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135. Table 5 shows that, at the State parliament level, the ACT has fewer representatives per 100,000 population (4.54) than Tasmania (7.81) and the Northern Territory (10.65). It has a similar number as South Australia (4.17). As populations get bigger in the larger States, the number of representatives per 100,000 population drops below the ACT figure, from 3.91 in Western Australia to 1.85 in New South Wales. This result reflects the economies of scale that can be achieved as populations get significantly larger.

136. Table 6 shows that the ratio of population to representatives would increase to around the level of Tasmania if the Assembly was to increase to 27 members (7.2). If the Assembly was to increase to 35 members (9.3) it would still be below the Northern Territory.

137. Of course, none of these tables show the regional population that the ACT government services through the provision of hospital beds, schools, jobs and other infrastructure. This amount is estimated to be 150,000 from the ACT's surrounding districts. For example, on any one day, nearly one third of the ACT's hospital patients have NSW postcodes.<sup>32</sup>

138. The ERG has been mindful that benchmarking with other jurisdictions is not considered by some to be the best approach. For reasons indicated above, however, population does seem to be a significant relevant indicator for workload.

### **Comparing the ACT Legislative Assembly to the Tasmanian and Northern Territory parliaments**

139. In 2010/2011, an inquiry was held into the size of the Tasmanian parliament. This inquiry raised many issues relevant to this present inquiry in the ACT.

140. In 1998, the number of members elected to the Tasmanian House of Assembly was reduced from 35 (consisting of 5 7-member electorates elected using the Hare-Clark system) to 25 (consisting of 5 5-member electorates).

The spur for this bipartisan (Labor-Liberal) support was widely believed to be antagonism to the Greens, and a former premier, Doug Lowe, informed a meeting of the Constitution Society in March 2012, that this was its sole rationale.<sup>33</sup>

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<sup>32</sup> ACT Public Health Services, *Quarterly Performance Report*, September 2012.

<sup>33</sup> Emeritus Professor PJ Boyce (2011), *Review of the Proposal to Restore the House of Assembly to 35 members*, p. 6.

On 2 September 2010 the leaders of Tasmania's three political parties agreed to recommend to their parliamentary colleagues that the House of Assembly membership be restored to 35 and that legislation to make this possible be introduced to Parliament before the next election.<sup>34</sup>

141. As part of this process, the party leaders appointed an Independent Appointee, Emeritus Professor PJ Boyce, to invite public submissions and prepare a report.

On 16 February 2011 the Opposition leader, Will Hodgman, announced his withdrawal from the agreement of 2 September, and the following day Premier Giddings declared that her party would no longer feel bound by the commitment to restore the House to its pre-1998 size before the next election. Her office nevertheless requested that the commissioned report be completed.<sup>35</sup>

142. The report presented by Professor Boyce was tabled in the Tasmanian House of Assembly on 8 March 2011.<sup>36</sup> The report noted that of the 4 previous reports into the size of the Tasmanian parliament from 1981 to 1996, only one advocated a smaller parliament. "The author of that recommendation was not a Tasmanian and the focus of his inquiry was much broader than the functioning of Parliament."<sup>37</sup> Professor Boyce noted that "The overwhelming majority of submissions received by the Independent Appointee favoured a restoration of the House of Assembly membership to 35 in time for the next state election."<sup>38</sup>

143. The arguments canvassed in Professor Boyce's report mirror many of the arguments put forward in submissions to this ACT inquiry:

Of the several arguments submitted in favour of a 35-member Assembly, one can recognise three distinct but related headings. These were spelled out usefully in the submission of Professor Campbell Sharman, a Vancouver-based Australian political scientist very familiar with Tasmanian political institutions. The first concerned the reduced representativeness of the Tasmanian Parliament, the second the reduced effectiveness of the Assembly as a deliberative and legislative body, and the third concerned the reduced capacity of a small Parliament to ensure an efficient and properly accountable political executive.<sup>39</sup>

144. Professor Boyce considered that his terms of reference precluded him from making a firm set of recommendations. However, his closing remarks indicated that it was his view that retaining the size of the Tasmanian House of Assembly at 25 members was placing the core principles of Tasmania's adoption of the Westminster model at risk.<sup>40</sup>

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<sup>34</sup> Emeritus Professor PJ Boyce (2011), *Review of the Proposal to Restore the House of Assembly to 35 members*, p. 2.

<sup>35</sup> Boyce (2011), p. 2.

<sup>36</sup> A copy of the report, and submissions made to the inquiry, can be accessed at [www.parliament.tas.gov.au/HA/Review/Review.htm](http://www.parliament.tas.gov.au/HA/Review/Review.htm).

<sup>37</sup> Boyce (2011), p. 17.

<sup>38</sup> Boyce (2011), p. 17.

<sup>39</sup> Boyce (2011), p. 7.

<sup>40</sup> Boyce (2011), pp. 17-18.

145. Tasmania's population at 30 June 2012 was around 512,000, compared to around 374,400 for the ACT. As discussed above, as population increases, so too does the workload of elected members in relation to their representative role. This would indicate that Tasmania may need more members than does the ACT in relation to this aspect of their duties. However, it would appear that much of the concern with the size of the Tasmanian parliament stemmed from the view that 25 lower house members and 15 upper house members were insufficient to provide for a workable parliament and an efficient and properly accountable executive.

146. These concerns raised in relation to the Tasmanian parliament may indicate that a 25 member Assembly may still not be sufficient to address the similar concerns raised about the current 17 member ACT Assembly.

147. It is noted that the Northern Territory also has a 25 member Legislative Assembly. There have been no similar inquiries conducted in the Northern Territory sparked by concerns that their Assembly is too small. However, there are some significant differences between the Northern Territory parliament and the Tasmanian and ACT Assemblies.

148. The Northern Territory Legislative Assembly is elected using a system of single-member electorates. This system has always delivered a stable majority of members to either the ALP or the Country Liberal Party. This outcome ensures that the pool of elected members available to the governing party to provide Ministers and backbenchers always comprises more than half the total number of members in the parliament.

149. By contrast, the Hare-Clark proportional representation system used in Tasmania and the ACT often results in significant numbers of cross-bench members holding the balance of power, reducing the number of members available within the ranks of the governing party to fill ministerial and backbench roles. The prevalence of majority governments in the Northern Territory can also be expected to reduce the oversight or "house of review" role of the parliament.

150. It is also noted that Joint Parliamentary Committee on the ACT recommended in 1974 that the ACT Assembly should comprise 19 members; that the Taskforce on Implementation of Self Government recommended in 1984 that the Assembly should comprise 19 or 21 members; and that the ACT House of Assembly Standing Committee on the Transition to Territorial Government recommended in 1985 that the Assembly should comprise 21 members. Ultimately, a decision was made to have just 17 members when the ACT was granted self-government in 1989.

**Comparing the ACT Legislative Assembly to overseas parliaments**

151. When compared to overseas parliaments, the ACT Assembly's size of 17 members is well below the size of parliaments of countries with similar population levels. However, it needs to be recognised that the ACT Assembly is not a national parliament. Comparing the ACT Assembly's size with State parliaments in the United States of America and with Provinces in Canada also indicates that the ACT Assembly's size is small, both in absolute terms and for the ACT's level of population.

152. Table 9 at page 41 lists countries with populations in the range of approximately 500,000 and below and shows the numbers of lower and upper house representatives. Note that not all these countries have similar democratic institutions to Australia and some of these representatives are appointed rather than elected.

153. This table indicates that very few parliaments contain 17 or fewer representatives. Those parliaments that are in this range tend to be in countries with significantly smaller populations than the ACT's current population of around 375,000.

154. Table 10 at page 42 shows the numbers of lower and upper house representatives in each of the State parliaments of the United States of America.

155. This table indicates that the parliaments and the populations in each of the US States are significantly higher than the ACT's, with the exception of the District of Columbia, which encompasses the federal capital of Washington DC, which has 13 elected representatives. It is noted that the parliament of the District of Columbia does not have similar State-type powers to those exercised by the ACT Assembly.

156. Table 11 at page 43 shows the population and the number of seats in the unicameral parliaments of each of the Canadian Provinces and Territories.

157. This table indicates that all the Canadian Provinces and Territories have more members of parliament than the ACT Assembly. Notably, Prince Edward Island with around 140,000 people has a 27 member parliament, and the 3 Territories with populations around 30,000 to 40,000 people each have a parliament of 19 members.

### **Alternative models of government in the ACT**

158. Several submissions made to this inquiry argue that the Assembly is, or ought to be, more akin to a city council than to a State-like jurisdictional parliament. Under the Self-Government Act, the Assembly has both State-type and local government powers and responsibilities. The ERG does not consider that it is within its terms of reference to consider removing State jurisdictional functions from the Assembly.

159. Further, the ERG considers a move away from full State-type self government to be a significant retrograde step that would disempower its residents in their rightful ability to self determination.

160. Other submissions recommend abolishing the ACT as a self-governing Territory and absorbing the residential areas of the ACT into NSW. This would bring the residents of the ACT under the jurisdiction of the NSW parliament and remove the need for the ACT to exercise State-type functions. It is suggested that a local council covering the city of Canberra could be established to replace the Assembly. Again, the ERG does not consider that it is within its terms of reference to consider altering the boundaries of the ACT.

