



LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE

Members present:

Mr PS Russo MP (Chair)
Mr JP Lister MP (via teleconference)
Mr SSJ Andrew MP (via teleconference)
Mrs LJ Gerber MP (via teleconference)
Mrs MF McMahon MP
Ms CP McMillan MP (via teleconference)

Staff present:

Ms R Easten (Committee Secretary)
Ms M Westcott (Assistant Committee Secretary)

PUBLIC BRIEFING—INQUIRY INTO THE ELECTORAL COMMISSION OF QUEENSLAND'S ONLINE PUBLICATION OF THE PRELIMINARY AND FORMAL COUNTS OF VOTES CAST IN THE LOCAL GOVERNMENT ELECTIONS AND STATE BY-ELECTIONS HELD ON 28 MARCH 2020

TRANSCRIPT OF PROCEEDINGS

MONDAY, 11 MAY 2020

Brisbane

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The committee met at 12.02 pm.

CHAIR: Good afternoon. I declare open the public briefing for the committee's inquiry into the Electoral Commission of Queensland's online publication of the preliminary and formal counts of votes cast in the 2020 quadrennial local government elections and in the Bundamba and Currumbin state by-elections, held on 28 March 2020. My name is Peter Russo. I am the member for Toohey and the chair of the committee. With us here today are James Lister, member for Southern Downs and deputy chair; Stephen Andrew, member for Mirani; Laura Gerber, member for Currumbin; Melissa McMahon, member for Macalister; and Corrine McMillan, member for Mansfield.

On 22 April 2020 the Hon. Yvette D'Ath MP, Attorney-General and Minister for Justice, referred the inquiry to the committee for examination, with a reporting date of 2 June 2020. The purpose of the briefing today is to provide the committee with information relevant to its inquiry. The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. The proceedings are being recorded by Hansard and broadcast live on the parliament's website. Only the committee and invited officers may participate in the proceedings. I ask participants to turn their mobile phones to silent mode to avoid disrupting the broadcast. I now welcome representatives from the Electoral Commission of Queensland.

CAVANAGH, Mrs Julie, Executive Director, Election Event Management, Electoral Commission Queensland (via teleconference)

LEWIS, Mr Wade, Assistant Electoral Commissioner, Electoral Commission Queensland (via teleconference)

NUTTALL, Ms Cecelia, Director, Strategy, Policy and Governance, Electoral Commission Queensland (via teleconference)

VIDGEN, Mr Pat, Electoral Commissioner, Electoral Commission Queensland (via teleconference)

WHITELAW, Mr Gary, Executive Director, Digital Technologies, Electoral Commission Queensland (via teleconference)

CHAIR: I invite you to brief the committee, after which committee members will have some questions for you.

Mr Vidgen: I thank the committee for the opportunity to appear today. I also acknowledge my ECQ colleagues who are assisting the committee. At the outset, I want to assure the committee that this inquiry has the full support of the ECQ. The committee received our detailed submission on Friday outlining the circumstances leading up to election day on 28 March and the actions taken in the subsequent period. To be clear, the inability to display the progress of the election count on polling night in a timely way was unacceptable. As commissioner, I accept responsibility for that. The committee will note that the ECQ does not offer any excuses; however, it is important to understand the full context of the circumstances, and that is what the ECQ has tried to outline.

I will take a moment to expand. Elections are extremely complex events. That is why electoral commissions plan for two years to deliver them. Election management systems, the IT systems which supports elections, are necessarily complex systems. Implementing any new major IT system is complex. The committee would be aware of many examples of unsuccessful IT project rollouts. Delivering the largest public event in the state while an international public health pandemic is rapidly emerging was complex. The new election management system deployed by the ECQ for the first time at the local government elections is an IT project success story. It worked and, with review and refinement, it will improve. One element, the election results website, was not ready and was not deployed. That is a workaround which partially failed, and that is the subject of this inquiry. Our submission discusses this in great detail, and I am sure we will discuss it more today.

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There has been much coverage of the election night issue, and that is understandable. However, what has been lost is what was achieved by the ECQ and the community in unprecedented and challenging circumstances. I think it is important that I briefly touch on that. With the rapid escalation of COVID-19, a high degree of uncertainty and extreme risk was introduced into the planning process. ECQ had to significantly redesign its service delivery model. The election that the ECQ had planned to deliver when the notice of election was published on 22 February 2020 was not the election the ECQ was required to deliver.

In conducting the elections, the ECQ consulted closely with Queensland's Chief Health Officer, who advised that the risk of COVID-19 transmission at a polling place was very low. To provide a safe environment for electors and other political participants at polling places, the ECQ implemented a range of measures at very short notice to protect public health and safety. These included extending operating hours at early voting centres; implementing COVID-19 related personal hygiene measures including providing additional supplies of hand sanitiser and encouraging voters to bring their own pens and pencils; employing approximately 4,000 additional staff to assist with security, queue control and social distancing measures; expanding capacity of the telephone voting service tenfold and increasing postal voting capacity to cater to an unprecedented demand; making adjustments to the layout of early voting centres and election day polling booths to ensure social distancing measures, limiting the number of people inside a venue and closing every second voting screen; ensuring health assessments were undertaken for election staff entering remote Indigenous communities; and issuing directions to prohibit the distribution of how-to-vote cards at or near polling booths and limit attendance of scrutineers during counting, in line with social distancing requirements.

All measures were implemented in accordance with the Chief Health Officer's local government elections and state by-elections direction issued on 22 March 2020 that outlined the hygiene measures and social distancing requirements that ECQ staff, political parties, candidates and their representatives and members of the public needed to adhere to. The priority for the ECQ during these elections was the effective and uniform rollout of these measures across Queensland to assure the safety of electors. Significant resources, both financial and human, were redirected from different parts of the ECQ or externally sourced to the COVID-19 response.

These challenges also saw a significant shift in the voting patterns of the Queensland public compared with previous elections. Some 1.2 million people voted during the two-week early voting period compared to 500,000 in 2016. Some 470,000 postal votes were returned of the 570,000 issued. This compares to 320,000 returned in 2016. Some 37,000 people cast a telephone vote. This compares to 500 in 2016. Some 750,000 people voted on election day at a polling booth. This compares to 1.6 million in 2016. However, despite the challenging circumstances in which the 2020 elections were delivered, the turnout to the local government elections was approximately 77 per cent. By comparison, the turnout for the 2016 local government elections was 83 per cent. It should also be noted that there was no rise in COVID-19 cases in the weeks following the elections.

