

# **Report of the Returning Officer**

## **Swinburne Student Union Annual Election**

**September 24-28, 2012**

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**Staffing**

Above Quota Elections Pty Ltd appointed Director Haydn Steel as Returning Officer (RO), with Charles Richardson Stephen Luntz and Goldie Pergl appointed as Deputy Returning Officers (DRO).

An Assistant Deputy Returning Officer Was appointed for the outer polling stations. This role was filled by AQE Senior Poll Clerk Andrew Butterworth. These appointments allowed the outer campuses to be staffed by a single poll clerk each, with the ADRO roaming between campuses, reducing the staffing cost of the election significantly.

Two poll clerks were provided at both Prahran.

**Ticket registration**

IN accordance with the regulations the following tickets were registered

<b>Ticket Name</b>	<b>Registering Officer/s</b>
NEXT	Caroline Baker, Brendan Spackman-Williams
The 1	Conrad Corry
The George Swinburne Culture Cult of Dreams	James Murphy

## Nominations

President	Caroline Baker Aadil Jawaid	NEXT The 1
Education Vice President	Hoda El-Katateny Brendan Spackman-Williams	The 1 NEXT
Secretary/Treasurer	Elaine Melinda Passanha Joshua Fernandez	The 1 NEXT
Access and Equity Officer	Catilin Bruty Sam McKay	NEXT The 1
Hawthorn Campus Chair*	Abdul Noir Matthew Latham	The 1 NEXT
Prahran Campus Chair*	Samah Fahmy Alice Mutton	The 1 NEXT
Croydon Campus Chair*	Kara Hargrave	NEXT
Wantirna Campus Chair*	Peter Coates Christian Tagle	The 1 NEXT
Lilydale Campus Chair*	Ramiz Tahsin Chy Amie Watson	The 1 NEXT
Undergraduate Student Representative*	Kenron Pong Jacqui Kleiner Kamal Rimam	NEXT The 1
TAFE/Apprentice and Traineeship Student Representative*	Fraser Blair Ahamed Nur Ahad	NEXT The 1
Postgraduate Student Representative/SUPA Chair*	Valentine Lebrun Phuong Pham	NEXT The 1
International Student Representative/SISA Chair*	Salman Sheikh Pannisa Sriyai	The 1 NEXT
Mature-Age Student Representative*	Ash Thornton	NEXT

	Mehedi Hasan	The 1
Part-Time Student Representative*	James Searle Brett St John	NEXT The 1
Queer Student Officer*	Andrew Morison	NEXT
Women's Officer*	Kayla Jiang Memphis Calzoni	The 1 NEXT
Indigenous Student Representative*	Megan Kelleher	NEXT
Disability Support Representative	Mark Briers Muhammad Shaikh	NEXT The 1
Clubs/Activities Officer	Amir Ali Courtney Barber	The 1 NEXT
Environment and Sustainability Officer	Lauren Kehoe Abhinanda (Rockky) Chowdhury	NEXT The 1
Media Editor-in-Chief (chair of the committee)	Conrad Corry	The 1
	Robert Lyall	The George Swinburne Culture Cult of Dreams
Secretary/Treasurer	Yasmen Baki	The 1
	James Murphy	The George Swinburne Culture Cult of Dreams
Managing Editor	Claudius Corry	The 1
	Corey Tonkin	The George Swinburne Culture Cult of Dreams

NUS	Sam McKay	The 1
	Brendan Spackman-Williams	NEXT
	Sally Wilmott	NEXT
	Habib Rezaie	The 1
	Max Williams	NEXT
	Alex Forbes	
	Elaine Melinda Passanha	The 1
	Mark Briers	NEXT
	Claudius Corry	The 1
	Joshua Fernandez	NEXT
	James Searle	NEXT
	Conrad Corry	The 1
Hawthorn Committee	Courtney Barber	NEXT
	Fraser Blair	NEXT
	Brendan Spackman-Williams	NEXT
	Kayla Jiang	The 1
	Aadil Jawaid	
	Jack Hill	
	Umair Jared	
Lena Tuck	NEXT	
SISA	Steven Jingga	
	Sabrina Rahman	
	Saul Romai Ruiz Diaz	
SUPA	James Searle	

### **Support to candidates**

As per the Regulations, all candidates were allotted 300 A4 black-and-white double-sided and 10 single-sided A3 photocopies at Snap Printing on Burwood Road in Hawthorn to produce promotional material.

