Inquiry on the future conduct of elections operating during times of emergency situations

Australian Electoral Commission submission to the Joint Standing Committee on Electoral Matters

AEC
Australian Electoral Commission

Contents

Introduction

The Australian Electoral Commission (AEC) welcomes the opportunity to make this submission to the Joint Standing Committee on Electoral Matters (the Committee) inquiry on the future conduct of elections operating during times of emergency situations.

A federal election is perhaps the biggest peacetime logistical event in Australia, and continues to grow in scale and complexity. There are currently over 16 million Australians enrolled to vote, and the federal election dates are not known in advance. Once the writs are issued, the AEC mobilises to identify suitable polling staff, venues, and all supporting logistical arrangements to administer the event.

Emergency situations are inherently difficult to predict and are typically associated with high levels of uncertainty about either their cause or the scope and severity of their impacts. An emergency situation has the potential to affect more than one jurisdiction, impact the community, and create pressure for resources when there is competing demand.

The Australian federal electoral system may be vulnerable to emergency situations in circumstances where key components of the election are disrupted, including voting, election administration and campaigning. The timing and location of an emergency situation will influence the required adjustments to administration and the mitigation strategies which are used.

There are a number of key limitations in the *Commonwealth Electoral Act 1918* (Electoral Act) that could constrain the AEC's ability to respond to circumstances requiring suspension or disruption to components of election delivery, including at polling places.

This submission highlights requirements for Parliament's consideration that would assist the AEC in continuing to deliver high integrity federal elections through various emergency scenarios at the national, state, or regional level.

To this end, the AEC considers the following amendments to legislation are advisable in order to provide the AEC with greater flexibility to respond to emergency situations:

- Enabling the Electoral Commissioner to determine how certain electoral processes and activities may be undertaken, where these processes or activities are impacted by an emergency situation
- Providing the Electoral Commissioner with the authority to make a decision to adjourn or suspend polling, or provide for the temporary suspension or adjournment of other events.

Administering elections in emergency situations

Building confidence and trust in elections is as complex as it has ever been. The AEC is committed to ensuring Australia's elections are conducted in a manner that inspires and sustains confidence of the public, and election stakeholders.

An enduring challenge in the electoral environment during ordinary times is maintaining a mutual understanding amongst electoral stakeholders of the shared responsibilities and accountabilities in a number of areas, including maintaining voters' trust in elections and ensuring proactive actions are being taken to meet reasonable expectations around flexibility and responsiveness while providing for electoral integrity.

Election planning and delivery in an emergency situation involves new stakeholders with their own remits and additional complexities. A more flexible legislative framework would provide the AEC with greater flexibility to respond to emergencies and their impact on the public and election stakeholders.

The complex environment

External guidance

Most emergency situations will involve a declaration under Commonwealth, state or territory law. Those charged with managing an emergency situation and its consequences have pressing priorities related to their respective remits around preservation and protection of life, health, property and essential services.

During any emergency situation, the AEC is only one stakeholder in a complex environment. Management of an election during an emergency situation requires engagement with ministers and senior officials across governments as well as advisory bodies. The specific stakeholders and their respective roles and responsibilities are dependent on the nature and severity of the emergency situation, and can evolve as the situation changes.

A challenge with delivering a federal electoral event in a state or territory with a declared emergency will be conducting the event consistently with state or territory emergency requirements. While the constitutional position is that a state or territory law should not prevent a Commonwealth agency or a person from carrying out their responsibilities under Commonwealth law, it will nevertheless be important to work with local authorities to ensure electoral events are conducted consistently with local emergency requirements so that electors, staff and others in an election are not put at risk.

A critical feature of the successful delivery of the Eden-Monaro by-election in the COVID-19 environment was the significant investment of time required, and the immense value obtained, from engaging with government departments across jurisdictions before and

during the by-election. In delivering the by-election the AEC liaised closely with the Commonwealth Chief Medical Officer and the NSW Department of Health, emergency services, the Electoral Integrity Assurance Taskforce and political participants. A similar model of consultation is in train for the Groom by-election.

The AEC's emergency situation response requires a streamlined approach to access key stakeholders, such as police, fire and emergency services, Chief Medical Officers, Defence and central security agencies.

Key logistical challenges

Emergencies can pose major logistical difficulties that could force significant compromises, delays, or even render an election partially or fully undeliverable.

Staffing: The delivery of elections is reliant on huge temporary workforces who in an emergency situation may be less available. At a federal election the AEC relies on a temporary workforce of approximately 90,000 people. Recruitment of temporary workers is increasingly challenging in normal circumstances and an emergency situation could suddenly pose significant recruitment and absenteeism challenges that could threaten the delivery of the election. This is amplified in the context of the COVID-19 pandemic where additional staff will be required to perform hygiene and sanitisation duties, manage queues and maintain voting service levels.

Materials and logistics: Supply chains are also likely to be affected depending on the scale of the emergency. The rapid outbreak of COVID-19 resulted in global shortages of personal protective equipment (PPE) and lockdowns affected the transportation industry resulting in the slower delivery of food and other supplies. In these circumstances, the supply of essential items for an election could become difficult or unattainable.

Turnout: Limitations on the movement and concentration of electors together with the risks of casualties during an emergency situation (for example, a natural disaster) can impact voter turnout at an election and the legitimacy of the result.

Premises: An election relies on the availability, at short notice, of thousands of premises to conduct voting and for counting centres. An emergency situation may reduce the availability or suitability of premises or reduce the willingness of venue owners to hire to the AEC.

Service suppliers: The AEC partners with external service providers to facilitate aspects of the election. Any impact to these major suppliers would have significant flow-on effects to the running of an election event – for example in the preparation and dispatch of postal votes, scanning and data capture of Senate ballot papers, printing of ballot papers, preparation of paper and electronic certified lists, etcetera.

Exacerbated existing challenges: Conducting an electoral event during an emergency situation will exacerbate existing election delivery challenges including:

- access to electoral services by electors:
    - with disability
    - living or travelling overseas
    - located in regional and remote areas

- - experiencing homelessness

  - the impacts of increasing number of electors voting early
  - reliability and timeliness of postal services
  - provision of services to electors in Indigenous communities.

