

MEDIA RELEASE**2016 ACT Election****16 February 2017**

ACT Auditor-General, Dr Maxine Cooper, today presented a performance audit report on the **2016 ACT Election** to the Speaker, for tabling in the ACT Legislative Assembly.

Dr Cooper says ‘Elections ACT’s planning and conduct of the 2016 election was effective and was achieved in the context of an increase in voters, electorates, candidates and members of the Legislative Assembly.’

For the 2020 election, Dr Cooper has called for:

- Electors’ access to electronic polling places on election day to be increased
- Restrictions on pre-polling to be removed
- The non-voter fine to be based on penalty units and increased (currently \$20)
- Accommodation to be secured well in advance of the election.

‘Electronic voting for the 2016 election was limited to 6 of the 80 polling places (7.5%) on election day. The significant percentage of electronic votes (33%) indicates that, if given greater access, a higher percentage of electors would vote electronically’ said Dr Cooper.

Dr Cooper says ‘It is impractical to expect polling officers to be able to enforce or check that an elector has met the pre-polling criterion of being *unable to attend a polling place on polling day*. Pre-polling has been increasing and accounted for 34% of votes in the 2016 election. Removing this criterion would allow all voters to cast their vote at a time that is convenient to them.’

‘The \$20 fine for non-voters has not changed since it was introduced and is small compared to some other Australian jurisdictions. It needs to be linked to penalty units to increase in line with other ACT fines linked to penalty units’ said Dr Cooper.

Dr Cooper says ‘Providing accommodation for Elections ACT for the 2020 election is predicted to be challenging as there are likely to be fewer large ACT Government buildings available in central locations. Securing accommodation well in advance of the election is important.’

The Summary of the **2016 ACT Election: Report No. 2/2017**, with audit conclusions, key findings and recommendations is attached to this media release.

Copies of the **2016 ACT Election: Report No. 2/2017**, are available from the ACT Audit Office’s website www.audit.act.gov.au . If you need assistance accessing the report please phone 6207 0833 or go to 11 Moore Street, Canberra City.

Extract of Summary Chapter

Overall Conclusion

Elections ACT's planning and conduct of the 2016 election was effective as reflected in the election performance indicator results. This was achieved in the context of an increase in voters, electorates, candidates and members of the Legislative Assembly.

Means whereby Elections ACT can enhance its planning and improve the security controls for its electronic voting and counting system (eVACS®) have been identified. Elections ACT has facilitated electronic voting since it commenced in 2001 and take up has consistently increased with 33 per cent of votes in the 2016 election cast electronically. However, as electronic voting is limited to 6 of the 80 (7.5 per cent) polling places on election day, the significant percentage of electronic votes indicates that, if given greater access, a higher percentage of electors would vote electronically. A strategy for providing increased access to electronic voting is recommended.

Some recommended changes require ACT Government action. These relate to: removing restrictions on pre-polling, which increased to 34 per cent of votes in the 2016 election, so all electors have the opportunity to cast their vote more conveniently; using penalty units as the basis for non-voter fines and commensurately increasing the fine, currently \$20; and making sure accommodation for the 2020 election is secured well in advance as this is likely to be more challenging for 2020 than for previous elections.

Key findings

PLANNING AND CONDUCTING THE 2016 ACT ELECTION

Paragraph

For the 2016 election, Elections ACT achieved its performance targets for timely announcement of the election result (7 days – target 14) and turnout as a percentage of eligible elector population (88 per cent - target 88 per cent) – the highest rate of the last four elections; there has been an increase in formal voting over time (98 per cent for 2016), the highest rate for any Legislative Assembly election. Two targets were not achieved by a small margin; high level of voter turnout as a percentage of enrolment (89 per cent – target 92) and increase voter turnout at elections over time (89 per cent – highest level was in 2004 at 93 per cent). Elections ACT has advised that meeting the 92 per cent target is challenging due to the high percentage of eligible ACT citizens enrolled (99.8 per cent) and they are reviewing these two targets.

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Elections ACT has elements of its project management dispersed in various documents. This may not have been a high risk in planning for and conducting the 2016 election due to the experience of staff. However, having a documented framework that contains all the key elements, and/or explicit links to all elements, of its project management in one document for the four years prior to an election

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would mitigate risks if experienced staff were to leave Elections ACT.