Chalk and sticky tape was also provided for the candidates.

A forum was held on the Monday of polling. Candidates who wished to were allowed to make an address to the students present. The forum was without incident.

## Polling

At the request of the Returning Officer the SSU executive presented proposed polling times to the Returning Officer in order to have polling open at the most convenient period of time for all students. In accordance with the recommendation of the SSU executive the polling times were as follows:

	<b>Hawthorn</b>	<b>Prahran</b>	<b>Croydon</b>	<b>Wantirna</b>	<b>Lilydale</b>
<b>Mon</b>	10am - 4pm	10am - 4pm	<b>12pm - 6pm</b>	10am - 4pm	10am - 4pm
<b>Tues</b>	10am - 4pm	<b>12pm - 6pm</b>	10am - 4pm	10am - 4pm	10am - 4pm
<b>Weds</b>	<b>12pm - 6pm</b>	10am - 4pm	10am - 4pm	10am - 4pm	<b>12pm - 6pm</b>
<b>Thurs</b>	10am - 4pm	10am - 4pm	10am - 4pm	<b>12pm - 6pm</b>	10am - 4pm
<b>Fri</b>	10am - 4pm				

Voter turnout were as follows:

- Hawthorn: 1097
- Prahran: 129
- Lilydale: 134
- Croydon: 0
- Wantirna: 31
- Total voter turnout: 1391

Voter turn out in 2012 was more than double the turn out in 2011. The vast majority of this increase is likely due to the fact that unlike in 2011 the 2012 poll was heavily contested and there were large numbers of campaigners from all sides during the week.

## Outer campuses

Unlike in 2011 the majority of outer campus had classes running during election week. This enabled many more students to vote than in 2011. There remains some confusion as to whether the Croydon campus had classes during polling week. It was clear from the academic calendar published by the University that polling week was a teaching period for all campuses. It would however seem that this was not the case for Croydon campus and that only very few classes ran. The Returning Officer is at a loss of how to solve this problem if the executive of SSU and the Returning Officer cannot rely on the official publication of the University.

## Infractions

The SSU elections are markedly different from other Victorian student elections. The vast majority of campaigners in an SSU election are very friendly and fair and campaign in good spirit. The majority of campaign infractions were of a minor nature.

The majority of complaints were minor in nature and were dealt with accordingly. The most serious infractions discovered by the Returning Officer were the 3 students who were found by AQE staff walking a voter to the polling station. It is an essential part of democracy that voting is secret and that no influence is exercised over voters at the polling station.

For this reason it is important that the boundaries of the polling place are respected and that voters are free from campaigning. The Returning Officer considers walking voters to the poll to be a serious infraction. This is to be contrasted with taking a step or two over the exclusion line in a situation where the voter still has 10 to 20 meters before they are in the voting area.

During the week 3 campaigners were found walking voters to the issuing desk and probably would have entered the polling booth had they not been stopped. The Returning Officer suspended the three individuals for a full day campaigning as a result of this infraction.

Allegations were put to the Returning Officer that there was a systematic campaign to influence voters inside the Atrium. Despite the allegation the Returning Officer could not substantiate the claim.

The Returning Officer received a complaint that the ticket name "the 1" was misleading and deceptive and designed to confuse based on the contention that by placing the Arabic numeral 1 on a ballot paper this would confuse voters into voting for that ticket. The Returning Officer considered this complaint and ruled that the name was not misleading or deceptive.