Notwithstanding the record number of postal votes and social distancing requirements, the counting of over five million ballots for over 550 contests was finalised in three weeks. This compares to 2½ weeks in 2016. It is because of the extraordinary efforts of over 10,000 temporary election staff, who continued to work for us and for their community as the pandemic was escalating, that 77 local governments have been formed and are now governing.

In conclusion, the ECQ has much to be proud of from its efforts at the local government elections and has learned a great deal that it will take into the state government election in October. The ECQ is now implementing a range of measures to ensure there is no repeat of the delayed results being displayed on election night. We look forward to discussing those measures with the committee now.

Mr LISTER: Thank you, Commissioner Vidgen and staff, for coming to brief us. I appreciate that. Thank you for your report, which I have before me. When I am asking you questions, the things that are in my mind are past difficulties and lessons that should be learned from the Toowoomba South by-election, the Soorley review and so forth. I take you to page 12 of the submission you provided about the election night publication of results. Are you ready to speak on that?

Mr Vidgen: Yes.

Mr LISTER: I note that the new election management system had a process involving manual data entry on to a smart sheet, a submission of that, and then after vetting it is put up to the website. Given that the previous system seemed in many cases to cope well with that process, why did the new system adopt a different process which appeared not to work? Do you feel that you were sufficiently resourced in the contract to be able to create the necessary functionality to enable a trouble-free run?

Mr Vidgen: I will answer some of that question and then the assistant commissioner will provide a bit more detail. In regard to the question of resourcing, the ECQ is satisfied with the resourcing made available to it. Clearly, with the emerging issue of the pandemic we needed to change our delivery model very quickly. As I mentioned in my opening statement, we plan for two years for these events. What transpired was that in a matter of a number of days we had to shift our delivery model significantly. In saying that, we were able to do that to the best of our ability and the resources we had available to us were adequate. Similarly, additional resources were provided where needed.

In regard to the election management system, if I understand the question correctly, our new election management system, which we used for the first time in this election, replaces a system that had been in existence since, I think, 2006. We called it our SEMS system. That system had been identified as being out of date, in a sense, and it carried significant risks in terms of its continued use. That is why, prior to my being here in the commission, a procurement process was undertaken dating back to 2015, I think. Our submission details the process whereby a provider was secured and a development process has been ongoing for the past 12 to 18 months. The election results website component is just one component or one module of the election management system.

In 2016 we used the old system, the SEMS system. For 2020 we implemented the new election management system. One of the modules in that relates to the election results process. What occurred and what our submission details is that we identified some concerns with that component of the new election management system. The concerns were such that, at quite a late point, we determined that it was not safe or secure to use that component of the new system. Therefore for 2020, in effect, we had to implement a workaround. It was with the workaround system where on 28 March we had the partial failure. It was not the system we used in 2016 and before that; that was the SEMS system. We replaced that system with the new one. In saying that, we did use some of the old system for parts of the election delivery. I will ask Assistant Commissioner Wade Lewis to provide a bit more detail.

Mr Lewis: The strategic election management system that we have used for many years has been a great system. It has served us very well, including in the last state general election. However, it has reached the end of its life. That is one of the reasons that the new election management system was given approval to proceed.

From our perspective as electoral administrators, it was designed and is designed to actually provide us with an end-to-end tool for managing electoral events, which includes the conduct of the elections themselves from start to finish and also the new and quite different obligations that are on candidates, parties and third parties with regard to disclosure obligations with funding and gifts and that sort of thing. The new system has been designed to integrate with many other systems, which the older system has struggled with in the past a little bit and probably was not capable of doing going forward. The new election management system is that end-to-end solution.

One of the questions, if I understand it correctly, was about why we would not use that existing system to display the election results as opposed to developing a different standalone solution. One of the answers to that is that in the end, of course, we were running concurrent events here: all 77 local government elections—mayoral and councillor elections—and also two state by-elections. Our assessment was that, given the new election management system did contain all of the information relevant to all of those elections in one single point of truth, and rather than rely on the strategic election management system, we were best to develop a simple standalone internal module to present election results that we could integrate with our new system, both in drawing data from it and in migrating back to it at the other end of the process. I am not sure if that answers the question.

Mr LISTER: Thanks very much, Mr Lewis and Mr Vidgen; it does to a large extent. Mr Lewis, in the budget, what is represented by the development of that component of the EMS in terms of reporting for election night? Did the ECQ get value for money from the supplier in their work to produce something that in the end had to be abandoned, as you said, because of risks that were identified close to the election?

Mr Lewis: What I would highlight to the committee is that the majority of the election management system that we have received from the supplier has worked extremely well during the conduct of these elections. The results presentation aspect of that system is a small part in the functionality of the system overall. Yes, we are certainly very happy with how the election management system performed during these elections. Obviously we were not happy with how the election results element of that system was functioning—and our submission goes into that in some detail—hence the standalone solution that we ended up pursuing.

I will highlight some of the elements of the new system to give the committee a sense of its scope and complexity. It assists us with both electoral administration—so managing electorates, the electoral roll and registering political parties—and planning and preparing for an election—so all of the data

regarding our staffing levels, our equipment and things like that. All of the election timetabling information sits within the election management system. In the end, of course, it helps us to report on and evaluate electoral events. Within the system itself there are actually over 300 processes or functionalities that we use to deliver an electoral event. The election results aspect of the system is less than 10 per cent of that system overall.

To answer the question, we were very satisfied with how the system performed overall. We certainly are still working with the supplier to finalise that system in advance of the state election in October.

Mrs McMAHON: I understand, and your report does go into some detail to explain, the original purpose of EMS and obviously the issues that were encountered in March with the vote recording, notwithstanding the backup. Can you talk us through what was happening on election night in the polling booths with respect to the results that were being entered into smart sheets? Your report indicates that, after that results data was entered into smart sheets, there was a manual export of data. Could you talk us through what the processes involved following the actual counting and allocation of votes, the recording of data into smart sheets, the manual export of data and then the process to get it onto the website?

