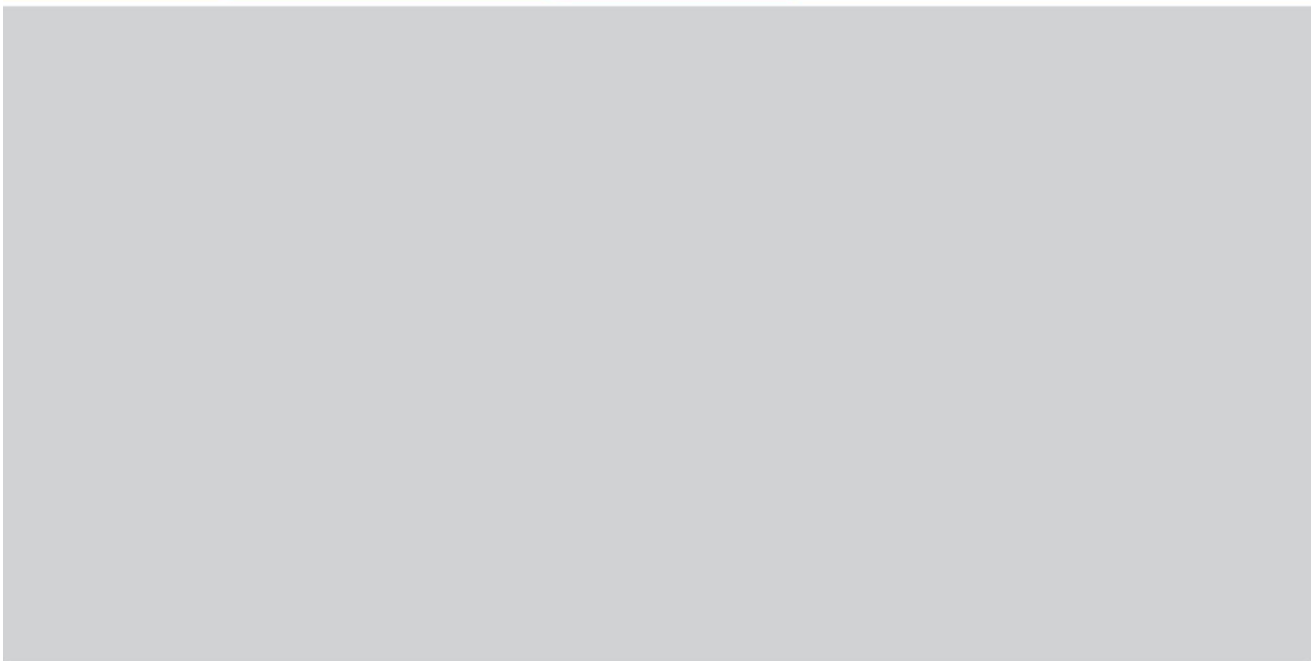


# Submission to the Inquiry by the Joint Standing Committee on Electoral Matters into the Electoral and Referendum Amendment (Maintaining Address) Bill 2011

27 January 2012



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## Introduction

- 1.1 On Thursday, 24 November 2011 the House of Representatives Selection Committee referred the Electoral and Referendum Amendment (Maintaining Address) Bill 2011 (the Bill) to the Joint Standing Committee on Electoral Matters (JSCEM) for inquiry and report.
- 1.2 In a letter dated 14 December 2011, the Chair of the JSCEM, Mr Daryl Melham MP invited the Australian Electoral Commission (AEC) to make a submission to the inquiry. This submission is provided in response to that letter.

### Summary of the AEC view

- 1.3 The AEC supports the introduction of a system of direct update of the electoral roll. The explanatory memorandum to the Bill notes that the provisions propose to amend the *Commonwealth Electoral Act 1918* ('Electoral Act') to enable 'the Electoral Commissioner to directly update an elector's enrolled address following the receipt and analysis of reliable and current data sources from outside the Australian Electoral Commission that indicate an elector has moved residential address'.
- 1.4 The administrative practices used to maintain the roll have evolved over time, as permitted by technology and legislative change. Since 1999 the AEC has been using data from a range of third parties, including Commonwealth and State government departments and agencies, to identify 'unenrolled eligible persons' and 'electors not correctly enrolled'<sup>1</sup> and to contact these persons through its Continuous Roll Update (CRU) program. A 'direct update'<sup>2</sup> model of enrolment would build on this practice by allowing the AEC to update electors' enrolment details where it is satisfied as to the veracity of the information. Providing the AEC with authority to directly update an elector's address will mirror other roll maintenance processes where the AEC can directly act in such a manner: for

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<sup>1</sup> The term 'elector' describes a person whose name appears on the electoral roll. An 'eligible person' describes a person who is entitled and obliged to enrol and vote but who is not necessarily enrolled. All electors are eligible persons, but not all eligible persons are electors (ie. enrolled).

