



# Candidate Information Session

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8 May 2024



# TODAY'S SESSION

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- ICAC and Local Government – *Giselle Tocher, Principal Officer Corruption Prevention, ICAC*
- The Ballot paper, grouping, preferences, proportional representation etc (including a short history of past WSC elections) – *Ben Raue, The Tally Room*
- *Councillor Gordon Bradbery AM, City of Wollongong Lord Mayor*
- Lessons from the Public Inquiry – *David Parish, Counsel Assisting the Public Inquiry*

# ICAC & Local Government

Presenter: Giselle Tocher



I·C·A·C

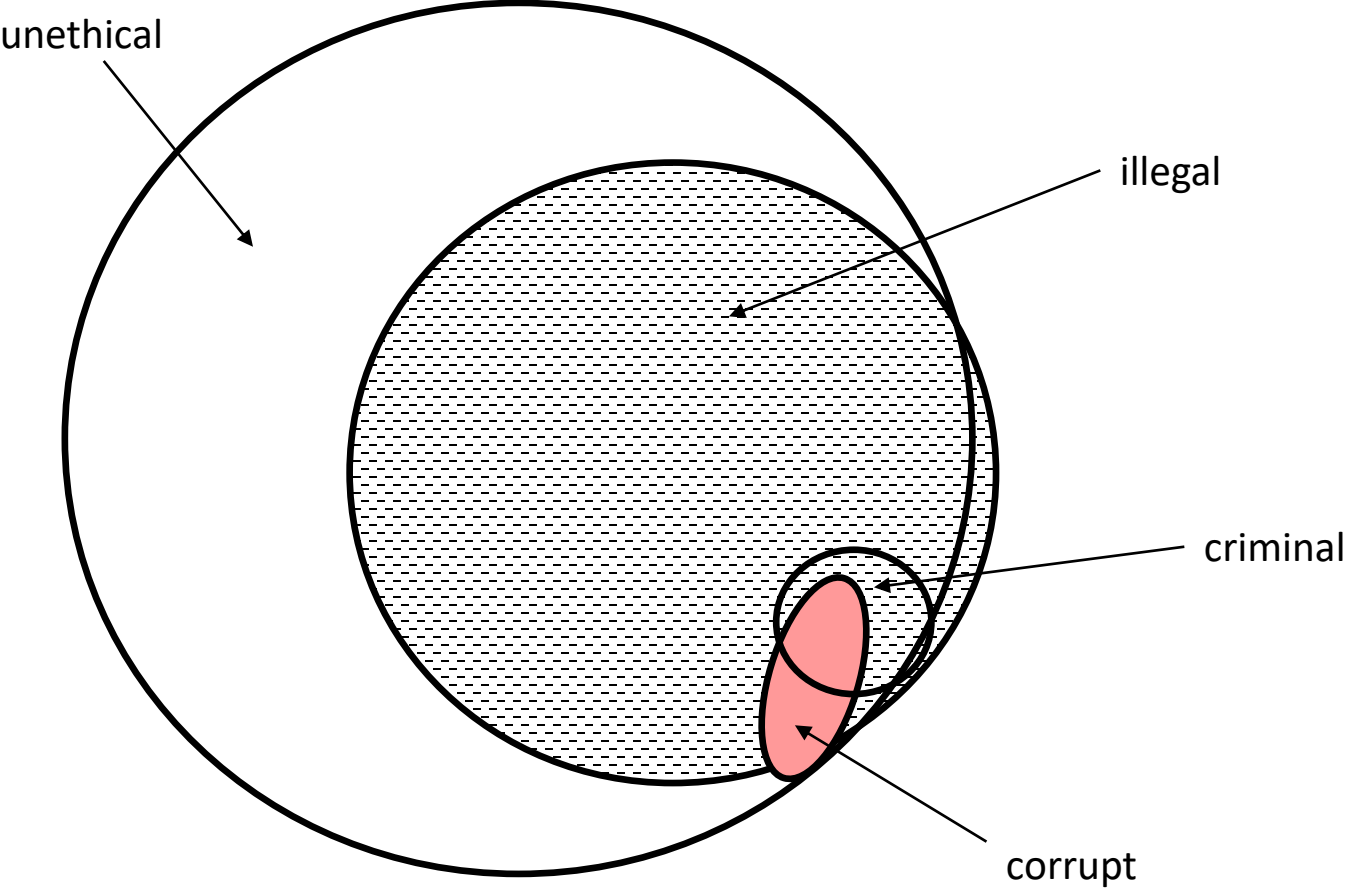
INDEPENDENT COMMISSION  
AGAINST CORRUPTION  
NEW SOUTH WALES