Arrangements for a federal election commence immediately following the previous one, with approach and policy decisions required early in order to implement required contracts, materials and plans in advance of the earliest possible election date. Changes to an election delivery model will be shaped by election delivery options at that time.

Business Continuity

The AEC already has planned contingencies in place that position it to respond to significant business disruption during the election period as part of its business continuity planning arrangements.

Proposals that allow for greater flexibility in the way in which the AEC might respond to emergency situations will strengthen the AEC's ability to effectively respond to and mitigate business disruptions caused by such emergencies.

Proposed areas of legislation for consideration of amendment

The prescriptive nature of the Electoral Act provides limited flexibility for how an election can be conducted. For example, the Electoral Act provides few exceptions to the requirement for physical attendance when voting, and those exceptions (for example, postal or telephone voting) may not be available to all or scalable in an emergency situation.

Temporary modification

To provide greater flexibility in the event of an emergency situation, the Electoral Act could be modified, for example, to:

- extend the reasons electors can postal or pre-poll vote
- conduct an election solely by postal vote (in some or all geographic areas)
- streamline application and/or declaration requirements for postal voting and pre-poll voting
- expand categories of electors who may utilise the electronic (telephone) voting method
- extend operating or polling hours, and/or
- conduct scrutiny more safely.

Any modifications to the Electoral Act would only be possible for federal electoral events conducted in a state or territory or a geographic area of Australia where there is a declared emergency.

Given the timeframes prescribed in the Electoral Act for conducting federal electoral events (from as little as 33 days), it is recommend that the authority to make emergency modifications:

- may be exercised when there is a local or national emergency situation declared (or other public direction or determination made by a Minister in relation to an emergency's effects on an election) under Commonwealth, state or territory law
- is limited to the extent necessary to conduct an electoral event in the circumstances
- is exercised by the Electoral Commissioner and cannot be delegated to others
- must be exercised by prescribing the modification in an instrument that will be tabled in Parliament
- is time limited, for example available only for the necessary time to respond to the emergency situation and its impact, or conduct the electoral event.

To exercise the authority to make emergency modifications the Electoral Commissioner would have regard to the following matters:

- the election is conducted in a manner that inspires trust and sustains public confidence

- the need to ensure the safety of voters and electoral officials
- the election process and release of results occur in a timely manner.

Practically, the exercise of any authority will be shaped by the time and operational environment of the given situation, and election delivery options available at that time.

The exercise of this authority would be subject to Parliamentary scrutiny in the same manner as the conduct of federal elections is reviewed in detail by the Joint Standing Committee on Electoral Maters.

The temporary nature of the modification means the electoral system remains unchanged once the emergency situation has passed.

Adjournment and temporary suspension

Sections 240A, 241 and 242 of the Electoral Act provide for the temporary suspension of polling and adjournment of polling (to another day) in certain circumstances. These sections do not provide for flexibility in who may make a decision to adjourn or suspend polling, or provide for the temporary suspension or adjournment of other election requirements, for example where an emergency may affect close of rolls, nominations, early voting or scrutiny.

The AEC recommends that Parliament consider broadening the powers in sections 240A, 241 and 242 as follows:

- The power to adjourn polling is given to the Electoral Commissioner rather than presiding officer, with the Electoral Commissioner having power to delegate this responsibility to other officers as he or she considers appropriate.

- The power to suspend polling be retained for presiding officers, and explicitly extended to officers in charge of pre-poll voting centres.

- Broaden these powers or establish a new power for the Electoral Commissioner to suspend or adjourn other electoral processes during the election period, for example where an emergency may affect the process such as close of rolls, nominations, early voting or scrutiny.

Existing provisions

The following are areas where the Electoral Act does provide limited flexibility should an issue arise shortly before or on polling day.

The most recent update to these provisions occurred in 2004, when following recommendation of the AEC and the Committee, section 240A was inserted and section 241 was amended to cover incidents such as a bomb threat, health hazard (the examples provided to the Committee by the AEC at the time included 'an anthrax scare' or 'dangerous animal'), fire or fire alarms or sprinklers being set off.

Temporary suspension of polling (s240A)
Section 240A gives presiding officers the power to temporarily suspend polling at their polling place for physical or voter safety reasons. The section provides riots, storms, fires, and health hazards as specific examples.

This power only allows suspension of polling that has already commenced, and only allows for suspensions until later the same day.

At the 2019 federal election, polling at the Sydney Central pre-poll voting centre (PPVC) at Central Railway Station, Haymarket, was temporarily suspended after a bag was left unattended in the vicinity of the premises. Police attended promptly and polling resumed approximately fifteen minutes later.

Adjournment of polling (s241)

Section 241 gives presiding officers the power to adjourn polling at their polling place for physical or voter safety reasons. Like section 240A, section 241 provides riots, storms, fires, and health hazards as specific examples.

This power only allows for adjournment of polling from one day to the next. For an adjournment to continue indefinitely, the presiding officer would need to repeatedly adjourn polling each day.

At the 2019 federal election polling at the Crows Nest PPVC (NSW), a person died outside the PPVC shortly after voting. Polling was adjourned to the following day.

Adjournment of polling in other cases (s242)

Section 242 gives presiding officers the general power to adjourn polling if, for any cause, a polling booth at a polling place is not opened on polling day.

This power only allows for adjournment for up to 21 days.

Extension of time for holding an election (s286)

Section 286 gives 'the person causing the writ to be issued' (that is, depending on the electoral event involved, either the Governor-General, a state Governor, or the Speaker of the House of Representatives) the broad power to extend the time for holding an election in order for 'meeting any difficulty which might otherwise interfere' with the election.

This power has rarely been used and, whilst broad, is not held by any AEC officer. For these reasons it is unlikely that the AEC can utilise this power at short notice.

Responding to the COVID-19 pandemic

The proposals to amend legislation outlined earlier in the submission are intended to apply to the inherent unknowns of most conceivable emergency situations.

This said, the COVID-19 pandemic is an example of an emergency situation that, should the AEC's proposals be legislated in a sufficiently swift manner, would allow the Electoral Commissioner to adopt modified arrangements for a future election or by-election that could improve the accessibility and safety of an election that takes place during pandemics.