161. Some submissions, particularly those of Mr Harry Evans and Mr Ted Quinlan, recommend appointing ministers from outside the ranks of the Legislative Assembly members. They argue that this would allow the ministry to be increased without necessitating an increase in the number of members of the Assembly. Such a process would not comply with the Self-Government Act. While this is an interesting proposition, the ERG does not consider that this option is within its terms of reference.

## **The size of the Assembly**

162. This report has concluded that the Assembly should be large enough to encompass an executive of between 7-9 ministers and sufficient government back bench members, opposition members and cross bench members to fulfil the various parliamentary scrutiny and representational roles expected of them by the community. This conclusion provides guidance to determining an appropriate overall size for the Assembly.

### ***Guiding principles***

163. Constraints imposed by the PRHCE Act and the operation of the ACT's Hare-Clark electoral system indicated to the ERG that it would be appropriate to adopt guiding principles in examining options to increase the size of the Assembly.

164. The PRHCE Act entrenches the principles that an odd number of members of the Legislative Assembly is to be elected from each electorate and that there are to be at least 5 members elected in each electorate.

165. The principle that an odd number of members of the Legislative Assembly is to be elected from each electorate seeks to ensure (so far as practicable) that a party that wins more than 50% of the votes will win at least half the seats in the electorate. If an even number of members is to be elected in an electorate, it is possible that a party may win more than half the votes but only win the same number of seats as another party with fewer than half the votes. The ERG does not support the suggestion made in some submissions that an even number of members elected in an electorate is acceptable.

166. It is desirable, but not mandated, that there be an odd total number of members in a parliament. It is noteworthy that some academics at the ERG's forum did not see this issue as significant. However, the ERG is conscious that an odd number of members will ensure that votes on the floor of the parliament could not be deadlocked with the same numbers of members on each side of a vote, as could occur if the total number of members was an even number. If a parliament with an even number of members is deadlocked, it would effectively be unable to elect a Chief Minister and therefore unable to form a government.

167. While other Australian parliaments have even numbers of members, none are as small as the ACT Assembly. The odds of two coalitions of members each having the same number of members increases as the size of the parliament decreases. The ERG does not support the suggestion made in some submissions that an even number of members elected overall is acceptable.

168. It is also desirable, but not mandated, that there be the same number of members elected in each electorate across the ACT. Given the significance of the quota for election under the Hare-Clark system, the ERG agreed with the many submissions that argued that it was important from a fairness perspective to ensure that each electorate returned the same number of members. This approach is also consistent with the operation of the Hare-Clark system in Tasmania.

169. Given the above considerations, the ERG endorses the following guiding principles identified by the ACT Electoral Commission:<sup>41</sup>

- (a) each electorate should have at least 5 members;
- (b) each electorate should have an odd number of members;
- (c) electorates should each return the same number of members; and
- (d) the total number of members should be an odd number – accordingly there should be an odd number of electorates.

170. These guiding principles are aimed at ensuring that election outcomes are fair and equitable.

***Options that meet the guiding principles***

171. Options that would meet the ERG's guiding principles include increasing the Assembly to:

- (a) 21 members, consisting of 3 electorates each returning 7 members;
- (b) 25 members, consisting of 5 electorates each returning 5 members;
- (c) 27 members, consisting of 3 electorates each returning 9 members;
- (d) 33 members, consisting of 3 electorates each returning 11 members;
- (e) 35 members, consisting of 7 electorates each returning 5 members; or
- (f) 35 members, consisting of 5 electorates each returning 7 members.

172. While the guiding principles give some structure around available options, the ERG was conscious that the key to determining an appropriate size was to examine how many members a parliament needs to effectively perform its functions, including its functions of appointing a ministry and sufficient government back bench members, opposition members and cross bench members to fulfil the various parliamentary scrutiny and representational roles.

173. For a governing party to supply a ministry of between 7-9 ministers, a Speaker and a sufficient number of back bench members to perform parliamentary roles (say at least 4 back bench members), it would need between 12-14 members or more.

174. The ERG is of the view that increasing the Assembly by only 4 members to 21 members would not result in an Assembly of sufficient size to provide enough members to fill the various roles. Accordingly, the ERG is of the view that 25 members is the smallest viable size that would meet this requirement.

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<sup>41</sup> ACT Electoral Commission (2002), Submission to the Standing Committee on Legal Affairs in relation to its Inquiry into the appropriateness of the size of the Legislative Assembly for the ACT and options for changing the number of members, electorates and any other related matter, [http://www.elections.act.gov.au/\\_data/assets/pdf\\_file/0015/2076/sizeofassemblysubmission.pdf](http://www.elections.act.gov.au/_data/assets/pdf_file/0015/2076/sizeofassemblysubmission.pdf)



### **The proportionality of electorate sizes**

175. As indicated in several submissions, the number of members to be elected in each electorate alters the dynamics of the likely range of outcomes. As noted at the ERG academic forum, it can be argued that 5 member electorates are “semi proportional” compared to 7 member and 9 member electorates.

176. The quota for election decreases in percentage terms as the number of members to be elected in an electorate decreases. The quota for election in 5 member electorates is 16.67%. The quota for election in 7 member electorates is 12.5%. The quota for election in 9 member electorates is 10%.

177. As the number of members in an electorate increases, the proportionality of the outcome also increases. A higher quota in percentage terms might be seen as a barrier to the election of minor party candidates and independents. Some will see this as a strength and others will see it as a weakness. For example, it may be considered that the quota of 16.67% in 5 member electorates may hinder minority views in the population from being represented by the candidates or parties of their first choice.

178. A lower quota in percentage terms could result in the election of a wider range of candidates representing minority views. Again, some will see this as a strength and others will see it as a weakness. For example, it may be considered that a quota of 10% in 9 member electorates is too low as it may lower the bar to the election of candidates representing minority interests.

179. The ERG sees this as an issue of balance. The ERG accepts that 5 member electorates are less proportional than 7 or 9 member electorates. The ERG is also concerned that the quota for election in 9 member electorates may be too low. Therefore, the ERG concludes that 7 member electorates are preferable to either 5 or 9 member electorates as a general rule. However, as the overall size of the Assembly is also of paramount consideration, the ERG accepts that both 5 member and 9 member electorates are viable options to consider.

### **Impact of electorate sizes on electoral boundaries**

180. Another factor to consider that was raised in many submissions is the issue of representation of Canberra’s various districts and the desirability of avoiding the splitting of districts between electorates.

181. A commonly raised issue is the size of the existing Molonglo electorate. Currently, with the 17 member Assembly size, this electorate is required to comprise 7/17 of the ACT’s enrolled population. Moving to either 3 or 5 member electorates of equal size will serve to decrease the population size and geographic diversity of the existing Molonglo electorate.

182. Whether it is possible to avoid splitting districts depends on the approach taken to the “one vote, one value” provisions in the Electoral Act, which stipulate that enrolments in each electorate must be within +/- 5% of the average at the time of the next election.

183. If the ACT was divided into 5 equal sized electorates it would be inevitable that at least the districts of Belconnen and Tuggeranong would have to be split between electorates in 2016. This is because these districts each contain more than 1/5 of the ACT’s enrolled population.

184. If the ACT is divided into 3 equal size electorates, it could be possible to avoid splitting districts depending on relative population numbers. However, this could not be guaranteed under the existing "one vote, one value" provisions.

185. Several public submissions suggested relaxing the "one vote, one value" provisions in the Electoral Act to effectively force electoral boundaries to follow district boundaries. The ERG does not support relaxing the "one vote, one value" provisions on grounds of electoral fairness.

### ***Preferred options***

186. Given the above considerations, the ERG is of the view that each of the options of increasing the Assembly to 25, 27 and 35 members have merit. However, no one of these options is ideal.

187. Examining electorate sizes alone, the ERG is of the view that 7 member electorates would provide for a better balance between proportional representation and stability than would 5 or 9 member electorates.

188. Of the available options incorporating 7 member electorates, only the 35 member Assembly consisting of 5 electorates each returning 7 members satisfies the ERG's guiding principles. However, the ERG is concerned that it would not be appropriate for the ACT Assembly to be more than doubled in size to 35 members in 2016.

189. In the longer term as the population of the ACT passes 400,000, the ERG considers that the size of the Assembly should be 35 members. This number would permit a ministry of 9 members and a significant government back bench, combined with a robust opposition and opportunities for appropriate representation of minor parties and independents. By 2020, the ACT's population is projected to be approximately 410,000, and by 2024, approximately 428,000.

190. The ERG considers that it would be appropriate to enlarge the Assembly to 35 members in 2020, consisting of 5 electorates each returning 7 members. The ERG suggests that this increase be built into the Electoral Act by way of an amendment made in the current parliament as an automatic increase to take effect without the need for any subsequent legislation to be made by a future parliament (noting of course that such an amendment could be altered by a future parliament with a 2/3 majority).

191. However, should an increase in 2020 fail to receive support, the ERG would recommend increasing the Assembly to 35 members in 2024.