<sup>2</sup> 'Direct update' refers to updating an elector's address details for his or her existing enrolment. The term 'direct' is used to indicate actions are initiated by the AEC rather by an elector. This process is described in some other jurisdictions as 'automatic' update'. The AEC's preference for the term 'direct' seeks to avoid misconceptions that *all electors* will have their details updated *through an electronic decision making process, using data from any national, state or local government body*. Rather, those whose enrolment is maintained using this method will appear on *particular data sources used for this purpose* and who, subject to the data *satisfying certain business rules*, will have an update of enrolled address *authorised by an AEC officer*.

example, initiating objection action, and removing people from the roll on the basis of data from Births, Deaths and Marriages registries advising death.<sup>3</sup>

- 1.5 The AEC is of the view that a system of direct update of enrolment address will enhance the integrity of the electoral roll. Consistent with international best practice, the AEC defines roll integrity as consisting of the following elements:
- **Entitlement** – the individual meets all legislative qualifications for enrolment on the electoral roll, information provided by the individual is tested to detect and prevent enrolment fraud
  - **Accuracy** – the individual is enrolled for the address at which they are entitled
  - **Completeness** – all individuals who are entitled to enrolment are enrolled
  - **Processing Correctness** – information provided by individuals and organisations is entered correctly and completely on the roll, addresses are correctly and completely described, classified and aligned and
  - **Security** – the electoral roll is protected from unauthorised access and tampering.
- 1.6 This definition is integrated into roll management practice through systems, processes and procedures. Activities undertaken by the AEC to test elements of roll integrity are often documented in the AEC's Annual Report and in advice to the JSCEM.<sup>4</sup>
- 1.7 A similar definition of roll integrity was used by the Australian National Audit Office (ANAO) in its 2002 report, *Performance audit report no. 42 of 2001–02 – Integrity of the Electoral Roll*. The AEC definition also includes relevant components of internationally accepted principles relating to voter registration.<sup>5</sup>
- 1.8 When assessed against the definition above, the AEC anticipates direct update will improve the accuracy and completeness of the roll by:
- assisting electors to maintain enrolment at a correct address;
  - updating enrolment details in a more timely manner; and
  - reducing objection action to remove electors whose new address is known.

<sup>3</sup> The notification requirements of these two processes differ. Objection action involves the sending of at least two letters (a notification of objection and notification of determination), whereas death deletions require no notification letter to be sent.

<sup>4</sup> See for example Australian Electoral Commission (AEC), *Annual Report 2010-11*, pp. 40-41; AEC, submission no. 87 to JSCEM, *Inquiry into the 2010 federal election*, pp. 42-45; AEC, submission no. 87.5 to JSCEM, *Inquiry into the 2010 federal election*, pp. 6-7.

