undertake their political processes without incurring unnecessary expenditure.

When you have the ACT—being such a small jurisdiction with very bespoke definitions that operate entirely counterintuitively to how you would approach them if you were, one, just reading them as a normal person, but two, if you were experienced in the commonwealth electoral space—it means that there is an additional expense on you to find people in your parties to tweak everything and make sure it complies with a bespoke set of rules. The reason why that then flows on to third-party campaigners is that the—I nearly said combatants but it really is participants in the democratic festival—are not exclusively professional politicians or professional political parties.

In 2013 the ACT Law Society got pinged as a third-party campaigner, was fined some amount of money for too much expenditure on their campaigning on an issue related to the election, which would never happen in other spaces. So in other words, if you have got an organisation that operates across jurisdictions, which I understand the Law Society does by virtue of communicating with other law societies in other jurisdictions—you end up with those third-party campaigners—the third-party actors, I do not want to refer to them as campaigners strictly as a legal thing—but those entities now have to learn a new set of rules each time they want to play in a different jurisdiction. By aligning with the commonwealth, you effectively reduce by one the number of rules that you need to follow, except where there are good reasons for specific rules for the ACT.

THE CHAIR: Thank you. That is helpful. So in amongst your improvements you suggest defining electoral expenditure according to a dominant purpose test.

Mr Fletcher: Yes.

THE CHAIR: I cannot recall, is that the same as federal? Would that be an alignment there or—

Mr Fletcher: It was aligned to the federal model. So two parts. I am not sure that I am referring to the same part, but especially with what is known as electoral matter, that definition is so broken that it now covers all kinds of absurd things. If that had been aligned with the commonwealth definition—you would have the flow-on effect that expenditure and so on and so forth—those rules would have been calibrated to the overall definition as well. I think that is sort of where you were getting to.

THE CHAIR: Yes. No, no, it is. I thought it was well-articulated but it seems like the core problem in some way sits in that definition of electoral matter and then that flows into causing problems in terms of electoral expenditure.

Mr Fletcher: That is right.

THE CHAIR: Do you think there are practical checks that could be added to make sure, if we introduce this sort of reform, we are not weakening expenditure caps?

Mr Fletcher: So it is important to understand what you mean by weakening expenditure caps, right. So, should a PhD student at the ANU have to produce a whole lot of financial reports from the university to avoid going to jail for six months? If you say no, then it is not really weakening the rules to change them so that that outcome does not occur. If, however, you say that that would be a weakening, then yes, it would be a weakening, right. But weak or strong is not really what you are after. What you are after is well-calibrated. So it is like, does this actually achieve what we are expecting the act to achieve? And at the moment, it does not.

THE CHAIR: So it is more about appropriate targeting rather than where the bar is set?

Mr Fletcher: That is right.

MR BRADDOCK: So to grasp the policy question here, it appears that the definitions of electoral matter and electoral expenditure are too narrow for the political participants, in terms of it is not capturing everything they spend money on, but it is too broad for civil society in that a lot of non-partisan activity and material is getting captured. Is that a fair summary of the problem we are grappling with?

Mr Fletcher: Having read the Greens submission—and they were able to provide more information that the public is simply not privy to—I would say that is accurate. So for the rest of the panel, the Greens submission very kindly referred to my submission, and I cannot fault them in doing that, and then built on that and said, look, once you have gone through that hurdle—saying that there is a problem with electoral matter—the core issue for the Greens, as I understood it, was that they had a whole lot of expenditure that they felt should have been captured by these rules, but then were not. And when that came around to time to talk about—well, should the $10 per vote, you know, that sort of issue—are you really measuring a percentage of the total expenditure of the parties, or are you merely measuring it as some percentage of some element of the expenditure of the parties? I could not see any flaw in that reasoning.

MR BRADDOCK: So coming to issues around section 4(2) of the act, would the—I know this sounds ridiculous, but I think it is important to acknowledge the ridiculousness of the definitions—does that mean the ABC's election night coverage could potentially be perceived, or Antony Green's blog be perceived, as electoral matter?

Mr Fletcher: So what I want to convey clearly is that the gate is wide open. So in other words, if you were fishing for tuna, this net is so wide that you are capturing lots and lots of dolphins. And then you have these rules later on that go, "Is that dolphin the sort of thing I can throw out of the net?" And my argument would be, stop catching the dolphins in the first place, make sure the net is the right size and then carve it through in order to just get the tuna.

The specific answer to your question is that there are later carve-outs, absurdly, the

reports of this inquiry itself. Were it not for a carve-out, your report would be electoral matter and you would need to provide the electoral commission with a whole lot of documents to say that your expenditure was under the cap and these sorts of things. It is fundamentally absurd that we are relying on carve-outs, the sort of specific dolphins, rather than fixing the net at the first instance.

MR BRADDOCK: Okay. And if we were to look at electoral expenditure, that has essentially been limited to advertising and polling activities.

Mr Fletcher: Effectively, yes.

MR BRADDOCK: So our electoral expenditure cap is effectively an advertising cap, not—

Mr Fletcher: That was the way the Greens put it. That was not my statement. I could not see a problem with that statement from the Greens.

MR BRADDOCK: Okay. If we were to adopt the federal definitions of electoral matter, what subsequential amendments would we need to make elsewhere? Because Elections ACT have said it is interwoven throughout the entirety of the act and it would take a substantial amount of effort to change that definition.

Mr Fletcher: The first part is correct, it is interwoven throughout the rest of the act. The second part is incorrect, which is, if you just change the size of the net, then you are not capturing the things later downstream, and so therefore this idea that you then need to tweak everything to match the new definition does not arise. Fundamentally you are trying to close the gate at the start. So you rely less on the exemptions to knock things out and you rely more on, "This is the set that I am interested in right from the beginning." So therefore the flow-on effects are, "I am only taking returns, for example, from people that came in through the gate that is the right size and calibrated to the right set."

MR WERNER-GIBBINGS: The second question now—and this is the 297A—it covers truth in political advertising—"be repealed because it encourages more sophisticated liars rather than truthful candidates."

Mr Fletcher: That is it.

MR WERNER-GIBBINGS: Excellent. I guess, an assertion but a way to summarise. But what is the evidence for that assertion?

Mr Fletcher: South Australia—you have talked about it quite a lot over the past morning and few weeks. We have a lot of case law and the case law is now showing that the more you can move into that opinion space, the less there is a remedy available for you. So for example, the "Mark Fletcher Abra Is the Best Pokémon Party" runs. Somebody runs a campaign against me and says, "That Mark Fletcher is going to turn all the trams into diesel engines. I have seen enough *Thomas the Tank Engine* to know that is a bad idea." I do not have good remedies against it unless I can demonstrate falsity. And in fact, the test is a two-part one, which is that it requires falsity and also is misleading.

But now if I rephrase it is as, "Can you really trust Mark Fletcher with the trams not to introduce diesel engines instead," this is a futurity. It is a known problem with the South Australian act and there are no remedies. So I cannot say, "This is false," because I cannot demonstrate the futurity of what my statement is. That interestingly is an Aristotelian problem. He wrote about this in how you assign truth values to future statements. It is wonderful. But for whatever reason, we have just repeated the process. In the South Australian legislation we have a number of cases saying there is not the remedy that you need in order to do it.

MR WERNER-GIBBINGS: I have not yet got up to that chapter in Aristotle's *Politics*, but what was his remedy?

Mr Fletcher: So there was no political remedy at that time. There was no electoral act for him to amend. But the underlying question, I think, is one that actually Mr Cocks has been mentioning a few times through the hearings so far which is about, is this really deceptive conduct that we are worried about? So is there something deceptive in saying, "The 'Mark Fletcher Abra is the Best Pokémon Party' is going to bring diesel engines in?" And then I can say, "Well, that is deceptive and I am worried about that."

And you already know how to solve those problems. You say there is a code of conduct. It is in the statute. You say any person who is going to stand for election or be a member of a party and these sorts of things has got to abide by this code of conduct. After the election, you report anything to the integrity commissioner. The integrity commissioner forms a report and says, "Hello, this was dishonourable, disreputable, deceptive conduct." Then you have Assembly measures to be able to resolve those things.

This takes away the problem of having the electoral commissioner have to rapid-fire at superhuman speed through applications and complaints and instead turns it back into a democratic process of saying, "Well, who should be the decider of truth? Should it be the electoral commissioner, or should it be the public at large who votes?"

MR BRADDOCK: Did you have any reflections on the Tasmanian law where they prohibit the naming and depiction of candidates without their consent as a way that they could address the mischief created by AI?

Mr Fletcher: I heard your question earlier to other candidates, so I specifically looked it up just to make sure that I knew what I was going to be talking about. The ACT act, there are sort of provisions that—if you know your Hitchhiker's Guide—read a little bit like it was downstairs in the basement in the lavatory with a sign on it saying, "Beware of the tiger." It is one of those provisions in the ACT Electoral Act which largely prevents you, on behalf of an organisation, issuing documents that say, "Is endorsed by the candidate," unless they have the agreement of the candidate themselves. It does not quite follow the Tasmanian provision. The Tasmanian provision is really quite nice and clear. But depending on the conduct that was being engaged in, it is likely that that provision might be pinged.

MR BRADDOCK: So with the Tasmanian provisions, do you think they would be effective at preventing potential mischief being created by political parties or AI?

Mr Fletcher: It largely depends on what you want to achieve. Do you want a stick that

hits for every little item that comes up? In that case, you are always going to be tweaking and tweaking and tweaking, and this is what causes buggy and glitchy legislation that is incredibly difficult to implement. If, however, you say, "Do you know what? What we are interested in is the broad principle of saying we are worried about deceptive conduct. We are worried about dishonourable conduct and disreputable conduct during elections," then you could set that for all time with the code of conduct and some of the act.

THE CHAIR: I want to just narrow in on the AI question, and I think I know where you are heading on this, but do you think there is something that needs to be specifically targeted at the risk that comes along with very easy to abuse end-of-the-spectrum AI-generated material?

Mr Fletcher: There is a famous US election for a president, and I believe it was JFK who was the other candidate, but he had makeup on, right. And so he looked glamorous on the camera, all the rest, while his opponent looked sweaty and, you know, dishevelled and these sorts of things. And we say, now, to what extent did that influence the voter, that they saw somebody who was styled and composed and somebody who was sweaty and gross?

Over time we have got Photoshop, we have got trick photography, we have got people impersonating voices, we have got lookalikes, the whole lot. And we can play whack-a-mole with all of these things ever, or we could take a principled approach right back at the start and say, "What actually is the fundamental mischief that we are trying to deal with and we will address that." Then it does not matter if AI turns into very sophisticated sock-puppets in four years' time. You have already covered it right back at the start by saying, "This sort of conduct is the sort of thing that we refer to the integrity commissioner after the election is finished."

THE CHAIR: So it is sort of, yes, that tool can be used and is quite easy to be used in one way, but equally you could run a voiceover over the top of a photo of someone else saying—

Mr Fletcher: Absolutely. Michael Caine complains about the birthday cards that use his voice, right. So this sort of thing is always going to morph and change. But your fundamental concern is absolutely correct, which is, that is the mischief we are trying to change, not the changing technology.

THE CHAIR: Well, I think we are pretty much there on time. On behalf of the committee I thank you for your attendance today. If you have taken any questions on notice please provide your answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*.

Mr Fletcher: Absolute pleasure. Thank you.

THE CHAIR: Thank you.

Short suspension

ELLIOTT, MS VERONICA, Executive Officer, ACT Parents
McLEAN, MS JULIE, Policy Officer, ACT Parents
MOBBS, MS JENNY, Chief Executive Officer, Council on the Ageing (COTA) ACT

THE CHAIR: We welcome witnesses from ACT Parents, and we expect to have COTA joining us at some point. Please note that as witnesses you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. As we are not inviting opening statements, we will proceed directly to questions.