192. With this long term goal in mind, the ERG considers that it would be desirable for the 2016 Assembly to be enlarged to a transitional number. Of the available 25 and 27 member options, the ERG considers that on balance it would be more appropriate to adopt a 25 member Assembly. Of the 32 public submissions in favour of increasing the size of the Assembly, 13 supported a 25 member Assembly, while only one explicitly supported a 27 member Assembly.

193. However, should members be persuaded of the advantages of 9 member electorates, the ERG would also support the adoption of a 27 member Assembly.

## Financial impact

194. The ERG notes that the proposed increase in the size of the Assembly will come at additional cost to the ACT budget. As well as additional salaries and on-costs for more members and their staff, it is noted that additional accommodation outside the current Legislative Assembly building might be needed to house the increased parliament. However, the ERG is of the view that this additional cost would be expected to be offset by significant improvements in good governance in the ACT.

195. The Clerk of the Assembly informed the ERG that it would be difficult to accommodate 25 or more members in the current Assembly building. He suggested that an option to accommodate an Assembly of 25 or more members could be to relocate the executive members in another building, such as the North Building.

196. An increase in the number of members would incur the following increased expenses:

- (a) salaries and entitlements of the additional members and their staff;
- (b) modifying the Assembly chamber to accommodate additional members if necessary, noting it could fit 25 members with minimal change;
- (c) accommodation and fit-out costs for additional members and their staff;
- (d) costs associated with re-locating Ministers and their staff to another ACT government building if necessary to incorporate offices for additional members and their staff; and
- (e) administrative expenses associated with an increase in members and their staff, such as office equipment and other overheads.

197. The Assembly Secretariat, in consultation with the Chief Minister and Treasury Directorate, has provided cost estimates for increasing the size of the Assembly to the ERG. It is estimated that:

- (a) the annual recurrent cost of an additional member of the Assembly would be approximately \$0.410 million;
- (b) the annual recurrent cost of an additional Minister, over and above the portion that would be attributable to the Minister being a member of the Assembly, would be approximately \$0.652 million; and
- (c) for each additional member and Minister, a one-off cost of approximately \$15,000 per member and \$50,000 per Minister would be required to cover acquisition of office furniture and related office items.

198. In addition, depending on the size to which the Assembly is increased, office fitout costs would be incurred for office space in the Assembly building. These one-off costs could be in the order of \$0.3 million to \$0.4 million.

199. The Assembly chamber may need modification to include more members at a cost of around \$50,000.

200. The Assembly Secretariat estimated that the annual recurrent cost of accommodating the executive outside the Assembly building could range from approximately \$0.9 million for 6 Ministers to \$1.1 million for 8 Ministers. One-off fitout costs for Ministers' offices and for converting existing Ministers' offices to members' offices could range from \$4.1 million to \$6.4 million.

201. If the Assembly was to be increased to 25 members with 8 ministers, the above cost estimates would indicate the additional annual cost to the ACT budget would be approximately \$6.336 million; with one-off establishment costs of between \$4.4 million to \$6.8 million.

## **Terms of Reference**

The Chief Minister, Katy Gallagher MLA, has specified the following terms of reference for this review into the size of the ACT Legislative Assembly:

The Chief Minister is establishing a review of the size of the ACT Legislative Assembly. This review will include the number of electorates and the number of members for each electorate.

A five member ERG has been established to consider and report on these Terms of Reference.

In conducting the Review, the ERG will:

1. examine past reviews into the size of the Assembly;
2. consider factors relevant to increasing the size of the Assembly;
3. consider any limitations placed on changes to the size of the Assembly by the *Proportional Representation (Hare-Clark) Entrenchment Act 1994*; and
4. recommend options for increasing the size of the Assembly, including the number of electorates and the number of members for each electorate.

In conducting the Review, the ERG will undertake community consultation and provide an opportunity for making submissions.

Secretariat support for the review will be provided by Chief Minister and Treasury Directorate.

The ERG is to report back to the Chief Minister by 31 March 2013.

## References

The following references are relevant to this inquiry into the size of the ACT Legislative Assembly.

- ACT Electoral Commission, *Submission to ACT Legislative Assembly Standing Committee on Legal Affairs, in relation to its inquiry into the appropriateness of the size of the Legislative Assembly for the ACT and options for changing the number of members, electorates and any related matter* (2002)  
[http://www.elections.act.gov.au/\\_data/assets/pdf\\_file/0015/2076/sizeofassemblysubmission.pdf](http://www.elections.act.gov.au/_data/assets/pdf_file/0015/2076/sizeofassemblysubmission.pdf)
- ACT Legislative Assembly Select Committee on Self-Government, *Report of the Select Committee on Self-Government* (1990)  
<http://www.parliament.act.gov.au/downloads/reports/Self-Govt.pdf>
- ACT Legislative Assembly Select Committee on the Report of the Review of Governance, *Report of the Select Committee on the Report of the Review of Governance* (1999)  
<http://www.parliament.act.gov.au/downloads/reports/governance.pdf>
- ACT Legislative Assembly Standing Committee on Administration and Procedure, Report No 5, *Review of the Australian Capital Territory (Self-Government) Act 1988 (Cwlth)* (2012)  
[http://www.legassembly.act.gov.au/downloads/reports/Report%205%20Review%20of%20Self-Government%20Act%20\(Cwlth\).pdf](http://www.legassembly.act.gov.au/downloads/reports/Report%205%20Review%20of%20Self-Government%20Act%20(Cwlth).pdf)  
Submissions to this inquiry can be found at  
<http://www.legassembly.act.gov.au/committees/index1.asp?committee=118&inquiry=1043&category=19>
- ACT Legislative Assembly Standing Committee on Legal Affairs, Report No 4, *The appropriateness of the size of the Legislative Assembly for the ACT and options for changing the number of members, electorates and any related matter* (2002)  
<http://www.parliament.act.gov.au/downloads/reports/la04sizeoflegass.pdf>  
(note this report includes a summary of the findings of earlier reviews and reports)
- *Administrative Arrangements 2012*, made under the *Public Sector Management Act 1994*, <http://www.legislation.act.gov.au/ni/2012-593/default.asp>  
(The Administrative Arrangements list the portfolio responsibilities of Ministers and Directorates.)
- Halligan, John, *An Assessment of the Performance of the Three Branches of Government in ACT Against Latimer House Principles* (2011)  
<http://www.parliament.act.gov.au/downloads/reports/Three%20Branches%20of%20Government%20in%20the%20ACT.pdf>
- Hawke, Allan, *Canberra : A Capital Place, Report of the Independent Review of the National Capital Authority* (2011)  
[http://www.regional.gov.au/territories/actnt/files/Canberra\\_A\\_Capital\\_Place.pdf](http://www.regional.gov.au/territories/actnt/files/Canberra_A_Capital_Place.pdf)
- Hawke, Allan, *Governing the City State: One ACT Government—One ACT Public Service* (2011)  
[http://www.cmd.act.gov.au/\\_data/assets/pdf\\_file/0011/224975/Governing\\_the\\_City\\_State.pdf](http://www.cmd.act.gov.au/_data/assets/pdf_file/0011/224975/Governing_the_City_State.pdf)

## Appendices

**Table 1: Ratio of Commonwealth/State/Territory/Local Govt representatives compared to electoral enrolment<sup>42</sup>**

	Commonwealth		State/Territory		Local Govt	Total Reps	Enrolment @ 30/9/2012	Ratio of representatives to enrolment
	House of Reps	Senate	Lower House	Upper House				
NSW	48	12	93	42	1,518	1,714	4,648,429	1:2712
VIC	37	12	88	40	631	808	3,619,729	1:4480
QLD	30	12	89	0	553	683	2,779,556	1:4070
WA	15	12	59	36	1,232	1,354	1,387,350	1:1025
SA	11	12	47	22	714	806	1,103,973	1:1370
TAS	5	12	25	15	281	338	359,145	1:1063
ACT	2	2	17	0	0	21	257,190	1:12247
NT	2	2	25	0	148	177	126,762	1:716
TOTAL	150	76	443	155	5,675	5,901	14,282,134	

**Table 2: Ratio of State/Territory/Local Govt representatives compared to electoral enrolment**

	State/Territory		Local Govt	Total Reps	Enrolment @ 30/9/2012	Ratio of representatives to enrolment
	Lower House	Upper House				
NSW	93	42	1,518	1,653	4,648,429	1:2812
VIC	88	40	631	759	3,619,729	1:4769
QLD	89	0	553	642	2,779,556	1:4330
WA	59	36	1,232	1,327	1,387,350	1:1045
SA	47	22	714	783	1,103,973	1:1410
TAS	25	15	281	321	359,145	1:1119
ACT	17	0	0	17	257,190	1:15129
NT	25	0	148	173	126,762	1:733
TOTAL	443	155	5,077	5,675	14,282,134	

<sup>42</sup> Numbers of State and local government representatives were compiled in January 2013 from data supplied by the relevant Electoral Commission. Enrolment shown is Commonwealth enrolment. State/Territory enrolment may differ. Population data was obtained from the ABS website: [www.abs.gov.au/ausstats/abs@.nsf/mf/3101.0](http://www.abs.gov.au/ausstats/abs@.nsf/mf/3101.0) and excludes Jervis Bay Territory, Christmas Island and the Cocos (Keeling) Islands.