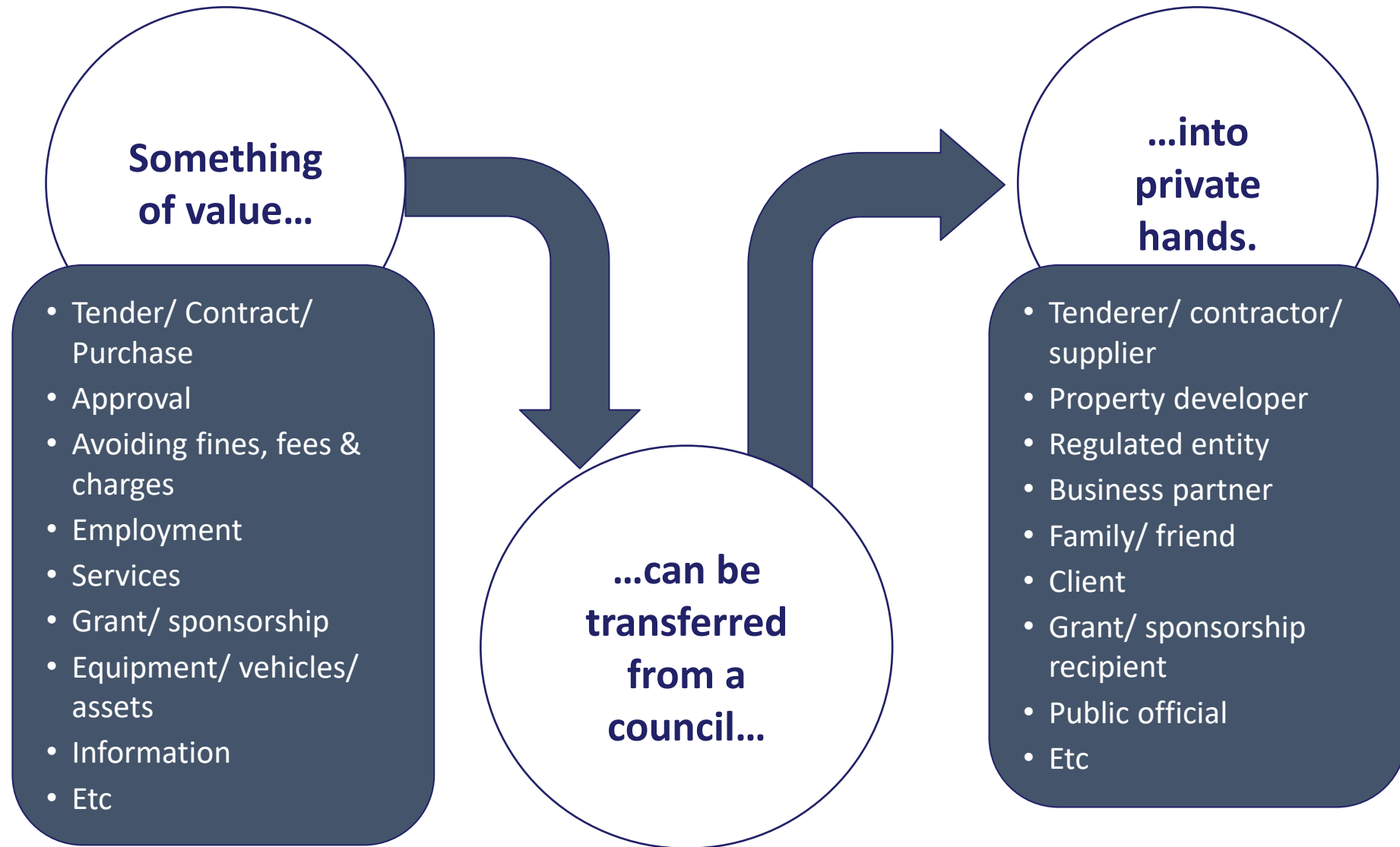
# ICAC and Local Government

**Giselle Tocher**  
**Principal Corruption Prevention Officer**

# Types of misconduct



# Corruption usually happens where...



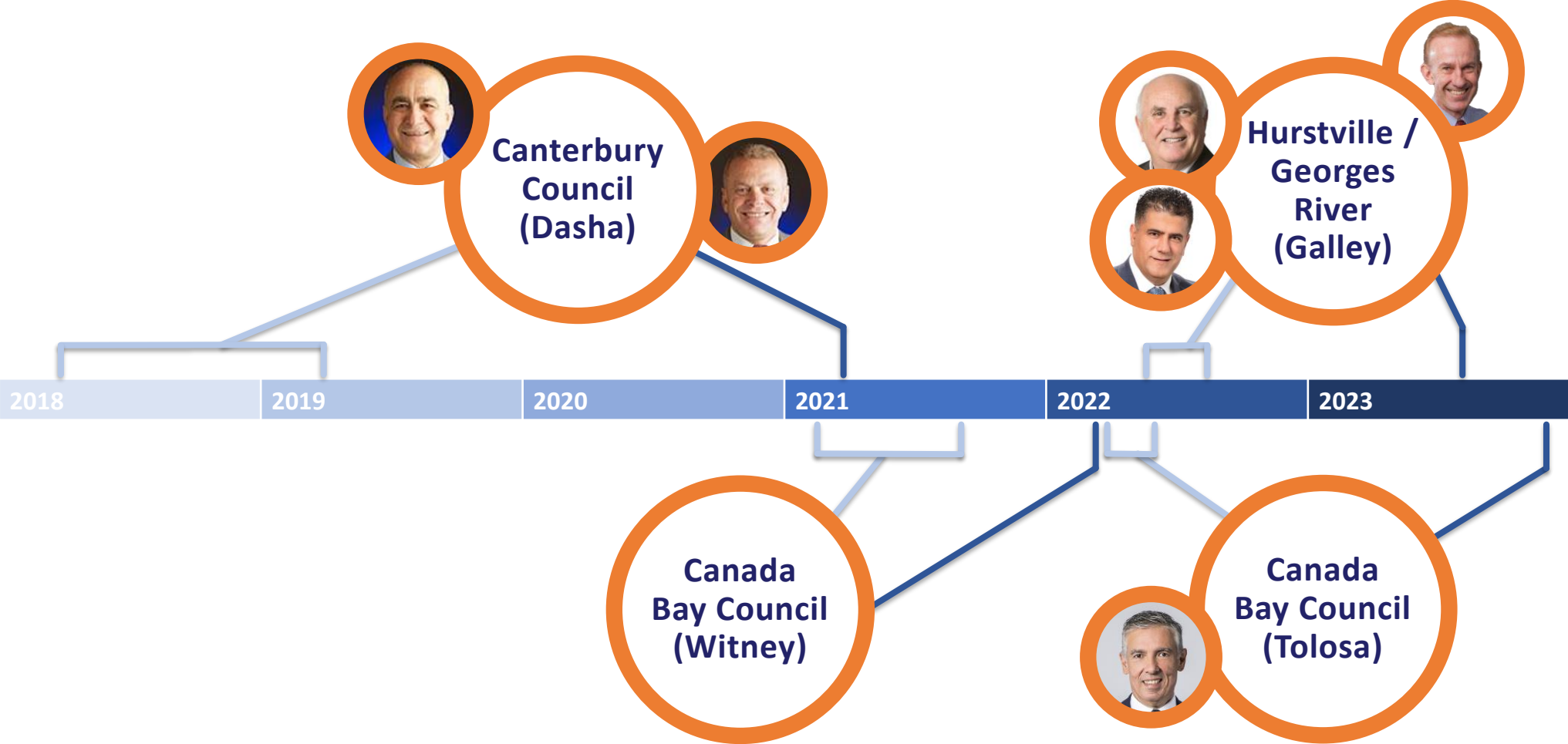
# Corrupt acts are deliberate acts and must be serious (but not necessarily criminal)

- Must be **intent** to act corruptly or improperly
- Corrupt conduct includes:
  - Dishonest or partial exercise of functions
  - Breach of public trust
  - Misuse of information or material
- Conduct is only corrupt if it could constitute or involve:
  - Criminal offence, **or**
  - Disciplinary offence, **or**
  - Reasonable grounds for dismissal, **or**
  - Substantial breach of code of conduct (for councillors)



What is corruption?