Elections ACT's Operational Plan, in effect an election policy and procedure guide, while comprehensive in some sections is lacking in others. Also, parts are unclear as to what information is applicable as information from earlier elections is included. There is no evidence that this plan has been reviewed in its entirety. It needs to be reviewed and renamed to reflect its content. Additionally, as there is no control over who edits it and no approval process for edits, a document control process needs to be implemented. 2.31

Clarity, a project management tool, provided additional functionality to Elections ACT (e.g. allocation of tasks to staff through Microsoft Outlook) over the Gantt chart previously used. Clarity was sourced by Elections ACT on the basis of reducing the risk of reliance on the corporate knowledge of long serving staff. However, it is considered that this risk needs to be mitigated through having an election project management plan, and/or the elements of such a plan that exist in Elections ACT being explicitly linked. 2.38

Elections ACT maintains a number of risk registers, including strategic, election time security and polling day, based on the ACT Insurance Authority's risk template. While there is a system for review some inconsistencies and deficiencies in documented risks were found. While a reasonably foreseeable incident that occurred in the 2016 election was managed appropriately the risk of it occurring was not documented and therefore there were no mitigation strategies specific to that risk. A periodic comprehensive review (this could be every two years) of Elections ACT's risk registers, in addition to the reviews that are already undertaken, would strengthen its practices. 2.47

Elections ACT's low staff turnover has advantages but it also poses risks, particularly in a small organisation of nine people where the departure of one staff member can have a significant effect. This risk is recognised by Elections ACT and is documented in its strategic risk register. While controls include regular review of, and update to, the Operational Plan and stable staffing within Elections ACT there has not been a regular review of the Operational Plan in its entirety. 2.51

Elections ACT used a variety of strategies to address the problems, identified in the report on the 2012 election, related to increasing temporary staffing (staffing manager, materials manager, media manager and early voting manager). While strategies overall were successful for these four positions, the training manager position, also to be undertaken by a temporary employee, was not filled successfully; their duties were absorbed by other staff and the planned review of training material was completed by the Deputy Electoral Commissioner and the Elections Operations Manager. 2.61

Elections ACT successfully recruited 767 casual staff for the 2016 election and managed the risk of unforeseen polling place staff absences by having 17 (2 per cent) of casual staff available as replacement staff for polling day. Casual staff 2.69

performance was assessed and 98.2 per cent were found to be satisfactory or suitable for promotion.

Elections ACT permanent and temporary staff undergo a police check but not casual staff, who present a lower security risk. While a police check may not be appropriate for casual staff it would be prudent for Elections ACT to explicitly examine risks they pose and identify if security information needs to be collected. For example, security information could be collected from prospective casual staff by requesting that they sign, as part of their employment, a declaration in response to specific security questions. This approach would provide Elections ACT with some assurance and facilitate mitigation measures being implemented, if required. 2.73

Elections ACT monitored casual staff's completion of online training until the week preceding the 2016 election. There was no requirement for casual staff to achieve a predetermined level of competency prior to presenting for work on election day or to answer all questions in a section correctly before completing the training. Elections ACT is examining whether a minimum attainment rate is needed for future elections. 2.80

A combination of online (767 casual staff) and face-to-face training (polling place managers, officers in charge and seconds in charge) was provided to prepare casual staff for their election duties. Due to there being no training manager, even though attempts were made to secure one, three Elections ACT staff delivered 43 hours of face-to-face training, primarily in the ten days prior to the election. Recruiting a training manager in the lead up to future ACT elections (unsuccessful for the 2016 ACT election) would provide an identified resource to deliver face-to-face training and monitor casual staff's completion of online training, not possible in the week prior to the 2016 ACT election due to the workload of the Elections ACT staff involved. 2.84

A survey of ACT voters found that the public information campaign reached the majority of those surveyed and that the information campaign was somewhat or very useful. Additionally, satisfaction with Elections ACT's website increased significantly. 2.90

Elections ACT provided languages, based on evidence, additional to those required by the ACT Government for election information brochures, electronic voting screens and information sessions. This contributed to Elections ACT's achievement of its objective that the voters of the ACT know when the election is to be held, where and when they can vote, how to vote and when a timely result is expected. 2.97

Elections ACT used information gathered from previous elections to identify the number of ballot papers required for the 2016 ACT election at each polling place. As ACT residents can vote at any polling place irrespective of what electorate they are located in, every polling place was required to hold ballot papers for each electorate. Due to the availability of historical information, and the ability to address any shortages quickly because of the small size of the ACT, all voters were 2.101

accommodated in the 2016 ACT election.