Mrs Cavanagh: I might start the answer and then pass over to my colleague Gary Whitelaw to answer the more technical or IT side of the question. As I understand the question, it was in regards to what happens in the polling booths at the close of polling at 6 pm on election day. It was our usual process. Once the polling booths close at 6 pm, the booths are packed up. The ballot boxes are unsealed, which can occur in the presence of witnesses appointed as scrutineers. The ballot papers are sorted and there is an unofficial or preliminary count that occurs in polling booths on the Saturday night. There is a sort and an initial calculation of results. The booth supervisors phone that information through to each of their returning officers, so 77 and more returning officers got that information from several booths. That data was then entered into smart sheets at that point in time, ready for publication to our website. Is there more information that you would like in regard to that process before I hand over to my colleague?

Mrs McMAHON: I want some clarification. For those people who have never been in a polling booth after 6 pm, ordinarily the process would involve scrutineers and extra people. I understand there were issues again on the evening. Given that we are dealing with technical and IT difficulties, where were those points of data entered, by whom and then who actually handled that data to make it onto the website? I want to get that chain of information.

Mr Lewis: I will step in here to talk about the scrutineering aspect and then I will hand back to my colleagues. Obviously one of the things that happened during this exceptional circumstance that we were dealing with was that the ECQ was provided with time limited or event limited, if you like, regulatory powers to help manage the safe conduct of the elections in accordance with the Chief Health Officer's directions. One of those powers given to the ECQ was about limiting the number and the movement of scrutineers, if required, in any polling place.

Mrs McMAHON: I note that your report indicates a time lime, where it says that at 9 pm scrutineers were allowed to be admitted inside polling booths. I would imagine that by 9 pm at a vast majority of the polling booths—being that they are at our schools and so on—and considering the lower number of voter turnouts on polling day, counting would have been done and dusted by 9 pm?

CHAIR: We have been disconnected. We will suspend proceedings briefly.

Proceedings suspended from 12.26 pm to 12.31 pm.

CHAIR: Mr Lewis, we lost you mid-sentence. I do not know whether you completed your sentence or not. Do you remind repeating it?

Mr Lewis: I certainly do not mind. I do not know which sentence you lost me in the middle of, unfortunately, but I might go back to the start of my answer to the question about scrutineering on election evening.

CHAIR: That would be fine, thank you.

Mr Lewis: What I was talking about was the difficult decision the ECQ made on election night to prohibit scrutineering during the preliminary count, which is the unofficial count, on election night. I had made reference to the regulatory powers that we were given that were limited to these particular events for that purpose and which were driven by the health advice that we had been receiving from the Chief Health Officer and our colleagues at Queensland Health.

I also mentioned for context that there are 1,100 polling booths across the state for a major event like this—large and small, some taking a small number of votes and some taking a very large number. Looking to move extraordinarily quickly to respond to the COVID-19 pandemic and ensure that whatever strategy we put in place was executed consistently across those many polling booths, we made the risk based decision, given an inability to do a very quick assessment of how safe scrutineering would be for the preliminary count in some polling booths, to prohibit it on election night. I mentioned that that was a difficult decision for us. I should emphasise that it was.

Thereafter, from the Sunday when the official count began—that usually happens back in the returning officers' offices, which are often more spacious and, therefore, are more easy to manage people in and so forth—scrutineering resumed. Of course, that was also limited by the direction that the commission issued—for example, limiting it to one scrutineer per candidate in those environments—but nevertheless provided for full scrutineering, which we consider to be a very important part of the quality assurance and transparency process for elections. I then handed over to my colleague Gary Whitelaw who talked at length about our data process to answer the second part of that question.

Mr Whitelaw: I will start again. In the submission from the ECQ in attachment 7 there is a diagram of the ECQ validation process for data release. I will talk to that and run through it for you. The process starts with the returning officer entering the data into a smart sheet for the particular booth involved. That data is eventually exported. The export process in this case may be a manual export, but it is still an IT process that extracts the data. It is just manually initiated rather than being an automatic process. It is all controlled through technology.

The first step in the process of validation is we generate a smart sheet report that then looks at the data for potential presentation errors in information. In the type of situation that we struck that night we had non-alphanumeric characters entered into the data. We remediated this with a process to remove it and consequently checked the information subsequently to ensure that that process did not happen again. Once we were satisfied, upon that initial step, with the data extract we would look to load the data into our development site. We have a data quality controller that would push that information through to the development site where it would go through another series of checks. Each time we found a presentation issue occurred we remediated that and added to that process.

Once that data was loaded in our development site another team of ECQ election staff would then review that site for other potential issues with it and report back any errors through to the data controller. All information in terms of presentation errors would come back to the data controller for review. Then we would come back and remediate that and push the data back out to the development site again where it would be checked once more.

Once both the ECQ review team and the ECQ data team were satisfied we would then release that data for production, where it would then be cross-checked for potential anomalies. That process was obviously tuned and fixed over a period of a day or so until we got into the position where we could do data releases in line with the amount of information that was counted by the returning officers. Is there any clarification that you would like to seek on that?

Mrs McMAHON: No, not on the workflow process and acknowledging the information in attachment 7. There was a comment made earlier about phoning through results. At what point would that have occurred in that flowchart?

Mr Whitelaw: There was constant contact between our team and the returning officers to verify information. I am not aware of any figures being phoned through. All data was entered through smart sheets and then processed in the manner according to the document.

Mrs Cavanagh: Just to clarify, at the polling booth level, whereas usually we would have expected our polling booth supervisors to be able to enter their counts on the night into the EMS, because we had not used that functionality they phoned their results through to the returning officers.

Mrs McMAHON: Mr Lewis, you were talking about scrutineers in the polling booths on the Saturday night. I acknowledge the advice and direction in relation to public health excluding scrutineers. However, I note in your report the time line for election night indicates that from 9 pm contact was made with political parties and returning officers to allow scrutineers to be admitted inside polling booths to view the preliminary count. Obviously those polling booths would be schools and whatnot. What was the impetus to make that change at 9 pm? Given the size of the counts in some of the polling booths, would a large percentage of the count already be finalised by 9 pm?

Mr Lewis: Yes, the impetus for doing that was the slow publication of those election results. At that point we felt that it was necessary to allow a limited number of scrutineers to go into polling booths to view the conduct of the count. I did mention earlier—I am sorry, it must not have been picked up

when we dropped out—that we consider scrutineering to be an incredibly important part of the electoral process. It was a difficult decision for us to prohibit them on election night. As soon as we realised that the election results were not being made public in the manner that we expected, we were very concerned about the transparency of the election as a result so we invited scrutineers in at that stage.