# Local councils & recent investigations





# Areas of vulnerability for councillors

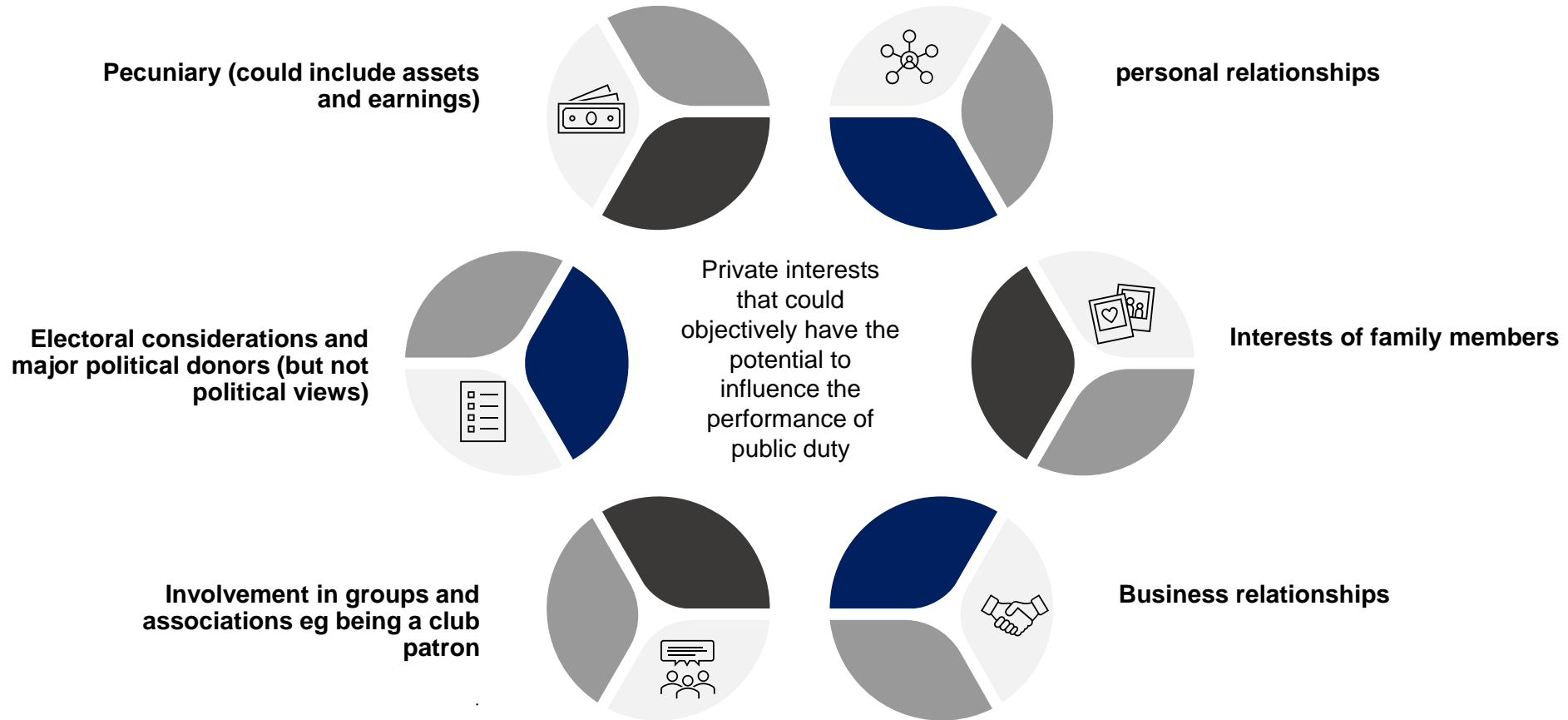
- Conflicts of interest
- Lobbying (especially planning matters)
- Misuse of public office and resources
- Confidential information
- Tendering and dealing with current contractors
- Relationships with staff
- Gifts, benefits and hospitality

# Disclosing conflicts of interests

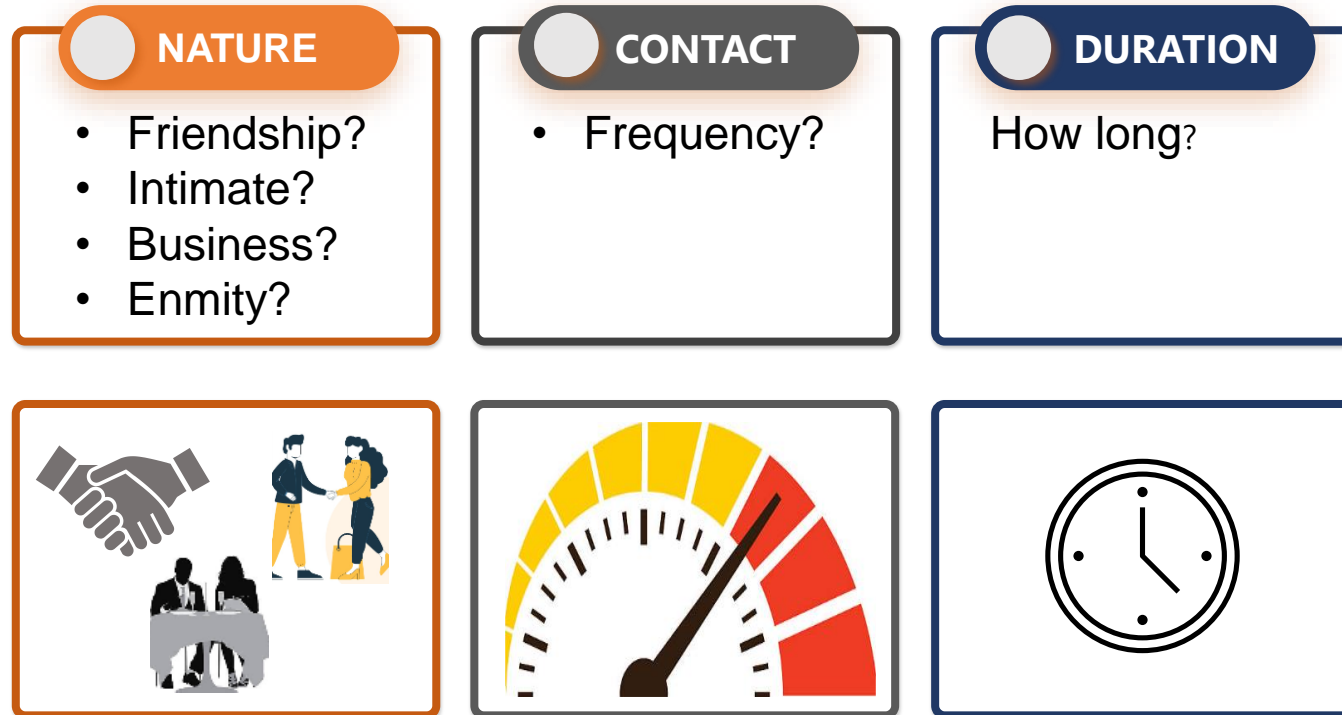


A conflict of interest exists where a reasonable person might perceive that a public official's personal interests(s) could be favoured over their public duties (ICAC definition)

# Some sources of private interests



# Examining personal relationships and significant non pecuniary conflicts of interest: How close?



# Electoral considerations as a private interest: Op Jersey

“A minister [or councillor] may legitimately harbour a hope or expectation of some political advantage flowing from their exercise of public power. But they may only legitimately do so if that hope or expectation is in the nature of a “side wind” and not the dominating motivation for the exercise of public power in a manner inconsistent with the public purpose for which that power was granted.”

Op Jersey, p. 7

- The “public interest” is multi-faceted and councillors are entitled to disagree with staff advice.

# Electoral considerations as a private interest: Westminster City Council

## Context

- Decision made to sell 500 council houses
- Houses sold for less than market value
- Loss of about £45 million
- Conferral of electoral advantage



## Findings

Found to be wilful  
misconduct

# Common probity concerns with conflicts of interest

- People don't always disclose:
  - They don't recognise they have a conflict
  - They think they can rise above it
  - It's nobody else's business
  - Corrupt people hide their conflicts
- People are tempted to under disclose a conflict
- Watch out for social media

# Lobbying

- Greatest risk lies with those who stand to gain from a discretionary decision
- Lobbying covers a wide range of activities
- Various examples of poor practice eg Ops Dasha and Witney
- Common in planning matters
- Dealing with existing contractors and potential contractors
  - Do not allow lobbying outside of a formal tender process