I wanted to go straight to the discussion around public school based polling places. Your submission notes that the number of those public school based polling places was notably reduced, and, in some cases, private schools were used over nearby public schools. What evidence from your members' survey supports the view that this change reduced accessibility and community confidence?

Ms Elliot: It is important to note that it did not reduce accessibility. The reason that private school sites were chosen over public school sites was, apparently, for accessibility. However, it is our understanding that some of those sites had undergone accessibility upgrades in the four years since the previous election, and so those concerns could have been reasonably mitigated, and those sites selected as polling booths without accessibility concerns. In terms of the secondary part of the question, did you want to—?

Ms McLean: I was going to talk about accessibility more generally, not directly related to the public versus private school issue but that we mentioned in our submission about accessibility at some public schools, and that there were some concerns around that.

That was about consultation with the school community prior to the election, in that the best way from car parks to the actual polling place impacted on accessibility—like, disability parking had been not opened, voters were directed downstairs and things like that. But that was not related to the fact that it was a public school. There was appropriate accessibility there. That was just related to an understanding of the school site by Elections ACT staff when they designed their signage and directions to the polling place.

THE CHAIR: Okay, so it was more about the way things were done, rather than whether the site could be accessible?

Ms McLean: Yes.

Ms Elliot: Correct. It is more about using the local knowledge of the site to inform the most accessible and best route.

THE CHAIR: Is there a way that things could have been managed better, so that those obstacles would be overcome?

Ms Elliot: It is our understanding that the Education Directorate offered Elections ACT a briefing on some of those school sites. That may have included accessibility options,

but that was not taken up.

THE CHAIR: Along with that, your submission describes elderly voters arriving at their usual school booth and finding it closed, with poor signage and overreliance on QR codes. Are there fixes that you would prioritise for 2028, to prevent that happening again?

Ms McLean: Yes. I guess the signs at schools would be useful if you could use a QR code and find the next nearest polling place. A fix would be, in addition to the QR code, to list the nearest polling place. So, if you turned up, it could say, "Okay, this school is not a polling place at this election. Your nearest polling place is here or here". And include the QR code, if people want to use that as well.

Ms Elliot: That really came to the forefront because some people with digital accessibility issues arrived at a polling booth quite frustrated and overwhelmed, and were immediately engaging and talking to P&C volunteers—because they were present and located near the booth itself. Again, the accessibility issue was drawn out in that setting because they were looking for people to, I guess, vent their frustrations and the difficulties that they had in accessing the polling booth. So, what we would ask is that instead of using QR codes, which works for a majority of the population, that the signage includes physical labelling of the nearest polling booths.

MR BRADDOCK: In your submission you talk about how early advice from Elections ACT could have reduced the frustration of those affected P&Cs. Do you have any idea of the timeframe that that advice could have been provided?

Ms Elliot: I would have to go back and review my emails, to be able to answer that question. We do know that we work closely with the Education Directorate, and we had sought their feedback and input once they had advice from Elections ACT. Some of the confusion arose by mere expectation that the community had about a place being a polling site previously, and expecting that to be the case in 2024.

MR BRADDOCK: Given that we have fixed-date elections here in the ACT, are we talking months, or six months' notice? What would be a suitable timeframe?

MR WERNER-GIBBINGS: You could take the question on notice: like, on your assessment, a recommended useful period.

MR BRADDOCK: Take it on notice, please, yes.

Ms Elliot: So, P&Cs, who go into providing a full fete experience at the same time as an ACT election, usually would be planning for 12 months.

MR WERNER-GIBBINGS: Okay.

MR BRADDOCK: I just want to talk to the review of the implementation of 100-metre campaign restriction, to strike a balance between reducing crowding, and ensuring access to voter information. I am stealing all their good work here. Where would you think is the balance point? Because I noticed that P&Cs had experienced the good and the negative in terms of that restriction.

Ms Elliot: Well, in the federal election I believe it is 30 metres?

MR BRADDOCK: Six metres.

Ms Elliot: Six? Right, okay. I think what actually happened in 2024 is that, again, there were a lot of people who may have been more vulnerable members of the community who were looking for advice on how to vote, but the campaigning distance of 100 metres made it very challenging for them to receive the information that they wished. So, whilst it might work from a perspective of people having more space and freedom, the cost was that some people really wanted how-to-vote information from particular candidates or parties, and were not able to access that.

MR BRADDOCK: Do you have a view as to what might be the Goldilocks of distance?

Ms Elliot: Something a bit closer. I mean, 100 metres is a long way and—

Ms McLean: And it probably depends on the site too, but I know you cannot do site-by-site ones, obviously.

MR BRADDOCK: Thank you.

THE CHAIR: I did notice that you were pointing out that it seemed like the volunteers were being put in a difficult position when they were being approached by people looking for electoral material.

Ms Elliot: Correct, because, again, it was an issue of expectation of the community. Some members of the community expected to receive that information prior to voting, and it was not, I guess, located in an accessible form for them to be able to access. People were asking our P&C volunteers if they could give them a how-to-vote card, which obviously we do not do, and they do not do.

So, it was a bit challenging, I think, in a couple of spaces. Particularly, we had people complaining about the accessibility routes, and we were having to help people downstairs when there was another pathway available. We had people who were frustrated with not being able to vote at the usual site they have probably voted at for quite a long period of time; and then people looking for information about how they wish to vote.

THE CHAIR: It sounded like there were some problems with people with mobility issues not being able to get to where people were set up with that information, as well.

Ms Elliot: Yes, correct.

THE CHAIR: I would just like to acknowledge that Ms Mobbs, from COTA, has joined us. For the Hansard record, could you please state your name and the capacity in which you appear?

Ms Mobbs: I am Jen Mobbs; I am the CEO of COTA ACT—Council on the Ageing ACT.

THE CHAIR: Thank you. Please note that as a witness you are protected by parliamentary privilege and bound by its obligations. You must tell the truth; giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly.

Ms Mobbs: Of course.

MR WERNER-GIBBINGS: My question was for COTA, so the timing is good. The submission from ACT Parents included the view that many older Canberrans were uninformed about changes to polling places, and were distressed to learn that they had changed. Does your organisation have a similar read, after your interactions about the election, with older people in Canberra?

Ms Mobbs: We actually did not this time. It is a wonder, because I think we are the complaints central of Canberra, sometimes. But generally, people were quite happy with the early voting in particular. That suited a lot of our clients. And we worked with the Electoral Commission to get information out to the aged care homes as well. That worked well.

MR WERNER-GIBBINGS: Thanks very much. And then, on a broader topic about keeping as many people as well-informed as possible about where voting is, where it can be accessed, what times it can be accessed—and a lot of that is now online, there is less reliance or less expectation of things coming through the mail, perhaps: How did 2024 work, as an example of the election?

Ms Mobbs: We send out an email every three months to every Seniors Card holder in the ACT who is online. Now, the ones we miss are those that are not online—and there are quite a few of those. So, hard copy is still the preference for our folk. They like to take information home and read it, and plan their day and plan their week. So hard copy is still really, really important for our older Canberrans—and will be so for the next few years, I think.

MR WERNER-GIBBINGS: Do you have suggestions for the ACT Electoral Commission—working in concert, perhaps, with COTA—to improve the information about the election in general, and accessible voting places? There will be two elections in the year in 2028, are there things about how to make it better and/or clearer?

Ms Mobbs: Well, as I said, we send out the seniors' information—*Senior Scoop*, we are calling it. That goes out to over 55,000 older Canberrans. That is not all of them, of course. So that is one way. If we have that information in time, that could go out to a lot of people, and they would have that knowledge well ahead of time. The information also goes out to retirement villages and aged care homes. So, if we have got the information, we have actually got lists which we share with the Electoral Commission so that they have all the addresses and the contact names to be able to do that. But, as I said earlier, the hard copy information is still preferred by a lot of older people.

MR WERNER-GIBBINGS: You did mention aged care facilities and villages. How is the voting enthusiasm, perhaps, or how is that going in that cohort of the population?

Ms Mobbs: I am not sure, because I am not in one yet! But I think the aged care facilities asked for it. Then we got in touch with the Electoral Commission at just about the same time they got in touch with us. So obviously, that is a question for them. I am not sure what the response rate is. But certainly, the staff there were keen to have the information ahead of time so that they could get around to all of their clients.

MR WERNER-GIBBINGS: All right, thank you.

THE CHAIR: I just want to follow up, as well, on parking arrangements. I think your submission says that early voting arrangements were suitable for older Canberrans, but the main drawback was parking access, in some instances. Were there specific locations, or access issues that need to be dealt with when we get to 2028, which would make early voting easier for seniors?

Ms Mobbs: Anything that is not too far away from the actual polling space itself would be good. We did not actually go into the ins and outs of parking at each venue, but people do not like to walk very far to get in, where it is an accessibility issue—the same as they do not like climbing the stairs, or they prefer a ramp. All of those things have to be taken into account. Just making sure that there is enough space there because a lot of drivers, while they are not really in the prime of their driving years, they do like to park fairly close to where they are going.

THE CHAIR: And did you have a view on whether having the one early voting place in each region was sufficient? Were people generally comfortable with having just that one? Do we need to look at more places?

Ms Mobbs: We did not canvass that question, but I would say anything that makes life easier for seniors. If there is two or three in each locality—spread out a bit—that would make them happy.

THE CHAIR: I think there was a note in here about feedback on the federal election being less favourable. I was interested whether there were lessons from that, that we should be looking at for the ACT as well.

Ms Mobbs: In the ACT, when I talked with the staff there, they had listened to what was said about the federal election, and they had picked up on a lot of those points and made sure that they covered off on them, so I think it is a learning on the job.

THE CHAIR: Thank you. Mr Braddock?

MR BRADDOCK: My question is for COTA. Ms Mobbs, we have heard evidence about confusion created by the ballot paper instructions, in terms of people not being sure exactly how many boxes to vote for, and how far they should go. Have you received any feedback at all, in terms of the ballot paper instructions, or have any view of how those are phrased?

Ms Mobbs: Mr Braddock, no, we did not, actually. I do not think seniors like to admit they cannot understand anything, or are going to make a mistake. So, we would be against the eight ball if we were to canvass that one! No, I did not hear particularly about that.

MR BRADDOCK: Okay, thank you. I just wanted to check.

THE CHAIR: Coming back to the polling place question for ACT Parents: we have canvassed a couple of issues around polling places, and the reduction in number. Were there any locations where it seemed to be more of an issue? Or where you became aware of more of a demand, of people attending the incorrect location?

Ms Elliot: I think one of those locations is around northwest Belconnen. There are a number of people who ended up at the Southern Cross early childhood school polling booth who were quite frustrated, and then experienced significant accessibility challenges. Even for parents with, maybe, a pram; definitely people in wheelchairs and definitely other people with any type of mobility issue having to navigate a significant set of stairs instead of a smooth, ramped pathway. So, that would have been probably one of the biggest challenge areas. And, potentially, that was because a number of the former polling booth sites were not in use at that election, in 2024.

THE CHAIR: Do you think that could have been prevented with better communication? Or is it just the momentum of having everyone being used to their local polling booth, and then having that disappear?

Ms Elliot: I think it is really about a bit of a gap in digital accessibility, and the people who can access information online and the people who do not. So, not only were those people probably not checking a website, they, then, were unable to use a QR code. They might have phones that either are not capable of using a QR code, or they did not know what to do with it when they got there. So, there does seem to be a portion of the community who need to receive information in a different way—in a more paper-based formula.

THE CHAIR: Thank you. Ms Mobbs, it looks like you are itching to get in on this one. Did you have a view?

Ms Mobbs: That is exactly the point I think I would share. Because, while we do like to think that everyone in Canberra is online—we are all smart—a lot of people are still relying on paper-based information. And given the lack of distribution of the local papers like the *Canberra Times*, I think we might need to look at those free newspapers that go out, and make use of them. They seem to be picked up at every shopping centre and market. But certainly, there needs to be a hard copy for people to take home, to digest the information, to find out that their local polling booth is no longer open, that they need to find somewhere else. They need time to think about it and process it.