Officers in charge did not report any concerns over queues at the 80 polling places for the ACT 2016 election. This occurred in an environment of increased voters, changes to electorates and a high number of candidates in each electorate, e.g. one electorate had 33 candidates and there was a total of over 140 candidates for the five electorates. 2.105

There has been a significant increase in pre-polling and electronic voting in ACT elections; pre-polling now accounts for 34 per cent of voting and electronic voting accounts for 33 per cent. The majority of electronic votes (86 per cent) was cast during the 14 day pre-polling period. Electronic voting is only available on polling day at those same 6 locations; this means that, on polling day, only 7.5 per cent of polling places (6 of the 80) had electronic voting facilities. 2.112

There are restrictions on pre-poll voting: the criteria that an elector needs to meet to qualify and its geographical availability to electors. The restriction on electronic voting is the availability of electronic voting infrastructure at polling places. 2.113

In discussing the increase in pre-poll voting at the 2008 election, the *Report on the ACT Legislative Assembly Election 2008* (the Report) noted that there could be advantages with pre-polling through an associated increase in electronic voting: 2.117

Pre-polling arrangements vary across Australian jurisdictions; no declaration is required in Queensland, the Northern Territory or Western Australia. The ACT, Victoria, Tasmania and the Commonwealth require a verbal declaration. 2.121

In the ACT pre-polling is only available to an elector who makes a verbal declaration indicating that they expect ‘... to be unable to attend a polling place on polling day; or whose address is a suppressed address’. Many reasons could be given to justify the first criterion, all at the discretion of an elector to define what constitutes being ‘unable to attend’. Given the breadth of interpretation possible to meet the first criterion makes it impractical to enforce it is understandable that declarations are not validated or tested by polling place staff. While the merits of pre-polling are debatable, given the impracticality of enforcing the criterion related to attending a polling place, this criterion needs to be removed from the *Electoral Act 1992*. Removing criterion one would negate the need for criterion two. 2.122

Elections ACT encourages electronic voting through making it available at all (six) pre-polling centres and facilitating voter use through providing support staff to assist, e.g. with scanning barcodes; 86 per cent of pre-poll votes are cast electronically. Electronic voting is likely to increase if pre-polling restrictions are removed, however, given it was restricted on election day to six locations, examining options for increasing its geographical availability seems warranted. It is acknowledged that there are cost and logistical issues for establishing electronic voting other than for pre-polling places. However, a strategy to identify 2.124

opportunities to foster an increase in its use is needed.

In preparing for the election, Elections ACT collated information on the number and needs of electors at each residence and institution that was eligible for mobile polling. However, analysis of the mobile polling schedule found that the time allocated to each residence or institution could have more closely reflected the information Elections ACT had collated. While there is no evidence that this impacted on the conduct of mobile polling for the 2016 election, Elections ACT could more effectively utilise its research findings in developing the schedule for the 2020 election. 2.127

Elections ACT estimated the number of ballot papers required for the 2016 ACT election using data from previous elections, while also taking into account the increase in the number of electorates and the consequential change in electoral boundaries. This process was effective with no polling place running out of ballot papers. 2.132

In the 2016 ACT election security guards were hired to provide ballot paper security on polling night due to insufficient space for the plastic tubs containing ballot papers in the secure room and the risk of exceeding the floor loading limit if the tubs were stacked in the secure room. Once removed from the plastic tubs, on the day after polling day, the ballot papers were moved into the secure room, ready for scanning. 2.135

The use of traditional paper ballot papers has significantly declined since 2001, when 91 per cent of voters used a paper ballot, to 67 per cent in 2016. This significant downward trend reflects the increase in electronic voting, despite electronic voting being limited to six (7.5 per cent) polling places. 2.137