The COVID-19 pandemic is a highly unusual and unique emergency situation in that while its impacts are evident and highly relevant to the conduct of an election, its length of duration is unknown. The pandemic may be with us for some time yet and its impacts for even longer.

The AEC's experience in the delivery of the by-election in the Division of Eden-Monaro provided a sense of considerations that may apply to a federal election conducted during the pandemic.

There are also numerous recent examples of adaptation of election laws and processes to the impacts of COVID-19 nationally and internationally. Some examples are outlined at **Attachment A**.

Eden-Monaro by-election

The AEC demonstrated its agility and professionalism in delivering the Eden-Monaro by-election in the aftermath of the 2019/20 bushfire season and the COVID-19 pandemic. Surveys conducted following the election of both voters and the temporary election workforce highlighted their satisfaction with the voting service and safety measures implemented.

The Eden-Monaro by-election held on 4 July 2020 was the first federal electoral event to be held during a pandemic in 100 years and one of the first electoral events held in Australia during the COVID-19 pandemic. As such the Eden-Monaro by-election provides an opportunity to analyse the implications COVID-19 may have for future electoral events, including the federal election.

The AEC set out its commitment to delivering the Eden-Monaro by-election to ensure the integrity of electoral services and participation, and to protect the welfare of voters, staff and other participants in the COVID-19 pandemic environment in the *Eden-Monaro by-election Service Plan*, which is provided at **Attachment B**.

The AEC conducted the by-election in accordance with the Electoral Act which provides for in-person voting and postal voting (subject to an application). There was no legislated

alternative open to the AEC. However, in evaluating the viability of options (such as 100 per cent postal voting, use of electronic voting options or expansion of telephone voting), it was clear that the business process in each case would require significant review and adjustment in order to facilitate the possibility of using these options. That is, the AEC would not simply need the flexibility to expand or contract the various voting services, but also the flexibility to change components of the process to facilitate an expansion of that scale, and the necessary lead time in which to do that.

Consultation: Delivering a by-election in the COVID-19 environment, in an area already impacted by a natural disaster, required close consultation with a great number of stakeholders, including Commonwealth and state government agencies.

The breadth and depth of stakeholder consultation and liaison required to run the by-election was not only fundamentally important, but required significant time and resources. The AEC had to work extremely hard, be flexible and agile to establish an acceptable way for voters to participate safely.

Examples of some of the unprecedented consultation and coordination undertaken within the compressed timeframes of an election included:

- working with the Commonwealth Chief Medical Officer, NSW Chief Health Officer and ACT Chief Medical Officer and their respective Departments, as well as the Australian Federal Police and NSW Police, to determine rapidly evolving Commonwealth, state and territory laws and health restrictions and determine appropriate safety measures to conduct the by-election during the pandemic

- seeking approval from the NSW Minister for Health to be able to hold the by-election

- hosting a walk-through by the Commonwealth health advisor of the counting centre used for the by-election and a polling place mock-up, to demonstrate COVID-safety measures in place

- seeking approval from the Secretary of the NSW Department of Education for schools to be used as polling booths

- seeking assistance from the NSW Minister for Local Government to work with local councils regarding the use of facilities as polling places

- working with the NSW Police Commissioner and NSW Police in relation to the activities permitted by the Electoral Act around distribution of how-to-vote material and the role of scrutineers, and the AEC approach to implementing the by-election

- liaison with the National Bushfire Recovery Agency and Resilience NSW to facilitate access to networks involved in supporting bushfire impacted communities

- liaison with Services Australia, which supported the AEC in areas affected by the bushfires by providing information from the AEC to clients affected by the bushfires, and

- liaison with the Chief Executive of Australia Post to ensure there would be no disruption to the delivery of postal votes.

This high-level activity was supported and arrangements implemented by significant levels of officer-level liaison and coordination.

Communication: The pandemic has been an incredibly stressful time for the community. The AEC aimed to reduce voter anxiety in our communications campaign by showing the AEC was prepared. The AEC's expanded communication campaign included information

concerning COVID-19 safety measures, with 'Plan your vote' as the key message. Public awareness survey results indicated:

- at least 85 per cent of respondents were aware of the health measures in place
- all measures made at least three-quarters of respondents feel safer
- nearly all respondents who voted at voting centres were satisfied with the queue time (98 per cent, which in nearly all cases (96 per cent) was less than 15 minutes).

An awareness of the environmental context was key to the campaign's success.

Training: Following announcement of the by-election, the AEC had to adapt quickly to develop and deliver appropriate and relevant training to support a COVID-safe by-election. This included specialised training videos and eLearning courses on proper hand hygiene, the use of PPE, cleaning surfaces in a polling place and safely managing queues of voters. These new training resources complement the AEC's existing suite of learning products, and were produced by the AEC's specialised National Training and Education Unit in only three weeks to meet the timeframe of the by-election.

Additionally, the AEC's traditional face-to-face training of polling officials was successfully delivered under new social distancing and hygiene requirements. The by-election represented the first time that 100 per cent of all polling officials were required to undertake at least some of their training online. The AEC's Learning Management System was able to monitor and report on training completion, to ensure that staff had completed all mandatory COVID-safe courses before commencing work.

Voting services: The AEC expanded the number of pre-poll voting centres compared with the 2019 federal election (13, an increase of 5), had more centres open for the maximum pre-poll period, and adjusted polling places (71, an increase of 2) to spread the flow of voters and communicated these to the electorate, along with the option to postal vote. On the basis of advice from the Chief Medical Officer, the AEC did not conduct mobile polling for the event, and instead established a dedicated team to provide advice and facilitate postal voting for aged care facilities and hospitals in the electorate.

Cost: The COVID-19 prevention measures had a clear impact on the cost of the by-election event, almost doubling the total cost, to $3.954 million. In comparison, the by-elections held between 2016 and 2019 cost on average approximately $2 million each. While the AEC is assessing any potential efficiencies with what was implemented, the vast majority of measures will be necessary to implement unless there is a major change in the environmental risk. The likely impact on the federal election budget is clear.

The impact on cost is primarily driven by: additional polling locations throughout the pre-poll period and on polling day; additional staff required for sanitising, queue control and vote issuing and counting; PPE and other hygiene materials and services; as well as new communication and training packages.