THE CHAIR: Thank you. I do have one more I would not mind getting to. Probably, Ms Mobbs, it is more in your space. It is electronic voting. One of the concerns that I had brought up with me was that when people attended some of the pre-poll centres, there was an indication that they had to use the electronic voting, and a reluctance to use old-fashioned paper as an alternative. I wondered whether you had a view on the acceptability of exclusively electronic voting, or the availability of alternatives for older Canberrans in particular.

Ms Mobbs: I would love to say that 100 per cent is a great way to go but, as I said

earlier, we do not have all the population who are au fait with online, or anything like that. We found that out during COVID, when they could not find out where the local immunisation place was. So, we need to really take that on board. They are not ready for online processes, a lot of people. Just a few more years of paper and then we will be there, but it is not happening yet.

THE CHAIR: Thank you. Are there any other questions, colleagues? No. In that case, we will wind things up slightly early. On behalf of the committee, I thank you for your attendance today. If you have taken questions on notice, please provide your answers to the committee secretary within five business days of receiving the uncorrected proof Hansard. Thank you very much.

Short suspension

KRISHNAMURTHY, MR RAVI, President, Australian Multicultural Action Network Inc
WONG, MRS KUI FOON (CHIN), Secretary, Canberra Multicultural Community Forum Inc

THE CHAIR: We welcome witnesses from the Australian Multicultural Action Network and the Canberra Multicultural Community Forum. Please note that, as witnesses, you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly.

As we are not inviting opening statements, we will proceed to questions. Mr Braddock?

MR BRADDOCK: I am interested in your perspectives on expanding the franchise to include permanent residents. In your engagement with the multicultural community, what would be the significance to the community of expanding the franchise to those residents?

Mrs Wong: In terms of expanding it to permanent residents, with a lot of the multicultural communities who migrate here or live here, they still hold the passports for where they come from. Certainly, a lot of the community are permanent residents, probably for up to five or 10 years. We look at the percentage and we consult with communities. The majority are supportive of being able to have a say about the ACT government or vote for the policies that they support.

MR BRADDOCK: Do they feel excluded from the current democracy in terms of not having a say at the ballot box as to who will represent them in the ACT Legislative Assembly?

Mrs Wong: We have to understand that, at federal elections, only citizens are allowed to vote. With the ACT, certainly, that is the rule that ACT elections follow, or the whole country follows. We certainly feel that the community are in support of the change, if it is possible.

MR BRADDOCK: If we were successful in changing the laws to expand the franchise, is there anything that this Assembly should consider as part of that process, in expanding the franchise?

Mrs Wong: With respect to the ACT Assembly, the population in the ACT is growing; also, it is a public service town. We feel that some of those in the public service are not real Canberrans, in the sense that, when they finish their work, they might leave. We feel that, with the people who really want to settle in Canberra, and live in Canberra as permanent residents in Canberra, while they are not getting citizenship, for reasons that we do not know about, they certainly feel that they are left out when it comes to having a say. We ran what was more or less an election forum, and they participated. Even though they cannot vote, they participated and asked questions.

MR BRADDOCK: I have a similar question for you, Mr Krishnamurthy. I would be interested in your feedback from the community in terms of the significance to multicultural communities of expanding the franchise to include permanent residents to

vote at ACT elections. Have you received any feedback?

Mr Krishnamurthy: We approached our members. Overall, the comments of members were that having a proper, mature age is the best option to have for voting. When someone is selecting a member as their leader, they would like to have full awareness of what is happening around them and make that judgemental decision based on the ability for them to reach a conclusion.

Overall, we did approach various types of members. Interestingly, most of the senior members were very keen to give a voice to the younger generation. But the younger generation were a little bit surprised, they said, with respect to being able to vote. I think that bringing about more awareness among them would help the community a lot.

The Australian Multicultural Action Network do support more younger community members coming forward, being part of the electoral system and voting.

MR BRADDOCK: Just to clarify, I was also asking a question about permanent residents. Did you receive any feedback from the multicultural community as to whether permanent residents should have a right to vote at ACT elections?

Mr Krishnamurthy: Most of the permanent residents said they were pretty happy with that approach. As we can understand, they were quite happy for their voice to be heard at the territory level, so that they are among the decision-makers. That is how they felt. However, within the communities that we approached, some of the citizens who are not permanent residents have gone one level up. Lots of the multicultural members are happy to take up citizenship, and they are Australian citizens.

They raised questions which were quite valid. With respect to what they were asking, a permanent resident may be a citizen of a few different countries. In that scenario, how do we make sure that the decision they make for our own territory, in this country, is unbiased? We talk about conflicts of interest in various scenarios these days. That is predominantly the question raised by the citizens, not the permanent residents. Overall, as the network, we do support it, as long as the permanent residents are aware of their responsibility as to who they are selecting and the purpose of it. I think we do support that decision.

MR BRADDOCK: Is there anything that the Legislative Assembly should consider, if we were to grant permanent residents the right to vote in ACT elections, as part of ensuring that they are able to exercise their democratic right?

Mr Krishnamurthy: I am not a professional lawyer. As such, I do not know what the Constitution says. Having migrated from India, I do know that the constitution on the other side, in India, does not allow for any of its citizens to maintain dual citizenship. Once someone takes the citizenship of a different country, they need to relinquish their Indian citizenship. That is how the constitution works there.

I know that Australia does allow dual citizenship, which is fantastic. In many democratic countries, I think they do allow permanent residents to vote in the local or regional elections, because they can contribute locally, socially and economically. They pay their taxes and raise families in the community, as a long-term settlement.

Whether they are eligible is something that I do not know about. But giving them an option is something that is definitely worth considering, because it gives more openness. There is more say for people who have been living as permanent residents in the territory for many years. Having a known position from them, and listening, from the government's perspective, at the territory level, really helps.

I would say that, for the sake of equity and social cohesion, I would definitely support that option. There are risks; we know that. There are concerns that people raise about it. As long as we have policy safeguards in place, I think we should be able to give them that option. That is from the network's perspective.

MR WERNER-GIBBINGS: I have a question on permanent residents. From looking at your submission and doing some broader work, there are not that many countries where permanent residents can vote at the state or national level. It does happen quite regularly in Europe that permanent residents can vote at the municipal level. As far as I could find, New Zealand, Chile, Uruguay and Malawi were the exceptions in allowing permanent residents to vote at the state and national levels. The ACT is municipal, but it is also a state jurisdiction, in most respects. What would be gained by the ACT enabling permanent residents to vote? What is your thinking?

Mr Krishnamurthy: More of the members of our network that I know are permanent residents have been living here for several years. For different reasons, they have not taken up Australian citizenship. There is the emotional feeling that we do not want to relinquish our background. There are people in the ACT from our network who have lived here for many years.

Giving them an option, I would say, means it would be a more accurate representative democracy, overall. That is how I would put it. In a democratic country, giving them that representation adds a lot of value. I mentioned the stronger social cohesion, community engagement and integration perspective. If they had that voice in selecting members to represent their constituencies, it would be really helpful.

With political literacy, a little bit more awareness is needed among the permanent residents. If we are introducing that change, we need to give them that awareness and a bit of literacy. I think that would help them to make an informed decision. That is something that I would like to mention, because their civic participation is already happening here. It is just that we are trying to give them one more level of a right or a responsibility. "Do you want to contribute to electing your member?" I think that would be a positive approach, as long as we cover all the documentation and policies. I think that would better reflect the needs of different members of the community, including seniors.

It is also good having regard to the benefits. I am sure we can achieve more engagement and more stability by introducing this concept for permanent residents.

I do not know anything about specific European countries. Overall, from what we are reading in different papers, because we do submissions for lots of different papers, I think Denmark and South Korea do. In South Korea, it is only for local elections. I am quite sure about that, as I have lots of friends from that background. I am not sure about

Canada at the national level, but I think there are some provinces that allow their permanent residents to vote in their elections. Again, that is fantastic.

One other thing I would like to mention is the ACT's human rights framework and values. Giving permanent residents that option does align, I am quite sure, and it reinforces the ACT's human rights framework as well. For all purposes—for fairness, representation and accessibility, and for the community's civic participation and to give them more confidence—having that option for them to vote in elections is something that we would definitely encourage.

THE CHAIR: Can either of you tell me, because I do not have the data in front of me, how many permanent residents there are in the ACT?

Mr Krishnamurthy: Our network has about 17 per cent of members who are permanent residents, because we do encourage them to join. I cannot remember; it is something like 20 per cent or 30 per cent. I think it is under 30 per cent. I am not quite sure.

MR BRADDOCK: If the committee would like, I could take it on notice. I believe it is around 43,000.

THE CHAIR: Thank you. It seems that your membership are most likely to be the more engaged amongst those permanent residents. Do you get a sense of whether those who are a bit less politically and civically engaged have the same views? You said that those who are citizens have a bit of a different view to that of permanent residents. Is there a bit of diversity amongst those who are left, depending on how engaged they already are?

Mr Krishnamurthy: As far as our network is concerned, we do not discriminate between permanent residents and citizens. Within our own AGM, in our association, we give them equal rights. We would like to make sure that they have an equal voice.

With respect to community safety, we do know that permanent residents maintain passports or citizenship of a different country. We need to ensure that community safety is given a bit of priority and maintained. That is something that we hear from citizens most of the time.

When it comes to health care and schooling for young families, we are already catering for their needs. As such, there is no change for taxpayers. However, there is a lot of talk about housing affordability. That is one of the questions that we hear from some of our citizens: how do we prioritise this sort of thing? Obviously, our network is not huge, like the ACT government. We just deal with a smaller pool of people. With those things, we always take them away, and debate and discuss them further. Apart from that, there are a lot of policy discussions that we do within our network, including work on infrastructure and transport.

THE CHAIR: I was asking more about whether there was a unity of views around the franchise. I think you have answered that. Mrs Wong, your submission went to the question of the Electoral Commission's goal of delivering trusted, transparent, secure and accessible services. But multilingual outreach was somewhat limited and there was

not enough consultation, including multicultural voices. Are there practical changes that you would like to see for the next election?

Mrs Wong: In terms of transparency and accountability, we know that the multicultural communities are very diverse. There are those in the communities who claim that they are multicultural representatives. Sometimes the consultation does not go wide enough. There are some organisations that restrict their membership in terms of decision-making to a small group that is not really representative of the wider multicultural communities.

We were part of the consultation process. Trusting the Electoral Commission is one thing, and the consultation should be open to the wider community. We would certainly like to see transparency and accountability with respect to some organisations who claim to represent the entire cultural group, and that they are actually not biased in terms of how they feel.

When you are talking about permanent residents and whether they can vote, we do have a very broad view, and we do have a lot of discussion about this. Certainly, in terms of the ACT, it is about whether the ACT has the right to have its own electoral roll. We took this as an opportunity, because we are doing a review, to have a view on whether this electoral roll can change, if the ACT is indeed independent and can make the changes.

We want transparency, to ensure that reporting by the organisations that are engaged in electoral processes is shared publicly. We were asked to contribute, but we are only part of the community, and we ask for it to be broadened. Certainly, that is what we are asking for, in terms of the transparency and accountability of the Electoral Commission.

THE CHAIR: You might like to take this on notice: is there a list of organisations that you think ought to be at the table for that consultation?

Mrs Wong: Yes, we can let you know. The Canberra Multicultural Community Forum is a peak organisation. We represent over 120 community organisations, and we liaise with what we call the community groups—for example, the African Australian council, the federation, and the Pacific one. We also involve Ravi; they have their network as well.

We are very conscious that sometimes, when we voice our concerns and represent the community, the other communities and the other peak organisations can represent their groups, and they should be involved. We should not just see one organisation being tapped on the shoulder and expect that organisation to be the be-all and end-all.