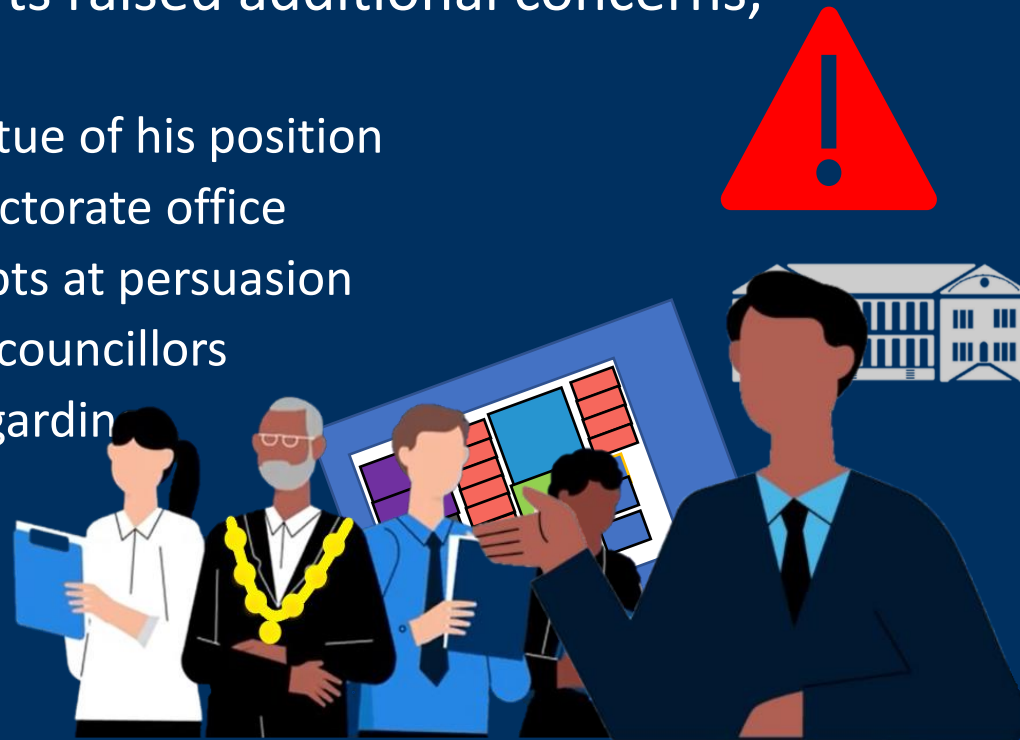




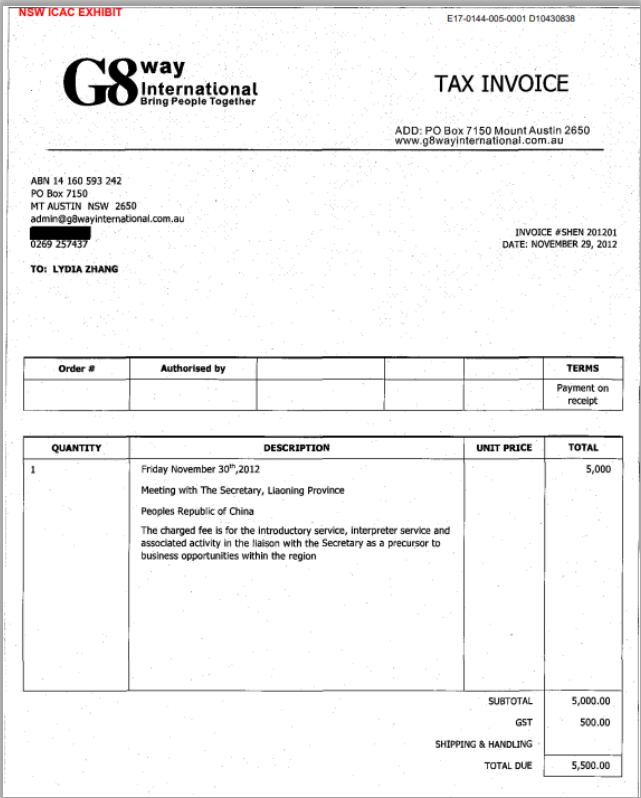
# Lobbying: Op Witney

The investigation made serious corrupt conduct findings that an MP used his official position to try to improperly influence party affiliated councillors regarding planning decisions

- The MP failed to disclose his family's private interests
- The MP's lobbying efforts raised additional concerns, including his:
  - excessive contact by virtue of his position
  - meetings held in his electorate office
  - at times forceful attempts at persuasion
  - attempt to instruct the councillors
  - lack of transparency regarding his lobbying material



# Misuse of public office and resources: Op Keppel



Extract of Op Keppel Exhibit 125

## Finding

Daryl Maguire leveraged his public office as an elected official and charged a fee for introducing a visiting delegation to then premier Mr O'Farrell at Parliament House.

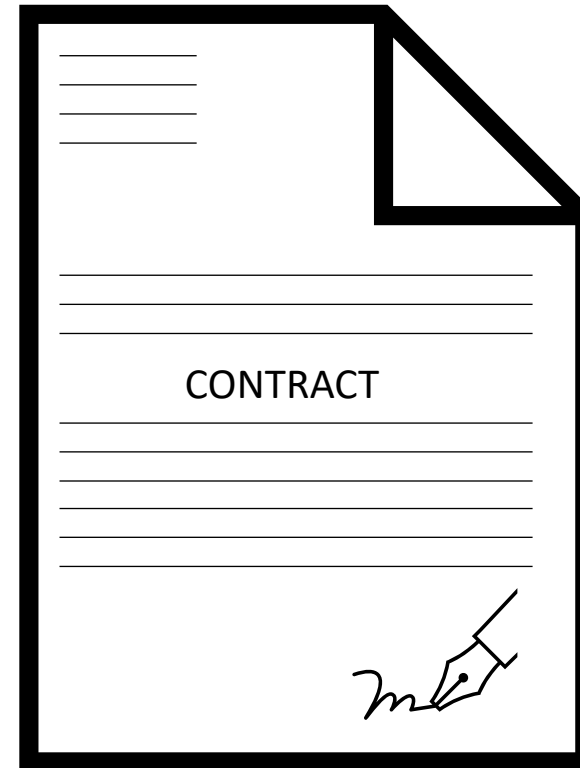
Op Keppel report para 4.392.7

# Confidential information

- Unauthorised release or use of confidential information might constitute corrupt conduct
- Be cautious in dealing with confidential information, for eg:
  - If meeting with community members
  - When seeking business opportunities outside of Council
  - When interacting with family and friends

# Tendering and dealing with current contractors

- When considering tenders:
  - Probity principles are important
  - Consider legal obligations
- Watch out for:
  - Relationships
  - Communications outside of official processes
  - Perceptions
  - Dealing with current contractors



# Relationships with staff



# The appointment of Mr Stavis: Op Dasha

## Context:

Councillors misused their position to inappropriately pressure a GM to appoint a Director of Planning



## Findings :

Partial conduct, breach of public trust and referral to DPP re blackmail and misconduct in public office

# Gifts, benefits and hospitality

- Gifts and benefits are a danger for public officials
- Follow your Code of Conduct (based on the Model Code)
- Do not accept gifts/benefits that create a sense of obligation or may be perceived as intended or likely to influence you
- Never accept cash
- Repeated attention and giving helps establish relationships
- Disclose

Discussion, thoughts and questions





# The Ballot Paper

Presenter: Ben Raue



# The ballot paper and preferences in NSW council elections

Ben Raue



# Groups of candidates

- Candidates can nominate on their own, or as part of a group.
- Group must have 5 candidates in Wingecarribee to get above-the-line box
- Grouped candidates are in an order.
- Some small councils don't use groups, but once they do, most candidates run in groups.
- In 2016, all but one councillor on Wingecarribee was in a group.