It is clear to the Returning Officer that the name "the 1" was chosen because it was felt it would attract support. A group seeking election that chose a name that is catchy is not being deceptive – it was quite clear that the intention was to get votes, and it was ruled that there was no deception present.

There were a number of other minor infractions during the election that were dealt with by warning or short suspensions from campaigning. In all the vast majority of campaigners behaved very well.

## **Counting**

Counting took place on Friday 28<sup>th</sup> September 2012 in EN303, Hawthorn Campus. Once the Returning Officer was satisfied with the reconciliation of the ballot numbers per campus and, at Hawthorn, per day, the sorting and counting commenced.

The position of President was counted day by day and all other ballots as a whole. Counting continued until approximately 12 am, at which point counting was suspended. Due to the quasi-religious attitude some AQE Directors have toward the AFL Grand Final, counting did not resume until Sunday 30<sup>th</sup> September.

As the position of Access and Equity Officer was a tie a recount was required and this occurred on Friday 5 October 2012. The positions of Secretary Treasurer and Education Vice President were also recounted following requests by parties.

## Results

President	Caroline Baker	NEXT	699	elected	
	Aadil Jawaid	The 1	596		
	Informal		95		
Education Vice President	Hoda El-Katateny	The 1	613		
	Brendan Spackman-Williams	NEXT	653	elected	
	informal		124		
Secretary/Treasurer	Elaine Melinda Passanha	The 1	652	elected	
	Joshua Fernandez	NEXT	596		
	informal		142		
Access and Equity Officer	Catilin Bruty	NEXT	626		
	Sam McKay	The 1	628	elected	
	informal		137		
Hawthorn Campus Chair*	Abdul Noir	The 1			
	Matthew Latham	NEXT			
	informal				
Prahran Campus Chair*	Samah Fahmy	The 1	26		
	Alice Mutton	NEXT	101	elected	
	informal		2		
Croydon Campus Chair*	Kara Hargrave	NEXT	Elected unopposed		
Wantirna Campus Chair*	Peter Coates	The 1	30	elected	
	Christian Tagle	NEXT	0		
	informal		1		
Lilydale Campus Chair*	Ramiz Tahsin Chy	The 1	36		
	Amie Watson	NEXT	93	elected	
	informal		5		
Undergraduate Student Representative*	Keron Pong		111	elim	
	Jacqui Kleiner	NEXT	544	580	elected
	Kamal Riman	The 1	500	537	

TAFE/Apprentice and Traineeship Student Representative*	Fraser Blair	NEXT	654	elected	
	Ahamed Nur Ahad	The 1	581		
		informal	149		
Postgraduate Student Representative/SUPA Chair*	Valentine Lebrun	NEXT			
	Phuong Pham	The 1			
International Student Representative/SISA Chair*	Salman Sheikh	The 1	664	elected	
	Pannisa Sriyai	NEXT	590		
	informal		88		
Mature-Age Student Representative*	Ash Thornton	NEXT	666	elected	
	Mehedi Hasan	The 1	583		
	informal		140		
Part-Time Student Representative*	James Searle	NEXT	612		
	Brett St John	The 1	626	elected	
Queer Student Officer*	Andrew Morison	NEXT	Elected unopposed		
Women's Officer*	Kayla Jiang	The 1	208		
	Memphis Calzoni	NEXT	221	elected	
	informal		31		
Indigenous Student Representative*	Megan Kelleher	NEXT	Elected unopposed		
Disability Support Representative	Mark Briers	NEXT	642	elected	
	Muhammad Shaikh	The 1	607		
	informal		141		
Clubs/Activities Officer	Amir Ali	The 1	612		
	Courtney Barber	NEXT	640	elected	
	informal		138		
Environment and Sustainability Officer	Lauren Kehoe	NEXT	654	elected	
	Abhinanda	The 1	575		

