

**From:** [REDACTED]  
**To:** [Legal Affairs and Community Safety Committee](#)  
**Cc:** [REDACTED]  
**Subject:** Submission - Inquiry into the Electoral Commission of Queensland's online publication of the preliminary and formal counts of the votes cast in the 2020 quadrennial local government election held on 28 March 2020  
**Date:** Thursday, 7 May 2020 10:46:50 AM  
**Attachments:** [image651374.png](#)  
[image454959.png](#)  
[image315951.png](#)  
[image298155.png](#)  
[image057615.png](#)  
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[Attachment 1 - Inquiry into the Electoral Commission of Queensland.docx](#)

To Mr Peter Russo MP, Chair of the Legal Affairs and Community Safety Committee

Dear Mr Russo MP

Thank you for giving Council the opportunity to make a submission to your inquiry.

The following information was gathered from observing the 2020 local government election unfold and the contributions of successful candidates from the 2020 local government elections for the Whitsunday Regional Council, who are keen to see an improvement in the processes.

## OVERVIEW

The Legal Affairs and Community Safety Committee of Queensland Parliament is inquiring into and reporting to the Legislative Assembly on the Electoral Commission of Queensland's online publication of the preliminary and formal counts of votes cast in the 2020 quadrennial local government election held on 28 March 2020. This submission seeks to document the problems encountered by candidates and staff during the 2020 quadrennial local government elections. Anecdotal evidence points to a range of problems classified below as:

- ECQ engagement and communication with councils in lead up to poll
- Billing of councils for ECQ services
- Complaints about candidate conduct
- Polling booths
- How to vote cards
- Pre-polling, postal voting and telephone voting
- Voting systems (including educating the public about voting methods)
- Technology (IT, ballot papers, etc.)
- Counting and publication of results
- Other issues.

The quadrennial local government elections were conducted for Whitsunday Regional Council on 28 March 2020 for Divisions 1-5, with the election for Mayor and Councillor in Division 6 being uncontested. The Electoral Commission of Queensland is the independent authority set up to ensure impartial and democratic elections in Queensland, including local government elections and responsible for:

- appointing a returning officer for each local government area who is responsible for the conduct of the election for that area, from taking candidate nominations to counting the votes and formally declaring the successful candidates;
- managing the electoral roll for voters;
- managing candidates' disclosures of donations and expenditure; and
- reviewing complaints about candidate conduct during the elections <sup>[1]</sup>.

[1] <https://www.dlgrma.qld.gov.au/so-you-want-to-be-a-councillor/election-campaign-requirements.html>

## ECQ engagement and communication with councils in lead up to poll

- Council was disappointed that there was no substantive attempt from the ECQ / Returning Officer to engage with Council prior and subsequent to the election.
- The successful candidates also reported that they did not receive regular correspondence / updates after the election.
- When communication was received by one candidate, he observed that because of the way that the email was sent, his personal email account was disclosed to other people involved in the election (ECQ should have bcc'd the candidates, to preserve his privacy).
- When candidates sought clarification of issues, ECQ staff appeared restricted on the level of information they could provide, referring the candidate to the handbook, which required interpretation.
- The feedback from the successful candidates indicated that the ECQ website was difficult to navigate and were uncertain of the status of their nomination, receiving contradictory messages about their nominations.
- Successful candidates also advised of contradictory messages e.g.: candidates told to remove signage within vicinity of election office: no branded material or hand outs were permitted, however, when Candidates drew the ECQ's attention to other candidate's signage and election material, it was described as a 'grey area' and no action was taken, despite contradicting the earlier advice.
- Council was not advised of problems encountered with posting the election results onto the ECQ website, with the figures provided to candidates failing to match the results published on the ECQ website (Candidates had little faith in the ECQ figures being published, believing that the published results did not reflect the official count).
- The results posted to the ECQ website on the night of the election were not updated until the afternoon of Wednesday 1 April 2020 (4:54pm) - four days later, i.e.:

| Local Government Area                     | Elected Candidate        | Status         |
|---|--------------------------|----------------|
| Whitsunday Regional Mayor                 | WILLCOX, Andrew          | Uncontested    |
| Whitsunday Regional Division 1 Councillor |                          | 47.85% counted |
| Whitsunday Regional Division 2 Councillor |                          | 11.54% counted |
| Whitsunday Regional Division 3 Councillor |                          | 72.09% counted |
| Whitsunday Regional Division 4 Councillor |                          | 13.57% counted |
| Whitsunday Regional Division 5 Councillor |                          | 15.19% counted |
| Whitsunday Regional Division 6 Councillor | BRUNKER, Michael Raymond | Uncontested    |

- When these results were updated on the afternoon of Wednesday 1 April 2020 (4:54pm), a significant increase in votes counted was reported in Divisions 2,4 and 5:
  - Division 2 Increased from 11.54% to 67.91% (56.37% additional votes counted).