# “Support candidates”

- In most cases, a group will only have a chance of electing one candidate.
- In 2016, only one group elected a second candidate.
- 5 candidates are needed for a box above the line.
- They have all of the same regulatory obligations, but in practice cannot win.
- A countback would elect the next candidate.

# Above or below the line

- Voters can either vote for groups (above the line) or individual candidates (below the line)
- An above-the-line vote flows to all of the candidates in group order.
- Voter must mark 1 box above the line or 5 boxes below the line for a vote to be formal.
- You cannot vote both above and below the line
- Ungrouped candidates cannot receive above-the-line votes

Group with no group voting square

Group voting squares

Ungrouped candidates

You may vote in one of two ways:

either

Place the number "1" in the square above the group of candidates for whom you wish to vote. If you wish to vote for additional candidates, place consecutive numbers beginning with the number "2" in the squares above the additional groups of candidates in order of your preferences for them.

or

Place the numbers "1" and "2" in the squares opposite the names of 2 candidates in the order of your preference for them. If you wish to vote for additional candidates, place consecutive numbers beginning with the number "3" in the squares opposite the names of those additional candidates in order of your preferences for them.

Fold this ballot paper so your vote cannot be seen and place it in the ballot box (or in the envelope provided).



## ELECTION OF 4 COUNCILLORS Inner West Marrickville - Midjumburi (Lillypilly)

GROUP A

LABOR

GROUP C

LIBERAL

GROUP D

GROUP E

GROUP F

THE GREENS

GROUP A

- SMITH, John  
LABOR
- WHITE, Tony  
LABOR
- JONES, Sue  
LABOR
- WONG, Henry  
LABOR
- GRAY, Margaret  
LABOR
- BROWN, Michael  
LABOR

GROUP B

- WHITE, Sara
- BONE, Brandon

GROUP C

- GREY, Jenny  
LIBERAL
- ARJAL, David  
LIBERAL
- DESMOND, John  
LIBERAL
- BEIDE, Mary  
LIBERAL
- GREEN, Julie  
LIBERAL

GROUP D

- ORANGE, Greg  
Independent
- TAYLOR, Ray  
Independent
- PURPLE, Karen  
Independent
- LAVENDER, Tony  
Independent
- GREEN, Janice  
Independent
- LIME, John  
Independent

GROUP E

- SILVER, Jess
- BRONZE, Chris
- ROSE, Frances
- GOLD, Lewis

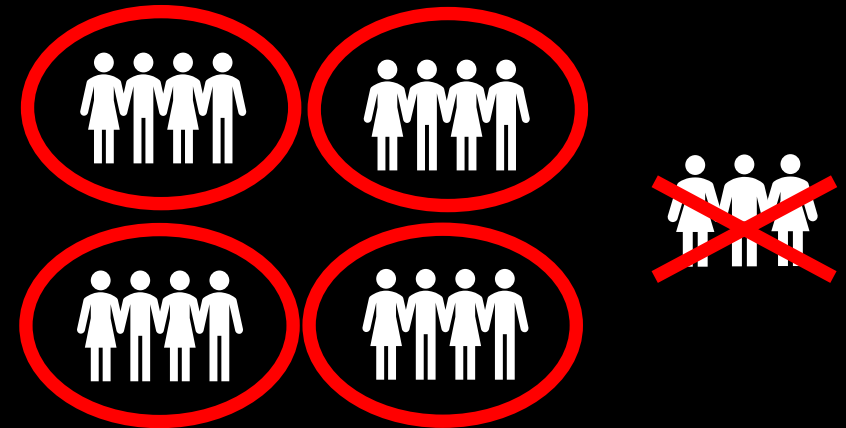
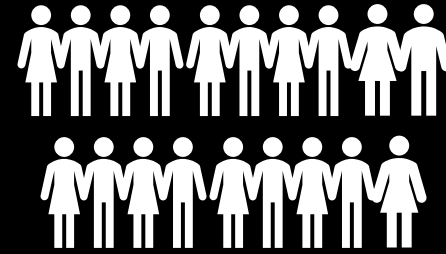
GROUP F

- PINK, Gill  
THE GREENS
- BURGENDY, Natasha  
THE GREENS
- DARK Blue, Greg  
THE GREENS
- HILL, Ian  
THE GREENS

- MORE, Julianne  
Independent
- ORANGE, Violet
- BLACK, Donna  
Independent
- MARR, Lisa  
Independent
- MUSHROOM, Ian  
Independent
- BLACK, Jack  
Independent

# What is a quota?

- The number of votes needed to be guaranteed to win a seat.
- Voters form groups amongst themselves through the ballot.
- Voters can prioritise geography, or other features of candidates.
- Where  $N$  = number of vacancies,  
Quota =  $1 / (N+1) + 1$