	(Rockky) Chowdhury				
	informal		159		
Media					
Editor-in-Chief (chair of the committee)	Conrad Corry	The 1	717	elected	
	Robert Lyall	The George Swinburne Culture Cult of Dreams	449		
	informal		226		
Secretary/Treasurer	yasmen Baki	The 1	697	elected	
	James Murphy	The George Swinburne Culture Cult of Dreams	493		
	informal		202		
Managing Editor	Claudius Corry	The 1	701		
	Corey Tonkin	The George Swinburne Culture Cult of Dreams	455		
		informal	200		
Advertising Editor	Alex Carter	The George Swinburne Culture Cult of Dreams	elected unopposed		
Promotions & Distribution Officer	Marlee Coates	The George Swinburne Culture Cult of Dreams	elected unopposed		
NUS	Sam McKay	The 1	elected 1		
	Brendan Spackman- Williams	NEXT	elected 2		
	Sally Wilmott	NEXT	elected 4		
	Habib Rezaie	The 1	elected 3		
	Max Williams	NEXT			
	Alex Forbes				
	Elaine Melinda Passanha				
	Mark Briers	NEXT			
	Claudius Corry	The 1			
	Joshua Fernandez	NEXT			
	James Searle	NEXT	elected 5		
	Conrad Corry	The 1	elected 6		
Lilydale Committee	Elaine Melinda Passanha		elected unopposed		

Hawthorn Committee	Courtney Barber	NEXT	elected		
	Fraser Blair	NEXT	elected		
	Brendan Spackman-Williams	NEXT	elected		
	Kayla Jiang	The 1	elected		
	Aadil Jawaid		elected		
	Jack Hill				
	Umair Jared				
	Lena Tuck	NEXT			
SISA					
	Steven Jingga		elected unopposed		
	Sabrina Rahman		elected unopposed		
	Saul Romai Ruiz Diaz		elected unopposed		
SUPA	James Searle		elected unopposed		

## Recommendations

The Returning Officer would like to acknowledge that some great improvements have been made to the electoral regulations since 2009. The Returning Officer would particularly like to thank the 2011 & 2012 SSU Students' Councils for their efforts in these matters.

The Returning Officer would like to emphasize that there is still room for improvement in the Regulations and Constitution, the highlights of which are set out below.

### *Constitutional amendments*

The Returning Officer recognizes that it is difficult to change the Constitution of SSU but would like to once again recommend that the document be modernized. The SSU constitution is a very old document and it was written in a very different environment to the one that SSU faces today.

The Constitution is littered with typographical errors and lacks detail in many areas including the running of the election.

Students' Council would be advised to examine other student organisations in Victoria and from around Australia to gain an idea of what could be created to suit the needs of Swinburne students.

The Returning Officer would like to make the following recommendations for a new SSU Constitution:

- That a number of General Representatives be added to Students' Council.
- That these General Representatives should be elected by a system of proportional representation in order to promote a diversity of views on Students' Council. The current system where all members of Students' Council are elected to single member positions makes it possible for a single group to control all the votes on Students' Council. While the 2012 election has not produced a one party, Students' Council's recent experience shows that this is a distinct possibility with all members of council being elected by single member positions. The Returning Officer believes that this is not a healthy situation and suggests that a plurality of views on council will promote better outcomes for Swinburne students.
- That all of the Office Bearers of SSU should have a constitutional basis. The current ability for Students' Council to create, and decide who is eligible to vote for, up to six office bearers is a system open to abuse. For example, the Returning Officer understands that the position of Men's Welfare Officer caused controversy when it was created by the Council in 2011 and was equally controversial when it was abolished in 2012. This is an example of how any position that is not enshrined in the constitution can simply be removed if a new Council wants to.
- In addition to defining who the Office Bearers are, the constitution should define who is entitled to vote for every position. For instance, it would be appropriate that it is defined that the "President is elected by and from the students of Swinburne University of Technology." Alternatively, "the Hawthorn Campus Chair is to be elected by and from the students of Swinburne University of Technology whose home campus is the Hawthorn Campus of the University" is an example of how to define the constituency of an officer who is to represent a section of the Swinburne community.
- Council must also decide if there are going to be special constituencies represented on council that are elected from and by the constituency alone, or whether every position is to be elected by all students. For instance the Returning Officer considers it appropriate that the Campus Chairs are elected by the students from that campus only. The Returning Officer then fails to see the logic that some of the other positions that represent a particular constituency are subject to a vote of the whole student body. In this years' election the candidate who was elected to the position of Wantirna Campus Chair received 100% of the formal vote. As only 30 students at