- Division 4 increased from 13.57% to 49.06% (35.49% additional votes counted).
- Division 5 increased from 15.19% to 61.98% (46.79% additional votes counted).

Subsequently, the website appeared to be updated twice each day with little changes in votes counted or progress towards a result.

- The Manager Customer Services advised that between the Monday following the election (30 March 2020) and close of business Tuesday (31 March 2020), the Council has received almost 100 calls from people wanting election results as they did not believe the ECQ website had been updated or was accurate. It was also apparent that many residents believed that Council was responsible for conducting the election and were dissatisfied with the way it was conducted.
- Council **recommends** that the LGAQ develop a Memorandum of Understanding with the ECQ to ensure a reasonable level of communication is provided to the local government.
- Council **recommends** that the ECQ:
  - Consider candidates' privacy when sending 'bulk emails'.
  - Provide clear and concise responses to candidates when responding to candidate's queries.
  - Redesign its website to make it easier to navigate.
  - Provide clear instructions for printed election material and signs.
  - Ensures that the results posted to the ECQ website are accurate and updated frequently and regularly.

#### **Billing of councils for ECQ services**

- Council is unsure of the cost to be billed and do not see value for money for the estimated \$236,000 for this service and Council is unsure how the ECQ will treat the uncontested election for Mayor and Division 6 Council, i.e. will some rebate be given, having regard to the reduced scope of the election activity (acknowledging that additional opening hours were required for extended prepoll).
- Council **recommends** that legislation be changed to call tenders for the provision of election services, in accordance with the sound contracting principles identified in the Local Government Act 2009.

#### **Complaints about candidate conduct**

A number of incidents occurred during the election process that the Returning Officer / ECQ failed to investigate or take action to prevent:

- The emailed complaint from one candidate to the ECQ on 18 March 2020 at 8:18 am seeking action to address the bullying behaviour and mis-information distributed by other candidates is to date, still not acknowledged and remains unanswered.
- Another candidate complained about other candidates pushing her when attempting to put up a poster and the defacement of election signage (see attached photographs), again no acknowledgement or response to this complaint has been received from the ECQ.
- No candidates disclosed their nomination as part as a team or group, however, media reports quoted candidates working as being part of a team / group raised suspicions that they deliberately hid their association, contrary to the legislation. To Council's knowledge, no investigation of this matter has been initiated.
- It has been alleged that certain candidates received funding from a prohibited donor (property developer) that has not been disclosed.
- New candidates in Division 1 and 2 used email to contact voters - it is not known where the email lists originated and Council believe that an investigation should be undertaken by ECQ to determine the source of the email list, its origin and whether any privacy laws had been breached or corrupt conduct indicated. Enquiries by council indicated that the list did not originate from any of its databases.
- The Council acknowledge that the election must have rules for candidates but believe that (on the basis of observed behaviour and actions) the ECQ should apply the rules uniformly and be fair to everyone: Honest candidates complied with the ECQ requirements, but others did not.
- It is also noted that the Independent Council Election Observer was established to promote truth and accuracy in campaigning in the lead up to the elections (so the voting public can be more confident they have not been misled by fake news and false information before casting their vote) was overwhelmed by the number of complaints made to it and unable to receive requests from 23 March 2020 – almost a week before the elections.
- Council **recommends** that the ECQ impose and enforce a code of conduct on all candidates.
- Council **recommends** that an independent referee (Independent Council Election Observer) be appointed and adequately resourced to quickly verify statements and responds to defamatory statements from other candidates.
- Council **recommends** that the counting of votes be given a higher priority and sense of urgency.

#### **Polling booths**

- Behaviour at Pre-poll booths became an issue because the Returning Officer failed to enforce the rules of behaviour at the Polling Booths, Council believe that action should have been taken to stop candidates encroaching in to the 6 metre exclusion area at the entrance to the polling place and the slanderous statement/materials aimed at existing councillors, council staff and other candidates.
- The entrance to the polling places at Queens beach and Jubilee PYOY changed, without adequate signage, resulting in elector confusion – unsure of where the polling place was as a result. Many did not vote as a result.
- Failure to regulate or control the signage positions around voting and pre-poll booths resulted in an increased level of bullying and poor behaviour displayed by some candidates who used force and bullying tactics to take prime positions for their signage.
- It is **recommended** that where changes occur to polling places (including points of entry), the ECQ provide adequate signage to direct electors.
- It is **recommended** that the ECQ take greater responsibility to ensure that candidate behaviour is regulated and complies with minimum standards of behaviour.