While notes were taken at Elections ACT's lessons learned sessions, there was no evidence of a procedure for tracking resulting actions. Elections ACT reported that the notes are used as a basis for updating its Operational Plan and are reviewed in detail during election planning meetings. Elections ACT reports that, where necessary, identified improvements are added to the detailed election plan. A lessons learned tracking document for the time between elections would reduce the risk of needed actions not occurring. A simple procedure is needed to reduce the risk of needed actions not occurring (e.g. highlighting actions in the notes then removing this once completed and annually monitoring progress); this would reduce the risk of an important improvement not being progressed. 2.140

Elections ACT conducts a lessons learned exercise and produces a report following each election. These provide an opportunity to: identify improvements and retain effective practices; analyse changes in voting practices; and report to the Legislative Assembly and the ACT public on costs, voting trends (political and non-political), innovations and recommendations for future elections. 2.144

The '100 metre rule' is important in reinforcing the Hare-Clark system, giving priority to ensuring voters are free of an immediate influence that could affect their vote. While it was the subject of complaints in the 2016 election, as it has also been for previous elections, Elections ACT advised that most issues were addressed quickly on election day and this did not take up significant resources. While it is likely that the '100 metre rule' will be the subject of complaints in future elections its maintenance is important in reinforcing freedom from influence for voters.

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Market research for the 2016 election found that, of voters surveyed, 89 per cent were reached by Elections ACT's public awareness campaign, 95 per cent thought the voting instructions were very adequate or adequate, 78 per cent preferred to vote electronically and 90 per cent of electronic voters found the electronic system easy to use. Furthermore, 96 per cent of respondents were satisfied or very satisfied with the voting experience.

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Elections ACT used passwords to provide security for restricting the installation of unauthorised eVACS[®] software. The passwords (from the 2012 election) identified in eVACS[®] documentation did not meet ACT Government password security requirements.

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Elections ACT used outdated technology for creating a unique code (a hash) in eVACS[®] and used physical controls to mitigate the risk of tampering. A more modern, unique code is needed to remove reliance on physical controls. Also, eVACS[®] could be improved through enforcement of the entering of a unique code before data is transferred from the polling place server and scanning server to the counting server. This was not being done and, instead, physical controls were used.

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eLAPPS was used effectively for marking off the electoral roll during the 2016 election and for communication between officers in charge, polling area managers and Elections ACT.

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Checking voters' names on eLAPPS and the regular synchronising of eLAPPS across all polling places significantly limited the risk of a voter being able to vote multiple times. Improved internet connections in 2016, and therefore eLAPPS synchronisation, further reduced the risk of a voter voting more than once. Following review of 142 apparent multiple voters ten were requested to provide an explanation for appearing to have voted twice; at the time of reporting five had provided explanations Elections ACT considered acceptable.

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At the 2016 ACT election the number of admitted declaration votes (0.1 per cent of total votes) was the lowest in the ACT since the introduction of Hare-Clark electoral system in 1995. This may in part be due to the timing of the federal election, held less than four months before the ACT election (on 2 July 2016), which followed extensive advertising by the Australian Electoral Commission (AEC) to encourage voters to update their enrolment. Also likely to contribute is the implementation of the Federal Direct Enrolment and Direct Update program which allows the AEC to

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directly enrol and update electors' details based on information from other government agencies (the ACT's electoral roll is prepared by the AEC through a joint roll arrangement). Additionally, the process of turning the screen around for electors to confirm their details when they were marked off the roll is likely to have contributed to the low rate

The introduction of six additional collection points for receiving election materials addressed weaknesses identified following the 2012 ACT election, however, a lack of lighting at one of the collection points made the transfer of materials difficult. While this did not compromise the security of ballot papers, to support the safe and secure transfer of ballot papers, the location and suitability of collection points for the 2020 election needs to include criteria for adequate lighting. 2.220

Elections ACT managed the security of ballot papers effectively for the 2016 ACT election. This was through a number of processes during the various voting stages, after the close of polling places on election day and overnight, during the counting and scrutiny process and when in storage prior to the 2020 election. 2.231

Elections ACT was in the vanguard in introducing the electronic verification of scanned ballot papers for the 2008 election. Its continued use means that manual data entry continues to be unnecessary. The use of dual monitors, allowing scrutineers to observe the verification process, assists in the transparency of the process. 2.238

Elections ACT checked ballot papers which the scanning system identified as unclear. Scrutineers from political parties were able to observe this process and object at any time. 2.242