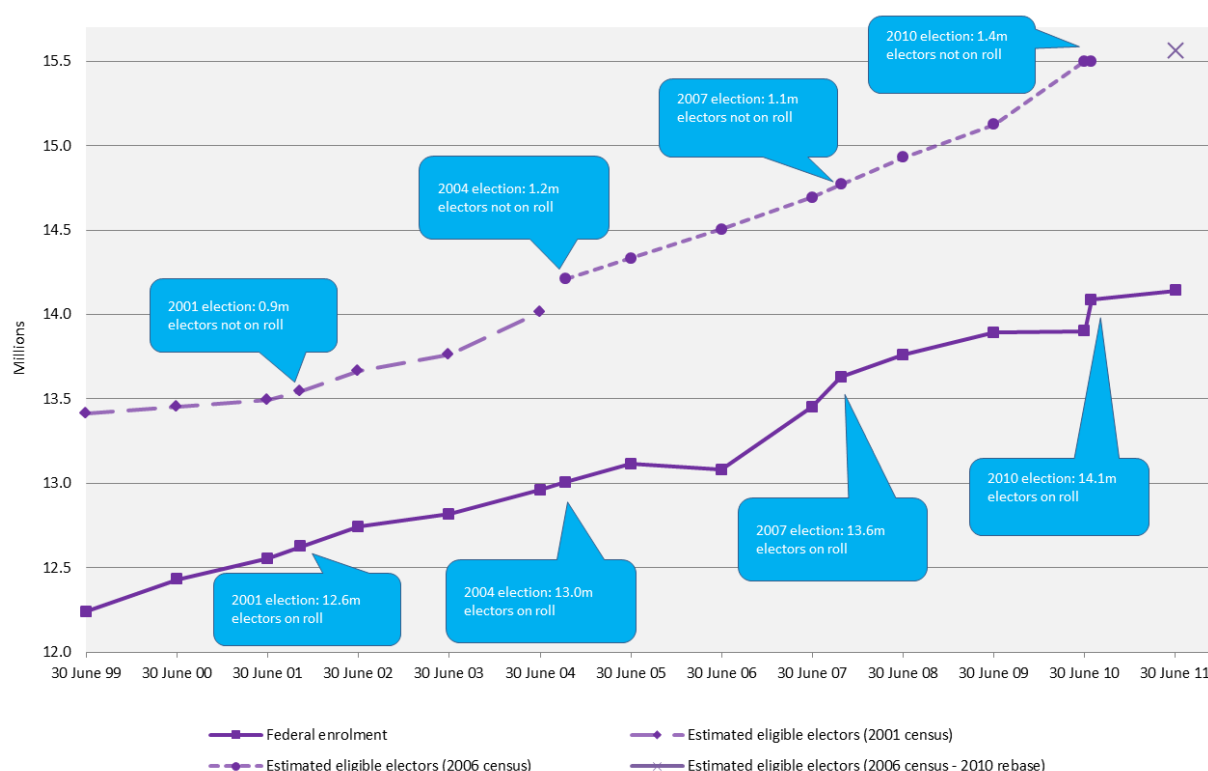
<sup>5</sup> See for example Yard, Michael (ed.), *Civil and Voter Registries: Lessons Learned from Global Experiences*, International Foundation for Electoral Systems (IFES), June 2011, pp. 3-4.

## Why is it necessary?

### State of the roll

2.1 Figure 2.1 shows the number of electors enrolled and the estimated eligible population from 1999 to 2011. It is apparent that while the number of enrolled electors generally continues to increase over time, growth of the electoral roll has not matched growth in the number of eligible persons since 2001.