#### **How to vote cards (approval, display at polling booths, etc.)**

- Failure to regulate or control the signage positions around voting and pre-poll booths resulted in an increased level of bullying and poor behaviour displayed by some candidates who used force and bullying tactics to take prime positions for their signage.
- Further, conflicting information about election material issued by the ECQ caused confusion as to what was acceptable.
- It is **recommended** that the ECQ
  - Provide consistent advice to candidates on 'how to vote cards' and other electoral material.
  - Regulate the placement of signage around pre-poll and ordinary polling booths.

#### **Pre-polling, postal voting and telephone voting**

- A 14-day Pre-Poll period was considered to be too long, with half that period suggested as more than adequate opportunity for pre-polling.
- Postal Votes should be available earlier and required to be posted or received by COB the day prior to the election day, rather than waiting 10 days after polling.
- Anecdotal evidence is that many electors who applied for a postal vote did not receive any ECQ election material and are now concerned that they will be fined by the ECQ.

- It is **recommended** that the ECQ:
  - Reduce the time allowed for pre-poll voting to a week (5 business days) and make postal voting available earlier to allow receipt of postal ballots by the close of polls.
  - Investigate why so many voters did not receive voting material before the election.

#### **Voting systems (including educating the public about voting methods)**

- ECQ did not clarify that they were solely responsible for conducting the election, with electors looking to Council for advice on polling locations, results, etc.
- There was little local education about voting methods initiated by the ECQ, Council's customer service officers received hundreds of requests for information because the ECQ was so difficult to contact, or if contacted, failed to respond with helpful information or within a reasonable timeframe.
- Declaration votes were not counted at the polling place that received them but forwarded to the Returning Officer to count, further delaying the results.
- Counting of Whitsunday Regional Council votes started at 1pm on the Sunday following the election, however, voting in other local government elections commenced at 9am.
- It is **recommended** that the ECQ treat the counting of votes to establish the result as a priority and each election work to a similar timetable.

#### **Technology (IT, ballot papers, etc.)**

- Problems were experienced by potential candidates nominating on-line and the payment of electoral deposits, finding the ECQ website difficult to navigate. One candidate received a message of "Notification Successful" (or similar), but then notified to provide further information. This was completed again for the same result – notified successful and later requested to provide further information. The candidate attempted to contact ECQ but they did not understand or provide the relevant information. Local ECQ officers referred the candidate back to head office and would not commit to providing information themselves.
- Candidates in the uncontested elections were not advised if other nominations were received, even after the ballot order draw.
- The 1300 number to register for a telephone vote was reported as being constantly busy.
- Notwithstanding the difficulties experienced in navigating the ECQ website and having regard to the problems experienced with delays experienced in counting the votes and publish the results, Council **recommends** that options for electronic voting be investigated. It is believed that technology like MyGov could be used to streamline the processes, reduce costs and most importantly improve the turnaround time to return election results.

#### **Counting and publication of results**

- The positions of Mayor and Division 6 were uncontested, but the ECQ didn't declare the election until 30 March – it is considered that these positions should have been declared at 6:00pm on 28 March.
- Council did not receive official advice from the Returning Officer until 2:17pm on 14 April 2020, advising of the declaration of the Mayor and Division 6, despite the notices being published on the ECQ web page on 30 March.
- During counting, candidates would be told to come in at 1pm to scrutinise, then after 1 to 2 hours told to go home and they would be advised when to come back. It appeared that there was little urgency to get the count completed. Indeed, it was observed that after the first week, the count was pretty much done, yet it took a further 2 weeks with minimal (if any) change in numbers before the election was declared.
- Considering that less than 3,000 voters cast their vote in each division, the unexplained delay in counting and distributing preferences is unacceptable, especially when Council was trying to provide community leadership; deal with the effects of COVID-19; and expects to pay the ECQ around \$236,000 for conducting the elections.
- Council **recommends** that the ECQ introduce automatic counting machines (similar to machines counting bank notes).

#### **Other issues**

- Of significant concern is that election material was delivered to Council's Cannonvale Office, rather than the ECQ office, demonstrating inadequate security in managing the transmission of electoral materials and challenging the ECQ integrity.
- Council must (see section 104 of the Local Government Act 2009) seek value for money and promote open and effective competition when purchasing, but Council does not see these principles when paying for election services from ECQ.
- Elections are the cornerstone of democratic governance and political stability. Through elections, governments obtain their democratic mandate and are held accountable for their performance in office. Council's reputation may be damaged as the result of ECQ's performance as many in the community are not aware of the nuanced relationship between WRC and the ECQ.