To answer that second part of the question, yes, some booths are very small and so that preliminary count can happen quite quickly. By that stage it was entirely possible—I could not confirm any particular areas for you—that preliminary count would have already occurred. From talking to the political party contacts I know that for the state by-elections and also in some of the bigger local government areas those counts were still going on at that stage in the evening so scrutineers were sent in and observed the conduct of that preliminary count.

Mrs GERBER: I echo the sentiments of my colleagues and thank you all for coming. No doubt you are all aware that I was elected in the Currumbin by-election so this truth-finding inquiry is of particular interest to my constituents and me. My question has been partly addressed by Mr Lewis already and touched on by the member for Macalister. It relates to the formal count of votes. I would like to take you to the submission of Paul Gleeson dated 8 May 2020 where he states —

The lack of scrutineering at this election casts doubt over every result.

CHAIR: Excuse me a minute, Laura. Sorry to interrupt. The Electoral Commission does not have the submissions yet.

Mrs GERBER: Can I read it out to them or not?

CHAIR: The process is that the committee has to approve them for publication first.

Mrs GERBER: As part of this process I cannot read that submission out to them?

CHAIR: No, unfortunately.

Mr Vidgen: If the member wants to ask the question in a general sense we are happy to address it if it is related to scrutineering and confidence in the count. We are happy to talk about those issues if the member would like to perhaps cast the question in that light.

Mrs GERBER: Thank you for that. I will take you to page 12 of your submission and the time line on page 13. The attendance of scrutineers was originally prohibited due to the need to enforce social distancing rules and the rules around social distancing did not in fact change over the course of election night. When you look at the time line you find that from 9 pm scrutineers were then allowed inside. Why was the decision made in the first place to prohibit scrutineers under the auspices of the social distancing rule when from 9 pm onwards they were admitted?

Mr Vidgen: I will provide a response and then others might contribute to that. As Mr Lewis said, the decision I took in relation to issuing a directive in regard to not having scrutineers permanently in polling booths on election night was a very difficult but well-considered decision. It was based on a range of factors but most importantly the health advice we had consistently been receiving. It was consistent with that regarding social distancing. We communicated that decision to political parties as well. By and large they understood the reasoning behind that.

In regard to what occurred as the count progressed on election night, as Mr Lewis indicated, it became clear to us that the uploading of the results was not occurring at a rate which was deemed by us to be satisfactory. We were most concerned that the results were not going up at a satisfactory pace and transparency was incredibly important. At that particular time, although it was the preliminary count and not the official count, we still felt it was critical for transparency reasons to make the decision that we made.

I take the member's point entirely in regard to social distancing and the fact that nothing had changed at that point in time, but I made the decision based on the circumstances presented to us at the time. It was critically important that if scrutineers did want to enter the polling booths then they were welcome to do so. That is how that decision came about. I am not sure whether Wade wants to answer that?

Mr Lewis: I will address a part of this question. At 9 pm, when we did contact political parties and candidates about allowing scrutineers in, we did stress that the social distancing measures contained in the health directions applied, of course. We did ask for scrutineers to remain in the booths for a short period of time only and for a limited number of scrutineers to be sent in, if possible. We were very mindful of still trying to ensure that those polling booths were as safe as possible in that context, both for our staff and for candidates and scrutineers. Obviously, we have a duty of care to our own staff as well, and we are very mindful of that. Again, with over 10,000 staff working for us across 1,100 polling booths in this kind of context, that was obviously a key consideration for us, as well as the safety

of other electoral participants in the process. That limited number and a short period of time was the balance that we felt we really needed to hit once we allowed scrutineers in some of those booths on election night.

Ms Nuttall: Just expanding on the transparency issue that has already been discussed, obviously that was a key issue that was of concern to us—to ensure that there was maximum transparency over the fact that the vote was in fact continuing as planned and that the issue being experienced was purely a matter of feeding the data through and publishing it on the website. We wanted to maximise our communications to key stakeholders to ensure it was clear that that was the situation. One aspect of that was the readmitting of the scrutineers to the count to provide that reassurance that the count was ongoing as normal.

In addition, we issued a number of communications to stakeholders, and that is the contact with political parties which was done early in the piece. We sent three separate emails to candidates over the course of the night. In addition, we had been doing regular website updates. There were a number of updates that we published to our website on the evening, that are still available on the website now as a matter of public record, to provide that public accounting of the situation as it was unfolding on election night. We did provide a final advice to candidates to advise once the issues had been rectified. I think by around 11 the majority of the results were publicly available and by around 11.45 all results were available on the website. We provided the final communication to candidates, other stakeholders and media outlets that we had been liaising with over the course of the night to advise that that data had been published at that point.

Mrs GERBER: I understand that when the direction was updated you passed that information on, but can you explain a bit further how you passed that information on to the returning officers so that they were then able to allow in the scrutineers after 9 pm to observe? To put all of that in context, as you are aware I was very much involved in the by-election in Currumbin and there were great difficulties down here in relation to the dissemination of information. I appreciate that it was a moving feast and that quite often decisions were made, but I just want you to explain perhaps a bit further how the information was disseminated down the line so that the returning officers and the other officers were aware of what decisions were made and when?

Mrs Cavanagh: The information was provided from the ECQ office to the returning officers by email, with some phone calls backwards and forwards between our team and them as well. The returning officers were then responsible for disseminating the information out to each of their polling booths. I understand your point about the fact that some communications might have been difficult to reach. I get that it does take some time for the returning officers to contact each of those booth supervisors to make sure they have the correct and up-to-date information. That contact is challenging out in the field when you have 1,100 polling booths to be in contact with, but that is how that process worked.

Mr Lewis: We do employ a small team of very experienced ex-returning officers as part of our help desk, if you like, for returning officers. We refer to them as contact officers. Those contact officers were also assisting with direct liaison, both by phone and by email, with the returning officers to ensure this message was disseminated as widely as possible.

CHAIR: I have a series of questions which for continuity I would like to ask one after the other. Did the way people voted or the change in method of voting affect the receipt and publication of votes?

Mr Vidgen: Just to clarify the question, are you referring to the number of people voting at pre-poll, by postal votes and that sort of thing?

CHAIR: Yes, pre-poll, telephone voting and other methods available to voters to vote at an election.

Mr Vidgen: In terms of how that then might have had an impact on the counting process?

CHAIR: Yes.