Impact on turnout: The by-election had a turnout of 89 per cent, one of the best rates of turnout for a by-election, and only a slight drop from the 2019 federal election turnout of 93 per cent for Eden-Monaro.

	2019 federal election	**2020 by-election**	**% change**
Eligible Electors	114,147	114,178	0.03%
Turnout	93.31%	89.13%	-4.18%
Informality	6.80%	6.71%	-0.09%

Impact on voting trends: The number of postal votes counted was 13,340, more than double that at the federal election. The number of pre-poll ordinary votes counted was 43,701, a moderate increase from the federal election pre-poll ordinary vote of 37,808.

Vote type	**2019 federal election**	**2020 by-election**	**% change**
Pre-poll ordinary votes	37,808	43,701	15.59%
Pre-poll declaration votes	6,207	156	-97.49%
Polling day votes	56,064	44,570	-20.50%
Postal votes	5,969	13,340	123.49%
Mobile votes	457	-	N/A
Total votes	106,505	101,767	-4.45%

Interaction between state and federal laws: As outlined further above, an emergency situation may cause conflict between federal and state laws. Where the AEC is attempting to manage competing stakeholder expectations, significant complexity is created. For example in the Eden Monaro by-election scrutiny centre, combining social distancing requirements with the entitlement in the Electoral Act for candidates to be represented by one scrutineer per counting officer was challenging given the high number of scrutineers that presented on election night.

Facilitation of non-mainstream categories of electors: Careful consideration is required to the impact on services to groups such as overseas electors, voters in aged care facilities, hospitals, and remote communities. Without the ability to provide in-person voting services, only postal voting is available, which is in turn also impacted by the pandemic situation and likely to result in disenfranchisement of electors. For the Eden-Monaro by-election, only 9 per cent of postal votes sent to overseas electors were admitted to the count, by comparison the equivalent rate for the 2019 federal election was 33 per cent.

Complexity in federal election planning: The AEC is rapidly approaching its minimum possible lead times to make large-scale adjustments to its polling premises footprint, staffing and budget estimates; to order required materials; and develop required training, procedures and communication packages. As such, the AEC must make some assumptions about the potential COVID-19 impact as at the earliest possible federal election date (August 2021) and plan for an event in a pandemic.

It should be noted that the requirements and outcomes would certainly have been impacted if there were higher levels of community transmission at the time or different local legal requirements in place. It was clear during the Eden-Monaro by-election and in the time following, that the dynamic nature of the current environment adds a significant layer of complexity to planning for an approach to running a federal election in a COVID-19 environment. This would be compounded where different processes and different materials were required in different states as tailoring training, materials and requirements adds additional complexity, risk and cost.

Data collection and analysis

The AEC has partnered with Deakin University over a number of election events to collect data on process timings, run scenario modelling and use this information to help inform decisions on the staffing profile, optimum staff numbers and count sizes. This modelling has the dual aim of maximising efficiency and minimising queuing. In a COVID-19 scenario, minimising the amount of time people are gathered together in a queue is even more important.

Data was collected during the Eden-Monaro by-election at a number of polling centres and at the counting centre. The data collected shows that issuing and counting processes took longer than those from data collected at previous events. For example, on average the ordinary vote issuing process took 16.5 seconds (or 46 per cent) longer than at the 2017 Bennelong by-election.

Issuing times may be impacted by a number of COVID-19-related factors, for example:

- the impact of using masks and screens on communication and efficient vote issuing
- issuing staff sanitising hands between voters
- having the main queue outside and reducing the ability to use 'mini-queues' at each issuing point
- handing out single-use pencils
- cleaning issuing points and voting screens.

The AEC has extrapolated the data collected to model federal event scenarios. The table below illustrates some of the data modelling conducted to assess the impact of variables on time in queue for a polling place expected to issue around 1,200 ordinary votes.

The scenarios modelled varied the number of issuing officers, voting screens, frequency of hand sanitiser use, whether issuing officers provided a pencil to the elector, and whether the issuing point was covered during breaks taken by the issuing officer. The model then uses data for elector arrival rates across the course of the day, and process timings to arrive at estimated average and maximum queues for each scenario.

Table 1 – Examples of scenarios for queue modelling, and entry queue wait time, 1,200 ordinary votes threshold

Scenarios		Average queue (minutes)	Maximum queue (minutes)
S21	4 ordinary vote issuing officers (IOs); 12 voting screens; IOs used hand sanitisation after every elector, provided pencil to elector, issuing point not covered during breaks.	23.33	55.42
S24	4 IOs; 12 voting screens; IOs used hand sanitisation every 10th elector, provided pencil to elector, issuing point not covered during breaks	15.99	45.18
S25	4 IOs; 12 voting screens; IOs used hand sanitisation every 10th elector, did not provide pencil to elector, issuing point not covered during breaks	13.12	40.15
S26	4 IOs; 12 voting screens; IOs used hand sanitisation every 10th elector, did not provide pencil to elector, issuing point covered during breaks	3.38	16.07
S23	5 IOs; 13 voting screens; IOs used hand sanitisation after every elector, provided pencil to elector, issuing point not covered during breaks	5.35	21.85
S27	5 IOs; 13 voting screens; IOs used hand sanitisation every 10th elector, provided pencil to elector, issuing point not covered during breaks	3.17	13.85
S28	5 IOs; 13 voting screens; IOs used hand sanitisation every 10th elector, did not provide pencil to elector, issuing point not covered during breaks	2.67	13.65
S29	5 IOs; 13 voting screens; IOs used hand sanitisation every 10th elector, did not provide pencil to elector, issuing point covered during breaks	0.22	1.73

In order to avoid queue lengths increasing to unacceptable levels, the data modelling shows that it is necessary to reduce the table loading (the number of ballot papers each issuing officer is expected to issue per day), thereby increasing the overall number of issuing staff. In addition, the queue controller positions assigned to each polling place (which would normally only be at busier locations) and new hygiene officer position would remain imperative.

Even in times of emergency and crisis, the AEC is of the view that evidence-based staffing estimations that prioritise safety and the efficient flow of voters through a polling place is preferred. The images from the recent United State elections of hours-long lines for voting in various states, such as in Georgia which experienced waiting times of up to 10 hours at one location on its first day of early voting, are scenes that would not be tolerated by most Australians, even in extraordinary times.