**Table 3: Ratio of Commonwealth/State/Territory/Local Govt representatives per 100,000 population**

	Commonwealth		State/Territory		Local Govt	Total Reps	Population @ 30/6/2012	Ratio of representatives per 100,000 population
	House of Reps	Senate	Lower House	Upper House				
NSW	48	12	93	42	1,518	1,714	7,290,300	23.5
VIC	37	12	88	40	631	808	5,623,500	14.4
QLD	30	12	89	0	553	683	4,560,100	15.0
WA	15	12	59	36	1,232	1,354	2,430,300	55.7
SA	11	12	47	22	714	806	1,654,800	48.7
TAS	5	12	25	15	281	338	512,000	66.0
ACT	2	2	17	0	0	21	374,700	5.6
NT	2	2	25	0	148	177	234,800	75.4
TOTAL	150	76	443	155	5,077	5,901	22,680,500	26.0

**Table 4: Possible scenarios for increasing the ACT Legislative Assembly: Ratio of Commonwealth/State/Territory/Local Govt representatives per 100,000 population**

	Commonwealth		State/Territory		Local Govt	Total Reps	Population @ 30/6/2012	Ratio of representatives per 100,000 population
	House of Reps	Senate	Lower House	Upper House				
ACT	2	2	17	0	0	21	374,700	5.6
ACT	2	2	21	0	0	25	374,700	6.7
ACT	2	2	23	0	0	27	374,700	7.2
ACT	2	2	25	0	0	29	374,700	7.7
ACT	2	2	27	0	0	31	374,700	8.3
ACT	2	2	35	0	0	39	374,700	10.4



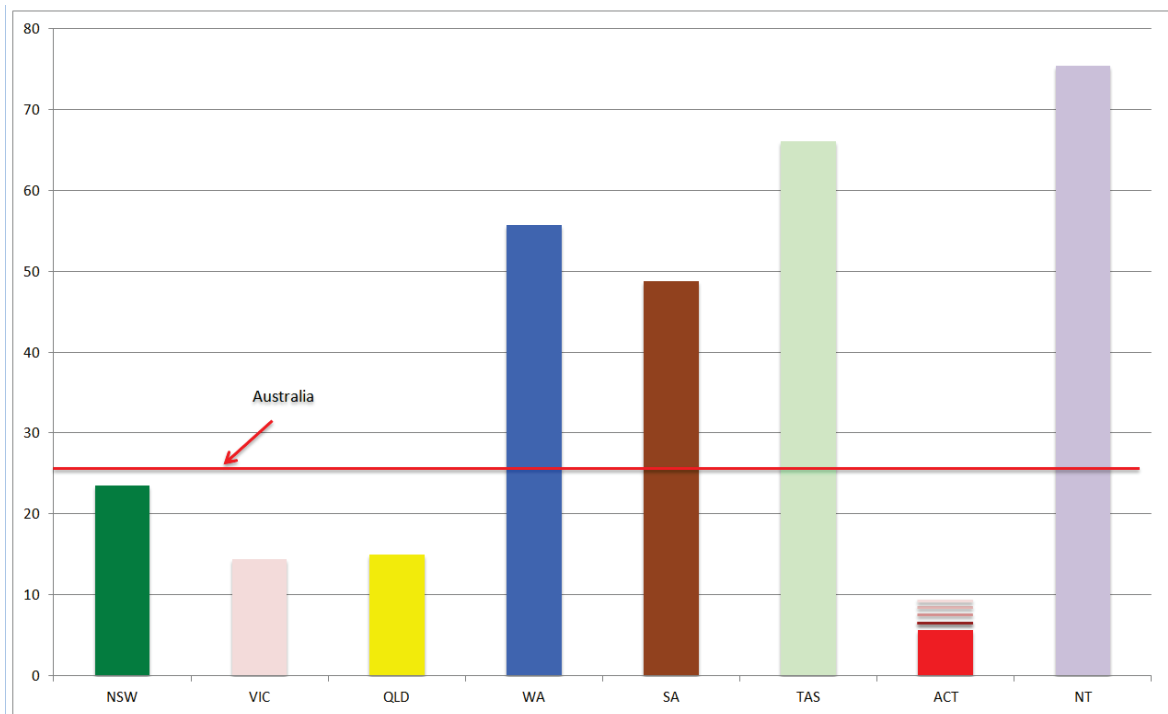
**Table 5: Ratio of State/Territory per 100,000 population**

	State/Territory		Total Reps	Population @ 30/6/2012	Ratio of representatives per 100,000 population
	Lower House	Upper House			
NSW	93	42	135	7,290,300	1.85
VIC	88	40	128	5,623,500	2.28
QLD	89	0	89	4,560,100	1.95
WA	59	36	95	2,430,300	3.91
SA	47	22	69	1,654,800	4.17
TAS	25	15	40	512,000	7.81
ACT	17	0	17	374,700	4.54
NT	25	0	25	234,800	10.65
TOTAL	443	155	598	22,680,500	2.64

**Table 6: Possible scenarios for increasing the ACT Legislative Assembly:  
Ratio of Territory per 100,000 population**

	State/Territory		Total Reps	Population @ 30/6/2012	Ratio of representatives per 100,000 population
	Lower House	Upper House			
ACT	17	0	17	374,700	4.5
ACT	21	0	21	374,700	5.6
ACT	23	0	23	374,700	6.1
ACT	25	0	25	374,700	6.7
ACT	27	0	27	374,700	7.2
ACT	35	0	35	374,700	9.3

**Graph 1: Number of elected representatives per 100,000 population <sup>43</sup>**



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<sup>43</sup> This graph shows the data presented in tables 3 and 4 in chart form. The ACT column shows the current 17 ACT MLAs in solid red. The additional lines in the ACT column show options for 21, 23, 25 and 27 MLAs in ascending order.

**Table 7: Ministerial responsibilities**

This table shows the ministerial responsibilities currently held by each Minister in the ACT Government.

<b>Ms Katy Gallagher</b>	<b>Mr Andrew Barr</b>	<b>Mr Simon Corbell</b>	<b>Ms Joy Burch</b>	<b>Mr Shane Rattenbury</b>
Chief Minister	Deputy Chief Minister	Attorney General	Minister for Education and Training	Minister for Territory and Municipal Services
Health	Treasurer	Environment and Sustainable Development	Disability, Children and Young People	Corrections
Regional Development	Economic Development	Police and Emergency Services	Arts	Housing
Higher education	Community Services	Workplace Safety and Industrial Relations	Women	Aboriginal and Torres Strait Islander Affairs
	Sport and Recreation		Multicultural Affairs	Ageing
	Tourism and Events		Racing and Gaming	

**Table 8: Opposition shadow responsibilities**

This table shows the shadow portfolio responsibilities currently held by each Liberal Party member in the ACT Assembly other than Mrs Vicki Dunne, who holds the post of Speaker.

<b>Mr Jeremy Hanson</b>	<b>Mr Alistair Coe</b>	<b>Mr Zed Seselja</b>	<b>Mr Brendan Smyth</b>	<b>Mr Steve Doszpot</b>	<b>Mrs Giulia Jones</b>	<b>Mr Andrew Wall</b>
Leader of the Opposition	Deputy Leader					
Health	Territory & Municipal Services	Cost of Living	Treasury	Education & Training	Women	Youth
Veterans Affairs	Planning & Infrastructure	Utilities	Business, Tourism & Arts	Information & Communication Technology	Multicultural Affairs	Indigenous Affairs
Family & Community Services	Transport	Attorney General	Economic Diversification	Sport & Recreation		
Housing	Heritage	Police	Environment	Ageing		
Disability Services		Corrections	Gambling & Racing			
		Emergency Services				
		Industrial Relations				

**Table 9: Parliamentary representation in countries with small populations** <sup>44</sup>

<b>Country</b>	<b>Population</b>	<b>Lower house</b>	<b>Upper house</b>	<b>Total</b>
Suriname	534,189	51	0	51
Luxembourg	524,900	60	0	60
Solomon Islands	515,870	50	0	50
Cape Verde	491,875	102	0	102
Malta	416,055	69	0	69
Brunei	393,162	36	0	36
Bahamas	351,461	38	16	54
Iceland	321,857	63	0	63
Maldives	317,280	77	0	77
Belize	312,971	31	12	43
Barbados	274,200	30	21	51
Vanuatu	258,213	54	0	54
Samoa	187,820	49	0	49
São Tomé and Príncipe	187,356	55	0	55
Saint Lucia	166,526	17	11	28
Kiribati	104,573	46	0	46
Grenada	103,328	15	13	28
Tonga	103,036	26	0	26
Federated States of Micronesia	101,823	14	0	14
Saint Vincent and the Grenadines	100,892	21	0	21
Seychelles	90,945	31	0	31
Antigua and Barbuda	86,295	19	17	36
Andorra	76,246	28	0	28
Dominica	71,293	21	0	21
Marshall Islands	55,548	33	0	33
Saint Kitts and Nevis	51,970	15	0	15
Liechtenstein	36,842	25	0	25
San Marino	32,480	60	0	60
Palau	20,770	16	9	25
Tuvalu	11,264	15	0	15
Nauru	9,945	18	0	18

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<sup>44</sup> For numbers of members of national legislatures, see [http://en.wikipedia.org/wiki/List\\_of\\_legislatures\\_by\\_country](http://en.wikipedia.org/wiki/List_of_legislatures_by_country);  
For population by country, see [http://en.wikipedia.org/wiki/List\\_of\\_countries\\_by\\_population](http://en.wikipedia.org/wiki/List_of_countries_by_population).