THE CHAIR: It seems that one of the important issues is being able to make sure that the whole diversity of views is included rather than just one.

Mrs Wong: Yes. That is why CMCF is set up as a representative of all. We know our community and we can communicate and engage with local communities when we feel that they should be included.

THE CHAIR: On the language issue, you mentioned in your submission that early voting information was poorly translated and inconsistently distributed. Is there

something that can be done to address that problem? Should Elections ACT be required to publish minimum multilingual communications?

Mrs Wong: We discussed the booklet that is translated into different languages. Certainly, the ACT government have the policy that they look for the top 14 languages. We felt that sometimes the translated language was probably not adequate. The other thing is that the distribution of the booklet is to the household. It is according to the household in the electorate, but the voters might not be living in that household, in the sense that they are in the population.

We have advised the Electoral Commission that, if they engage with the community, the community are quite willing to run information sessions in the languages that they can understand. Our submission is that, when the education program or the information sessions are held, it does not give the community adequate time to prepare. If the results show that compliance by the multicultural communities is poor, it is mainly because they do not fully understand about voting and what they should do to comply. On the other hand, the voting papers are in English, so they have to guess.

MR BRADDOCK: I noticed that comment, too, in your submission. Was it the case that the information at early voting centres was the only area where it was poorly translated or was that the case on the day as well?

Mrs Wong: I think the location is probably unclear, because a lot of communities rely on public transport. Certainly, if they know where the voting centre is, I know and we know, because we have to search for the bus number, the route and things like that, and tell the voters, "This is how you catch the bus and go to the centre."

With the promotion of the voting centre, one of the good things with pre-voting is that you can go to any of the centres, but a lot of the communities do not know that. On the day, with the voting places, although there are different places in the electorate, we have had feedback that some of the community do not know whether they should go to this one, that one or any of them within that electorate.

MR BRADDOCK: Thank you for clarifying that.

MR WERNER-GIBBINGS: With the roadside signage, you recommended that low-cost signage zones be designated. It sounds interesting, but I did not know quite what you meant. Can you expand on that?

Mrs Wong: If I can recall, about the signage—

MR WERNER-GIBBINGS: Yes; mostly in English.

Mrs Wong: Yes, in English. We are referring to low-cost signage because this has come from some of the candidates from the multicultural communities. In terms of the signage for the candidates, it is expensive. Certainly, when we are looking at the signage on the road, it seems to be out of control and, at times, it could be a bit risky for drivers to try and watch all the different signage on the roadside. We ask for low-cost signage. It costs a lot. We ask: do you need that much signage, in terms of putting it on the roadside?

THE CHAIR: We might wrap things up. On behalf of the committee, I thank you for your attendance today. If you have taken any questions on notice, please provide your answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*. Thank you very much.

TEAGUE, PROF VANESSA, Personal capacity
WILSON-BROWN, MX TY, Personal capacity

THE CHAIR: On behalf of the committee, I thank you for your attendance today. We welcome our next witnesses. Do you have any comment to make on the capacity in which you appear?

Prof Teague: I am appearing in a personal capacity.

Mx Wilson-Brown: I am appearing in a personal capacity.

THE CHAIR: Thank you. Please note that as witnesses you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. As we are not inviting opening statements, we will proceed to questions.

MR WERNER-GIBBINGS: You can speak to me as you would a five-year-old child about coding. It recommends making a great deal of software code public, in order to detect anomalies. Would making the code publicly available increase the risk of malicious actors interfering with electronic voting?

Prof Teague: I think it makes it more obvious to the public and good people—well, it makes it more obvious to everybody what the limitations of the system are. So, I do not believe that, overall, the balance is in favour of the bad guys. I think, on the contrary, the transparency is a good thing for security. We have shown over many years that code that had been believed to be secure was actually not secure. Those weaknesses were corrected because the code was made public, and people like us found it and got it fixed. It became more secure as a consequence of having been made public.

MR WERNER-GIBBINGS: And do we make the code public with, presumably, a great deal of explanatory detail for non-experts to understand what it is?

Prof Teague: Do you mean we should, or we do?

MR WERNER-GIBBINGS: Well, it would have to be one plus the other. When all legislation has explanatory statements about what it is trying to do and why it is trying to do it, so that people who are not able to follow the legislation as it is—because they do not have expertise in law—can get an understanding of the mission of the legislation. That would be the same principle with the code, as well. Like, I can look at the code and go, "Maybe it is, maybe it is not." But it would need to be explained—about why and where and what.

Mx Wilson-Brown: I can answer that. So, there are some comments in the code, but the best source we have for those kinds of explanatory statements is actually the documents we have obtained via FOI from the Electoral Commission.

MR WERNER-GIBBINGS: No, I mean they would have to come together, to make the code public.

Prof Teague: They should. They do not, but they should.

Mx Wilson-Brown: They do not, no. We obtained those documents via FOI.

MR WERNER-GIBBINGS: Yes, but if you were to make all the code public, then as much explanatory information as possible should also be made, and linked up with it?

Mx Wilson-Brown: Yes.

Prof Teague: Yes.

MR WERNER-GIBBINGS: Okay.

THE CHAIR: So, your submission argues, essentially, that paperless electronic voting exposes ACT results to alteration risks, and that the absence of voter-verifiable paper records prevents meaningful scrutiny. It would be really helpful if you could explain how those paper records work, and whether you see a practical pathway for the ACT to introduce something like that for the next election.

Prof Teague: Yes, absolutely. I think it is very practical. There is already a computer sitting in the polling place. There would just need to be a printer, so that after the person had finished with their touchscreen, it printed a record that the person could inspect to check whether or not their vote had been accurately recorded. Then that paper record would go into permanent storage, just as if it had been filled in by hand.

Then during the counting part of the electoral process, they could either count the paper records or they could retain their electronic records and include the paper records in the audit—which they are already doing—to compare the paper record that the voter has verified, against the electronic record.

So, this allows for two kinds of verification. One is it allows the voter to check that the thing they are looking at accurately records their intentions. And two, it allows scrutineers to see that the paper records have been appropriately secured and processed and looked after throughout the electoral process. Neither of those opportunities for verification is available with the purely electronic system.

THE CHAIR: So, it sounds like it would add an opportunity for an extra level of scrutineering; making sure what had been recorded and counted in the electronic system was consistent with what the voter had looked at. So, the voter would be required to place it into the ballot box, the same as a paper ballot?

Prof Teague: Yes. The voter would be required to inspect it, to verify it. And it could either be put in by the voter, or it could be automatic—some of the US systems have just an automatic process where it automatically gets dropped into a box after the person—. I believe the Indian system does also, where it is just automatically put into some kind of physical box after the person has checked it.

And, by the way, you could say it is an extra level of verification. Bear in mind there is currently no verification. So, it is an opportunity for verification when no opportunity for verification currently exists.

THE CHAIR: So, the problem then that you are trying to address is that currently there is no opportunity to really scrutineer those ballots, either by the voter themselves or by scrutineers?

Prof Teague: Exactly.

THE CHAIR: Okay. I guess it is fairly clear that, currently there is nothing that really compensates for that, at all, is there?

You also note there are issues around insecure connections, weak randomisation, and potential bias in party column selection. Are there things that the committee can look at, to try and ensure that these risks are adequately dealt with?

Mx Wilson-Brown: We disclosed those defects to the Electoral Commission and then they released updated source code in September 2024. We believe that was what was used for the election. So those particular defects have been fixed, as far as we can see.

Unfortunately, some general software engineering practice is that if you find defects every time you inspect a system, it is likely there are still similar kinds of defects in the system that have not been discovered yet. So that is really the risk here; that we found—I do not know—three, four, five things every time we have had a look. So, there are probably about that number of issues still in the system which we have not discovered.

THE CHAIR: Okay. Any supplementaries? Otherwise, Mr Braddock?

MR BRADDOCK: If I am reading your submissions over time correctly: if someone has information on what order the voters have voted in, they would be able to identify a person's vote from the database. Is that still correct?

Prof Teague: It was correct as at 2020. As Ty said a minute ago, we believe that specific issue was fixed in time for the 2024 elections.

MR BRADDOCK: Okay. Sorry, I missed that as part of your answer. So, what more does Elections ACT need to do, in your eyes, to engage with those ICT security risks? And what are they missing in the current ICT auditing progress?

Mx Wilson-Brown: My understanding is that their current auditor has expertise in auditing gaming machines, so it might be that some of these kinds of defects are outside of their area of expertise. So, one of our recommendations is that the Electoral Commission rotate auditors. That is a very standard practice—both in finance and in computing. The other alternative is to engage an additional auditor or additional reviewers.

Prof Teague: I would also say, by the way, that just making the code open actually goes a huge way towards a good process for constant improvement. I have actually never seen any of these auditors do anything useful, frankly. But I have seen the process of publishing the code and inviting public scrutiny, to gradually improve the system.

MR BRADDOCK: So, the process they followed in 2024 was the first step where they

actually did provide the code for public scrutiny. Would you like to see that again—?

Prof Teague: Yes.

MR BRADDOCK: With any sort of changes, more time, or something else about that process?

Ms Teague: I think it should be required by legislation. It had been provided from about 2000, I believe, for many years. Then in 2020, the commission decided to hide it behind an NDA. So, we never got to see it in 2020. Then in the follow up to this committee, after the 2020 election, there was significant discussion about that because there were some significant coding issues that did not come to light until they miscounted that year. So then in 2024, they voluntarily released it early. But I still think there is a justification for legislation, because they could just as easily decide to hide behind an NDA next time.

Mr Wilson-Brown: Just a follow up to that: yes, it would be great to get it earlier. It took us about three months, as volunteers, to work our way through the code and find these issues, then disclose them to the responsible parties—who were not just the Electoral Commission. Some of the authors of the software they were using found there were defects in shared code. So that affected other projects as well. So, it was a fairly complicated process. If we get more time to look at code, then the Electoral Commission gets more time to fix it. Nobody wants to be fixing things in September.

MR BRADDOCK: Agreed. Thank you.

MR WERNER-GIBBINGS: During the work that you were undertaking, did any flags come up—or have flags come up since, that you are aware of—that malicious actors may have interfered with, or sought to interfere with, the code?

Prof Teague: No.

MR WERNER-GIBBINGS: There are no flags that anyone is planning to do so? But there is nothing that has come up—

Prof Teague: There is nothing we would see, anyway. We are obviously just looking at static source code that is not being used at the moment. In some ways, the whole point about the voter verifiable paper record is that.

At the moment, if there were malicious activity—if there was malicious activity on the network, if there was malicious substitution of some part of the code or some part of the hardware—there is not any way that would become evident to either voters or scrutineers, or possibly even to the commission itself.

So, in some ways, the whole purpose of trying to explain why we need a verification mechanism is precisely because, at the moment, there would not necessarily be flags—even if there was.

Mr Wilson-Brown: It is also possible that there might be mistakes in the storage of vote which happened purely by accident. There is a hardware defect, or there is some

kind of coding error. Probably the most obvious one is that one vote gets copied over another. Currently, we have no way to detect that.

MR WERNER-GIBBINGS: So—how did you describe it—the voter-verifiable paper record, VVPR, is not identifiable, and then, worst-case scenario, there is an issue found with an ex-voter. Maybe the voter has changed their mind. Are they allowed to change their mind between voting and saying, "That is fine," and then looking at it again saying, "It is not fine"?

Prof Teague: That is a very fair question.

MR WERNER-GIBBINGS: What do you do? Even if they have not changed their mind; they find out that the record has not verified their vote as they remember it—whether or not that is how they voted—because that is the issue with informal votes. So, the people who voted electronically get an extra go. What happens?

Prof Teague: That is a very good question. It is worth pointing out that some people, particularly in the United States—these are called “ballot marking devices” in the United States—believe that everything should be hand marked, for exactly this reason. I have respect for the people who believe that.