Having multiple additional staff necessary at every polling location would have a significant impact on cost, particularly when applied to a national electoral event. This equates to an estimated 30 per cent increase in polling staff required, costing approximately an additional $13 million.

Supply chain implications

COVID-19 PPE procured for the Eden-Monaro by-election was appropriate and effective. The addition of many new materials to AEC polling operations in such a short timeframe

required new policy development to support polling staff training requirements to create effective COVID safety practices and PPE use at polling locations.

Procurement and consumption analysis data from the Eden-Monaro event has been presented in Table 2 below.

The need for the AEC to continue to ensure its planned practices and PPE will assist it in providing a safe environment for electors, staff and stakeholders needs to be of the highest priority for the duration of the pandemic. This is brought into sharp relief by reports this year from United States election administrators of polling officials and temporary staff falling ill with COVID-19; of partial or full closure of polling and processing operations due to COVID-19 illness or close contact; and of the death of staff who worked at polling booths and in elections offices, due to COVID-19.

For the AEC, when considering supply of COVID-19 PPE for a federal election there are challenges with procurement lead times, and supply chain risks to securing these items in the timeframe necessary. Assurance of access to the National Medical Stockpile (controlled by the Department of Health) would be necessary to provide significant volumes of common PPE items (masks, wipes and sanitiser). This would also address the issue of consistent product quality as opposed to procuring multiple amounts of different products to meet the overall need. COVID-19 global demand for PPE may place supply chains originating overseas at risk of not being able to deliver in time for the AEC preparatory needs.

Additionally, the AEC will face significant challenges for bulk storage availability, and associated costs, for these large volumes of PPE on top of the already large volumes of material required for a federal election.

Procuring specialised materials for COVID-19 prevention may raise the cost of running a federal election by in excess of $30 million. In addition, it is becoming clear that the cost of normal election materials is impacted by the pandemic, where either the materials themselves, or components to make them are often sourced overseas.

Table 2: COVID-19 material required for the Eden-Monaro by-election

Product	Quantity Required	Remarks
Facemask	11,000	Non-woven material – global shortage – increase in prices from China
Issuing point screens - Sneeze screen	450	Improved, hardened designed product after by-election experience. Potentially will take 9 months or more to manufacture for a full federal event
Hand sanitiser	10,280 bottles	National Medical Stockpile
Single use half-size pencil	130,000	Short– half size pencil
Vote screen insert	1,800	Product proved highly effective in by-election
Disinfectant wipes	300 packs (50 wipes per pack)	

Disposable gloves	150 packs (50 gloves per pack)	Global demand shortage
Sanitising spray	300 bottles	
Wipe – cloth (chux)	250 rolls	For use with sanitising spray. By-election showed that disposable paper towel was significantly more effective than re-usable cloths.
Cloth tape	400 rolls	For additional floor markings
Large screen - over table protection	10	For use in the OPC as barriers. Ineffective in application
Disposable Tape measure	150	Supplied to staff to mark out 1.5m
Bio hazard plastic bag	1,000	Used as backup for Bio hazard durable waste bins. No longer required under current health advice
Polling place personal storage box	400	For storage of personal effects
Polling place personal plastic bag	2,000	
Ponchos	10,200	Mitigation against rain for those potentially queued - not used

Conclusion

This inquiry comes at a unique time in the course of the COVID-19 pandemic, where there are many uncertainties and unknowns about what circumstances the nation might find itself in at the time of the next federal election.

We are mindful of the broader focus of the inquiry and understand that during times of emergency or crisis - such as a health pandemic, a terror or security incident, a weather event or other natural disaster, public unrest, to name a few – we are one small but important part of a broader response, which is focused on managing and protecting threats to life, health, property and essential services.

The AEC welcomes ongoing engagement with the Committee during the course of this inquiry. We look forward to the Committee's consideration of the necessary additional operational supports to safeguard democracy and enable the AEC to continue to deliver high integrity elections, including during an emergency situation.

Attachment A - Responses to COVID-19

The World Health Organisation advises that the virus that causes COVID-19 commonly spreads between people through direct, indirect (through contaminated objects or surfaces), or close contact with infected people via mouth and nose secretions.[1]

This poses fundamental public health challenges for the conduct of an election, which involves large gatherings of people for campaigning, canvassing, voting and counting, and the handling of equipment and materials by multiple people. As one study noted, 'More than 40 points in the electoral process involve the assembly of people or transfer of objects and therefore pose risks of virus transmission if no preventive measures are taken.'[2]

Initially, many governments around the world, including in Australia, took the decision to postpone planned elections. However, increasingly, many elections are proceeding with governments holding national or subnational elections as originally planned despite concerns related to COVID-19, and holding elections that were initially postponed.

The experience of selected fellow members of the Electoral Council of Australia and New Zealand (ECANZ) in dealing with scheduled electoral events in 2020 has shown a diversity of service models and regulatory approaches to dealing with election delivery in the context of rapidly evolving conditions and other challenges associated with the pandemic.

Queensland local government elections were the first large-scale elections conducted in Australia following the declaration of a pandemic, with election day falling on 28 March 2020.

The elections were delivered in a highly dynamic and uncertain environment. This included the declaration of a pandemic by the WHO during the election period, and urgent legislative and regulatory changes impacting electoral processes that came into effect after early voting had commenced on 16 March. Notably, the amended legal framework provided for a temporary regulation making power, and enabled the commission to issue Directions concerning the distribution or display of how-to-vote cards or other election material.[3]

The election saw a significant shift in the voting patterns of the Queensland public compared with previous elections:

- 1.2 million people who voted during the two-week early voting period (500,000 in 2016)
- 470,000 postal votes were returned of the 570,000 issued (320,000 returned in 2016)
- 37,000 people who cast a telephone vote (500 in 2016), and

---

[1] World Health Organization, Q&A: How is COVID-19 transmitted?, www.who.int/news-room/q-a-detail/q-a-how-is-covid-19-transmitted, accessed 11 November 2020

[2] International Foundation for Electoral Systems, *Safeguarding Health and Elections*, May 2020, p. 4, https://www.ifes.org/sites/default/files/ifes_covid19_briefing_series_safeguarding_health_and_elections_may_2020.pdf, accessed 11 November 2020.