**Table 10: Parliamentary representation in the United States of America** <sup>45</sup>

<b>State</b>	<b>Population</b>	<b>Lower house</b>	<b>Upper House</b>	<b>Total</b>
Alabama	4,802,740	105	35	140
Alaska	722,718	40	20	60
Arizona	6,482,505	60	30	90
Arkansas	2,937,979	100	35	135
California	37,691,912	80	40	120
Colorado	5,116,796	65	35	100
Connecticut	3,580,709	151	36	187
Delaware	907,135	41	21	62
District of Columbia	617,996	13	N/A	13
Florida	19,057,542	120	40	160
Georgia	9,815,210	180	56	236
Hawaii	1,374,810	51	25	76
Idaho	1,584,985	70	35	105
Illinois	12,869,257	118	59	177
Indiana	6,516,922	100	50	150
Iowa	3,062,309	100	50	150
Kansas	2,871,238	125	40	165
Kentucky	4,369,356	100	38	138
Louisiana	4,574,836	105	39	144
Maine	1,328,188	153	35	188
Maryland	5,828,289	141	47	188
Massachusetts	6,587,536	160	40	200
Michigan	9,876,187	110	38	148
Minnesota	5,344,861	134	67	201
Mississippi	2,978,512	122	52	174
Missouri	6,010,688	163	34	197
Montana	998,199	100	50	150
Nebraska	1,842,641	49	N/A	49
Nevada	2,723,322	42	21	63
New Hampshire	1,318,194	400	24	424
New Jersey	8,821,155	80	40	120
New Mexico	2,082,224	70	42	112
New York	19,465,197	150	62	212
North Carolina	9,656,401	120	50	170
North Dakota	683,932	94	47	141
Ohio	11,544,951	99	33	132

<sup>45</sup> <http://www.infoplease.com/ipa/A0004986.html> (population)  
[http://en.wikipedia.org/wiki/Comparison\\_of\\_U.S.\\_state\\_governments](http://en.wikipedia.org/wiki/Comparison_of_U.S._state_governments) (political representation)

<b>State</b>	<b>Population</b>	<b>Lower house</b>	<b>Upper House</b>	<b>Total</b>
Oklahoma	3,791,508	101	48	149
Oregon	3,871,859	60	30	90
Pennsylvania	12,742,886	203	50	253
Rhode Island	1,051,302	75	38	113
South Carolina	4,679,230	124	46	170
South Dakota	824,082	70	35	105
Tennessee	6,403,353	99	33	132
Texas	25,674,681	150	31	181
Utah	2,817,222	75	29	104
Vermont	626,431	150	30	180
Virginia	8,096,604	100	40	140
Washington	6,830,038	98	49	147
West Virginia	1,855,364	100	34	134
Wisconsin	5,711,767	99	33	132
Wyoming	568,158	60	30	90

**Table 11: Parliamentary representation in Canada** <sup>46</sup>

<b>Province</b>	<b>Population</b>	<b>Seats</b>
Quebec	8 054 800	125
Ontario	12 851 821	107
British Columbia	4 400 057	85
Alberta	3 873 700	87
Nova Scotia	948 700	52
Manitoba	1 267 268	57
Saskatchewan	1 086 564	58
New Brunswick	751 171	55
Prince Edward Island	140 204	27
Newfoundland and Labrador	514 536	48
<b>Territory</b>	<b>Population</b>	<b>Seats</b>
Yukon	33 897	19
Nunavut	31 906	19
Northwest Territories	41 462	19

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<sup>46</sup> <http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/demo02a-eng.htm> (population)  
[http://en.wikipedia.org/wiki/Legislative\\_Assemblies\\_of\\_Canadian\\_provinces\\_and\\_territories](http://en.wikipedia.org/wiki/Legislative_Assemblies_of_Canadian_provinces_and_territories)  
(political representation)

**Table 12: Current ACT Legislative Assembly Committees**

This table shows the current committee structure and membership in the ACT Legislative Assembly.

*Standing Committee on Education, Training and Youth Affairs*

Ms Mary Porter (Chair)  
Mr Steve Doszpot (Deputy Chair)  
Mrs Giulia Jones (member)  
Ms Yvette Berry (member)

*Standing Committee on Health, Ageing, Community and Social Services*

Dr Chris Bourke (Chair)  
Mr Jeremy Hanson (Deputy Chair)  
Mr Andrew Wall (member)  
Ms Yvette Berry (member)

*Standing Committee on Justice and Community Safety*

Mr Steve Doszpot (Chair)  
Mr Mick Gentleman (Deputy Chair)  
Mrs Giulia Jones (member)  
Ms Yvette Berry (member)

*Standing Committee on Justice and Community Safety  
(Legislative Scrutiny Role)*

Mr Steve Doszpot (Chair)  
Mr Mick Gentleman (Deputy Chair)  
Mrs Giulia Jones (member)  
Ms Yvette Berry (member)

*Standing Committee on Planning, Environment and Territory and Municipal Services*

Mr Mick Gentleman (Chair)  
Mr Alistair Coe (Deputy Chair)  
Mr Andrew Wall (member)  
Dr Chris Bourke (member)

*Standing Committee on Public Accounts*

Mr Zed Seselja (Chair)  
Ms Mary Porter (Deputy Chair)  
Mr Brendan Smyth (member)  
Dr Chris Bourke (member)



## **Appendix – Previous inquiries regarding the size of the ACT Legislative Assembly**

There have been reports from several previous inquiries relevant to the size of the ACT Legislative Assembly. These reports include:

- The 2012 report of the ACT Legislative Assembly Standing Committee on Administration and Procedure, Report No 5, *Review of the Australian Capital Territory (Self-Government) Act 1988 (Cwlth)*;
- Allan Hawke's 2011 report, *Governing the City State: One ACT Government—One ACT Public Service*;
- Allan Hawke's 2011 Report, *Canberra : A Capital Place, Report of the Independent Review of the National Capital Authority*;
- John Halligan's 2011 report, *An Assessment of the Performance of the Three Branches of Government in ACT Against Latimer House Principles*;
- 2002 report of the Assembly Standing Committee on Legal Affairs;
- 1999 report of the Assembly Select Committee on the Report of the Review of Governance;
- 1998 Review of the Governance of the ACT (the Pettit Report);
- 1990 report of the Assembly Select Committee on Self-Government;
- 1985 House of Assembly report of the Standing Committee on the Transition to Territorial Government;
- 1984 Task Force on Implementation of ACT Self-Government: Advice to the Minister for Territories and Local Government; and
- 1974 Joint Parliamentary Committee on the ACT. Report on Self Government and Public Finance in the ACT.

A copy of the 2002 report, which includes a summary of the findings of earlier reviews and reports, can be found at

[www.parliament.act.gov.au/downloads/reports/la04sizeoflegass.pdf](http://www.parliament.act.gov.au/downloads/reports/la04sizeoflegass.pdf) .

The previous reviews and inquiries into the number of members of the Assembly have for the most part drawn arguments favourable to an increase in the number of members. A summary of the findings of the reviews and inquiries is outlined below.

**Table 13: Outcomes of reviews related to the size of the ACT Legislative Assembly**

The following table summarises the outcomes of the reviews conducted from 1974 to 2002.

<b>INQUIRY</b>	<b>RECOMMENDATIONS</b>
Joint Parliamentary Committee on the ACT. Report on Self Government and Public Finance in the ACT 1974	<b>19 members</b>
Taskforce on Implementation of Self Government: Advice to the Minister for Territories and Local Government 1984	<b>19 or 21 members</b>
ACT House of Assembly, Standing Committee on the Transition to Territorial Government, <i>Proposals for Self-government</i> , 1985	<b>21 members</b>
ACT Legislative Assembly Select Committee on <i>Self Government, Report of the Select Committee on Self Government</i> 1990	<b>17 members</b> for 170,000 electors is the minimum number required to provide effective Assembly, Executive Government and parliamentary Committee operations.
Review of the Governance of the ACT (Pettit review) 1998	The ratio of MLA's to electors should be maintained at or above the level prevailing in 1989 – 1 MLA to every 10,000 electors leading to <b>21 members</b>
Report of the Select Committee on The Report of the Review of Governance 1999	Maintain the current <b>17 member</b> Assembly
ACT Legislative Assembly Standing Committee on Legal Affairs, Report No 4, <i>The appropriateness of the size of the Legislative Assembly for the ACT and options for changing the number of members, electorates and any related matter</i> 2002	Increase to <b>21 members</b> , with 3 electorates each returning 7 members <ul style="list-style-type: none"> <li>• Dissenting report by John Hargreaves MLA recommended the Assembly increase from 17 to 23 members and that the configuration for elections be 3 electorates of 6 members and 1 of 5 members</li> </ul>

**Review of the Australian Capital Territory (Self-Government) Act 1988 (2012)<sup>47</sup>**

This review, undertaken by the ACT Legislative Assembly Standing Committee on Administration and Procedure, recommended:

noting the requirements of the *Proportional Representation (Hare-Clark) Entrenchment Act 1994* regarding a special majority, that section 8 of the Self-Government Act be amended to give the Legislative Assembly the power to determine the number of its members, so as to have similar powers as the Federal Parliament and the State and Territory Parliaments.<sup>48</sup>

The Committee's report noted:

In the event that the Self-Government Act is amended along the lines suggested by the Committee it would then be up to a future Assembly to determine an appropriate size. A number of submissions and persons appearing before the Committee have made suggestions about what an appropriate size might be, with most indicating that 25 members are necessary to ensure that they Assembly can adequately fulfil the roles allocated to it (eg a ministry, shadow ministry, committees, etc).