#### **Attachment**

Observations from a candidate on the election process is attached as Attachment 1.

Thank you again for allowing this submission.

Regards

Norm Garsden

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[1] <https://www.dlgrma.qld.gov.au/so-you-want-to-be-a-councillor/election-campaign-requirements.html>

#### **Norman Garsden**

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## Whitsunday Pre-poll booth

17 March 2020. [REDACTED] (candidate [REDACTED]) was talking to a voter.... [REDACTED] ([REDACTED] Candidate). Comes over and says "[REDACTED] is not even from here, [REDACTED] is from Proserpine, look at the bottom of [REDACTED] sign".... it is not a requirement that divisional candidates are from within the division that they are running for, however this interjection was unwarranted and disturbing for the voter.

17 March 2020. [REDACTED] (candidate [REDACTED]) talking to a voter. [REDACTED] ([REDACTED] Candidate). comes over and loudly says "[REDACTED] is not even from here, [REDACTED] lives in Bowen". This Candidate being a sitting councillor who was impacted by boundary change. As per 1 above the interjection was unwarranted.

From Monday to Thursday of the first week of Pre-poll [REDACTED] regularly blocked the path into the area where candidates were setup under the awning between the Pre-poll Office and Silly Sollies. [REDACTED] stood in front of the entrance area, [REDACTED] would talk to voter/s, provide [REDACTED] brochure, then direct voters to the polling booth door via an alternate walk way so that the other candidates did not get a chance to talk to the voter/s.

[REDACTED]... Would walk to within 3 metres of polling booth doors, to give a flier to voters and ask for their vote... I said you cannot do that, enter inside 6m, to which I was told... "you can't take the show out of the boy."

17 March 2020 around 3:30pm. [REDACTED]...Talking to voters before they enter the pre-poll..."we need to get rid of the existing councillors, they all have their snouts in the trough". [REDACTED] (sitting Councillor [REDACTED]) tried to address by saying that you cannot say this, both [REDACTED] and [REDACTED] then proceeded to speak very aggressively at [REDACTED]. I found this very disturbing. A voter heard this and said, "[REDACTED] please stop this it is unnecessary", they kept going, the voter then said to me as she walked away "my children behave better than this". This voter then posted to Facebook her experience from the booth and how disappointed she was.

18 March 2020 - [REDACTED] says to Councillor [REDACTED] ([REDACTED] Division [REDACTED]) who has come to vote. "You've had your snout in the trough". [REDACTED] said this is not necessary. Then [REDACTED] launched into a personal attack to [REDACTED], saying something like... you're just a seat warmer and earning a \$100+k a year. This situation was confronting and unprofessional.

19 March 2020 - [REDACTED] gets into argument with voter, slandering a local sailing company, which creates yelling and a confrontational scene. Police (2 officers attend) and speak to [REDACTED] regarding slandering. This was not officially recorded in Police Records as Police were already in shopping centre precinct and

were asked to come over and intervene. This event was recorded by [REDACTED], as I was absent from the Pre-poll precinct.

20 March 2020 - ECQ Officer, [REDACTED] provided candidates an early morning (8:30am) update that rules have changed regarding handing our flyers at the pre-poll and that candidates must be 1.5m from voters. From 9:00am [REDACTED] stood on the 6m line, closest to the pre-poll office automatic doors. As a voter/s walked to the door, they had to pause and wait for the automated doors to open, simultaneously [REDACTED] would yell to the voter/s "Division [REDACTED] ... Division [REDACTED] ... you know what to do". I complained to [REDACTED] (ECQ Officer) around 9:30am, who said "yes I have heard this". [REDACTED] said he would check whether this was allowed. This conduct continued most of the day. This activity was clearly promoting to voters, at the last minute who are well inside 6m exclusion area, indeed in the door way of the Pre-poll Office.

21 March 2020. Saturday. We are informed by [REDACTED] from ECQ that candidates cannot be present at Pre-poll due to Covid-19 and that we cannot be within the shopping centre precinct to perform any kind of promotion. Our corflute signs must be removed. We were allowed to leave copies of our flyers and how to vote cards with ECQ who would put on display on the wall inside Pre-poll.

Candidates removed all signage and left the precinct.

23 March 2020. At 3pm on Monday I received a phone call from [REDACTED] (Division [REDACTED] Candidate) indicating that [REDACTED], [REDACTED] have numerous corflute signs on display around the 6m exclusion zone of the Pre-poll office. If I had not received this call, I would have had no idea that other Candidates had been allowed to place signage. In all fairness and for equity all candidates should have been notified that signage was again permitted.

Regards... [REDACTED]