Wantirna voted then had the vote been open to the whole student body then more than 1000 students who voted at the other campuses could have imposed a councilor on the Wantirna campus that no student at that campus wanted.

- Restricting eligibility to vote for a particular position provide some difficulties. In some case it is possible for the poll clerk to determine if a person should be given a particular ballot paper. For instance whether a person is a domestic or international student can be objectively determined. It is similarly very easy to objectively determine if a person is TAFE or higher education student. How every it is the opinion of the Returning Officer impossible to objectively decided and inappropriate to ask if a person is a Queer student or a student with a disability. This very situation is over come at the University of Melbourne by have a warning printed on the ballot paper that only students that identify as being a Queer student should vote for that position.
- That the constructional requirement to have polling on all campus of the University for at least 6 hours a day should be repealed. It is unfortunate that the Lilydale and Prahran campuses are closing but this will have the effect of reducing some costs in the future. While it is appropriate the constitution requires that polling happen on all campuses, it is costly and unproductive to have polling on all campus for 6 hours a day on all days of the election. The Returning Officer recommends that polling be held as follows:
  - Hawthorn, for a minimum of 6 hours on all 5 days;
  - Croydon, for a minimum of 6 hours on a least 1 but not more than 3 days; and
  - Wantirna, for a minimum of 6 hours on a least 1 but not more than 3 days.
- That rather than attempting to amend the current constitution, SSU engages external consultants to completely rewrite the document to reflect the realities that now face SSU. Student's Council should invest a significant amount of time consulting with the Swinburne Community to deice what structure SSU should have.

### *Regulations*

The current SSU regulations are a vast improvement over the regulations in previous years. Having said that, there is still room for improvement. The Returning Officer recommends:

- That Council should not delegate its power to anybody to make the election regulations as occurred in 2012. The Returning Officer has learnt that the secretariat was given power to make election regulations. While the Returning Officer does not think, or want to imply that this power was abused by the 2012 Secretariat the potential for misuse is great and should not be repeated. The Council should have inserted in to the constitution a requirement that in an ideal world that the election regulations should only be able to be changed by an independent electoral tribunal in a manner of the University of Melbourne Student Union or at least require an absolute majority of Council to approve any change to the regulations.
- That a clear time line be established for the events that must occur before the commencement of polling week. The existing timeline in the election regulations are either unclear or impractical. This is most evident in the timing of the closing of nominations and the closing of ticket registrations. Having nominations close 9 days prior to polling and ticket registration close 5 days before polling is not workable. The design, layout and printing of ballot papers cannot be achieved reliably in such a short space of time. Without limiting what a time line should contain the Returning Officer makes the following recommendations.
  1. That the Returning Officer is appointed in the week that is 10 weeks prior to polling week;
  2. That the notice of election be published in the week that is 9 weeks prior to polling week;
  3. That Nominations and ticket registration open in the week that is 8 weeks prior to polling week;
  4. That ticket registration close at 12 noon on the Wednesday in the week that is 5 weeks prior to polling week;