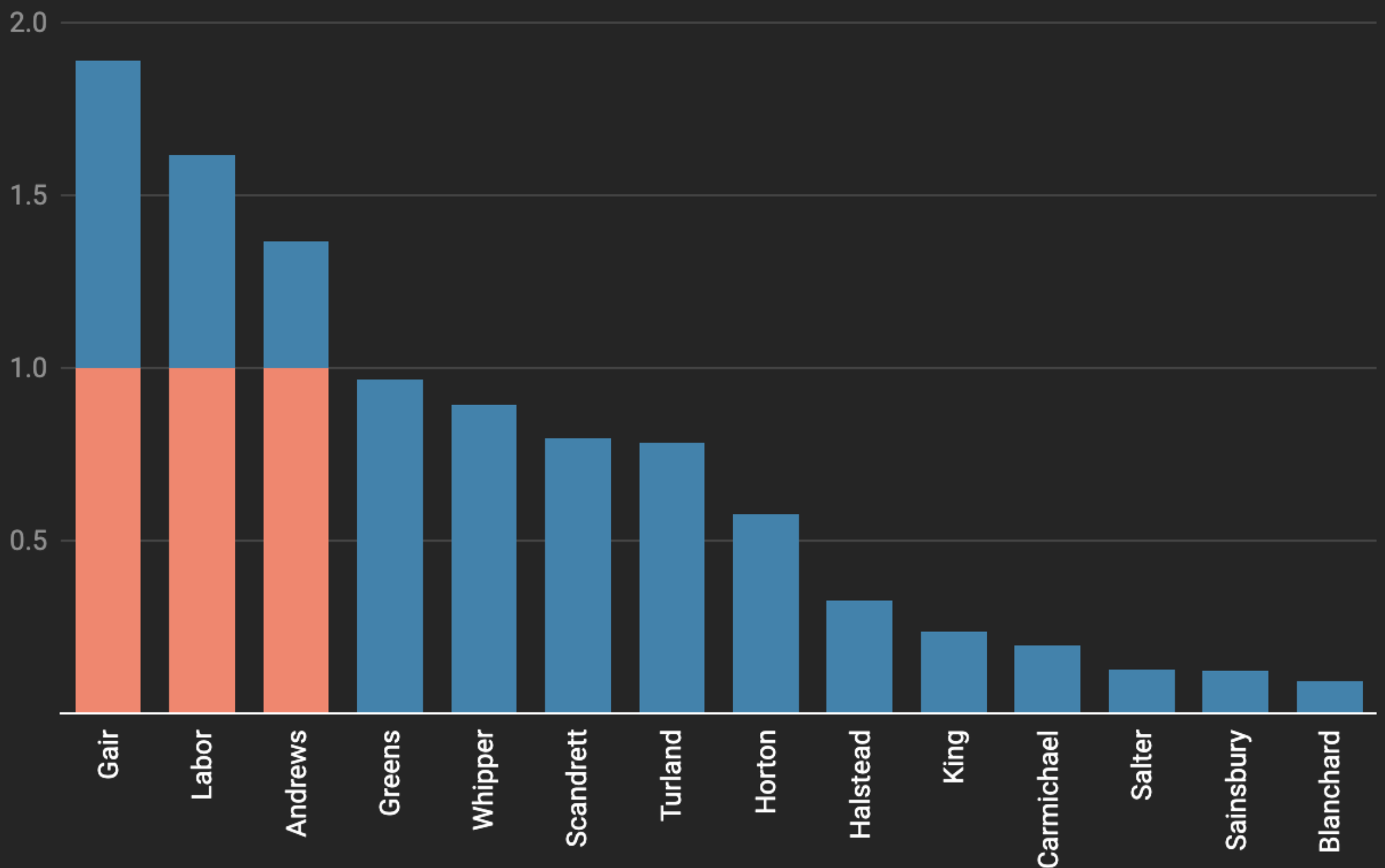
# A Wingecarribee quota

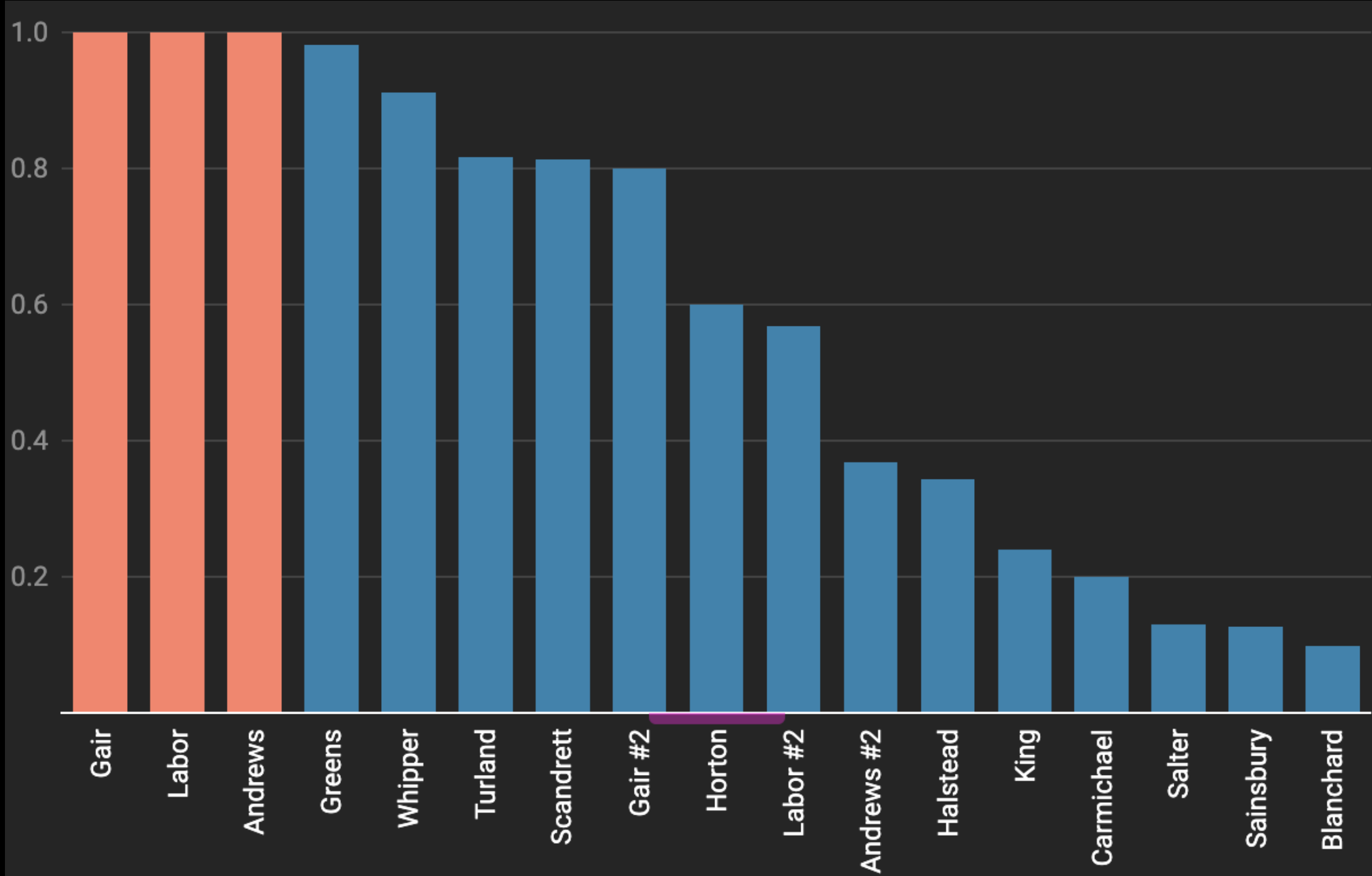
- When electing 9 councillors, the quota is  $1/10 + 1$  vote.
- If voters vote for councillors from their part of the council, it would ensure representatives from each town, but in practice voters choose for many different reasons.
- In 2016, the quota was 2,770 votes.
- In 2024, it is probably just over 3,000 votes.