[3] See *Public Health and Other Legislation (Public Health Emergency) Amendment Act 2020* (Qld).

- 750,000 people who voted on election day at a polling booth (1.6 million in 2016).

Voting for the **New Zealand general election** took place from Saturday 3 October to Saturday 17 October. The timing of the election period was delayed for four weeks on 17 August 2020 following the reemergence of COVID-19 in New Zealand.

The legal framework for elections in New Zealand provides powers to respond to defined emergency situations. Sections 195 to 195E of the *Electoral Act 1993* (NZ), sets out powers for responding to an unforeseen or unavoidable disruption that is likely to prevent voters voting at a polling place or pose a risk to the proper conduct of an election. The provisions:

- define the situations when provisions for managing polling disruptions may be used
- provide for the use of alternative voting processes to respond to polling disruptions
- provide for an adjournment power
- outline how the effect of polling disruptions on the preliminary vote count is to be manage.

Notwithstanding these powers, Regulations were also made which provided for special measures during a pandemic.[4]

Measures implemented at the election included:

- voters were encouraged to vote early
- an increase in voting locations
  - there were around 750 advanced voting locations (up from 485 at the 2017 general election), and this doubled to around 1,500 voting places on the weekend before election day
  - there were expected to be around 2,500 voting booths on election day (up from 2,378 in 2017) [5]
- those who were unable to get to a voting place could apply for a postal vote, or ask someone to bring them their voting papers[6]
- telephone dictation voting, normally only available to voters with particular disabilities, for use by voters who were in COVID-19 related managed isolation and quarantine facilities.

Preliminary election results reported indicated:

- over 60 per cent of the 3.2 million enrolled voters cast an advance vote (1,976,996, up from 1,240,740 in 2017)
- the largest number of advance votes received was on Saturday 10 October, a week before the election.[7]

Election day for the **Queensland state election** occurred on Saturday 31 October 2020.

---

[4] See COVID-19 Public Health Response (Election and Referendums) Order 2020 (NZ).

[5] Jason Walls, Election officials are expecting the highest early voting turnout in history this election, New Zealand Herald, 27 July 2020 2:20pm, https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12351328, accessed 11 November 2020.

[6] New Zealand Electoral Commission, 2020 General Election: COVID-19, https://vote.nz/voting/2020-general-election/covid-19/, accessed 10 November 2020.

[7] Radio New Zealand, Election 2020: Advance votes total just under 2 million, 17 October 2020, https://www.rnz.co.nz/news/political/428576/election-2020-advance-votes-total-just-under-2-million, accessed 30 October 2020.

Due to the ongoing risk posed by COVID-19, the Electoral Commission of Queensland adapted its election delivery model. The model was supported by legislative enhancements resulting from passage of the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020*. This Act included amendments to the *Electoral Act 1992* (Qld) providing extra flexibility in the statutory framework for the elections including:

- flexibility to change dates for election milestones contained in the writ
- ability for the ECQ to issue notices that change timeframes for postal vote applications and expand eligibility for telephone voting
- power for the ECQ to issue directions regulating the handing out of election materials or how-to-vote cards near polling place and the activity of scrutineers, and
- ability to declare certain classes of voters or electorates to automatically receive a postal vote by regulation.

Measures in place for the election included:

- the election was conducted over an election period rather than focussing on an election day
- expanded early voting options were available across the two-week early voting period, with extra centres established, and extended operating hours, including from 9am to 4pm on the Saturday prior to election day
- electors were, for the first time, able to apply for a postal vote before the issue of the writ with applications opening from 14 September 2020
- declaration of additional categories of electors eligible for telephone voting, and
- special arrangements for postal voting in aged care and rehabilitation facilities which would usually receive a mobile polling service.

While the election count is still being finalised, pre-poll and postal votes will exceed the volumes received at the March 2020 election, with many more people casting their vote before election day than on election day.

Beyond ECANZ, Elections **Canada** is presently engaging with the Canadian Parliament in relation to legislative responses that may assist it deliver an accessible, safe and secure election.

Key elements of its suggested changes, which it proposes to apply to the next general election only, include a focus on:

- extending the voting period, shifting polling day from one 12-hour period on a Monday to 8 hours per day on a Saturday and a Sunday
- flexibility in approach to aged care facility voting, enabling the Chief Electoral Officer to prescribe the timing and manner in which voting occurs at these facilities
- extending the existing 'adaptation power' in section 17 of the *Canada Elections Act* to include all areas within the Chief Electoral Officer's mandate.

Attachment B – Eden-Monaro by-election Service Plan

Eden-Monaro by-election Service Plan

May 2020

Foreword

The AEC is committed to providing the highest standard of electoral services for the Eden-Monaro by-election. During the COVID-19 pandemic this includes a range of safety measures for voters, AEC staff and other participants.

We have introduced a range of COVID-19 safety measures at voting venues and also through the entire by-election process, including the receipt and declaration of nominations, the management of election materials and at our counting centre.

The operating model for this by-election includes social distancing and hygiene measures that conform with federal and local health advice and are also within the legislative framework of the *Commonwealth Electoral Act 1918*. The infection-control advice the AEC is following has been provided by the Australian Government's Chief Medical Officer, and relevant NSW and ACT health authorities.

It is also important to note these measures, which must be enacted to protect the community, will inevitably slow the voting process. Whilst we are implementing measures to try and reduce this impact, the AEC thanks all electors and participants for their patience and adherence to the new measures in the polling place and at our count centre.

The counting of votes will also take longer due to the measures in place in polling places and at our counting centre. The expected increase in postal and pre-poll votes cast will also impact the speed of the count, noting the legislative requirement to wait 13 days after election day for the return of postal votes.

As a result, it is likely to take longer to formally declare a final result in this by-election compared with previous federal by-elections but, as per our normal practice, the AEC will do everything possible to provide an indicative result on polling night.

The AEC is committed to continuous improvement. This service plan outlines the key election services and standards that will underpin the AEC's delivery of the 2020 Eden-Monaro by-election during a pandemic.