One answer is that it is a sufficiently serious problem that everybody should just hand mark their ballot all the time. And people who believe that point to partly this issue. "Right, I am supposed to be verifying my ballot. What if it says a different thing? And if I just go back and get a new vote—"

MR WERNER-GIBBINGS: Can I have a do-over?

Prof Teague: Yes, exactly. Well, you can have a do-over if you mess up the paper as well, which I have done more than once.

MR WERNER-GIBBINGS: Yes, but it is not logged.

Prof Teague: The concern in that case is if, you know, 10 per cent of people do not check. People who do check, fix it—but the 10 per cent who do not check, do not fix it. Then we end up with this residual unchecked set of votes, and that could still be enough to alter an election.

My answer to that is: first of all, it is still a thousand times better than the paperless version in which nobody gets any opportunity to check anything, ever. Secondly, I think that, particularly in the Australian context, if there was a large number of people complaining that their vote had been misprinted, I would like to think the Electoral Commission would stop and think, and try to understand what is going on.

I do not really think we would see a large number of people deliberately claiming that it was misprinted when it was not. So, it is a valid concern with this kind of system. On the one hand, if everything works great then you have the evidence, and that is much better than the paperless DRE. On the other hand, if it starts malfunctioning, you are going to notice.

Now, that is a good thing, but you do have to then have a process for understanding what happens if you detect a malfunction. Or, if people say they have detected a malfunction, but you do not necessarily believe them, there has to be some way of dealing with it—which is not necessarily straightforward.

So, I think there would have to be a process written down to say what happens when somebody complains. Possibly, there have to be statistics recorded about how many people complain that the thing has malfunctioned. Obviously, that person needs to get a re-vote, but, more importantly, we need to count.

MR WERNER-GIBBINGS: Yes. I think it is a really interesting submission, the way that it frames the issue. But is the issue the gap between once you press "submit"—or whatever the word is—and then the vote is gone and you do not know what happens to it, or what it is. But, once you put your ballot in the box, it is gone and you do not know how it is counted, or what happens to it.

Prof Teague: So, there is two things about that. Number one, if I see the piece of paper, I know what is on it. Whereas if it is on a computer, I never know whether the record that was made on my behalf—

MR WERNER-GIBBINGS: —same as an email or anything you do on the computer.

Prof Teague: Also true. I am not voting by email, though. So, the issue is: I tap some buttons on the screen, but I do not know whether the data record made on my behalf actually reflected what I tapped on the screen. So that is issue number one for the voter. Whereas if I am looking at it on a piece of paper, I can see that what is being recorded matches what I intended.

MR WERNER-GIBBINGS: Well, I mean, that is what scrutineers are for. You are not sure, once you vote, that it will be counted as a vote once it goes to the scrutiny.

Prof Teague: Okay, so I have two issues. Number one: my intention that was in my mind, was it accurately recorded in the first place? I can see that on a piece of paper. I cannot see that in a digital record. Number two: was the record I made correctly and securely processed after I walked out of the polling station? That is for scrutineers.

So, in both cases, the paper record provides that evidence: in the first case to me as a voter, when I look at it; and in the second case, to scrutineers while they watch the process. Whereas in the electronic setting, there is no opportunity for either of those steps to be verified. And if there is a bug or a security problem—either in the computer that I used to make my record in the first place, or in the subsequent data processing in which it gets sent over the network and stored in the server, and so forth—then there is no way for anybody to notice that something has gone wrong.

THE CHAIR: I might just jump in, because I think it is really important for us to understand. I think, the idea here seems to be that if someone gets a paper record printed out and it does not match what they intended to vote for, there would then have to be a process, whether, again, by replacing the digital record or by alternatively voting on paper to replace that vote. It is not a second vote; it is a replacement of the original vote that did not reflect what they intended.

Prof Teague: Correct.

THE CHAIR: And that is consistent with asking for a new ballot paper because you put a number one or number three in the wrong place.

MR WERNER-GIBBINGS: Then you would have to do it on paper.

THE CHAIR: There would have to be a process. I think that was the—

Prof Teague: Yes. You would have to do it again. Whether you would choose to do it again on a computer if the computer had malfunctioned the first time, I do not know.

THE CHAIR: Mr Braddock, did you have a supplementary on this?

MR BRADDOCK: In terms of the principal benefits of electronic voting, as sprouted to us, are that it supports formal voting and it also speeds up the counting, particularly in a Hare-Clark. So, I am just thinking in terms of the system adaptions you are talking about: should they be calibrated to support that as well in some way, to achieve those outcomes?

Prof Teague: I think that is actually the main reason that I am not in the hand-marked-paper-ballot-only crowd. In Australia, the accidental rate of incorrectly writing preferences is high enough to justify computer assistance, in my opinion.

So, this, to me, seems like the best of both worlds. Right? You could have the computer assistance to help you make sure that you had written a valid permutation, and to print out something that was easy to read. And, potentially, you could also have the computer assistance to maintain the electronic record keeping. They could count in five seconds at the end of the election, if everybody wrote it that way, if they wanted to. But you are adding the evidence trail so that if something goes wrong with the computer you have a way of figuring it out.

Mr Wilson-Brown: Also, that might only kick in during an audit, or if someone brings a case to the Court of Disputed Returns. So, the court would then be able to go to the paper record, rather than trying to look into the data in the computer system and work out if it was tampered with, which is a very, very tricky thing to do.

MR BRADDOCK: Thank you.

THE CHAIR: I think we might need to wrap things up there. On behalf of the committee, I thank you for your attendance today. If you have taken any questions on notice, please provide your answers to the committee secretary within five business days of receiving the uncorrected proof Hansard.

Short suspension

ROHAN, DR BERNARD, Committee Member, Canberra Alliance for Participatory Democracy
TAIT, DR PETER, Convener, Canberra Alliance for Participatory Democracy

THE CHAIR: We welcome the witnesses from the Canberra Alliance for Participatory Democracy. Please note that, as witnesses, you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly.

As we are not inviting opening statements, we will proceed directly to questions. Going through your submission, there is a discussion around the current ballot paper and website wording. There is a suggestion that it can unintentionally prime voters to mark only five preferences. You do not support the recommendation to leave the instructions unchanged. What change do you think would most improve clarity without increasing informality or exhaustion of votes?

Dr Tait: I think there are two components to this. One is just having one instruction on the ballot paper, at the top. The other thing is to have an instruction—again, we have modified this in response to Elections ACT's dissonance with our thing—to say something like, "Number as many boxes as you want, at least five, starting at one, in the order you want candidates to be elected."

THE CHAIR: That would seem to be a fairly lengthy instruction. Does that have some risks of people misinterpreting or not following it?

Dr Tait: We have been through this. I think it is a bit lengthy, but it is clear. It covers all the boxes that seem to be contentious. The idea is that we want voters to start at one. Elections ACT wants them to put at least five preferences. We also think that it needs to be clear that they can keep numbering preferences up to 25, or whatever it is on the ballot paper. That needs to be explicit, so that there is no implicit thing to stop at five.

THE CHAIR: This would be, essentially, complementary to the savings provision safeguard?

Dr Tait: I think it complements the savings provision safeguard. We do not see that this will force voters to waste their ballots early or to skip numbers. But people are going to make mistakes; that is how it happens.

THE CHAIR: Do you think this is wording that should be repeated across the channels that Elections ACT communicates in—websites, letters, all those communications?

Dr Tait: Yes.

THE CHAIR: Should it all be endeavouring to make it very clear that one to five is the minimum; then your vote will continue to operate, as long as you have preferences written?

Dr Tait: Correct. That also speaks to another aspect we have brought up. They have two sets of instructions on the website, and they have the printed material that they send

out, leading into the election. It all says something slightly different. Again, we are contending that it would be really useful if it said the same thing in all three places.

THE CHAIR: Making sure that things are consistent, so that there is no opportunity to get confused by different messages.

Dr Tait: Correct.

THE CHAIR: You cited informal vote reasons suggesting that some mistakes relate to misunderstanding preferences. What evidence would you want collected in 2028 to test whether clearer instructions reduce the errors?

Dr Tait: They seem to have done some exit polling at the last election, and voters gave an indication then about whether they found it confusing. That sounds like a useful thing to do. If we were going to be academic about this, it might be useful to run some focus groups or some sessions between now and the next election to test out what a reasonably large number of voters think is the clearest way of understanding, and give them a chance to give feedback, so that when we come to the next election, we might be in a better position.

MR BRADDOCK: With the current ballot instructions, how significant is the impact in terms of voters misunderstanding or having their democratic choice constrained? What is the evidence basis there to make that shift?

Dr Tait: The short answer is that we do not know, because we are just working off the tables and information that Elections ACT put in their draft report, which suggested that a certain proportion of votes were informal. Of those informal votes, a certain proportion of those votes suggested it was because there was some lack of clarity around the understanding of the instructions. We have extrapolated from that, to come up with the numbers that we have in our submission.

MR BRADDOCK: Do you support the current formality rules and the savings provisions that we have here in the ACT?

Dr Tait: We support the savings provisions. They are, I think, an incredibly useful way of not disenfranchising voters. The issue here is trying to maximise voters' capacity to make a formal vote into the system by not confusing them or limiting their votes to, for instance, only five.

MR BRADDOCK: That is a good point. We have heard evidence describing the misunderstanding that may exist in some voters' minds that they actually have five votes. Do you have any indication or evidence to demonstrate how widespread that misunderstanding may be?

Dr Tait: We do not, clearly, have anything. Again, the committee might recommend that the Assembly or Elections ACT look into this. We just had a very quick, informal poll of 16 people to look at the instructions and get a bit of a feel about what people thought—again, we put this in our submission—and about half of them got it and half of them did not get it. A couple of the people who did not get it, when they read the lower instructions on the ballot paper, got it. That just implies that the instructions, as

they are, are not immediately and obviously understood.

MR BRADDOCK: Hence why we need the consistency of messaging from the website or the material provided by Elections ACT and the ballot paper to all align.

Dr Tait: Correct.

MR WERNER-GIBBINGS: You mentioned published information. I have not seen any, but I have not been looking at the issue for as long as you have. If you do have what I am about to ask for, that is great—published information on what proportion of voters exhaust their votes. That does not have to be ACT-specific. If you can draw on examples, who are the people who only number the boxes one to five and then do not use lower preferences?

Dr Tait: I cannot remember precisely whether I have seen that in the Elections ACT draft report, because I was not looking at the report with that question in mind. I am sure they know, if you ask them. I suggest that they would know. I did not bring a copy of the report along. They have a lot of information in there.

THE CHAIR: You noted in the submission that you support the Electoral Commission's draft recommendation around limiting public election funding so that it does not exceed actual spending. We have heard some diverse views on this particular recommendation. I am interested in what you see as the rationale. As people who clearly are supportive of an engaged democracy, what would be the concerns with candidates receiving more than they actually spent?

Dr Tait: We do not necessarily have an ideological position on this. It is just a sense that you should probably only get reimbursed what you actually spend, as a principle, rather than for any other reason.

THE CHAIR: Does that concern fit in any order along with the drive for stronger education or easier access to candidate information? Do you have a priority order around the things that are most important?

Dr Tait: I think the education for civics is really important, because there is a lot happening in this space, in the community and in lots of places, talking about the fact that people do not seem to understand basically how the electoral system and the parliamentary system in Australia work. If people are going to be well engaged in the political process, they need to understand that.

From the limited conversations we have had with teachers, and some students and ex-students, people say, "Yes, we did this in year 6, but by the time I got to vote, I didn't remember." If they get this education in year 11 or 12, it becomes a lot more salient, because they are a year to three years out from voting, or they have just experienced an election, and that will make more sense to them. That would seem to be the time to do it. That would perhaps even be a reason to make it compulsory for year 12 to do, even if it is just a one-week elective, something brief and intense that they have to do, as part of learning to be citizens.