**Figure 2.1 – Estimated eligible population and enrolled electors, 1999-2011**

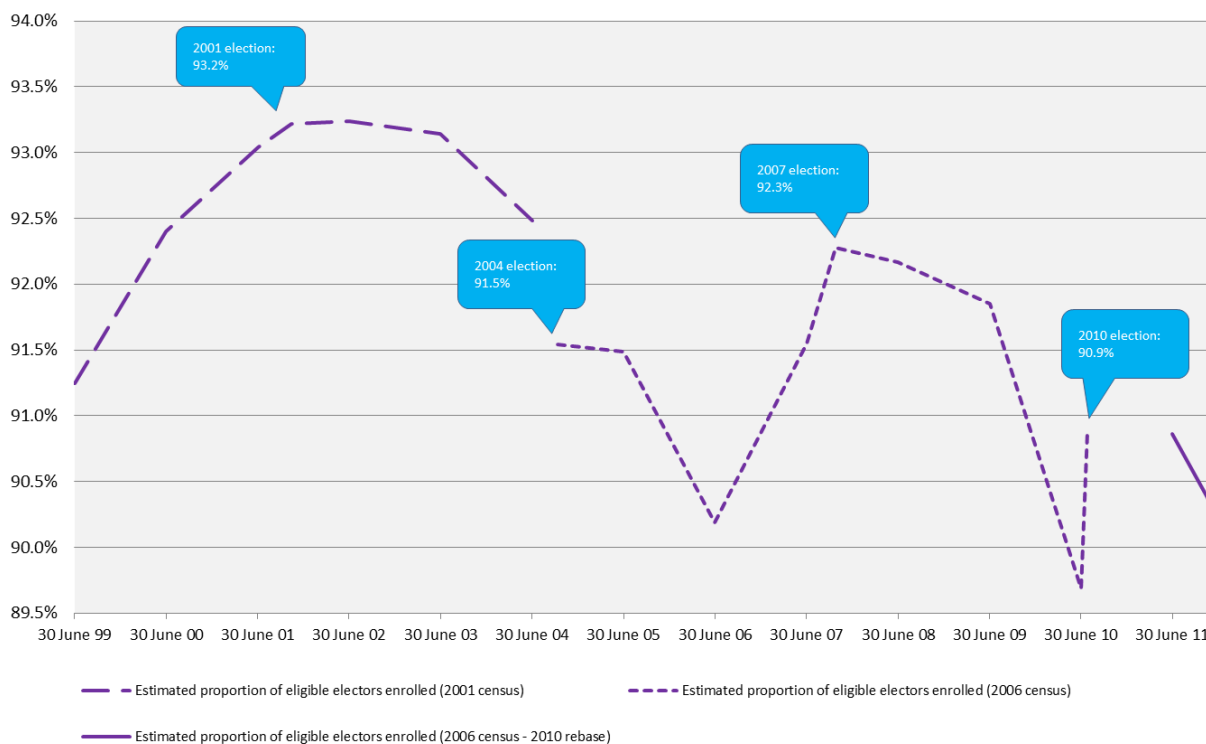


2.2 Figure 2.2 shows that the percentage of enrolled electors as a proportion of those eligible has been in general decline since the 2001 election, with the exception of the 2007 election. The estimated enrolment participation rate at 31 December 2011 of 90.2 per cent of the eligible population is particularly concerning given that:

- it sits near the bottom of any recently recorded measure of enrolment participation; and
- the problem of non-enrolment extends beyond an asserted 'disengaged youth' issue:
  - enrolment rates do not reach 90 per cent until electors reach 40 years of age; and

- the AEC's (whole-of-population) target of 95 per cent enrolment is not met until electors reach mid to late fifties.

**Figure 2.2 – Estimated proportion of eligible electors enrolled, 1999-2011**



## Roll management

2.3 The electoral roll is continuously maintained and updated. A continuously updated roll meets the legitimate expectation of stakeholders that the electoral roll should be as accurate and complete as possible at all times. This expectation reflects that the electoral roll is:

- fundamental to the conduct of federal elections, the date of which is unknown until such time it is announced; and
- jointly managed for use in State, Territory and local government elections, which are held on an ongoing basis (in 2010-11 the AEC administered over 50 roll closes).<sup>6</sup>

2.4 One of the key benefits of a continuously updated roll, where accuracy and completeness are maintained, is that it obviates the need for significant resources to be dedicated to a national enrolment drive that precedes the anticipated announcement of an election and immediately following the announcement of an election.

<sup>6</sup> AEC, *Annual Report 2010-11*, p. 42.

- 2.5 Despite electoral legislation obliging eligible persons to enrol and maintain enrolment at their permanent address, many eligible persons do not enrol or update their enrolment details in a timely manner.<sup>7</sup> To encourage enrolment the AEC uses a mix of activities and strategies to facilitate enrolment by different groups of electors.<sup>8</sup>
- 2.6 The Electoral Act also obliges the AEC to undertake periodic reviews of the electoral roll. Up until 1999, periodic large-scale door to door canvassing, known as ‘habitation’, or ‘electoral roll’ reviews were relied on to fulfil this obligation.
- 2.7 In its September 1992 report titled *The conduct of federal elections – New boundaries for cooperation*, JSCEM noted that ‘there appears to be a general consensus that the habitation process has to be improved’. It subsequently recommended that ‘consideration of alternatives to habitation reviews be undertaken by the proposed Australian Joint Roll Council’.<sup>9</sup> In 1995 the then Australian Joint Roll Council (now the Electoral Council of Australia) commissioned a report into alternative electoral roll review methods. The report observed that:

The current method of roll maintenance using Habitation Reviews, which has been used successfully for many years, is now less able to meet the needs of the electoral process, because:

- the Roll is never up to date Australia wide;
- the management of this large manual process becomes more difficult each year;
- 60% to 80% of elector information gathered is already known;
- the Roll does not meet all State and Federal electoral calendars.