5. That Nominations close at 12 noon on the Wednesday in the week that is 4 weeks prior to polling week;
  6. That candidate statements and photographs are due at 12 noon on the Wednesday in the week that is 2 weeks prior to polling week if they are to appear in an election guide: and
  7. That the time and location of candidates' forums (if any) be published no later than the Wednesday of the week prior to polling week.
- That an election guide be established. The guide can take many forms. It can form part of a regular addition of the Swine or operate as a standalone document. The guide should not be partisan (other than publishing candidate or ticket statements) and should contain the following;
    1. Polling times;
    2. Polling locations;
    3. Position descriptions;
    4. Candidate statements; and
    5. A general statement (approved by the Returning Officer) of what SSU is, what SSU does and why voting is important.
  - The Returning Officer is pleased that the 2012 Council has accepted the recommendation to establish a system of ticket registration. The Returning Officer recommends the following changes
    1. That regulation 39.3 be amended to read "Ticket Registration closes at 12 noon on the Wednesday in the week that is 5 weeks prior to polling week";
    2. That regulation 39.4 be replaced by a requirement that tickets gather the signatures of 10 Swinburne Students. If the council accepts the Returning Officers recommendation that ticket registration should occur before the closes of nominations this change is vital. The Returning Officer observes that it is more common for tickets to organize prior to nominations and that was the practical experience for the SSU despite the regulations be the other way around;
    3. That a regulation is inserted to limited ticket names to no more than 4 words;
    4. That a regulation is inserted that states "if any ticket wants to use the name of any or a substantially similar name of any club or society at Swinburne University, the registering officer must be or provide the written permission of the president of that club or society to the Returning Officer."
    5. That regulation 39.5.3 is amended to read "that is a student wishes to register a ticket name that is the same or substantially similar, to the name of a ticket used in the last two years, then the student who is registering the ticket must be or have the written permission of the most recent registering officer of the ticket."
  - That regulation 48 is amended to clarify when the Candidates' Forum should occur. The current regulations for instance require the Returning Officer to consult with the candidates and publish the time and place of the forum at least 10 days prior to the poll. Given that nominations only close 9 days prior to the poll this is simply not practical. This timeline should be shortened or a set time for the forum should be introduced.
  - That in regulation 87 the words "beyond reasonable doubt" be replaced by the words "on the balance of probabilities." The term reasonable doubt is a legal term that creates an extremely high standard of proof. Without the ability to examine witnesses under oath it is hard to see how a Returning Officer could come to any conclusion about an allegation beyond a reasonable doubt. The use of the phrase "beyond reasonable doubt" in the regulations may therefore lead to a situation where the Returning Officer is unable to act, even when presented with compelling proof of wrong doing.
  - That regulations 23, 42, 44, 45, 46 and 73 (a) be repealed. It is clear to the Returning Officer that these

regulations are designed to create a level playing field for all candidates. As previously canvassed, the SSU election regulations seem to assume that all candidates are independents rather than a ticket. The reality is that tickets will receive an amount of support that will make it impossible for an independent or a small ticket to compete in the election. In a contested election a ticket running for all positions would be entitled to 11,700 A4 flyers and 390 A3 posters and to spend \$780.00 dollars on a campaign, while an independent is entitled to 300 A4 flyers, 10 A3 posters and \$20.00 dollars on a campaign. In addition to their potential to prevent independents and small groups from effectively contesting elections, the support to candidates cost SSU a significant amount of money at this election, both in the expenditure on materials and extra staff hours the Returning Officer needs to charge to accommodate the printing of the material.

- That a new subsection is inserted to regulation 73 prohibiting the use of any Union resources not normally available to Swinburne Students.
- The Returning Officer understands that some members of council wanted to have the ballot draw be made by “Robson rotation” While this system of ballot draw is held up by some as the fairest method the Returning Officer wishes to make the following observations.
  1. That the importance of ballot order is generally overstated; and
  2. That if Robson rotation was introduced then the cost of printing, counting and administering the election would dramatically increase. It is difficult to say exactly how much more Robson rotation would be, but it would cost many thousands of dollars more than the cost of the current system and slow the count down.
- That regulation 69.3 is amended with the word 5% replaced with 1%. This regulation requires the Returning Officer to grant a re count if the margin is less than 20 votes or 5% of ballots cast. It is the opinion of the Returning Officer that the requirement of a recount where the margin is up to 5% is too high. If a ballot is being properly counted and scrutinised then a mistake of that size should not be possible or be so evident to the Returning Officer that the ballot would be recounted as a matter of course.