The Committee makes no comment on what is an appropriate size.

**Governing the City State: One ACT Government—One ACT Public Service (2011)<sup>49</sup>**

This review, undertaken by Dr Allan Hawke, was a comprehensive review of the effectiveness, capacity and structure of the ACT Public Service. Following this review, extensive structural changes were made to the ACT Public Service (ACTPS) to implement its recommendations. In particular, Dr Hawke recommended that the ACTPS be divided into 9 Directorates. This recommendation was adopted and implemented by the ACT Government.

Dr Hawke noted:

The Review has sought to develop structures that are fit for purpose in Canberra's city state government – structures that present a coherent and consistent face to the people of Canberra and make it easy to deal with the ACTPS. ... In part this desire for clarity is evident in a bias in the Review's recommendations towards fewer organisational units, and clear lines of accountability from those units to a single Minister. One of the challenges in this context, ultimately stemming from the *Australian Capital Territory (Self-Government) Act 1988 (Cwlth)*, is the size of the Ministry – itself a function of the size of the Assembly – relative to the volume and breadth of the ACT Government's responsibilities.<sup>50</sup>

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<sup>47</sup>ACT Legislative Assembly Standing Committee on Administration and Procedure (2012), *Review of the Australian Capital Territory (Self-Government) Act 1988 (Cwlth)*.

<sup>48</sup>ACT Legislative Assembly Standing Committee on Administration and Procedure (2012), *Review of the Australian Capital Territory (Self-Government) Act 1988 (Cwlth)*, p. 27.

<sup>49</sup>Hawke, Allan (2011), *One ACT Government – One ACT Public Service*.

<sup>50</sup>Hawke, Allan (2011), *One ACT Government – One ACT Public Service*, p. 25.

Dr Hawke also noted:

The history of self government in the ACT is a somewhat chequered one: among the members of the First Assembly in 1989 were representatives of the Abolish Self Government Coalition and the No Self Government Party. The fact that a significant majority of Canberrans were opposed to self government, coupled with the sentiment that Canberra was a better place when it was overseen by the National Capital Development Commission, still underpins some criticisms of the current governance arrangements for the ACT and the performance of the government of the day.

That said there is an emerging maturity in the self government arrangements, the 20th Anniversary of which were celebrated in 2009. There is no official suggestion or groundswell of support for a return to direct administration by the Commonwealth, and a growing sense that the ACT Government and the ACTPS are poised to enter the next phase of their development. Indeed, in public discussion of reform of the Australian Federation, it is regional governance arrangements similar to those already in place in the ACT that are often promoted.<sup>51</sup>

Dr Hawke also noted:

The size of the ACT Executive is limited to the Chief Minister and up to four Ministers by section 41 of the Self Government Act. While that number could be increased by enactment of the Assembly, in a chamber of seventeen members where minority government is the norm, increasing the size of the ministry is not practical given the need for government members to fulfil other parliamentary roles, including backbenchers participating fully and properly in the ongoing work of the Assembly and its Committees.

The appropriate size of the Assembly has been the subject of much discussion since the first considerations of self government, and remains so today. In its 1984 report to the then Minister for Territories and Local Government the Task Force on the Implementation of ACT Self Government recommended the size of the ACT legislative Assembly be governed by three main principles:

- it must be large enough to provide for adequate and fair representation of the ACT community;
- it must be able to function as a workable legislature; and
- so far as is possible it should have the capacity for adequate scrutiny of the executive government.

At the time of its report, that Task Force found that the ACT community was the most under-represented in Australia and that the ACT was almost completely unrepresented at the state and local level. Its 'advisory representation' at the state and local level was 1:13,150 people compared to the national average of 1:1,720.

The Joint Parliamentary Committee on the ACT in its Report Self-Government and Public Finance in the ACT in 1975 recommended the Assembly have 19 members, and the Taskforce on the Implementation of ACT Self Government supported 19 or 21 members. In its 1990 report, the Assembly Select Committee on Self Government considered 17 members for 170,000 electors to be the minimum number required for a the Westminster system with a Government, Opposition and parliamentary committees.<sup>52</sup>

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<sup>51</sup> Hawke, Allan (2011), One ACT Government – One ACT Public Service, p. 29.

<sup>52</sup> Hawke, Allan (2011), One ACT Government – One ACT Public Service, pp 31-32.

Dr Hawke also noted:

A key challenge facing the ACT, which is ultimately hindering performance and capacity, is the breadth and volume of ministerial responsibilities in a Cabinet of five spanning the uniquely broad range of functions with which the Government is charged. The ACT while geographically contained, is unique in that the Government is responsible for matters dealt with by state governments in other jurisdictions (e.g. health, education, justice) with a Chief Minister who is a member of the Council of Australian Governments (COAG), as well as municipal functions that fall to local councils elsewhere.<sup>53</sup>

***Canberra : A Capital Place, Report of the Independent Review of the National Capital Authority (2011)***<sup>54</sup>

This review, undertaken by Dr Allan Hawke, examined the roles and responsibilities of the National Capital Authority (NCA).

Dr Hawke noted:

In light of the importance of robust and accountable democratic processes in the ACT – characterised by high standards of parliamentary debate, a legislative program covering a range of complex issues, and an active Assembly Committee process – and the significant under-representation of the citizens of the ACT, there is an overwhelming case for increasing the size of the Assembly. This would enable members to serve their constituents better, allow the Ministry to be expanded to seven thereby establishing a more reasonable spread of responsibilities, and enhance the capacity of the Legislature to scrutinise the activities of the Executive through a more active committee process.<sup>55</sup>

***An Assessment of the Performance of the Three Branches of Government in ACT Against Latimer House Principles (2011)***<sup>56</sup>

This report, undertaken by Professor John Halligan, was an independent assessment of the performance of the three arms of government and the ACT against the Latimer House Principles. The Latimer House Principles aim to provide an effective framework for the implementation by governments, parliaments and judiciaries of fundamental values related to the rule of law, the promotion and protection of fundamental human rights and the entrenchment of good governance based on the highest standards of honesty, probity and accountability.

Professor Halligan noted:

The Legislative Assembly needs to have its numbers substantially increased as soon as possible. The actual size needs to be determined, but the figure advanced by previous reports (25) is at the upper end of those advocated, and provides the greatest potential for augmenting governance capacity. The actual size and electoral arrangements should be the subject of an independent investigation that includes the Electoral Commissioner, with a major emphasis being governance capacity. ...

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<sup>53</sup> Hawke, Allan (2011), *One ACT Government – One ACT Public Service*, p. 33.

<sup>54</sup> Hawke, Allan, *Canberra : A Capital Place, Report of the Independent Review of the National Capital Authority* (2011).

<sup>55</sup> Hawke, Allan, *Canberra : A Capital Place, Report of the Independent Review of the National Capital Authority* (2011), p. 29.

<sup>56</sup> Halligan, John, *An Assessment of the Performance of the Three Branches of Government in ACT Against Latimer House Principles* (2011).

A Ministry of only 5 confounds the basic tenets of effective cabinet government, and raises questions about whether the ACT should continue to operate this type of system without an increase in its size. Given the complexities of running both a city and a state government the span of Ministers' portfolio responsibilities is immense. The current need to rely on a Ministry of 4 is a further product of the ACT syndrome.<sup>57</sup>

Professor Halligan also noted:

The number of ACT government ministers is fixed at five, but there are currently only four ministers (compare the Northern Territory with a cabinet of eight). As a consequence each ACT minister is responsible for a number of portfolios plus having COAG roles. The evidence from previous reviews and from the reactions of those working within ACT governance is that this number is grossly inadequate for the complexities of state and local government in the 21st century. Ministers are stretched beyond their capacity to cover the span of responsibilities of an Australian state government, one of the most substantial intermediate systems in the world, plus local government. There are also potential conflicts between the different portfolio responsibilities of ministers (e.g. Chief Minister and Health; Treasurer and Education and Training), and constraints on proper debate where a minister has both whole-of-government and line responsibilities. The Attorney General also has Environment, Municipal Services and Police and Emergency Services.<sup>58</sup>

### ***The 2002 report of the Assembly Standing Committee on Legal Affairs***<sup>59</sup>

Of the 31 submissions to the 2002 inquiry, 20 favoured an increase in the number of members and 8 did not favour an increase.