THE CHAIR: That separation in time seems to be significant.

Dr Tait: Yes, and a separation in time of many years. That would be one. What were our other two?

THE CHAIR: Easier access to candidate information.

Dr Tait: Yes. Our thing there is that only Elections ACT is required to have this place on their website where candidates can put information and where voters can go. I think it is a really good idea to have a one-stop shop for voters to access candidate information so that they are not trawling through websites and Facebook pages, following social media and getting all this information in their letterboxes. That will probably happen, anyway. For voters who are beginning to think this through, if there is just one website they can go to, that is useful.

The thing is that, in the ACT, for federal elections, that does not exist. There is a group run out of Brisbane called Vote Easy, who try and provide this service for a fee to candidates, to have a one-stop shop for voters to go to. In the ACT, we are wondering whether there is some way of combining the two-stop shop into a one-stop shop so that, again, for voters, it is easy to know where they can go to, to find candidate information.

Dr Rohan: There may be reluctance to have this one-stop shop, as we call it, because of the type of information. It would need to be worked out very carefully to have neutral language of some kind that, in a matter-of-fact way, describes the person, their working life et cetera, but does not have any particular partisan bent to it. We are not saying that it will be easy, but we think it would be worthwhile doing it that way, so that it is as neutral as possible.

MR BRADDOCK: The ABC regularly runs an election page which includes candidate profiles and so forth. Is that sufficient, or is there additional information that you think should be provided above and beyond what the ABC provides?

Dr Tait: In an ideal world, there would be a legislative requirement for all candidates to put up a specific set of information about themselves in one place. That is unlikely to happen. But the ACT leads in all sorts of radical things, so maybe.

Whether it is Vote Easy, the ABC or the Elections ACT website, it is about having some place, as well as having some consistency of information that voters can access, so that it makes it easy for them to compare between candidates as well as between parties. As you will be aware from the last election, CAPD is very much about voting for the candidate that you think will be a good representative, not just the party that you think is making the rosiest promises. Both are important, but we want to bring that format element into voters' thinking. Again, having this place with some consistency of information would be helpful for voters.

MR BRADDOCK: We have been hearing a lot of evidence in terms of the definition of electoral matter being problematic. It seems to be too narrow and not capturing everything that the political players are doing, but it is too broad for civil communities such as yourselves. Do you have a view on where we should be moving that definition to?

Dr Tait: We do not have a view on that, no.

MR BRADDOCK: This also ties in with an earlier question, where you were talking about limiting the public donations to line up with the expenditure, which is currently recorded as just what fits under that definition, which has problems and limitations. Do you have a view in terms of whether that should be covering just what is in advertising or the other activities and expenses that are incurred by the parties in a political contest?

Dr Rohan: I do not have a formal view. It is something that we feel should be looked at more closely, to try and make it more consistent. As to defining exactly what it would be, no, we do not have a position at the moment.

THE CHAIR: We are out of time. On behalf of the committee, I would like to thank you for your attendance today. If you have taken any questions on notice, please provide your answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*. The committee will now suspend the proceedings for a break and reconvene at 3.30 pm.

Dr Tait: Thank you very much for having us.

Hearing suspended from 3.00 to 3.31 pm

CHEYNE, MS TARA, Attorney-General, Minister for Human Rights, Minister for City and Government Services and Minister for the Night-Time Economy
FITZGERALD, MR BRUCE, Deputy Director-General, Transport, Territory and Municipal Services, City and Environment Directorate
MARJAN, MS NADIA, Acting Executive Branch Manager, Civil and Regulatory Law Branch, Justice and Community Safety Directorate
NG, MR DANIEL, Executive Group Manager, Legislation, Policy and Programs, Justice and Community Safety Directorate

THE CHAIR: We welcome Ms Tara Cheyne MLA, Attorney-General, and officials. Please note that, as witnesses, you are protected by parliamentary privilege and bound by its obligations. You must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly.

As we are not inviting opening statements, we will proceed straight to questions. Mr Braddock?

MR BRADDOCK: I have a question in terms of election signs and how they were managed by the rangers. Anecdotally, there seem to be some inconsistencies with how they might have been managed across the territory, as to how they were collected, impounded, candidates notified and they were collected, without paying the fee, or whatever it was. Is that a learning that the government has experienced, from the way you have just reacted? Does the government have any views on that?

Ms Cheyne: The minister is pulling a face! Absolutely, Mr Braddock; this was certainly a requirement and a process that was drafted and operationalised with good intent. Anyone who was engaged through the process—whether they were a candidate, a constituent, a ranger or an observer—probably did not have the experience overall that was intended.

Before I go any further, I need to be clear that I am one of the ones who received a notice about my corflute flapping down a road, that it was impounded and that I could collect it, if I wished, and pay the fee. I was one of—I think everyone who did receive that did not, except for one, who paid the administration fee, but did not collect it. I am one, so I will couch my comments in that regard.

I can speak more broadly about the overall experience. In reflecting on the intent, if the campaign was run with everyone's best efforts, and if we did not have the gale-force winds that we had for what I felt was at least half of those six weeks, I think that the intent of this provision and the updates to the movable signs code would have worked.

However, I think we have all experienced behaviours regarding corflutes that can be completely unattributed; it could be anybody. Ultimately, it ends up with them no longer in the ground and potentially defaced, if not fallen over, or whatever it may be, let alone the complexity that the weather added to everything. I think most people who were putting out corflutes did so with the very best of intentions and the best hammer, mallet or arm that they had. Ultimately, there were a number of corflutes that were out and about, not standing up in the way that they should have been.

Of course, that creates its own issue, for safety and other reasons. I think that having a

strict liability offence here also perhaps is not as fair as it could be, given that, with the person's intent in the first place, it might have been that every effort was made for it to stay up, and things that affected it were outside the person's control.

There is probably a mix of personal view and facts relating to the rangers. I think you have the stats in the submission from the government, but I am happy to talk through them now, if it is useful.

MR BRADDOCK: Not so much the stats. The implication is that the cost-benefit calculations made by parties is that it is not worthwhile to pay the fee in order to re-obtain them, but simply to print more. Is that a learning that the government will take, and have an examination of that process?

Ms Cheyne: Yes, but it also depends on where we go to, as an overall policy. That is if corflutes on the roadside continue to be permitted.

MR BRADDOCK: Also, as I said, anecdotally, corflutes were provided back to parties and to candidates at no cost from some depots. Will the government adopt a consistent position as to how it might manage that going forward?

Ms Cheyne: I do not think that is something I can confirm either way, about the behaviours of depots. I do know—from personal experience, again—that that did happen in previous elections. However, I am pretty confident that there was a general understanding of the changes to the head legislation and the movable signs code of practice.

I do not think I have it anywhere formally that there was that sort of behaviour from our depot staff. If there was, I would say that, again, it would have been entirely with the best intent—mowing, whatever it might be, coming across something, seeing a candidate out and about and dropping it off. I would not think that it would be about doing any favours for anybody.

Probably the complexity here is that the depot staff that are doing the mowing are not the same as the rangers who are doing the licensing and compliance actions. They are two totally different teams operating out of different locations.

MR BRADDOCK: The government estimates the cost of answering a question on notice down to the cent. Do you estimate the cost it takes to regulate these signs over the course of the election period?

Ms Cheyne: We did not, but my best guess is that it is completely disproportionate.

MR BRADDOCK: Disproportionate being very costly to regulate for such a short period of time?

Ms Cheyne: Yes.

MR BRADDOCK: Is the government open to steps to address that? It may just be confining signs to private land, rather than allowing it on public land; hence it would solve the regulation costs and the impact on operations.

Ms Cheyne: I think I can say that everything is on the table for us, quite genuinely. Self-interest aside, we have all been through corflutes—what they mean, what they do, the effort, the danger, for me, out at night, at 2 am, on my own. I am not the best person at not falling over, as we have all identified.

There is inherent danger for anyone who is corfluting in the first place, even when we have restricted where corflutes can be, in terms of speed limits on roads. There is also the value for effort. I do appreciate that the Greens have taken a principled approach that goes further, in terms of restricting their own corflutes, regarding where they are located. We did try something with a limit; ultimately, it is really quite difficult to police.

Over that period, it would have taken away from some other things that we would have liked those officers to be focusing on. Everything, for me, at least, is on the table, and I would welcome the committee's views on what next steps the government should take. Potentially, as I think you are alluding to, the committee could be minded to say, "If you were to do this, we would recommend you also do that." If they were still permitted, for example, "These are the further things you need to do," or, just outright, the committee could say, "We don't think they should be permitted."

Of course, there are constitutional issues about implied limits on freedom of speech. What we have seen reported in South Australia a little bit is a by-election when people did not even know it was on because they did not see any corflutes about it. All of us have probably heard someone say at some point, "I only realised there was an election because I saw corflutes around." I am sorry for waxing lyrical. There is a lot to this.

MR BRADDOCK: I am trying to phrase this question so that I am not asking you to give us a legal opinion as the Attorney-General. Do you have any advice in terms of what restrictions to corflutes would meet the constitutional implied freedom of political speech?

Ms Cheyne: No, not available to me, but if this was something that the committee recommended, I think that we would seek further advice. Of course, seeing how some other things play out in other jurisdictions over the next little while will be helpful, too.

THE CHAIR: I want to be clear, as we have jumped very quickly to a solution. I want to understand: the 250-corflute limit was introduced, for pretty good reasons, and it seemed to be a compromise and a step back from an outright ban. Was there work done on trying to enforce that through the election?

Ms Cheyne: In terms of doing a basic count and—

THE CHAIR: Trying to work out whether there was any compliance with it.

Ms Cheyne: I will hand over to Mr Fitzgerald, but I would say no.

Mr Fitzgerald: The answer is no. We were not able to undertake any enforcement activity or understanding as to the numbers of signs produced, and for very good reasons—signs could be moved as we went through the count. We would have come to

a number, and we would have had no way of actually validating whether it was correct. We did look at how many signs were present on the road. We used that as a basic assessment of whether there were too many, in which case we would have undertaken additional action. But there were no situations where we thought that the numbers had been exceeded.

THE CHAIR: But that was just based on a look—trying to get a feel for things.

Mr Fitzgerald: Yes.

Ms Cheyne: It is fair to say that requiring officers to go out and count each candidate, when you have 120, or whatever it was, candidates—not that everyone has a corflute, but you know what I mean—each day, to make sure that everyone is compliant, especially when this is the first time we have introduced a limit quite like this, meant that there would have been, again, a disproportionate cost to government. When it is brand-new legislation, expecting there to be a level of self-compliance in the first instance, especially as people are getting used to it, perhaps, is not an unreasonable position to take.

While I think we saw self-compliance exercised, I do not think there were any instances reported to government, or at least that were verified, where someone had a thousand instead of 250. I think that would have started to become a bit obvious. We also do not know what steps would have been taken if someone had done something like that, it had been verified and what the enforcement posture would have been from there.

MR WERNER-GIBBINGS: 120 times 250 is 30,000. That is a lot of corflutes, if everyone went for the maximum. I have a question on the stats. I would find those helpful.

Ms Cheyne: There were 537 collected and impounded. Of those, 75 were identified to be in breach of the code and 462 were fallen signs that had been identified and collected. Twenty warning notices and eight infringement notices were issued to various political parties and candidates for breaching the code. Signs found to be fallen were collected and impounded, with the relevant political party or candidate notified. One candidate paid the associated administrative cost for the release of their sign, and no election signs were collected from impoundment by their owners.

MR WERNER-GIBBINGS: No signs are collected, but presumably city rangers do not know that no signs will be collected until 6.01 pm on election night. They might have collected it on the first night, or something like that, because it had blown over in the wind. Would that be a mounting burden on the work that the rangers are doing as the election carries on?