Mrs Cavanagh: It certainly does have an effect, especially things like postal voting and telephone voting. As the commissioner mentioned in his opening brief, whereas we planned for approximately 320,000 postal votes we actually received back 470,000 postal votes, which was a considerable increase. Waiting for those postal votes to be returned can have a delayed effect on us being able to continue to move towards a declaration. For instance, we had one small, remote electorate where we had a tied result and were waiting on two postal votes. We had to wait 10 days for those two postal votes, which did not get returned. We could not continue any counting; we had done everything we could. At day 10 we were able to undertake a randomised draw to determine the elected candidate. Even two outstanding postal votes can have an effect on how quickly we can declare the outcome of an election.

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Telephone voting can have a similar effect, although not as much. The telephone votes are received in a central location and need to undergo a vote sort and be returned out to each of the returning officers to be included in the preliminary and primary count. They do add some complexity, but really it is the increase in postal votes that can add a bit of extra time. Of course, large early voting centres in most cases would not undergo their preliminary or unofficial count on the Saturday night. That would have commenced on the Sunday. A big increase in early voting can delay that process by an extra day or so as well.

CHAIR: Does the commission see a way to make this whole process easier for future elections, or is that too hypothetical?

Mr Vidgen: There were many complexities with this election which I talked about in my opening address. It was not so much that we were delivering a significant logistical event while a pandemic was on; it was actually made more complex because the pandemic emerged as the election period was upon us. The election period itself started on 22 February; however, in terms of the significant changes to our service delivery model and certainly the communication to the public in regard to COVID-19, we really look towards 13 March, because 13 March was when the Australian government through the national cabinet first issued its restrictions in terms of mass gatherings regarding 500 people. That date was three days prior to postal voting applications closing, on 16 March.

As the law stands, for someone to receive a postal vote application they have to apply to the commission. We were asked extensively about extending the deadline for the postal vote, given the obvious concern for the community in terms of being out. The law stated that we could not. We were locked in to 16 March. The community had three days to apply for a postal vote. What that meant for us and our systems was a huge surge. In the last few days we had around 150,000 applications for postal votes. This placed a lot of pressure on our systems, because the systems are not designed to deal with that sort of surge.

The date of 16 March was also critical for us because that was the day on which our pre-polling centres were to open. Again, we were basing our resourcing model on what we believed the pre-poll demand would be, based on previous elections. Clearly, between 13 March and 16 March, with the change of community circumstances, we anticipated that the pre-poll would be a lot more popular, and that is the way it transpired.

The circumstances we confronted with this election were largely unique. However, I think the question you asked was what we could do perhaps to improve the system. We are certainly thinking about a range of things now, particularly if moving into October there are still some community restrictions about. Even if they are lessened—and we do not know what will happen in the future—we anticipate that certain behaviour which was adopted in March could well be repeated in October. That is, postal voting may again be very popular for those who exercised it this time around. Similarly, pre-polling may also be very popular. We need to look, see and plan—now that we have a bit more time—if postal voting is to be a significant service for us, how we do that more effectively in terms of communicating with constituents and also being able to provide a more timely service.

Similarly, with pre-poll centres we expanded our hours. I think we indicated this in our submission. In both weeks we had two night-times. We expanded hours up to 9 pm and, for the first time ever, polling was done on the Saturday prior to the election day. We do not believe this has occurred previously. Again, moving forward, we will be looking at those issues for October and may well be implementing similar extended hours and certainly communicating around postal vote applications a lot clearer and a lot earlier so that if people do want to exercise that capacity we are very clear about how to go about it and what the critical time frames might be.

Mr Lewis: The other challenge that exists with postal voting, which we obviously all witnessed here and which we would need to think about for October should the conditions continue similarly, is for the candidates and for their scrutineers. That was one thing we were aware of in this election, given the very short amount of time that candidates had to plan for a campaign workforce that enabled them to scrutineer a much larger volume of postal votes than we had anticipated. As we have communicated about for some time, we expected the vote counting to take longer than normal given the restrictions in place for a COVID-safe environment. Certainly, that played out to a small extent. We know that it was a challenge for many of the candidates to ensure they had scrutineers available to hang around, if you like, for that long period of time for postal vote scrutiny that is an essential part of that process. Obviously, some candidates were better resourced than others to enable them to do that, but that is certainly a challenge as we think about postal voting increasing as a channel of voting going forward when the traditional model and the rule of thumb is probably around 10 per cent of in-person elections being cast by postal vote. That is a fairly consistent national trend as well. That is a bit of a challenge.

CHAIR: What went wrong with the results displayed on election night?

Mr Vidgen: I think we talked about the macro level environment with which the commission was confronted with regard to the election management system and the onboarding of that, the challenges we had with that, and the disappointment the commission had in learning a few weeks out that the election results website did not pass certain testing, which, as Mr Lewis said earlier, was only about 10 per cent of the election management system itself—I might defer to Gary Whitelaw to talk a bit about that testing and why we did not have confidence in being able to use that system—and then we had the workaround system. That is obviously what partially failed on election night, and Gary can talk a bit more about that.

Mr Whitelaw: Just stepping back to the EMS side of things for a moment, around mid-March we had access to the system to do some load and security testing. The load testing was done over two reports. The first time that we ran it we were trying to cater for a load between 1½ million and three million people accessing the site on the night. There is no way of predicting how many people might access the site at all. We did the load testing and it came back with, unfortunately, unacceptable results. In layman's terms, the more people that access it, the longer it takes a load a page. At a particular point then you would get an error page and you get no data at all.

Whilst the situation applies that we test it on the results site, the load issue spreads across the entire environment. It is a single solution with EMS, so there were potential load issues in the environment in total. We had to make the call then to take an in-house solution that we had on the backburner and push it into a production environment in the time we had available, which was approximately two weeks. Unfortunately, in addressing the issues that we had with the EMS site we created a situation where we were not doing as much validation on data being entered into the site. The smart sheet solution we put in was a temporary solution to deal with the fact we could not take the data out of EMS.

During that exercise we developed a solution to replace the infrastructure to develop the software, but the process of taking the data from the smart sheets and the ROs and putting that into the website had two issues: one around validating the data; the other to do with some smart sheets that were set up that were not in line with the specifications that we had defined to produce them. They then created the result on the night where we had to actually remediate the information coming through for presentation errors and then fix up that smart sheets problem with a workaround. That took time, and we worked on it through the evening. We got to the point where we were able to load data again, and subsequently we started fixing the issues as we found them, as I discussed earlier in attachment 7. Attachment 7 details the process that we used to remediate the information that we had, but it falls back to the fact that we had limited time to put in an ultimate solution. Unfortunately, as part of that some validation issues were not addressed properly.