Should you have any comments on the service plan or the AEC's delivery on these commitments, I would ask you to take the time to let us know through our online enquiry form so we can consider your feedback as we continue to improve the delivery of election services.

Tom Rogers
Electoral Commissioner

COVID-19 related measures for the Eden-Monaro by-election

The operating model for the by-election will see measures introduced that conform with federal and local health advice and are applied within the *Commonwealth Electoral Act 1918*. The infection-control advice the AEC is following has been provided by the Australian Government's Chief Medical Officer, and reviewed by NSW and ACT health authorities.

It is also important to note these measures, which must be put in place to protect the community, will inevitably slow the voting process. Whilst we are implementing measures to try and reduce this impact, the AEC thanks all electors and participants for their patience and adherence to the new measures in the polling places and at our count centre.

The counting of votes will also take longer due to the measures in place in our polling places and at our counting centre. The expected increase in postal and pre-poll votes cast will also impact the speed of the count, noting also the legislative requirement to wait 13 days after election day for the return of postal votes. As a result, it is likely to take longer to formally declare a final result in this by-election compared with previous federal by-elections but, as per our normal practice, the AEC will do everything possible to provide an indicative result on polling night.

This document outlines the ways in which the key processes in the operation of the by-election will be modified or enhanced.

Taking nominations

People wishing to nominate for the by-election will need to make an appointment with the Divisional Returning Officer for Eden-Monaro before attending the AEC office to lodge their nomination forms. At the office, hand sanitiser will be available at the entrance, on all meeting tables, and on the way out. AEC staff may wear surgical masks, and social distancing of 1.5 metres will be in place wherever possible between staff and nominees.

Where possible AEC staff will also seek to minimise the amount of back-and-forth handling of forms. Contactless Eftpos facilities will be available for candidates to pay their nomination fee.

Ballot draw

Social-distancing rules will apply to everybody attending the ballot draw and seating will be appropriately spaced. Hand sanitiser will be at the entrance and exit of the venue.

AEC staff performing the ballot draw will observe necessary personal hygiene measures and sanitise the equipment used.

During training

Our online training suite has been enhanced to include a new online training module on the required health measures put in place for this by-election. This will be mandatory for all AEC staff and temporary election workers working at this by-election. Where AEC staff conduct face-to-face training, social-distancing rules will be observed and all of the health measures that will be applied throughout the by-election will also be observed throughout the corresponding practical exercises. Hand sanitiser will be available on arrival and exit, and participants will wash or sanitise their hands before and after each practical exercise.

Voting for residents of aged care facilities and hospital patients

The AEC is very conscious of the health and safety of voters during the by-election; particularly those who are potentially vulnerable to infection. Accordingly, we have adopted special measures to protect residents of aged care facilities and hospitals in the Eden-Monaro electorate during these extraordinary times, whilst still ensuring they can exercise their right to vote. Based on medical advice, the AEC will be providing effective alternatives to mobile polling (which are normally a feature of electoral events). Specifically, the AEC has established a support team for these facilities and has already provided enrolment forms and general postal vote applications for residents to complete and return to the AEC. Residents of aged care facilities and hospitals will have the option to either vote via a postal vote delivered directly to their facility; telephone voting for those who are blind or low vision; or by attending a polling location (depending on their personal circumstances), which will have health and safety measures in place.

The AEC will also maintain ongoing contact with aged care facilities and relevant hospitals in the Division of Eden-Monaro to provide support, answer questions and deliver additional enrolment and postal vote application forms, if needed.

Blind and Low Vision

Voters who are blind or have low vision can cast a vote in secret by telephone from any location for the Eden-Monaro by-election.

Telephone voting is a simple two-step process, voters who are blind or have low vision will be invited to register for a telephone vote by calling a dedicated 1800 number for this election. They will not need to give their name when they vote using the telephone voting service. Their registration number and pin will be used to mark their name off the electoral roll, ensuring the voter's identity remains secret.

Postal voting

Postal voting will be an important voting option available to eligible Eden-Monaro electors. Postal voting helps minimise contact and movement, and given the COVID-19 environment, it is anticipated that a greater number of voters will meet the eligibility criteria under the legislation to apply for a postal vote in this by-election.

Voting at polling places

Stay at home if you are unwell

Sanitise your hands

Cover your coughs and sneezes

Stand 1.5 metres apart

If on arrival voters are not able to immediately enter the polling place, they will be required to queue outside where social-distancing rules will be in place. Extra queue controllers that have been appropriately trained in social-distancing rules and the traditional "six-metre rule" regarding campaigners will be outside the polling place to ensure adherence to these important measures.

The number of voters entering a polling place will be counted at the door to limit the number of people inside the polling place at any one time. Hand sanitiser will be available at the entrance to the polling place and at each ballot-paper issuing point and when exiting the polling place. Signage about hygiene and social distancing will be prominent in the polling place for voters and staff.

Where possible a "sneeze shield" will be installed at all ballot-paper issuing points, and issuing tables will be sprayed regularly with sanitising spray throughout the day and whenever issuing staff are rotated. Voters will be encouraged to bring their own pencil or pen to the polling place but electors will also be offered a single-use pencil when handed their ballot papers.

Voting screens will separated by a distance of 1.5 metres and the plastic writing surface inserted into the voting screen will be regularly cleaned with sanitising spray throughout polling day.

AEC staff may wear surgical masks and will under no circumstances share their bibs or lanyards with other staff. Bio-hazard bags will be used for the disposal of surgical masks, gloves and cleaning cloth waste.

Photo opportunities of the inside of a polling place will only be allowed when there is a sufficiently low number of voters present so social distancing can be maintained, and when the Officer-in-Charge approves.

Campaigning at polling places

Whilst the AEC has no legislative jurisdiction or responsibility for campaigners outside six metres of the entrance to the polling place, we acknowledge that the current COVID-19 environment may impact on their ability to hand our how-to-vote cards as they ordinarily would for any other federal electoral event. Parties and candidates will need to ensure that those campaigning on their behalf near a polling venue have fully informed themselves of NSW Government health restrictions and laws in place regarding social distancing, and that they abide by these directives.