Ms Cheyne: I would say that with 500 election signs, in terms of overall storage, the impoundment and the cost of impoundment, it is certainly a pressure, but it is not an outsize pressure. It is not like 500 trolleys. It is yet another thing, on top of a small team, which we rely on to do a lot of work in areas generally of greatest risk. I think there is a question here. I am not saying that there is no risk with corflutes—I think we have covered some of them—but it was yet another thing that I was pretty conscious of, leading up to the election, notwithstanding my unique position as the minister and as a

candidate.

MR WERNER-GIBBINGS: Beyond the physical collection, storage and give-back, what is the administrative load in terms of people—is there any—ringing up to complain about there being too many corflutes, that they have seen corflutes knocked over, and they have been referred to city rangers because that is their area? Is there a lot of—

Ms Cheyne: People were directed through Fix My Street, and there was a specific pathway through Fix My Street so that it went to the right area, yes.

MR WERNER-GIBBINGS: It did not crash?

Ms Cheyne: No.

MR WERNER-GIBBINGS: There was not an overload of complaints; it was not an unexpected amount, that type of thing?

Ms Cheyne: No, it was pretty consistent. Again, a complaint does not necessarily mean that a sign was not compliant.

MR WERNER-GIBBINGS: Yes, it might be that the people who hear the most complaints are the candidates, potentially. I have a question that is corporate related. It is about the impact earlier this year on Senate candidates. With the 250, it is a lot, but it is probably not a lot for all of the ACT, where one Senate candidate would need to cover the entire territory. In thinking about the caps, the ACT legislation also applies to ACT federal candidates.

Ms Cheyne: That is right.

MR WERNER-GIBBINGS: Presumably, if there was a ban, there would be a lot of consideration about the intersection with federal candidacies and ACT candidates.

Ms Cheyne: I think it is fair to say—and someone can correct me if this is wrong—that the consequences for the federal election were not 100 per cent front of mind when the legislation was being developed, and in terms of how it would apply. Certainly, even at the beginning of this year—maybe it was even this committee—I said that I was not sure if it would apply or not. I think we all learned that it does. Of course, as you said, that has had—I keep saying "disproportionate" in different ways—a disproportionate impact, especially for Senate candidates but also for House of Reps candidates, because they have a much greater electorate to cover.

Any further changes in that area will need to have real regard to what this means federally. Ideally, we would like to be consistent, but, as I am sure we will probably canvass this afternoon, there are plenty of areas of inconsistency that already exist. As long as something made sense and the community understood it, we would be all right. It is certainly a live consideration.

MR WERNER-GIBBINGS: That is my last corflute-related question, Chair.

THE CHAIR: There is no-one here that could answer Treasury costing related questions, is there?

Ms Cheyne: No.

THE CHAIR: I will put those on notice. Real-time donation reporting: the submission highlights real-time donation reporting within seven days for gifts of $100 or more and bans on foreign donations. How are you planning to make sure that these rules increase public clarity without creating a disproportionate compliance burden, particularly for smaller parties and Independents?

Ms Cheyne: It is a good question, Mr Cocks. I was not part of the formulation of the legislation—the crafting of the legislation. I do not know exactly all the thinking that went into it. I believe that there was a reasonable amount of consultation with at least some parties about systems and ensuring that those were ready.

The legislation was passed, but this requirement did not come into effect, I think, until 1 July. To the extent that the legislation was crafted in a way that both passed the Assembly and was in place with enough time for organisations to prepare, I think that was taken into consideration. However, you are absolutely right, and it is probably a topic that you and I have already covered in the past year—that we can apply regulation that then has an impact that is far greater on small organisations, when they are seeking to comply. I will see whether officials have anything further to add.

Ms Marjan: That is right, Minister. In terms of real-time political donations, we certainly worked with the Electoral Commission on how that might work in the background. The legislation itself did have some implementation time for parties, and that real-time reporting system framework to be set up. Certainly, there was some lead-in time before the amendments came into effect.

THE CHAIR: Are you able to provide any clarity on why $100 was chosen as the threshold?

Ms Marjan: In terms of the real-time political donations?

THE CHAIR: Yes.

Ms Marjan: I think there was some engagement with the Electoral Commission and some further national and local information that stood behind that. I think we were looking at the way that we could best balance needing that transparency and ensuring that the amount was sufficient to be reported on. There was a bit of a balance between those two things.

THE CHAIR: Do you have any evidence around whether that is striking the right balance?

Ms Marjan: Not with me today, unfortunately.

Ms Cheyne: Mr Cocks, the reference to $100—

Ms Marjan: Was it $1,000 or $100 that you referred to?

THE CHAIR: I might have written it down incorrectly. I thought I had it at $100.

Ms Cheyne: Once $1,000 is reached, that is when the seven-day reporting—hold on, let me not confuse things further. It says, "Introduce requirements for political entities to report any donations received over $1,000 in value within seven days of receipt." That includes once you hit $1,000. Let us say someone is donating to 10 candidates, but in one political party, and it takes them over $1,000. That is when it needs to start being reported within seven days, I think.

MR BRADDOCK: My supplementary builds on that, because last week the Electoral Commission sent letters to the reporting agents of the political parties—

Ms Cheyne: I am aware.

MR BRADDOCK: Excellent. I will keep going with the question, anyway, for the purpose of *Hansard*.

Ms Cheyne: Sure.

MR BRADDOCK:—identifying what seems to be a drafting error in the Electoral Act which prevents parties from needing to report additional disclosures from the donor after they have reported, for crossing this $1,000 threshold. As a result of this identified issue, will there be any changes to the legislation in the short term to address this?

Ms Cheyne: This is something on which the commissioner wrote to me, I think, on 18 November, and there was a follow-up letter, noting that he would write to party officials to alert them to this. It does not appear that officials knew about this until they were alerted.

I am not too concerned about the overall actions and behaviours, but now that this has been identified and brought to our attention, this is something on which initial directorate advice is that this is an omission, an error, and it should be amended as soon as possible to ensure that the relevant subsection is amended so that it says that additional gifts after the $1,000 threshold is met are still required to be reported on.

MR BRADDOCK: Is there a likelihood that you are not going to wait until this committee report has gone through, and you have responded, gone through your process, and we are potentially a year or two down the track, or are we talking about something sooner than that?

Ms Cheyne: Correct, but if the committee would like me not to do so, I could not. But I think it is in everyone's interests that we find an earlier legislative vehicle and address this.

MR BRADDOCK: That was going to be my question. If there is an earlier legislative vehicle, if there are any recommendations or suggestions coming out of this committee which would address the matter quickly—for example, where the Elections Commissioner has just asked for one month, bringing forward the timeframe in the

legislation to restart redistribution—is there opportunity in that vehicle to pursue that sort of change?

Ms Cheyne: Yes. We also agree that that should occur ASAP. Going more broadly to that question, Mr Braddock, the timelines for us already are unusual, as you would note, and for the other reason, it turns out, as you have heard, with the Electoral Commission and the tabling of reports out of session—who knew?—and we need to fix that as well.

All of these things have created pressures. I was on the select committee in 2017 that inquired into the 2016 election. Obviously, that was a huge change in how our elections function was conducted—numbers of candidates et cetera. I am pretty sure we would have reported by now, in terms of the same timeframe. This is no reflection, of course, on this committee; the timing is outside your control. But this is already compressing our timeframes for other legislative reform in electoral reform.

With the things that make sense to do now and early, I would welcome hearing the committee's early indications of support for those. I know it is outside the usual process, but I think we all recognise the timing world that we are in. I am in the committee's hands about how long the report might take to be released. We have our own timeframes in which to consider and respond, and for legislation to be prepared as well.

Overall, there is a question perhaps for the committee and then for government about just how much legislative reform is able to be achieved, when we already have fewer than three years to work through it. Again, it is no-one's fault. This is just where we are. World-changing legislative reform might require some pretty considerable drafting expertise that may also mean there is complexity that takes longer than what we have.

MR BRADDOCK: Is there anything else that the government will recommend be incorporated in that legislative vehicle for sooner rather than later changes that could be implemented fairly quickly?

Ms Cheyne: I think it is the reporting, although that can probably wait, but we might as well fix it now. It is pretty obvious. It is the reporting to the Assembly, the donations and the 25 months, not 24 months. If you have identified something that I am not aware of, and if there is something that we have identified that I have forgotten, we would be very happy to have that conversation.

MR WERNER-GIBBINGS: This is a bit of a broader question about the directorate's understanding and risk analysis on electronic voting—how that has been implemented and how it is going. Do you have an internal report? Are reports done that assess the effectiveness and the risks associated with electronic voting or is that left to the commission?

Ms Cheyne: It is left entirely to the Electoral Commission.

MR WERNER-GIBBINGS: In which case, I will put the next question on notice to the commissioner.

THE CHAIR: I am keen to have a bit of a chat about the shift in approach to early voting. We have entered a scenario where the early voting period has changed, when

people cannot vote on polling day. We have accepted that people like to vote before we get to polling day. People like to have that flexibility.

Ms Cheyne: A voting period.

THE CHAIR: Yes. At the same time, it seems that many of the legislative requirements are still geared around polling day. Have you done any legislative review around whether the shift to an early polling period justifies any other legislative shifts?

Ms Cheyne: Is there a specific example you can give me about—

THE CHAIR: One of the clearest things in my mind is deadlines for costs.

Ms Cheyne: Okay. I will take that on notice. I am not sure; I will have to consult. You might recall that, at the 2020 election, there was a three-week early voting period, which I think we all never want to experience again, and then it changed to a two-week early voting period, which was designed to take into account the fact that there are still policies emerging, there are still costings to be made, there is still further work that parties want to put forward and they want to be able to respond to other policies that are being announced, or whatever it might be. There is a balance. Certainly, in recognition of the early voting period, rather than the blind eye of "Do you have a reason for voting early?" we made it very clear that you can. That will not change any time soon. I would note that, with the two-week period, we saw slightly lower numbers of early voting than when we had the three-week period, which makes sense. But, in terms of the specific question about costings, I do not know. Let me find out.

THE CHAIR: Whether there are any other provisions linked to timing around election day that should be considered with the broader timeframe we now have.

Ms Cheyne: What we can perhaps do is go through the policy development of the previous reforms and see if there was anything around the time that did not progress.

Mr Ng: I am happy to do that, Minister. Mr Cocks, we might be able to take on notice the corresponding transitional or consequential amendments that followed the changes to the early voting period. We will provide that on notice if we identify a correlation that needed to change along with that primary provision. We can provide that information.

THE CHAIR: And if any provisions are still linked to polling day specifically—outside the operation of polling day. That is what I am keen to find out.

Mr Ng: Indeed. We could also provide a general answer around where that definition or term correlates elsewhere in the legislation if we did not change it.

THE CHAIR: Thank you. Most of my other questions are covered by that. Have you done any assessment of how early voting changes correlates with informality or voter turnout?

Ms Cheyne: I do not think that we have done that, but I will double-check as to whether the Electoral Commission's report covered that. What I recall is that this was one of the

lowest voter turnouts we have ever had—

THE CHAIR: I think it is the lowest.

Ms Cheyne: A few theories have been offered about why that might be. We probably all have a different view, or perhaps a similar view, as to why that might be. I do not think that we would necessarily have the data within the directorate to do that sort of analysis, but, in terms of a correlation with informal votes, perhaps the Electoral Commission does.

THE CHAIR: Thank you.

MR BRADDOCK: I have a question about those who failed to vote in the 2024 election and how they are being managed. The Elections ACT submission talks about their liaison with the Director of Public Prosecutions, which indicated a reluctance to dedicate the significant and scarce resources required to prosecute non-voters. Has the government adopted a position as to how it is going to manage it for that cohort?

Ms Cheyne: As you might be aware, this is now a regulatory function within the Government Solicitors Office. It has transferred. The latest advice I have is that some consultation has occurred with the Electoral Commission about the allocation of the list, time and staff, and what the impact of that may be, given the number of fail-to-vote prosecutions is in the thousands. I suspect that advice is protected by privilege, but I know that those conversations have occurred.