Mr LISTER: Commissioner Vidgen, I listened with interest to what you and Mr Lewis had to say earlier. I detected there was a sort of statistical appreciation on your part of the component of the overall EMS project which was concerned with presentation results on the night. I just want to get your view on something a constituent of mine brought to my attention, and I will paraphrase what he said. The delay in the results—in particular in the Southern Downs Regional Council—in this person's view prolonged the terms of lame duck councillors who had been defeated and delayed the assembly of the new council, thereby disadvantaging the community. I certainly sympathise with that. I copped a lot of flak over what had happened, being the 'government man' in Southern Downs. What would you say in response to that view, which I think is held by many people in my electorate?

Mr Vidgen: With regard to this electoral event it was extraordinary, and we will continue to talk about it in those terms. One of the issues the commission had to confront—and I had to confront as commissioner—was to explain to the community why the election was occurring. Obviously, as I outlined in some of the milestones in terms of the election period, from when it commenced to the onset of the pandemic and the delivery time there was justifiably significant public concern with regard to being out in the community. Certainly, the commission and I were very aware of community concerns in relation to that.

One of the things that I did as commissioner was try to explain a few things. The first was that we were taking expert health advice from the Chief Health Officer in terms of wellbeing and that if at any point in time the Chief Health Officer indicated it was not a safe environment for people to be in we would have taken that advice and acted accordingly. The ongoing advice we did receive was that certain measures needed to be implemented, and I think on three occasions after the national cabinet first issued its instructions on 13 March right up to the 28th we had to readjust our planning. At all times we were very conscious of community safety.

The second element that I needed to try to communicate with the community was why voting is an essential service. The national cabinet talked about the ongoing need for essential services and, as you would be aware, it is not so much that voting is an essential service; it is about government. Voting provided a mechanism for there to be certainty for local governments to be formed. As you are aware, once the notice of election is issued all local governments are in a caretaker period. In that caretaker period there are great restrictions on the business they can conduct and the services they can provide to their communities. Clearly, if that period were to be prolonged and the election did not occur, although there was legislation in place which the parliament passed, there would be issues regarding the extension of the caretaker period and what that means for service delivery for communities. That is not a role for the commission to be involved in; however, I did have a role in, where I could, explaining to the community that the importance of the election is about local governments being able to be formed and being able to provide the essential services they need to deliver to their constituents, which is never more important than in a pandemic period.

They were the two driving factors for me: firstly, that public safety is absolutely critical; and, secondly, why it was essential and why it was important for people to vote. I was consistently asked about people not voting—what we would do in terms of issuing fines for people who did not vote and so forth. Our focus was very much on encouraging people to vote. We did our best to broaden the channels, which we talked about in terms of postal voting and pre-polling, to create safe environments. When people did need to go into those environments, typically people were in and out of a polling booth in under three minutes, so very quickly. They were very spacious, so we did all we could.

Getting back to the point the constituent made to you with regard to the time it took, as I indicated in my introduction, in 2016 typically the count was finalised in 2½ weeks. On this occasion it was three weeks. I can get Julie to speak a bit more about the complexity of counting, because it is quite a complex process. I would like to assure you and all committee members that our staff worked every day leading up to the election and every day after the election, except Good Friday, to finalise the counts. Julie will talk a bit more about the complexity of counting, but often a vote is counted multiple times. While we had around five million ballots, the counting of that ballot is not just once; it is more than five million counts, if you like. Julie can talk a bit more about that. I do understand the concern of the constituent, but I want to be really clear that everything the commission did was putting the community first in terms of their safety and also trying to ensure that local governments were returned as quickly as possible but in accordance with the law; therefore, certain things had to be done in certain ways. Wade might talk a bit about the counting process.

Mr Lewis: To address that question of the importance of mayors at this point in time, we worked very closely with our colleagues in the state government during the emergency of the COVID-19 pandemic—not so much with Southern Downs, as the member has referred to, but obviously with some of the remote and Indigenous communities. What that really brought home to us was the importance of mayors and the role of mayors in their local disaster management committees and the importance of those committees at this time for all of those communities. We were acutely aware of the importance of those roles and we were working, as the commissioner said, to make our declarations, particularly for the mayors, as fast as we possibly could, understanding that that was part of the important context for communities.

One of the things I would say is that we declare a result when we are certain about the result. We certainly do not declare it before we are certain. I think that is the expectation that people have of us and part of how people should measure what we do. In terms of measuring what we do, what I would like to highlight and what the commission talks about is that we declared all of the election results within about a three-week time frame. Compared to 2016, when all of the election results were declared in 2½ weeks, we find that to be quite an extraordinary achievement on behalf of the many staff who worked for us in this context. I just wanted to highlight that.

Finally, Southern Downs provides an excellent opportunity to talk about the complexity of the vote count. As an undivided council it had 25 candidates. I think we declared Southern Downs on the 11th and the mayor on the 6th. A mayoral election is a much easier one to declare in many ways. Twenty-five candidates in a first-past-the-post counting system is a very complex count and it takes time to work through that. My colleague Julie can talk through that in a bit more detail in a second.

One of the enduring messages—and this goes back to the chair's question as well—is that the website issues we are talking about that are the subject of the inquiry here today really have no relationship to the speed of the count. A lot of that is determined by the postal vote time frame that we have talked about already, the complexity of specific electoral events like in big undivided councils, for example, or—and this goes to our role as a regulator with a compliance role—sometimes there are

things we need to look into as part of the conduct of an election, and that introduces more time into the declaration process as well. We certainly make no apologies for that. That is an important part of our role.

Mrs Cavanagh: As Wade just mentioned, the first-past-the-post counting system is an extraordinarily complex count. It is a very manual process whereby every single ballot paper is counted several times. Because there were, as I understand it, eight councillors to be elected in Southern Downs, it means that every vote is counted eight times. There is a system whereby every single ballot paper is framed up in groups of 10, so you can imagine that happening on a piece of card where 10 ballot papers are lined up. There is a process where two people are involved in looking at each of those ballot papers and then recording that onto a work sheet. That happens twice to make sure we have done our unofficial count and then our official count as well. It is a long, slow process. Then if we end up needing to wait for postal votes—and I am not sure whether that was the case for Southern Downs—that can add a bit of complexity and time to the process.