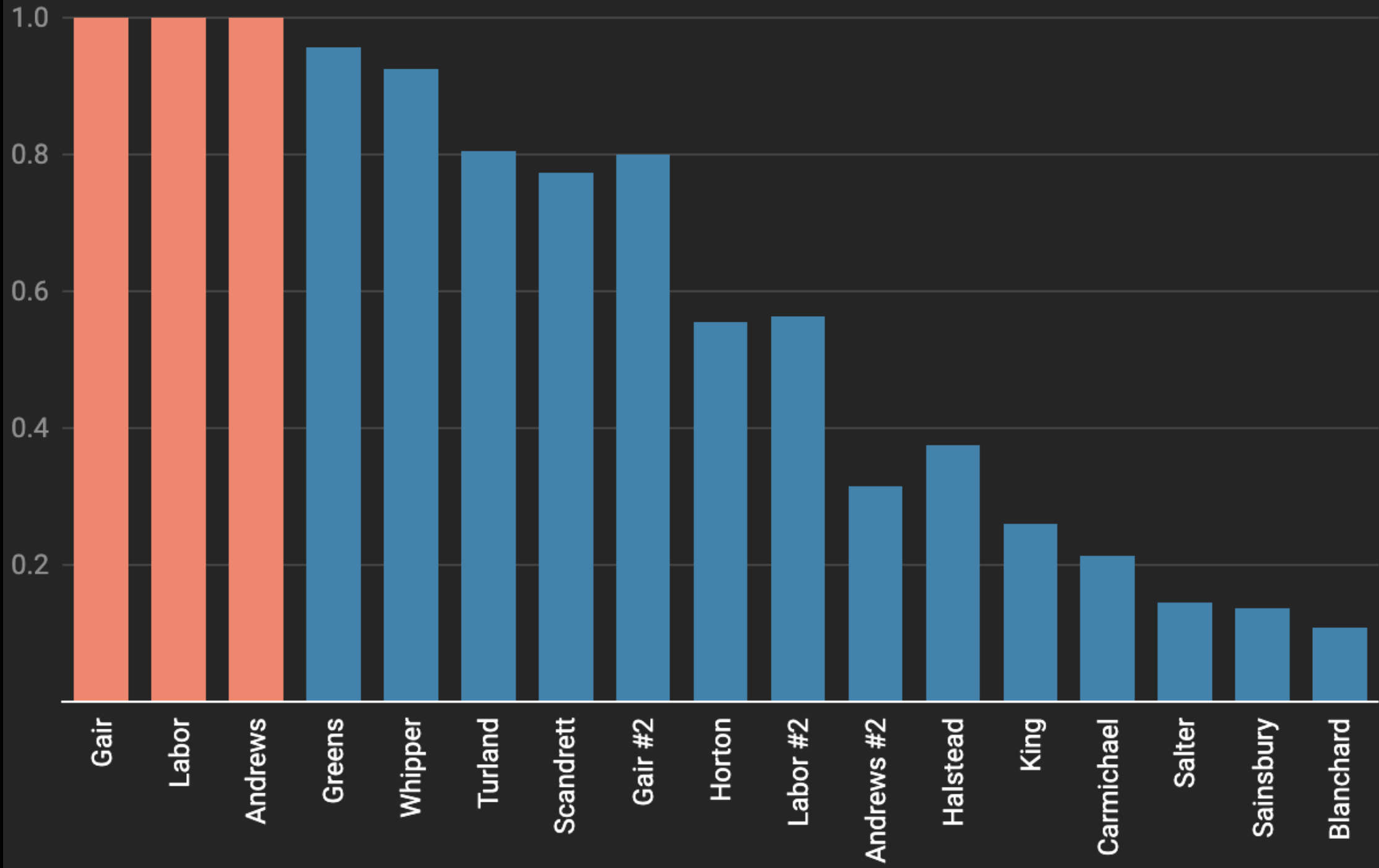
SA2	Quotas	Enrolment share
Bowral	2.6212	26.2%
Mittagong	2.0128	20.1%
Moss Vale - Berrima	2.0115	20.1%
Southern Highlands	1.3999	14.0%
Hill Top - Colo Vale	1.2416	12.4%
Robertson - Fitzroy Falls	0.7125	7.1%

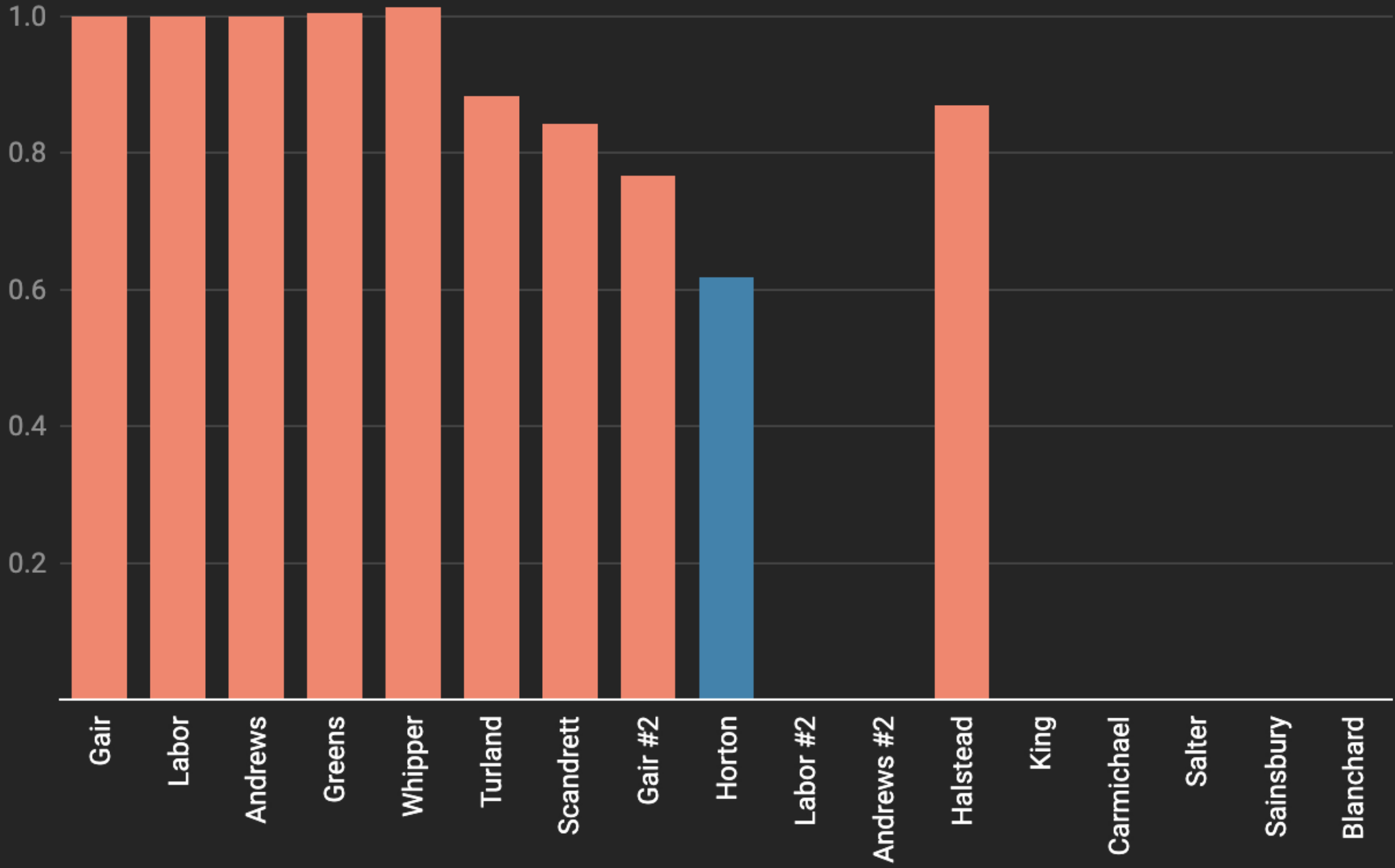
# Surplus and preferences

- If a candidate has more than a quota, the surplus is distributed to other candidates.
- Votes that have helped elect a candidate are distributed at a reduced value.
- Once there are no more surpluses, the candidate with the least votes is excluded, and votes are passed on.
- You keep going until you're left with the right number of candidates to fill the seats.