Haydn Steel  
Returning Officer  
SSU Election 2012

## Appendix 1

### Presidential count in detail

	Mon	Tue	Wed	Thur	Fri	Prahran	Wantirna	Lilydale
Jawadi, Aadil	132	97	110	96	91	18	16	36
Baker, Caroline	125	120	102	95	60	98	9	90
Informal	6	18	14	9	16	11	6	15
Total	1390							

Appendix 2

NUS count

CANDIDATE	DIRECT	Round 1	Round 2	Round 3	Round 4	Round 5	Round 6	Round 7	Round 8	Round 9	Round 10	Round 11
McKay	222	elect McKay	elect Spackman-Williams	elect Reazaie	elim Forbes	elim Corry	elim Passanha	elim Briers	elim Fernandez	elect wilmot	elect Searle	elect Conrad Corry
Spackman-Williams	166	#NAME?										
Wilmott	78		#NAME?									
Reazaie	121	7.970402	16.187600	#NAME?	#NAME?	2.362291	#NAME?	#NAME?	27.147160	#NAME?		
Williams	58	48.184703	0.441480	#NAME?								
Forbes	24	1.811455	1.471600		5.362291	4.000000	#NAME?	15.294320	#NAME?	#NAME?		
Passanha	36	1.449164	0.147160	#NAME?	#NAME?							
Briers	52	1.811455	0.294320	#NAME?	#NAME?	#NAME?	#NAME?					
Corry	22	0.362291	1.618760	#NAME?	#NAME?	#NAME?	#NAME?	#NAME?				
Fernandez	65	3.985201	0.294320	#NAME?	#NAME?	#NAME?						
Searle	85	1.449164	1.177280	#NAME?	0.871742	#NAME?	#NAME?	#NAME?	#NAME?			
Corry	62	0.362291	1.177280	#NAME?		#NAME?	#NAME?	#NAME?	#NAME?			
		7.970402	0.147160	#NAME?	1.000000	#NAME?	#NAME?	#NAME?	#NAME?	#NAME?		



Swinburne Student Union and  
Above Quota Elections  
**2012 Annual Student  
Elections September 24th-28th**

I Haydn Jonathon Steel Returning officer for the 2012 Swinburne Student Union annual election hereby give notice that the total number of votes given for a each candidate in the election for the position of Access and Equity Officer was as follows,

<b>Caitlin BRUTY (Next)</b>	<b>626</b>
<b>Sam MCKAY (The 1)</b>	<b>628</b>
<b>Total formal</b>	<b>1254</b>
<b>Informal</b>	<b>137</b>
<b>Total</b>	<b>1391</b>

And that Sam MCKAY has been duly elected to serve as the Access and Equity Officer of the Swinburne Student Union for 2013

### Reasons for the decision.

Due to the extremely close nature of this count I am taking the unusual step of explaining the process and reasoning for the above declaration in writing.

#### Background

Following the annual student election from Monday 24 September 2012 to Friday 28 September 2012 the ballots for the above position were counted along with the other ballots in the election in room EN303 on the night of 28 September 2012. At that first count the result of the ballot was as follows.

<b>Caitlin BRUTY (Next)</b>	627
<b>Sam MCKAY (The 1)</b>	627
<b>Total formal</b>	1254
<b>Informal</b>	136
<b>Total</b>	1390

As the result was a tie a recount of the ballot was ordered as a matter of course. The recount occurred on Friday 6 October 2012 in the SSU meeting room on level 4 of the UN building. The recount was conducted by Haydn Steel, the Returning Officer, and Goldie Pergl, Deputy Returning Officer. The recount was well attended by scrutineers from both sides.