When you think about groups of two people framing up 10 ballot papers at a time and then making a calculation across the page and then double-checking that, and that happening two or three times for every single ballot paper, yes, it is a complex, time-consuming process. As Wade mentioned, with 25 candidates that means it takes even a little longer. Then adding in the social distancing laws that would have been in place in the count centre, we may well have been limited in some places as to how many staff we could have onsite at any one time undertaking that process. I am happy to provide more information on the first-past-the-post counting system if needed by the committee.

Mrs McMAHON: Turning my mind back to the inquiry's role in examining the online publication and going back to an earlier statement by Mr Whitelaw about independent load testing initially of the EMS, given that the 2020 local elections were always scheduled to occur in March 2020 and independent load testing was left until March 2020, was that cutting it a bit fine?

Mr Whitelaw: We had the results website delivered to us as part of a development exercise in March, so that was the first opportunity we had to truly load test the site independently or have it load tested at all properly. Unfortunately for us, that was the situation that transpired. It would have been ideal for us to be able to do it a lot earlier in the piece.

Mrs McMAHON: Was it written into the contract that the election results component would not be ready until March?

Mr Vidgen: To expand on Gary's answer, there were a number of factors in play in terms of development and testing of the new election management system. Yes, it certainly was not ideal that that testing was occurring that late in the piece. By way of background to where we got to in terms of sequencing, there were a number of contributing factors. They related to the impact on legislative changes last year in regard to certainty in terms of what our systems needed to deliver. That was a relevant factor. There was the capacity, capability and maturity of the vendor in terms of understanding the requirements of the Electoral Commission and how that then was converted into development, testing, assurance and so forth.

The system which went through the procurement process initially was identified as more of a commercial off-the-shelf system whereby the variations required would be minimal. In the end, that did not prove to be the case and there were significant amendments to what was initially thought to be a commercial off-the-shelf system. The challenges we were confronted with as a commission meant that we reprioritised the work the vendor was doing to ensure that, in line with the election timetable, where various elements of the system had to come online—certainly 20 January was a critical time in terms of the new disclosure laws—we were satisfied that all the development requirements for that functionality were in place, had been tested and we had assurance for that.

Ultimately, at the end, we required the vendor to ensure that development testing and so forth, which we were very closely involved with, allowed for the notice of election requirements to occur with our satisfaction in terms of capability. That actually occurred well, right up to the point where we had the election results website. By and large, a lot of that functionality for the website—Gary or Wade can correct me—was actually in place and ready, but the critical factor in relation to load failed. That is why, as a commission and as commissioner, I was incredibly disappointed with that outcome which led us to a workaround situation.

Mrs McMAHON: My experience with COTS models is that anytime you make a variation to the model as you purchase it there is usually a cost involved. Can you comment as to whether changes to the commercial off-the-shelf model and any modifications resulted in an increase in price or whether that was factored into the contract at the vendor's expense?

Mr Vidgen: I do not want to avoid the question but, as we are having another conversation shortly, perhaps we can talk a bit more about the arrangements we have with the vendor and how we have progressed through development, contract management and so forth. If I can seek to perhaps talk a bit more in that session, that would be preferable.

CHAIR: Yes, that is okay. It has been raised that the website appears to be not as user-friendly as it previously was in terms of being able to view polling booths on the page without having to download. The way it has been described to me is that the only way you could check a particular polling booth would be to download a spreadsheet. Is that the case? Will that change in the future whereby you will be able to view each polling booth simply on the webpage?

Mr Lewis: Yes. Certainly, the intention is that people will be able to see election results at the polling booth level. Indeed, recently we published that on our website. People can now view the polling booth level data from the recent elections. Gary Whitelaw and his team in ECQ are responsible for that. It is certainly an important part of the presentation of information. Looking ahead to October, we hope to make sure that that is a feature of the information we present then as well.

Just looking backwards briefly to our old website, I confess that I was a bit surprised to hear it described as 'a bit more intuitive than our new one', having used it myself. In the past, the existing strategic election management system used to push data directly out to the election result website. People obviously did get used to seeing that at the booth level. It pushed out information in that sort of way. We did take a different approach this time around in terms of the user experience, the design of the interface with the website and the presentation of election results. We are currently going through a process of seeking people's views and evaluation of our performance in this election. Part of the information we are seeking is people's experience of the presentation of that material and their accessibility to the kind of data that they want and need. Finally, we have worked closely with the media as well in trying to meet their needs, which are obviously slightly separate to the needs of the average person accessing the website for their interest. Again, that collaboration will continue, looking ahead to October as we refine those sorts of data feeds and information products.

Ms Nuttall: At the conclusion of every election a post-election reporting process is undertaken. Generally for the state election that would be the statistical return that collates all of the relevant statistical data into a quite lengthy report that makes publicly available a lot of the data and statistics around the election. Clearly, we will go through the same process for this election and also the by-elections to collate that data. One of the issues we want to look at is the accessibility and use of the great, vast amount of data that we hold in the ECQ. We are aware that that is used by many stakeholders. We want to improve the way that is presented to the public, not only to ensure that is published to the same level of detail as previously occurred but also to see if we can improve the way it can be used and consumed by stakeholders.

CHAIR: Are we now referring to section 18(2) of the Electoral Act?

Ms Nuttall: Yes. There is a provision in the Electoral Act that requires the publication of reports on the elections. In terms of the Local Government Electoral Act, I do not believe there is an equivalent provision; however, our practice has been and will be that we will produce a report on the conduct of the election.

CHAIR: The report on the 2017 state election, which was held on 25 November 2017, was not tabled until 14 June 2018, approximately seven months later. The time line would indicate that we may not see the report before October.

Ms Nuttall: Certainly it is our intention to finalise the local government election report before the October election, and we would certainly be looking to improve on those time lines.