The cost of conducting Habitation Reviews at \$15 - \$16 million every two years, is high in relation to what is produced.<sup>10</sup>

The report subsequently recommended that ‘the current primary method of roll maintenance, a Habitation Review [...], should be replaced by a new Continuous Roll Update process to provide higher roll integrity, with a more accurate, timely

<sup>7</sup> Some conclusions of research commissioned by the AEC examining the triggers for enrolment in those aged 18-39 years are contained in AEC, *AEC Annual Report 2010-11*, p. 40.

<sup>8</sup> Activities undertaken include (but are not limited to): *direct mail and fieldwork* - a program of monthly mailings and periodic fieldwork; *collaboration* - with commonly used government agencies to provide access to enrolment forms, *advertising* - particularly following the close of rolls; *outreach* - visits to schools and community groups, and attendance at citizenship ceremonies; *research* – into enrolment ‘triggers’, and elector information and communication requirements; and *advice* - information and analysis provided to JSCEM in respect of enrolment activities and processes.

<sup>9</sup> Joint Standing Committee on Electoral Matters, *The Conduct of Elections: New Boundaries for Cooperation*, September 1992, p. 180.

<sup>10</sup> Australian Joint Roll Council, *Electoral Roll Review Alternatives*, Australian Strategic Planning, April 1996, p. 1.

and cost effective method of roll maintenance.<sup>11</sup> In late 1995 the then Government acted, by amending section 92 of the Electoral Act, to provide the AEC with greater flexibility in the way it reviewed the roll, which included allowing the AEC to review the roll by means other than the traditional 'habitation' reviews.

- 2.8 The most significant method now used by the AEC to actively review the roll and encourage enrolment is the mail based 'Continuous Roll Update' (CRU) program, introduced in 1999. The core of the program is regular mail reviews, in which the AEC conducts large mail-outs to specific electors and to specific addresses where it believes eligible persons who are not on the electoral roll or not correctly enrolled reside. The mail reviews are, in some cases, supplemented by targeted field work. Follow-up activity aimed at people who have not responded to an initial mail-out, is also conducted.
- 2.9 The introduction of the CRU program represented a significant advance in the AEC's ability to maintain an accurate, complete roll of entitled persons.<sup>12</sup> CRU achieved this by enabling the AEC to gather and act on up-to-date data for enrolment activities on a continuous basis.
- 2.10 CRU processes and practice have been consistently refined and developed over time in an effort to improve outcomes. In general terms, response rates of between 15 and 20 per cent<sup>13</sup> have been recorded for CRU monthly mailouts that occur in periods where there are no major electoral events.<sup>14</sup>

### CRU data matching process

- 2.11 Over the last decade the AEC's CRU program has come to rely on large and regular volumes of change of address information obtained from data provided by Centrelink, state and territory motor registry (more recently via the National Exchange of Vehicle and Driver Information System), and Australia Post. The process of CRU data matching operates as follows:
- data is matched against AEC enrolment records to establish whether or not a person is enrolled;

<sup>11</sup> *ibid.*, p. 3.

<sup>12</sup> The ANAO's 2002 Audit Report concluded that 'the CRU methodology is an effective means of managing the electoral roll and is capable of providing a roll that is highly accurate, complete and valid'. See ANAO, 2002, *op. cit.*, p. 41.

<sup>13</sup> Enrolment response rates to CRU mail can also vary based on the type of data that is included. Typically, the highest response rates are reported for data sets that are more likely to include electors who are already on the electoral roll, thereby resulting in a high proportion of enrolment transactions representing enrolment updates to a different address rather than enrolment growth.

<sup>14</sup> Enrolment response rates based on CRU address attribution for standard monthly mailing from 2005 to 2010 was provided in Figure 3.6 of AEC, submission 87 to JSCEM, Inquiry into the 2010 federal election, p.38.



- data relating to specific categories of electors is excluded, e.g. silent electors, Members of Parliament, eligible overseas electors (and their kin), Antarctic electors, itinerant electors, and prisoners;
- date of enrolment is compared against the currency of the data record supplied by the third party to determine further action;
- address data is matched against the AEC address register to establish whether or not an address is valid for enrolment purposes; and
  - addresses with no mail service are excluded where no postal address is provided.