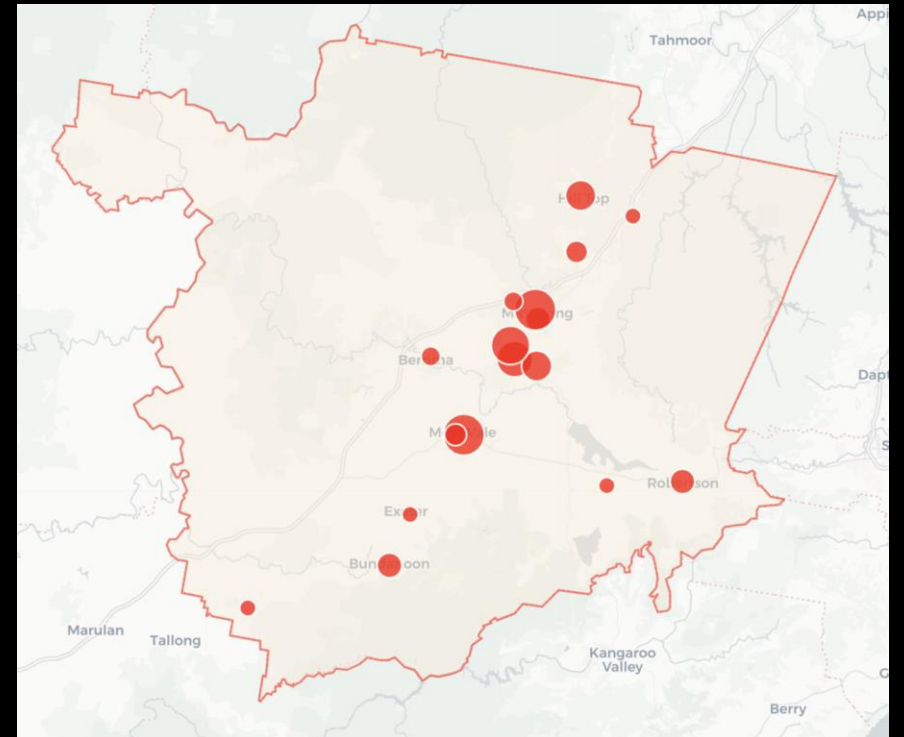


# Preferences and how-to-vote cards

- While voters can simply vote '1' above the line, they are free to number preferences for some or all other groups.
- If all of the candidates in your group of first preference have been elected or excluded, your vote may be “exhausted” if there are no further preferences.
- Preferences do make a difference in deciding the close seats.
- Groups are free to advise voters on where they send their preferences through a how to vote card (or similar information online)
- **Candidates do not control how preferences flow – only the voter**

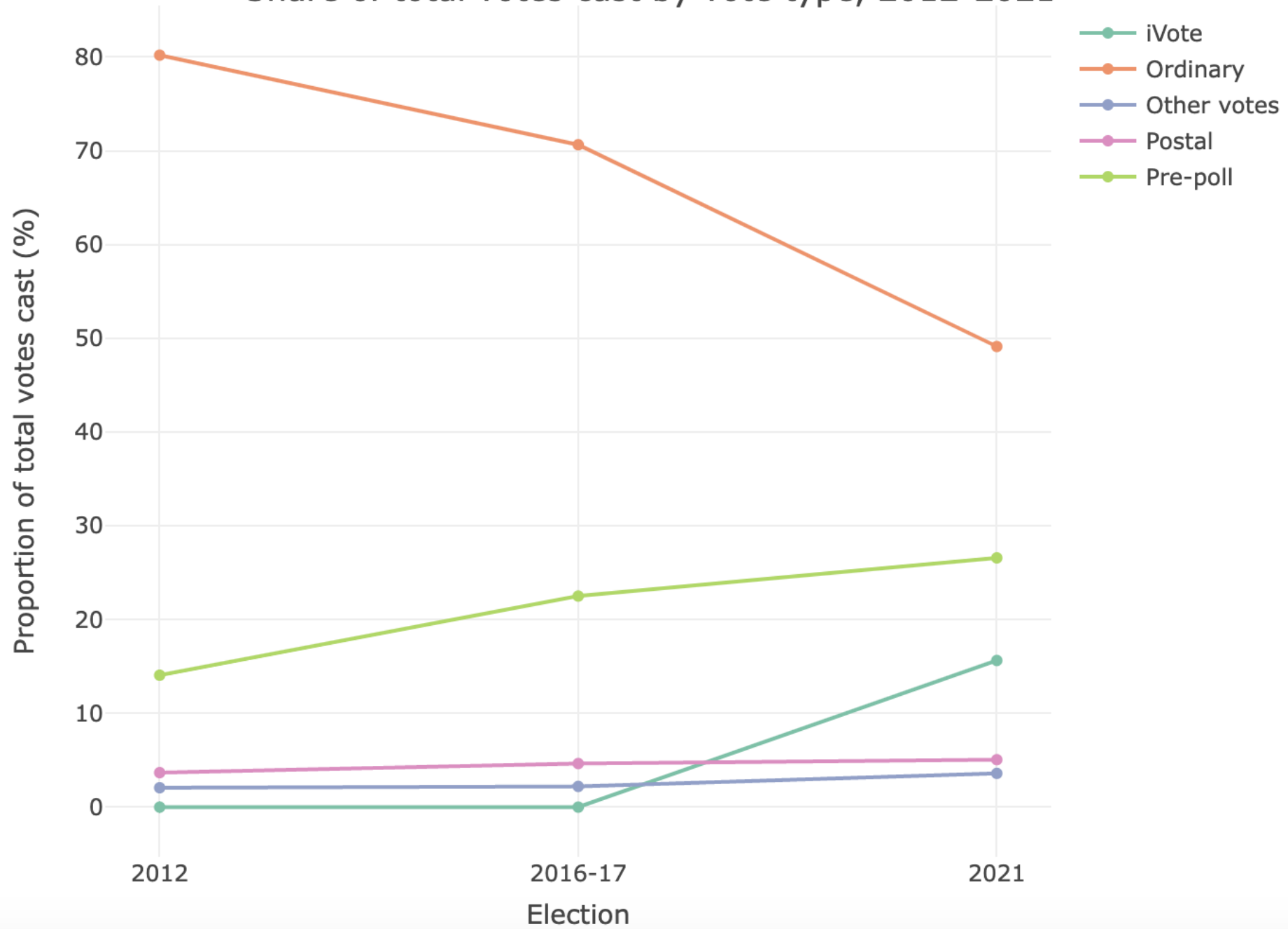
# Methods of voting

- Election day at a booth, Sep 14 – 17 polling places used in 2016.
- Pre-poll for one week at various centres
- Postal voting – must apply by Sep 9, and return postal vote by Sep 27
- Telephone – blind and low vision voters
- Declared institutions – hospitals, aged care etc
- **Internet voting is no longer available.**





Share of total votes cast by vote type, 2012-2021



Any questions?

# For more information

- [www.tallyroom.com.au](http://www.tallyroom.com.au)
- [elections.nsw.gov.au](http://elections.nsw.gov.au)

***BREAK***



Councillor Gordon Bradbery AM  
City of Wollongong Lord Mayor

# Mr David Parish

## Counsel Assisting the Wingecarribee Public Inquiry



# Questions?

**Further questions please email:  
[candidatesessions@wsc.nsw.gov.au](mailto:candidatesessions@wsc.nsw.gov.au)**