Mrs GERBER: Commissioner Vidgen, in your previous responses you touched on the importance of people voting in the local government elections and the by-elections. I want to touch on the issue of telephone voting. Vulnerable and high-risk people in relation to COVID-19 were encouraged to telephone vote, and I applaud the commission for that. At-risk constituents of mine have raised with me their experience with the telephone voting being that, when they tried to call to telephone vote on election day, they received a message service which told them to call back later. After multiple attempts, many at-risk voters informed me that they simply were not able to get through via telephone and were left unable to exercise their democratic right to vote. I have three questions around this. Are you able to explain to the people listening to this what went wrong with telephone voting that resulted in people being unable to get through to vote? Will more staff and other resources be needed to ensure similar complications are avoided at the October election should the same voting measures be needed? Did the take-up of telephone voting by voters have any bearing on the publication of the results?

Mr Vidgen: In regard to telephone voting, it is designed and legislated to be a very narrow channel of service delivery. In 2016, out of 3.2 million possible electors 500 people used that facility—a very small percentage. To be able to use that facility, you have to meet certain criteria. For 2020, in our preplanning we had increased our resourcing to accommodate at a maximum around 5,000 expected telephone voters. Originally we had put on around 16 people to resource the service.

To understand the service, it is an audited service which requires great certainty in terms of the veracity of the vote. It is a two-step process. First, a person needs to phone one call centre and get a unique identifier. Once they have that unique identifier, they need to call back into a different call centre where they have to refer to their unique identifier. Two people will be on the line at the time to speak with the caller to ensure that the details of what the person is saying—who they are voting for, what local government area they are in—is correct. It is a very resource-intensive, time-consuming process. That is the way the system has been built deliberately. As I said, it is a very heavily audited program. Every time we have an electoral event, an independent auditor comes in and audits the process to ensure that everything was done correctly and there can be no issues with the veracity of the counts taken.

What we encountered, obviously, in the pandemic was a significant uptake on that service. Unfortunately, there was a lot of public comment in regard to people just using the telephone voting service as an alternative method. That was incorrect information, yet it was information that was being encouraged throughout. That meant that a lot of legitimate people who needed to use that service, who could not physically get out to a voting centre, were not getting through. One of the things we do at elections is go into declared institutions—nursing homes and the like—and provide a mobile service for those voters. I took the decision on 13 March that we were not going to do that. The health advice was that we should not go into those facilities. We encouraged our returning officers to make contact with those nursing homes and the like to which we would typically provide that service to indicate that we were not providing that service and encourage them to use telephone voting as an alternative service, given the fact that people in nursing homes and so forth would qualify. We already had an uptake of demand that were just the constituents we were dealing with. In the end we had that, plus general members of the community who wanted to use that facility.

We increased our staffing from 16 people to 160. We took 37,000 votes. I think we had around 46,000 to 47,000 registrations. The first step is the registration, where you get your unique identifier; the second step is when you come back and complete your vote. We had around 37,000 people complete that. You do not always get to the second stage anyway, because some people do not phone back. I accept what you are saying in terms of there being difficulty in that channel in terms of getting through, primarily because it was overwhelmed.

In terms of capacity, it is a low-capacity service. It is not built for high volumes. Even reflecting for October, it is unlikely that we can do any more than we did in March in terms of volume. It is not a cost-effective way to take a vote. In terms of the count process, I refer to Wade or Julie to talk about how we include the counts from telephone voting into the counts.

I think the second part of the question was: would more staff have helped? I was confident. In the end, we increased the staff tenfold, to 160 people. I do not think we can do any more than that. We will certainly be looking at capacity again, as I said earlier. I think voter behaviour from March could well be repeated in October. We would like to ensure that messaging around telephone voting is targeted to those people who are in need as opposed to just general members of the community. We will certainly be looking at a different facility to house our staff with regard to telephone voting. In the time we had we did the best we could. Julie can talk about how telephone vote counts are included.

Mrs Cavanagh: As the commissioner mentioned, this is a two-stage process run across two different locations, the first location being registration and the second location being the taking of the votes with a person talking and a person listening and making sure that the vote is then recorded accurately, so an audit in situ on every single vote that is being cast. That is recorded through entering numbers into the computer, and then a ballot paper is printed and double-checked by those two people before it is put into a ballot box, sealed up and ready to be opened at 6 pm on polling day.

When that occurs at 6 pm on polling day the ballot boxes are unsealed, as they are at any polling place, and the votes are sorted, ready for secure distribution to each returning officer. If you think about the 77 local government areas around Queensland, I am not sure of the exact statistics but we would have received votes for almost all of those councils, I would think, through telephone voting. They are sorted and counted so they can be reconciled upon receipt by the returning officer. If the telephone voting centre says, 'I'm sending 20 votes to this particular returning officer,' they need to reconcile that they have received the 20 ballot papers at the other end, and then they are admitted through to the count at that point in time as part of the telephone vote count.

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Mr Lewis: Going to the member's specific electorate, we were aware that some people were potentially confused about being able to cast votes for both their local government election and their state by-election in the Currumbin electorate at the one time. Given the nature of that service, it is essential that people accessed that service twice: once to cast their local government vote; the second time to cast their state by-election vote. I am not certain if the member is aware of or referring to situations like that, but we are aware of that happening as well—where people thought they cast their several votes using the service once, but that obviously was not the case because of the nature of the service and the secrecy that surrounds each particular vote that is cast.

Mrs GERBER: Thank you for your response. I was not referring to a doubling up, but I was aware that has happened. I was referring mostly to those people who simply could not get through and whether or not the service required more resources to facilitate that in October should the same situation evolve. Effectively, I understand from the commissioner's response that there is not much more you can do. If the uptake by constituents is the same then the same problems will be encountered; is that right?

Mr Vidgen: Largely, that is correct; however, what I will say is that we will be planning for a significant volume up-front, as opposed to having to upscale while the election is on. The other thing is that we will be communicating very clearly—with the political parties as well hopefully being very clear—in terms of who is a legitimate user of that facility so we will not have people who do not need to use it clogging the phone lines. The other decision we will need to take close to the event is what we will do with closed institutions and whether or not we will be servicing nursing homes and the like with mobile polling or not. If we do not do that, then clearly telephone voting may be a way we will service them. Then again, we will have more time to better manage how we do that.

CHAIR: There being no further questions, that concludes this public briefing. Thank you very much to Mr Vidgen, Mr Lewis, Mrs Cavanagh, Mr Whitelaw and Ms Nuttall for your assistance today. Thank you to the secretariat staff and to Hansard. A transcript of these proceedings and an archived broadcast will be available on the committee's parliamentary webpage in due course. I declare this public briefing for the committee's inquiry closed.

The committee adjourned at 1.35 pm.