The 2016 ACT election result was announced by the Electoral Commissioner, through a press release, to the ACT candidates and media on Saturday, 22 October 2016. The scanning of paper votes and the high percentage of electronic votes contributed to the short time required. The result was formally declared on 26 October, 11 days after polling day (15 October 2016). 2.245

Given that a Memorandum of Understanding was not finalised with ACT Property Group for the 2016 election, and they have advised that providing accommodation for the 2020 election is likely to be more problematic, it is important that accommodation arrangements be finalised well in advance (two years) of the 2020 election. If this does not occur, Elections ACT should seek assistance from the Head of Service. 2.264

The number of first notices sent to non-voters increased from 11 396 (5.0 per cent of total enrolment) at the 2004 election to 23 069 (8.1 per cent of total enrolment) at the 2016 election. The number of eligible electors that paid the penalty for not voting also increased, from 1 953 (0.9 per cent) at the 2004 election to 4 250 (1.7 per cent) at the 2012 election. Data on the total number of electors that paid the penalty for not voting following the 2016 election was not available at the time of 2.269

reporting (because the non-voter process was not yet complete) but, in response to the first notices that were sent, 3 333 (or 1.2 per cent) of eligible electors had paid the fine. This number is expected to increase following second and third notices being sent.

The ACT *Electoral Act 1992* uses penalty units for all matters other than the infringement notice fine for not voting and two offences that have prescribed infringement amounts outlined in the *Magistrates Court (Electoral Infringement Notices) Regulation 2012*. It is unclear why penalty units have not been adopted for the purpose of issuing non-voting fines. The use of a penalty unit as the basis for the fine for not voting would allow for adjustments to occur incrementally and according to when the ACT adjusts fines overall in penalty units.

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Recommendations

RECOMMENDATION 1 PLANNING

Elections ACT should enhance its planning by:

- a) developing a project management framework and/or explicitly linking its project management elements for the four years prior to an election;
- b) reviewing its Operational Plan and developing a control process for maintaining the integrity of its content;
- c) developing a periodic comprehensive review (this could be every two years) of its risk registers (in addition to the system of reviews already undertaken);
- d) developing a lessons learned tracking document for guiding actions that need to be undertaken between elections; and
- e) reviewing the classification of its ICT systems and, for any of its systems that are government critical, implement the required infrastructure arrangements that provide assurance these systems are continuously available; and document these arrangements in its business continuity and disaster recovery plans.

RECOMMENDATION 2 SECURITY

Elections ACT should assess the security risk posed by casual staff working on ACT elections and, if appropriate, implement a mitigation measure.

RECOMMENDATION 3 PRE-POLL VOTING

The ACT Government should amend the *Electoral Act 1992* so that an elector may vote at a pre-poll voting centre without the requirement to declare that they are unable to attend a polling place on polling day.

RECOMMENDATION 4 ELECTRONIC VOTING OPTIONS

Elections ACT should develop a strategy to foster an increase in electronic voting.

RECOMMENDATION 5 EVACS®

Elections ACT should improve eVACS® security controls by:

- a) using passwords that are compliant with ACT Government password security requirements;
- b) using a secure, modern, unique code (hash);
- c) encrypting the cumulative record (data) of daily votes on compact discs; and
- d) comprehensively reviewing the eVACS® code.

RECOMMENDATION 6 2020 ACCOMMODATION

ACT Property Group and Elections ACT should finalise a Memorandum of Understanding with accommodation arrangements being agreed well in advance (two years) of the 2020 election. If this is not done, Elections ACT should seek assistance from the Head of Service.

RECOMMENDATION 7 PENALTY UNITS FOR NOT VOTING

The ACT Government should use penalty units as the basis for a non-voter fine to allow incremental adjustments and determine what penalty is to be established for non-voters (and in so doing increase the current \$20 fine).

Response from entities

In accordance with subsection 18(2) of the *Auditor-General Act 1996*, Elections ACT was provided with:

- a draft proposed report for comment. All comments were considered and required changes were reflected in the final proposed report; and
- a final proposed report for further comments. As part of this process, Elections ACT was offered the opportunity to provide a statement for inclusion in the Summary chapter.

In accordance with subsection 18(3) of the *Auditor-General Act 1996*, extracts of the draft proposed report and final proposed report were provided to entities that have a direct interest in the proposed report. Extracts were provided to ACT Property Group, the Chief Minister, Treasury and Economic Development Directorate, and the Justice and Community Safety Directorate. Comments provided were considered in developing the final proposed report and final report.