Acknowledging the challenges faced by parties and candidates for this by-election, the AEC has decided to assist parties and candidates by seeking to collect the details of all candidate's official campaign website addresses at the time of nomination. The AEC will

provide a link to these websites which will be available on the AEC website alongside the candidate's details.

Counting on election night at polling places

After 6pm, when the counting commences at polling places, hand sanitiser for all polling place officials and scrutineers will be at the polling place entry point, at each sorting and counting table, and at the exit to the polling place.

Ballot boxes will be cleaned with sanitising spray before they are opened for counting on the tables. Staff will sanitise their hands immediately before and after they handle ballot-box tags.

Surgical masks may be worn by both staff and scrutineers, and no sharing of bibs or lanyards will be allowed. If practicable, "sneeze shields" may be used at each counting and sorting table to separate scrutineers from counting staff.

There will be signs outlining the hygiene and social distancing rules, and those who do not adhere to the rules will be requested to leave.

The area used for polling and counting at each polling place will be fully cleaned after election night.

Counting at AEC out-posted centres

Hand sanitiser will be available at the entry and exit of the out-posted centre (OPC), at each sorting and counting table and in break-out areas.

The outside surfaces of election materials returned to the OPC – including ballot boxes transported on election night from pre-poll voting centres – will be cleaned with sanitising spray on arrival.

Ballot boxes will be cleaned with sanitising spray before opening, and staff will wash or sanitise their hands after handling ballot-box tags, and before and after each count of ballot papers. Surgical masks may be worn both by staff and scrutineers and, if practicable, "sneeze shields" will be used at each counting and sorting table to separate scrutineers from counting staff.

The OPC will be set up with prominent hygiene signage and 1.5-metre standard markings on the floor. There will be regular cleaning of surfaces, equipment and break-out areas during operational hours. Only single-use water bottles will be allowed, all plates and cutlery must be disposable, and there will be no provision for the serving of coffee or tea inside.

All equipment used for scrutiny will be cleaned before installing and it will also be regularly cleaned during use and before return. Additional Security Officers and Hygiene Officers will be present in the OPC to ensure everyone's safety and adherence to the health measures. They will be wearing distinctive bibs.

Deep cleaning of the OPC will occur overnight and at the conclusion of the counting. Biohazard bags will be used to dispose of all waste from the clearing process.

When counting postal votes

The outside of all transport containers used by Australia Post or couriers will be sprayed with sanitising spray prior to opening.

Hand sanitiser will be regularly applied by staff before opening batches of postal-vote envelopes and the extraction of ballot papers. Staff will also wash or sanitise their hands immediately before and after each count or when they handle batches of ballot papers.

Surgical masks should be worn by both staff and scrutineers.

At the declaration of the poll

Social-distancing rules will apply to all in attendance and seating will be appropriately spaced. Hand sanitiser will be at the entrance and exit of the venue.

Achieving the AEC Service Standards

The AEC is committed to upholding five key service standards.

The AEC will support effective participation in the Eden-Monaro by-election by ensuring information provided to the voting public and candidates is timely, accurate, comprehensive and easy to understand.

The AEC will conduct a public information and education campaign and will deliver an official guide for the by-election to households across the division. Information will also be available on the AEC website including information in accessible formats. The AEC will provide services to assist people living with disability to ensure they are not disadvantaged from participating in the electoral process.

Prospective candidates will also be provided with a range of information and services. The AEC website serves as a central information hub providing guidance on standing for election to Parliament.

Standard 1: Voters and candidates receive timely and accurate information

Achieved by:

The AEC will provide timely and accurate information using appropriate technology and channels.

Details of voting centres (early voting centres and polling places) will be published on the AEC website a minimum of 48 hours prior to being open to the public.

Information published on the AEC website about the location and accessibility of voting centres (early voting centres and polling places) will be accurate.

Preliminary results will be published as soon as they are available.

Standard 2: The AEC delivers a high-quality service

Achieved by:

AEC staff will be courteous and professional in all their dealings with the public and candidates.

Polling places will be inspected and assessed for accessibility. Polling place accessibility rankings will be made available on the AEC website.

Enrolment claims received by the Close of Roll deadline will be processed in time for the by-election.

Postal vote packs will be dispatched upon receipt of a valid and complete application (once ballot papers are available), according to the following timeline:

- Prior to the Monday before election day
  - Paper postal vote applications – within five business days of receipt
  - Online postal vote applications – within three business days of receipt.
- From the Monday before polling day
  - Paper and online – within two business day of receipt.

Voting locations (including early voting centres and polling places) will open in accordance with advertised dates and times.

Standard 3: Votes will be counted in accordance with the Electoral Act and the public and stakeholders have confidence in the result

Achieved by:

After by-election night, accurate count information will be progressively updated on the AEC website.

Ballot papers (both used and unused) will be accounted for.[1]

Standard 4: The public and stakeholders have confidence that the electoral process is well managed

Achieved by:

The writ for the by-election will be returned in accordance with the relevant legislation.

The AEC's conduct of the by-election is upheld in the event of any challenges to results taken to the Court of Disputed Returns.

All instances of apparent multiple voting will be reviewed and dealt with in accordance with AEC policy and procedures and within statutory timeframes.

All instances of apparent non-voting will be reviewed and dealt with in accordance with AEC policy and procedures and within statutory timeframes.

---

[1] The AEC will follow established processes to account for ballot papers from the time they are printed, issued to an elector, placed in a ballot box (or discovered as discarded or returned as spoilt), counted and then placed in long term storage prior to statutorily authorised destruction. The AEC will also follow established processes to account for ballot papers that are not issued, from the time they are printed until statutorily authorised destruction.

Standard 5: By-election processes will conform with federal, state and local health advice

The by-election will be delivered in accordance with the COVID-19 operating model (incorporated in this service plan) as endorsed by the Chief Medical Officer, and reviewed by NSW and ACT health authorities.

Further information

For more information on the Eden-Monaro by-election visit the AEC website or call 13 23 26.
Download the COVIDSafe app at covidsafe.gov.au.

Information in this service plan reflects circumstances at the time of publishing. The AEC will continue to monitor the COVID-19 situation and follow the advice from federal and state health authorities. This may result in changes to measures put in place.