The recount of Access and Equity Officer was the third recount of the night to be conducted. It is worth noting that the position of Secretary/Treasurer which occupies the other half of the ballot paper was recounted immediately before the recount of Access and Equity Officer and the total number of ballot for that position was determined to be 1390.

#### The Count.

The first recount of the tied ballot resulted in the following result BRUTY 626 MCKAY 627 INFORMAL 137 with 1 ballot in dispute. As the total number of ballot papers was 1391 the returning officer elected to recount the ballot papers a second time. The second recount again returned the result of

BRUTY 626 MCKAY 627 INFORMAL 137 with 1 ballot in dispute. As the second recount had returned the same result a third recount was conducted and the result was as follows BRUTY 626 MCKAY 627 INFORMAL 137 with 1 ballot in dispute. During all three counts the scrutineers were paying very close attention to the count.

As it was now clear that the disputed ballot would decide whether the election was a tie, meaning a by-election is to be held, or that Mr. MCKAY would be declared elected, the Returning Officer asked for and received arguments in favor of the formality or otherwise of the disputed ballot paper.

After hearing the arguments of the parties the Returning Officer elected to reserve his decision on the formality of the disputed ballot and publish the decision the following day.

### **The Disputed Paper**

The dispute over the paper is as follow. In the box next to BRUTY there is a perpendicular 2mm line. It is the contention of the NEXT scrutineers that this mark is a clear 1 and as such the ballot paper is a formal ballot in favor of BRUTY. In the box next to MCKAY there is a large tick that extended from the center of the box to beyond the boundary of the box. It is the contention of THE 1 that this indicates a clear preference for MCKAY and as such is a formal ballot for MCKAY

The issue of formality of a ballot is covered by regulation 64 of the SSU election regulations, which reads as follows:

*“64. The Returning Officer shall be the sole judge of whether any ballot paper is not acceptable and shall accept a ballot paper on which the voter's intention is, in the Returning Officer's opinion, in whole or part clear.”*

In addition to this regulation is the practice of the returning officer to prefer numerals of any description over any other marks such as tick or cross. The reasoning for the preference is each ballot clearly asks the voter to number the boxes in the order of preference and poll clerks tell the voter to use only number and not to use ticks and crosses. This rule has been followed on a number of other ballot papers in the count.

The with this president in mind the real question in the mind of the Returning Officer is, whether or not the mark in the box next to BRUTY is a clear or partially clear expression of preference by the voter for BRUTY and as such is a formal ballot for BRUTY or whether the mark in the box is unclear and the clear expression of preference (in the form of the tick) in favor of MCKAY should be taken as the voters intention and the ballot be declared form for MCKAY.

## **Ruling**

The Returning Officer rules as follows.

1. It is the opinion of the Returning Officer that the mark in the box next to BRUTY is not a clear expression of the intention of the voter. There are several different clear manners in which to express the numeral 1. Some of these are very clear and some are less so clear. In the current case we have a very small (some 2mm long) line. This small mark is contrasted by the large tick that appears in the box next to MCKAY and on the ballot on the opposite side of the page. It is my opinion that this is not a clear expression of a numeral 1.
2. It is the opinion of the Returning Officer that the mark in the box next to BRUTY is not a partial expression of preference. Again the mark is very small and is starkly contrasted by large mark used to express a preference in the box next to MCKAY.
3. Having determined that in my opinion the mark in the box next to BRUTY is not a clear or practically clear representation of a numeral 1, I accept that the tick in the box next to MCKAY is clear expression of the voter's intention to vote for MCKAY.
4. I therefore rule the ballot as a formal ballot for MCKAY.

Haydn Steel

Returning Officer

SSU Election