## Building on CRU

- 2.12 It has been apparent for some time that the CRU program, as the major method of generating enrolment, is not without some shortcomings, including that:
- the unit costs of each CRU enrolment have risen significantly – ANAO concluded that in the period from 2000-01 to 2004-05 (inclusive) costs rose by almost nine per cent annually;<sup>15</sup>
  - it still requires an elector to take action following CRU contact to have his or her enrolment changed;
  - some electors find it confusing that although the AEC clearly already knows their new addresses, they are not enrolled correctly and need to fill out, sign and return the enrolment form.<sup>16</sup>
- 2.13 In addition, it has been suggested that the existing arrangements to enrol and maintain the roll:
- impose unreasonably on electors when compared with the requirements of the objection process (which is used to remove an elector from the roll); and
  - are out of step with the reasonable expectation of the community about conducting business with government.

These aspects are discussed briefly below.

## Objection process

- 2.14 The grounds for objection action are outlined in section 114 of the Electoral Act. One of these grounds requires the AEC to initiate an objection when there are reasonable grounds for believing that a person does not live at an address, and has not lived at that address for one month. Objections on this basis are most commonly triggered by CRU mailing based on third party data. Where such mail is

<sup>15</sup> ANAO, *Audit Report No.28 2009-10 The Australian Electoral Commission's Preparation for and Conduct of the 2007 Federal General Election*, 2010, p. 78.

<sup>16</sup> For example, see AEC, submission no. 169 to JSCEM, *Inquiry into the 2007 federal election*, p. 76 and AEC, submission no. 87 to JSCEM, *Inquiry into the 2010 federal election*, pp. 54-55.

returned to sender or where responses indicate or information is received that electors have left that address, the grounds for objection action are created.

- 2.15 An objection process involves notifying an elector by letter of the AEC's intention to remove them from the electoral roll. Where an elector does not respond to this notice, the person may be removed from the roll 21 days after the giving of the notice.<sup>17</sup> In this case, non-action from the elector will see them removed from the roll.
- 2.16 By comparison, current processes relating to update of enrolment details require action of an elector to obtain an enrolment application, to complete the application, and to return the application to the AEC. As a consequence, these arrangements have been described as 'lopsided', with the effect that more people are being taken off the roll than are being put back on.<sup>18</sup> The situation now exists that qualified persons may be ultimately objected off the roll by the AEC based on reliable information, but there is no corresponding power that allows the AEC to update the details of eligible persons based on that same information.
- 2.17 People objected off the roll, or people attempting to vote for an address they are not enrolled for will not necessarily understand the impact that this may have on their ability to cast a vote that is counted. At the 2010 federal election over 280 000 pre-poll, absent and provisional votes were fully or partially rejected because the persons casting the vote were not enrolled or not enrolled correctly. It is not unreasonable to suggest that a proportion of these individuals were otherwise qualified persons who were effectively disenfranchised by prescriptive legislative requirements that they did not clearly understand.

### **Evolving community expectations**

- 2.18 It is evident that the manner in which the community expects to interact with the AEC to enrol or maintain enrolment is changing. In 2010-11 the AEC's online enrolment application form replaced the (paper) enrolment applications sent out with mail review as the AEC's primary source of enrolment transactions.<sup>19</sup> In this period, 500 616 enrolment applications provided to the AEC were sourced from the AEC's online application, 440 792 of which related to changes in enrolment. The shift to internet sourced enrolment forms is explained, in part, by changes to legislation, changes to CRU practice and the relative ease of completing the AEC's online enrolment application form.

<sup>17</sup> In practice, where the AEC is aware of an elector's new address, additional attempts are made to contact the elector and obtain an enrolment application.

<sup>18</sup> Peter Brent and Simon Jackman, 'A Shrinking Australian electoral roll?' *Discussion Paper 11/07*, Democratic Audit of Australia, June 2007.

<sup>19</sup> AEC, *Annual Report 2010-11*, p. 35.