MR BRADDOCK: So those conversations have occurred. Is it the government's intent to prosecute those individuals in court?

Ms Cheyne: That is the matter for the Electoral Commission.

MR BRADDOCK: Okay.

Mr Ng: That is right, Mr Braddock: the prosecuting agency in that scenario will be the Electoral Commission. What the Attorney is alluding to is the engagement with the ACT Government Solicitor to support them to conduct those prosecutions. The ACT Government Solicitor is not a prosecuting authority in its own right.

Ms Cheyne: As an executive member of government, I am not making a decision about whether to prosecute. However, the GSO has been in consultation with the prosecuting agency, which is the Electoral Commission, about what this will look like if prosecutions occur and what this will mean in terms of the allocation of time, load and so on. This is a standard process across our different regulatory functions. For example, Minister Pettersson would not decide whether WorkSafe will prosecute.

MR BRADDOCK: I am more confused by the fact of the transfer from the DPP to Elections ACT.

Ms Cheyne: Sorry—it is a transfer from the DPP to the GSO. You may recall that the DPP made clear earlier this year that the regulatory prosecution function is not something that they feel they have the resources to continue with anymore. That

function exists within the office of the GSO, and the GSO gives advice but also access to the regulatory prosecution service for the ACT.

MR BRADDOCK: Is it actually a question for the GSO or for Elections ACT, as to whether the prosecution will happen?

Mr Ng: The Electoral Commission is the best place to answer that question.

MR BRADDOCK: Thank you for explaining that to me.

Ms Cheyne: I am trying to be helpful, but it is confusing, and it was a different point in time as well. You have a report from a point in time and then the function transferred.

MR BRADDOCK: Yes.

MR WERNER-GIBBINGS: At the 2024 ACT election, there was a significant increase in generative AI. Maybe there was not a significant increase but a notable increase in the use of artificial intelligence. There will be much more in 2028. Are the existing measures strong enough to deal with the situation or effective enough to deal with what is happening out there on the interwebs as it is? Depending on how quickly we get some recommendations through, is there room to strengthen or improve?

Ms Cheyne: I think it was the first time we passed reforms on truth in advertising. The challenge for everyone, worldwide, will be in the assessment of that and exactly how it is being used. AI, as a supportive tool, is something worth exploring, but, when AI is used to spread information or otherwise undermines democracy, that is really starting to call into question—

MR WERNER-GIBBINGS: Luckily that is not a predilection of the human condition, so we do not need to worry about that!

Ms Cheyne: Indeed. I take your point. The opportunities that it affords are not all benevolent. Fortunately, some other jurisdictions have elections before us. Even a year ago, people were using AI to possibly design something in elections—not so much the generative form that we are starting to see at play elsewhere.

MR WERNER-GIBBINGS: So watch and learn?

Ms Cheyne: It is all about watch and learn. We always say that legislation is not static; it needs to evolve and reflect societal attitudes and what is happening at the time. The evolution of AI and the speed at which that is occurring—not dissimilar to same-day delivery of liquor—is potentially quite ahead already of where governments and parliaments are at, and legislating at a point in time may quickly be out of date. It is probably a similar thought that we apply to things that we identify as being urgent—things that probably need to be pulled out of the process and addressed now. AI is something that can absolutely be considered as part of this process, but we will need to continue to have a watching brief on it after this process and when the legislation associated with it occurs.

MR WERNER-GIBBINGS: You mentioned truth in advertising. My follow-up

question is about countering misinformation and disinformation. There were conversations about that in submissions and earlier today as well. Presumably, there will be the same approach: being alive to what is happening in other jurisdictions and being flexible moving forward. Is there a slightly different attitude to misinformation and disinformation, or is it significantly different than to AI? They are linked but separate.

Ms Cheyne: I think South Australia is going to be the test case. They have passed their legislation, but of course the opportunity to test it has not yet occurred. The opportunity will be in a matter of weeks, so we will be watching that pretty closely. It is the first state to have done that.

MR WERNER-GIBBINGS: Thanks.

MR BRADDOCK: Has there been any consideration by the government of the Tasmanian laws, which prohibit the identification or naming of another candidate without their consent, as a way to address the mischief that is created by AI?

Ms Cheyne: I feel that there was at some point, but that could also have been Tara's personal reading list. We would certainly be open to recommendations about that and the effectiveness of it.

MR BRADDOCK: Thank you.

Ms Cheyne: And I would say not just with AI either. I think I could speak for Ms Joy Burch. Some pretty horrendous examples have been shared in the past. Not by her, by the way, but about her and her family.

THE CHAIR: Looking at the submission, there is some data around the Access Canberra contact centre responding to calls related to the election. There is also the enforcement work that happened around moveable signs. Did additional resources have to be invested to respond to the additional workload that comes with the election? And have you done any work on costing the overall impact?

Ms Cheyne: I will take that on notice. I do not think so in the ranger space. In the Access Canberra space, it is a service that the Access Canberra contact centre offers and absorbs, but it is kind of above and beyond its usual workload. I have been briefed on this, so I will take that on notice and come back to you.

THE CHAIR: That is great. We would be grateful for any data that you have.

Ms Cheyne: Sure; no problem.

THE CHAIR: Alongside that, if it was simply absorbed and you were trying to make do with the resources you have, I am interested in whether there was any shift in the call drop rate—the number of people who did not make it through—or whether there was any degradation in service levels because it was being absorbed?

Ms Cheyne: Do you have the brief in front of you?

Mr Ng: The submission?

Ms Cheyne: Feel free, if there is anything to address further.

Mr Fitzgerald: Regarding the city rangers, often the activities were done while doing other activities. While investigating complaints about, say, abandoned vehicles, they would monitor the roadside and, if signs were not in compliance, they would undertake action. It was not necessarily a task that they were doing outside their usual workload. Obviously, by stopping by the side of the road to collect a sign or to issue an infringement, that takes additional time, but, in most instances, it was not a bespoke trip that they were undertaking in order to take compliance action.

THE CHAIR: Okay. If someone complained about a sign being noncompliant, was there then a bespoke trip or did you try to align it with other work?

Mr Fitzgerald: We did try to align it where possible. Most of the complaints related to signs being installed onto government assets—onto street lights, onto traffic signals, and that type of thing. Where there was a risk of sightlines being impacted, we would obviously prioritise a response. Where we could do it in conjunction with other call-outs, we would do that as well.

THE CHAIR: Was that the primary approach to policing it—being responsive to complaints rather than being proactive and identifying where things were noncompliant?

Ms Cheyne: Because it is so well-established that signs should not be on a median strip and should not be attached to things, across City Services—not just our rangers—if they were seen, they would probably do something about it. That is pretty obvious. It would be more about when it is a lineball call: "Is that exactly this many metres away from the intersection?" That is when they would probably wait for a complaint.

Mr Ng: Mr Cocks, to obviate the need to take that question on notice, you asked about degradation in service quality and the absorbed services that Access Canberra offered during the election period. I refer you to page 5 of the government's submission to the inquiry. The contact centre answered 4,883 of 5,185 calls offered during the relevant period, and the average wait time was—

Mr Fitzgerald: Fifty-four seconds.

Mr Ng: Yes. And six per cent of the calls were abandoned.

THE CHAIR: My point of interest is: how was that different to any other day?

Ms Cheyne: How that compared to usual. I will take that bit on notice. I definitely have that information, because I know it is collected. I do not have it on me. I will stuff up any kind of comparison on the fly.

THE CHAIR: Thank you.

MR BRADDOCK: Elections ACT recommendation 13 is about procurement and some

of the challenges they had. Does the government have any views on that recommendation or alternative ways they can support Elections ACT in terms of undertaking all the procurement they need to do in order to conduct an election?

Ms Cheyne: Ultimately, there are a few different things going on. Funding a procurement manager is a decision for the budget. I appreciate it is going to reveal more about how tight the budget situation is. There are some other constraints on the procurement of services generally when it comes to elections, including proximity of other elections. We were smack-bang in the middle of a nine-month period, with the Northern Territory, the ACT, Queensland and the federal election. That automatically puts pressure on. I am speaking of a world long ago: paper. Paper is really hard to source when lots of people want lots of paper. Who knew? Some things cannot necessarily be resolved by having a procurement manager in place. Speaking on behalf of government rather than as the Attorney, I would say that we really need to understand the problem that the Electoral Commission is hoping to solve.

MR BRADDOCK: That raises an interesting question. Out of the caretaker conventions inquiry, evidence was received on how the timing of the ACT election was misaligned with the availability of financial information. It was the suggestion of, I believe, the Chief Minister—and I apologise to the Chief Minister if I misquote him here—that changing the timeframe of the ACT election could have advantages in terms of availability of information. Given that Queensland elections and other elections usually fall around the same time as our elections, is that something that this committee should be looking at?

Ms Cheyne: I would not deign to direct the committee to look at anything or to not look at anything in particular.

THE CHAIR: Perhaps we could say: would there be any value, in your view?

Ms Cheyne: There would absolutely be some value. However, I would be reluctant to suggest that the ACT should change just because Queensland has decided to go to an election the week after us. That has been the case at only the last two elections. It was not the case previously. Certainly, having fixed-term elections helps. It does not help when they are next to each other. And then, of course, there is the federal election. There are all manner of views about three- or four-year elections, fixed terms, and so on. I would caution against the ACT being reactive to a decision within the Queensland parliament about the timing of their elections, but it is certainly something we need to be open to, especially given other feedback that has been received in other inquires.

MR BRADDOCK: Would it be feasible for the ACT to adopt federal reforms which allow for advanced electoral funding to be issued, with the balance to be reconciled by the parties after the election, to address some of the barriers some of the submitters have described in terms of post-election funding being a barrier to democracy?

Ms Cheyne: I do not know. That is the short answer. I am happy to be guided, but the short answer is that I do not know.

MR BRADDOCK: That is fine. Thank you.

Ms Cheyne: I can give you a much longer—

MR BRADDOCK: Not for my sake!

THE CHAIR: We have heard some discussion around e-voting and voter-verifiable paper records. It was brought up in the previous election review as well. It has been a topic of discussion today. Is this something that is possible to deal with legislatively or do you think this has to be left up to the Electoral Commission to do or not do?

Ms Cheyne: Ultimately, someone has to watch the watcher, right? That is the committee's function in some ways—not entirely. What I have struggled with, regarding this evidence—and I feel that this happened in 2020 and 2016—is that there is one organisation saying, "There are problems," and we have the Electoral Commission, during the election campaign itself and since, saying, "What are you talking about?" I do not know which is the source of truth. I recall that, in 2016, the committee visited the Electoral Commission and had a long demonstration of how it all works, which I do not recall now; I just recall being there. That may be something that is open to the committee. It is a bit difficult at the moment to resolve when there are two opposing views about whether there is an issue. Again, I would not suggest anything to the committee, but it would be helpful to government for the committee to land on an informed view about whether there is or is not. If there is, that might require further investigation.

THE CHAIR: Okay.

Ms Cheyne: Sorry—I do not mean to be circular, but I remember listening to the radio during the election and thinking: "Is it a problem or not?"

THE CHAIR: It sounds like what you are saying is that there is a potential for legislation to deal with it if the committee deems that it is actually a problem that needs to be dealt with.

Ms Cheyne: Yes. What I would be looking for from the committee is evidence to that effect.

THE CHAIR: Thank you. We have managed to deal with some of these questions far swifter than I thought we would. On behalf of the committee, thank you for your attendance today. If you have taken any questions on notice—there were a few—please provide your answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*. On behalf of the committee, I thank all witnesses who have assisted the committee through their experience and knowledge. We also thank broadcasting and Hansard staff for their support. If a member wishes to ask questions on notice, please upload them to the parliamentary portal as soon as possible and no later than five business days from today.

The meeting adjourned at 4.28 pm