Recommendation 3 of the 2002 report stated:

A majority of the committee recommends that the Legislative Assembly for the ACT be increased to 21 members based on three electorates of seven members each.<sup>60</sup>

In the conclusion to its report, the committee made the following comments:

90. The committee has carefully considered the issue of the appropriate number of members. The committee was made aware of strong arguments for an increase to 21 or 23 or 25 members in time for the next general election in 2004.

91. On balance, a majority of the committee considers that an increase to 21 members is justified on the following grounds:

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<sup>57</sup>Halligan, John, *An Assessment of the Performance of the Three Branches of Government in ACT Against Latimer House Principles* (2011), p. 4.

<sup>58</sup>Halligan, John, *An Assessment of the Performance of the Three Branches of Government in ACT Against Latimer House Principles* (2011), p. 22.

<sup>59</sup>On 12 December 2001 the Legislative Assembly resolved to refer to the Standing Committee on Legal Affairs for inquiry and report by the last sitting day of June 2002 the appropriateness of the size of the Legislative Assembly for the Australian Capital Territory and options for changing the number of members, electorates and any other related matter. The Standing Committee comprised 3 Assembly members (Mr Stephaniak, Mr Hargreaves and Ms Tucker). The committee reported in June 2002.

<sup>60</sup>Report No. 4 of the Standing Committee on Legal affairs, *The Appropriateness of the Size of the Legislative Assembly for the ACT and Options for Changing the Number of members, Electorates and Any Related Matter*, June 2002, p. 32.

- it is a *modest* increase in the size of the Assembly and so will not be too expensive (the committee understands that the cost of four additional members would be approximately \$900,000 per year, with the likelihood that they can be accommodated in the existing Assembly chamber and building)
- it recognises the greater proportionality of seven-member electorates—thus the major political parties would get a different number of seats depending on the votes actually cast for them, while at the same time minor parties and independents that can reach the quota of 12.5% would obtain representation
- it applies this improved proportionality to *all three electorates*, thus making it more equitable than the current arrangements
- it satisfies the existing legislative *entrenched* provisions whereby each electorate must have at least five members and each electorate must have an odd number of members<sup>61</sup>

The committee went on to comment:

94. The committee notes the following arguments that were advanced to support increasing the Assembly to 23 members:

- it may be viewed as the minimum number of members required to achieve adequate constituent representation, parliamentary contribution especially on committees, and sound executive governance (see following)
- it would be the figure arrived at were the ratio of members to voters maintained at the level existing at the start of self-government in 1989 (once account is taken of the entrenched provision that each electorate must elect an odd number of members and the desirability of the Assembly also having an odd number of members)
- it may facilitate a better working of the committee system
- it could facilitate an increase in the number of ministers, hence improving the capacity of the executive to adequately deal with the diverse issues associated with governing Canberra
- it would enable changes to the nature of representation of electorates and to the boundaries of the electorates themselves. Two options that were put to the committee involved four electorates based on three electorates of six members and one of five members OR three electorates based on two of seven members and one of nine members. A feature of the first option is that it would require amendment of the current entrenched provision requiring each electorate to have an odd number of members (an entrenched provision can be altered by a 2/3 majority of the Assembly).

95. The committee notes the following arguments that were advanced to support increasing the Assembly to 25 members:

- it would enable five electorates of five members each

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<sup>61</sup> *Ibid.*, p. 32.

- each electorate would have the same number of elected representatives
- the proportionality of five-member electorates is the basis for political representation in the Tasmanian House of Assembly and in other Hare-Clark jurisdictions
- each member could be expected to have a greater familiarity with their electorate (since it would be smaller than is the case with three electorates).<sup>62</sup>

### ***The 1998 Review of the Governance of the ACT (Pettit Report)***<sup>63</sup>

The report of the Pettit review made the following comments:

We recognise the concerns of those who would resist increasing the costs of government in the ACT, and in particular resist increasing the number of political representatives. If the Territory has managed so far under 17 representatives—and by our own lights, managed fairly well—then why, they will ask, would anyone think of having a greater number? While conscious of these concerns, however, discussion and consultation has led us to conclude that the number of representatives should be increased ...

The ACT has no distinct stratum of local government representatives ... . The only representation it [has] is via the four federal representatives and the 17 MLAs. That makes for a ratio between representatives and people ... of about 1:14,500. The average ratio in Australia in 1996 was about 1:2,250, so that our ratio [is] over six times higher than that average. More striking still is the fact that if we compare the ACT with other small jurisdictions, we find that the ratio will be ten times higher than the ratio in Tasmania, and over 50 times higher than that in the NT.

Opponents will say that the ACT does not need a high ratio of representatives to people, as it is a tightly contained, and a fairly homogenous, community. This strikes us as a view from the top. There is poverty and dependency in Canberra ... there is unemployment, youth suicide, and a drug culture ... . And where there are such problems there will always be a need for representatives to listen to people, to guide them around the services available, to assure them that they are being provided with all that they can claim, to enable them to believe in the system we run, and so on. With each representative answering for more than 14,000 people—with each MLA answering for about 18,000—it is simply impossible for representatives to provide the sort of political service that is standard elsewhere in Australia.<sup>64</sup>

Suggesting that this argued for an increase in the number of MLAs and that this was supported by governance considerations, such as avoiding the possible collapse of the committee system by increasing the number of members available to serve on committees, the Pettit Report asked:

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<sup>62</sup> *Ibid.*, p. 33

<sup>63</sup> On 7 November 1997 the ACT Chief Minister and the federal Minister for Regional Development, Territories and Local Government announced a review of the governance of the ACT since the advent of self-government in 1989. An 'independent Chair, Professor Philip Pettit, a representative of the Commonwealth Government... and a representative of the ACT Government'[extracted from Appendix A of the review report] conducted the review.

<sup>64</sup> Review of the Governance of the Australian Capital Territory, April 1998, p. 38, as reproduced in *The Appropriateness of the Size of the Legislative Assembly for the ACT and Options for Changing the Number of members, Electorates and Any Related Matter*, June 2002, p. 33.



But how large an increase in MLAs is warranted? Comparisons with elsewhere would make it perfectly reasonable to have an increase to 25 members in all. However our inclination is to propose... that the ratio of MLAs to electors should at least be maintained at or above the level prevailing in 1989 ... [namely] one MLA to 10,000 electors... [leading to] 21 [members]. Even with this increase, the ACT would have a ratio of representation roughly four times inferior to the Australian average.<sup>65</sup>The 1999 report of the Select Committee on the Pettit Report<sup>66</sup>

### ***The 1999 report of the Assembly Select Committee on the Report of the Review of Governance***

The report of the Assembly Select Committee on the Report of the Review of Governance considered that the Pettit review did not give adequate weight to arguments against increasing the number of members, stating:

Little account was taken of the additional cost of four extra parliamentarians. Rough estimate made by the committee of the additional cost shows that it is perhaps as much as \$3m over the three-year term of the Assembly.

While Canberra's representation is far less than the Northern Territory and Tasmania, the committee questions whether these two jurisdictions require this level of representation. The committee notes that Tasmania has commenced a process of reducing the number of members.

While the Pettit Review rejected arguments advanced against increased members as 'a view from the top', the fact remains that Canberra *is* relatively compact and homogeneous. members are more readily accessible because they do not have to travel to a distant legislature. Nor are they required to be absent from their electorates for extensive periods of time during parliamentary sittings...

The committee ... is not aware of any evidence to suggest that the high proportion of politicians to electors in jurisdictions like Tasmania has resulted in any better circumstances for the disadvantaged [as implied by the Pettit Review]. Nor has the committee seen evidence of any relationship between the number of politicians and the level of crime or substance abuse.

The committee notes that one argument advanced in favour of increased numbers of members is that it will increase the number of government members available to serve on committees. The committee considers that the reasoning behind this argument is not necessarily valid. There is no guarantee that the sixth or seventh member in each electorate will be a government member...

The Pettit Review did not fully explore how the present Assembly of 17 members could perform better... The conventions relating to the position of Speaker and the capacity of Ministers to serve on committees were not fully explored. The Pettit Review did not examine possible alternative measures such as changes to the electoral system to enable the direct election of the Chief Minister and the appointment of the Executive from outside the Assembly, and at the same time maintaining a 17-seat legislature (or less).

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<sup>65</sup> *Ibid.*, p. 39.

<sup>66</sup> After the Pettit Report was tabled, the Legislative Assembly established a select committee 'to examine the recommendations made in the Report of the Review of the Governance of the ACT'. The select committee comprised three Assembly members (Mr Osborne, Mr Stanhope and Mr Cornwell). The committee's report was finalised in June 1999.

The committee accepts that strong arguments can be made for an increase in the number of members ... . [While one member of the committee] considers that these arguments are compelling and supports an increase in the number of members to 21 ... [the other two members] believe that the arguments against an increase in members outweigh the arguments in support. While self-government is now more generally accepted by the people of Canberra, it is still unpopular with some. To increase the number of local politicians at this stage of self-government will only increase the cynicism and opposition. [Therefore] the committee recommends that the number of seats in the Fifth Assembly remain as 17.<sup>67</sup>

The then Government did not support the select committee recommendation, stating in its response to the select committee report:

The government is of the view that any general perception that self-government is under-appreciated or under-valued will not be remedied by further erosion of the level of representation in numerical terms ... .