These entities were also offered the opportunity to provide comments for inclusion in the Summary chapter of this report, no comments were provided.

The ACT Electoral Commission response:

The ACT Electoral Commission welcomes this performance audit report on the conduct of the 2016 ACT election and recognises the extensive and thorough work that has gone into the preparation of this report.

The Commission notes that the report concludes that Elections ACT's planning and conduct of the 2016 election was effective.

The Commission considers that the conduct of the election was noteworthy in several respects:

- *It was the first ACT election conducted since the increase in the size of the Assembly, electing for the first time 25 Members in 5 new electorates;*
- *141 candidates contested the 2016 election, the highest number ever to contest an ACT election – the previous highest number was 117 at the first election in 1989;*
- *The highest number of votes ever cast for an ACT election was recorded at this election – 250,460 (compared to 229,125 in 2012);*
- *This represented the highest turnout of any of the last 4 ACT elections, when measuring voter turnout as a proportion of eligible citizens, with over 88% of the eligible population casting a vote (noting that this performance measure was not calculated at earlier elections);*
- *This election made use of the most complete electoral roll for an ACT election, with 99.8% of the estimated eligible population enrolled, including historically high levels of enrolment of 18-24 year-olds;*
- *Elections ACT successfully expanded electronic voting facilities to 81,538 voters – over 32.5% of all voters (compared to 59,200 voters in 2012– over 25% of all voters);*
- *The accurate electoral roll and the use of networked electronic electoral rolls in polling places contributed to very low levels of declaration voting and effectively minimised the risk of electors fraudulently voting more than once;*
- *The extensive information campaign conducted by the Commission contributed to the high voter turnout and to the lowest ever rate of informal voting, with only 2.5% of votes counted as informal;*
- *Exit polling conducted for the Commission indicated high voter satisfaction with electoral services, with 96% of voters expressing satisfaction with their overall voting experience;*

- *The election result was finalised on the earliest possible day, 7 days after polling day, as a result of combining the scanning of paper ballots with electronic voting and the eVACS® counting system; and*
- *The Commission and Elections ACT met all statutory deadlines set out in the Electoral Act related to the conduct of the election.*

The Commission notes that, while the audit report makes recommendations for improvements in processes, the report has concluded that the conduct of the election was fully effective. The report has not identified any issues that indicate that the election was not conducted in accordance with the Commission's statutory obligations.

The Commission agrees with and/or supports all of the recommendations made in the audit report.

The ACT Electoral Commission response to recommendations

Recommendation 1 – Planning

The Commission agrees there is a need to strengthen, update and consolidate its project management and planning framework. However, the Commission notes that its project management and planning processes in place for the 2016 election achieved a very successful outcome.

Recommendation 2 – Security

The Commission agrees to assess the security risk posed by casual election staff and to implement appropriate mitigation measures for future elections. The Commission notes that there were no reported incidents of a security nature involving Elections ACT casual staff in 2016.

Recommendation 3 – Pre-poll voting

The Commission supports the recommendation to amend the Electoral Act to extend pre-poll voting to all electors without the need to declare that they are unable to attend a polling place on polling day. The Commission intends to canvass this issue further in its formal report on the 2016 election.

Recommendation 4 – Electronic voting options

The Commission agrees to develop a strategy to foster an increase in electronic voting at future elections. The Commission notes that this strategy will be dependent in part on the outcome of recommendation 3. The Commission also notes that it has achieved increases in electronic voting at every election held since the 2001 election, when electronic voting was introduced.

Recommendation 5 – eVACS®

The Commission agrees to review the electronic voting system and where appropriate implement the recommended security controls. The Commission notes that the security controls, including physical security, used at the 2016 election were robust and effective.

Recommendation 6 – 2020 Accommodation

The Commission agrees that it would be desirable to settle its additional office accommodation needs well in advance of the 2020 election. The Commission notes that achieving this outcome is dependent on receiving timely and effective support from other ACT government agencies.

Recommendation 7 – Penalty units for not voting

The Commission supports the recommendation to amend the Electoral Act to increase the penalty value for failure to vote notices. The Commission intends to canvass this issue further in its formal report on the 2016 election.