- 2.19 The change is also explained, in part, by elector preferences. In 2009–10 the AEC commissioned quantitative and qualitative research to identify ‘enrolment triggers’ among 18–39-year-olds, examine whether those triggers change as people move through different life stages, and provide insight into what short- and long-term strategies need to be employed to improve the participation rate of this age group. One of the findings of the enrolment triggers research was that 53 per cent of those surveyed said their preferred method for updating their enrolment details after moving would be ‘by updating your address details online at the AEC website.’<sup>20</sup>
- 2.20 The AEC expects that direct update of enrolment would also meet the preferences of many in the community. Research conducted by the Privacy Commissioner suggests that the community has a reasonable expectation that personal data is shared between Government agencies and will be used for their benefit. The then Office of the Privacy Commissioner<sup>21</sup> completed research studies about community attitudes to privacy in 2001, 2004, and 2007. In *Community Attitudes to Privacy 2007*, the Privacy Commissioner reported, ‘Support for Government departments being able to cross reference or share information has increased from 71% in 2004 to 80%’.<sup>22</sup> The report also notes:
- There has been a slight increase, to 36%, of respondents who have decided not to deal with a business or charity because of concerns over the way that organisation might handle their personal information. The proportion that has avoided Government departments on the same grounds (12%) is lower than when measured in 2004 (16%).<sup>23</sup>
- 2.21 Support for direct update was evident in the findings of the enrolment triggers research: nearly 80 per cent of participants thought that when changes of personal details are reported to a government department or agency, that should result in their details being updated on the electoral roll.<sup>24</sup>

## Maintaining the roll in other jurisdictions

- 2.22 The practice of using government and third party data sources to compile and maintain voter lists is commonplace, occurring in domestic and international jurisdictions.

<sup>20</sup> AEC, *Annual Report 2010-11*, p. 40.

<sup>21</sup> Now the Office of the Australian Information Commissioner.

<sup>22</sup> Wallis Consulting Group Pty Ltd, *Office of the Privacy Commissioner Australia: Community Attitudes to Privacy 2007*, August 2007, p. ii.

<sup>23</sup> *ibid.*

<sup>24</sup> As per footnote 6, a fuller list of findings may be found in AEC, *Annual Report 2010-11*, p. 40.

## Australia

2.23 Compilation of the State rolls in Victoria (VIC) and New South Wales (NSW), following commencement of legislation in August 2010 and September 2010 respectively, is now being supplemented by direct enrolment methods. Respective legislation provides authority to the Electoral Commission (VIC) and the Electoral Commissioner (NSW) to commence enrolment action in respect of a person, if it is considered that a person is entitled to be enrolled but has not enrolled or is not correctly enrolled.<sup>25</sup> Data used in these programs to date has been sourced from education, traffic and revenue authorities.

2.24 In its report on the conduct of the NSW State election, the New South Wales Electoral Commission (NSWEC) has reported that:

- 25 per cent of those who had their enrolment details directly updated said that they would probably not have updated their enrolment details themselves;
- less than 2 per cent of individuals notified of the NSWEC proposal to place them on the roll disagreed; and
- most of those who disagreed did so because of errors in data or changes in their circumstances;
- less than 0.1 per cent of people objected to the NSWEC using data they had provided to other government agencies.<sup>26</sup>

## Canada

2.25 The National Register of Electors (NRE) is a database of Canadian electors used to compile the list of electors for federal elections, by-elections and referendums in Canada. Registration is not compulsory, but over 90 per cent of Canadians are registered.<sup>27</sup> The NRE is maintained by a mix of direct enrolment and direct address update processes with data obtained from federal and provincial government agencies, including those noted below.<sup>28</sup>

<sup>25</sup> The AEC has most recently advised JSCEM of the NSW and Victorian arrangements in AEC, submission no. 87 to JSCEM, *Inquiry into the 2010 federal election*, pp. 45-51; submission no. 87.5 to JSCEM, *Inquiry into the 2010 federal election*, pp. 3-4.

<sup>26</sup> NSW Electoral Commission (NSWEC), *Report on the Conduct of the NSW State Election 2011*, pp. 86-88.

<sup>27</sup> Elections Canada have reported that '[t]he preliminary lists for the 41st general election included 93 percent of Canadian electors, and 84 percent of electors were listed at the correct residential address.' Elections Canada, *Report of the Chief Electoral Officer of Canada on the 41st general election of May 2, 2011*, 2011, p. 28, available at:

[http://www.elections.ca/res/rep/off/sta\\_2011/stat\\_report2011\\_e.pdf](http://www.elections.ca/res/rep/off/sta_2011/stat_report2011_e.pdf)

<sup>28</sup> Elections Canada, 'Description of the National Register of Electors,' accessed 17 January 2012, available at:

<http://www.elections.ca/content.aspx?section=vot&dir=reg/des&document=index&lang=e>.