The low number of members significantly affects the effective functioning of the Assembly. The Hare-Clark electoral system has to date resulted in minority governments in the ACT and this is likely to continue to be the case. This creates difficulties with the Assembly committee system since there can be insufficient non-Executive government MLAs available for the effective functioning of committees. Further, there is potential that all of the government MLAs may also be Ministers and not available for committee duties.

While legally the Assembly could, by a simple majority, pass a resolution for the purposes of section 8 of the *Self-Government Act* requesting that the Commonwealth make a regulation to increase the number of members of the Assembly, this would not be in the spirit of the *Proportional Representation (Hare-Clark) Entrenchment Act 1994*. The PRHCE Act expresses an intention that if the power to make a law with respect to the number of members of the Assembly is at any time vested in the Assembly, then this should be a law to which the PRHCE Act applies.

As the [select] committee has observed, a simple increase in the number of MLAs under the current electoral arrangements of three electorates would not necessarily resolve these problems.<sup>68</sup>

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<sup>67</sup> Report of the Select Committee on the Report of the Review of Governance of the ACT, October 1999, pp. 11-13, as reproduced in *The Appropriateness of the Size of the Legislative Assembly for the ACT and Options for Changing the Number of members, Electorates and Any Related Matter*, June 2002, p. 41.

<sup>68</sup> ACT Government response to the report of the Select Committee on the report of the review of governance, October 1999, p. 4, as reproduced in *The Appropriateness of the Size of the Legislative Assembly for the ACT and Options for Changing the Number of members, Electorates and Any Related Matter*, June 2002, p. 42.

### ***The 1990 report of the Assembly Select Committee on Self-Government***<sup>69</sup>

The report of the Select Committee made the following remarks:

There are problems faced by a small legislature of 17 members trying to apply the Westminster system with a government, opposition and parliamentary committees. The ministerial/cabinet system introduces multiple roles and divisions more suited to larger legislatures. The Northern Territory Legislative Assembly was considered too small with 19 members to provide a government backbench and an opposition and therefore considered moving to a committee system of government. The Northern Territory Assembly, however, acted in a more conventional manner by enlarging the legislature instead.<sup>70</sup>

The Committee went on to find:

The Assembly must be sufficiently large to provide a number of Ministers, a Speaker and a suitable number of backbenchers. Backbench members are able to keep closer contact with their electorate and so are able to provide the government with an accurate measure of attitudes of the electors on sensitive issues and seek pertinent information which is of concern to the people. They also provide a strong group from which the Assembly committee members are drawn.<sup>71</sup>

The Select Committee went on to observe that the Committee for Self-Government Report supported an Assembly of 19 or 21 full-time members with the Joint Committee on the ACT in its 1974 report having recommended 19 full-time members.

There is no perfect number, however, the [select] committee considers that 17 members for 170,000 electors is the minimum number required to provide for an effective Assembly, Executive government and parliamentary committee operations. This is considered even more reasonable when the ACT has no local government representatives.

The [select] committee recommends that there be an increase in the number of ACT Legislative Assembly members only in proportion to an increase in the number of electors.<sup>72</sup>

### ***The 1985 House of Assembly report of the Standing Committee on the Transition to Territorial Government***<sup>73</sup>

The report of the standing committee stated:

The [Commonwealth] Joint Parliamentary Committee... recommended that the Assembly initially consist of 19 full-time members. In considering this recommendation the Assembly, in 1976, believed that in the then present circumstances 18 full-time members was an appropriate number.

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<sup>69</sup> On 4 July 1989 the Legislative Assembly established a Select Committee on Self-Government to examine a number of issues relating to the government of the ACT, including the size and structure of the Assembly. The select committee presented its report on 26 April 1990.

<sup>70</sup> Select Committee on Self-Government, report April 1990, p. 19, as reproduced in *The Appropriateness of the Size of the Legislative Assembly for the ACT and Options for Changing the Number of members, Electorates and Any Related Matter*, June 2002, p. 43.

<sup>71</sup> *Ibid.*, p. 43

<sup>72</sup> *Ibid.*, p. 44.

<sup>73</sup> In August 1985 the ACT House of Assembly Standing Committee on the Transition to Territorial Government, presented its report entitled *Proposals for Self-Government*.

The Joint Parliamentary Committee recommendation resulted in a member: population ratio of 1:9,300, whilst the Assembly recommendation two years later gave a ratio of 1:11,000. Extrapolating these figures in terms of a 1985 population of 250,000 results –

- (a) on the Joint Parliamentary Committee basis, in a membership of 27; and
- (b) on the Assembly's recommendation, in a membership of 23.

The [Craig] Task Force<sup>74</sup> proposed three five-member constituencies resulting in an Assembly of 15 full-time members. However, based on the same reasoning, it was prepared also to extend this to three seven-member constituencies, giving 21 full-time members in all.

This committee believes that there should not be an overly large membership for the Legislative Assembly. On the other hand... there must be sufficient members to enable the Westminster system to operate fully and effectively. It is, therefore, of the opinion that an Assembly comprising 21 full-time members is an appropriate recommendation to make.<sup>75</sup>

### ***The 1984 Task Force on Implementation of ACT Self-Government: Advice to the Minister for Territories and Local Government***<sup>76</sup>

This report indicated support for an Assembly of 19 or 21 full-time members.

### ***The 1974 Joint Parliamentary Committee on the ACT Report on Self Government and Public Finance in the ACT***<sup>77</sup>

This report indicated support for an Assembly of 19 full-time members.

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<sup>74</sup> In November [1983] the then Minister for Territories and Local Government, Mr Uren MP... appointed the Task Force on Implementation of ACT Self-Government. The report by the Task Force, known as the Craig Report, was tabled in May 1984 and recommended the establishment of a body politic with its own legislative, executive and judicial institutions.

<sup>75</sup> ACT House of Assembly, Standing Committee on the Transition to Territorial Government, report *Proposals for Self-Government*, August 1985, p. 21, as reproduced in reproduced in *The Appropriateness of the Size of the Legislative Assembly for the ACT and Options for Changing the Number of members, Electorates and Any Related Matter*, June 2002, pp. 46-47.

<sup>76</sup> Task Force on Implementation of ACT Self-Government (1984), *Advice to the Minister for Territories and Local Government*, quoted in ACT Legislative Assembly Standing Committee on Legal Affairs (2002), *Report on the appropriateness of the size of the Legislative Assembly*, p. 44.

<sup>77</sup> Joint Parliamentary Committee on the ACT (1974), *Report on Self Government and Public Finance in the ACT*, quoted in ACT Legislative Assembly Standing Committee on Legal Affairs (2002), *Report on the appropriateness of the size of the Legislative Assembly*, p. 44.

**Table 14: Summary of debates in the ACT Legislative Assembly**

The following table categorises debates in the ACT Legislative Assembly held between 14 February and 29 March 2012 into debates on local government municipal type issues and State-type jurisdictional issues. Some discussions fell into both categories.

<b>Sitting days</b>	<b>Municipal</b>	<b>Jurisdictional</b>
14 February	14	30
15 February	11	24
16 February	15	22
21 February	11	26
22 February	12	25
23 February	16	28
20 March	5	31
21 March	5	20
22 March	3	31
27 March	7	28
28 March	7	25
29 March	10	36
Total	116 26%	326 74%

## **Appendix – Submissions received by the Expert Reference Group**

Note the following categorisations are an attempt to distil the main conclusion of the various submissions. Several submissions discuss a range of options that are not reflected in these simplified categorisations.

### **Submissions supporting an increase but not a specified single amount**

ACT Greens

Chris Ansted

Christopher Warren

Gungahlin Community Council

Logan McLennan

Lyndal Ryan, ACT Branch Secretary, United Voice

Mijina McDowall

Rebecca Vassarotti, Executive Director, YWCA of Canberra

Woden Valley Community Council

### **Submissions supporting an increase - 21 members in 2016**

Caroline Le Couteur

Greg Hutchinson

Keith Helyar

Marian Sawyer

Proportional Representation Society of Australia (Australian Capital Territory Branch)

Robert Altamore and Wendy Altamore

### **Submissions supporting an increase - 25 members in 2016**

ACT Labor

ACT Legislative Assembly ALP members

Andrew Leigh

Canberra Business Council

George Williams

Greg Cornwell

Inner South Canberra Community Council

John Warhurst

Llois Cutts

North Canberra Community Council

Property Council of Australia

Stephen Wallace

Weston Creek Community Council

**Submissions supporting an increase - 27 members in 2016**

Ken Maher

**Submissions supporting an increase – 35 members in 2016**

Abu Chowdhury

Gösta Lyngå

Kathryn Kelly

**Submission supporting 5 member electorates but no specified size**

Tim Walshaw

**Submissions not supporting an increase in the size of the Assembly**

These submissions discuss a wide range of issues, including options for alternative models of governance in the ACT.

Alan Duus

Bruce Pollock

Corinne Appleby

Ewan Letts

Gary Richardson

Harry Evans

James Walker

John Trueman

Ken Doyle

Martin Gordon

Meg Blackman

R. J. Salmond

Robyn Coghlan

Simon Fisk

Simon R Header

Sheila Waterman

Ted Quinlan

W A Reid