

**REVIEW INTO THE SIZE OF THE  
ACT LEGISLATIVE ASSEMBLY**  
Report by the Expert Reference Group 2013



**ACT**  
Government

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Produced by the Expert Reference Group  
on the size of the ACT Legislative Assembly

<http://www.act.gov.au>

Telephone: Canberra 132 281

Ms Katy Gallagher MLA  
Chief Minister  
ACT Legislative Assembly  
London Circuit, Canberra ACT 2601

Dear Chief Minister

### **Review into the size of the ACT Legislative Assembly**

We are pleased to provide you with this report into the review of the size of the ACT Legislative Assembly.

On 13 December 2012 you commissioned this Expert Reference Group to consider and report on options for increasing the size of the Assembly.

As set out in our terms of reference, this Group has:

- Undertaken a community consultation process and invited public submissions;
- Examined past reviews into the size of the Assembly;
- Considered factors relevant to increasing the size of the Assembly;
- Considered any limitations placed on changes to the size of the Assembly by the *Proportional Representation (Hare-Clark) Entrenchment Act 1994*; and
- Recommended options for increasing the size of the Assembly, including the number of electorates and the number of members for each electorate.

We thank you for the opportunity to participate in this process.

Yours sincerely

Phillip Green  
Chairperson

Anne Cahill  
Lambert AM

Meredith  
Edwards AM

John  
Hindmarsh AM

Louise Taylor

Expert Reference Group on the Size of the ACT Legislative Assembly

28 March 2013

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## Executive summary

1. The ACT Chief Minister, Ms Katy Gallagher MLA, appointed this Expert Reference Group (ERG) to conduct a review into the size of the ACT Legislative Assembly.<sup>1</sup>
2. The Assembly commenced with 17 members when the ACT was granted self-government in 1989 and has remained that size. The ACT's population has increased from approximately 275,000 in 1989 to 375,000<sup>2</sup> in 2012.
3. In March 2013, the federal parliament amended the *Australian Capital Territory (Self-Government) Act 1988* to give the Assembly the power to set its own size by enactment passed by at least a 2/3 majority of members.
4. Eleven inquiries held between 1974 and 2012 touched on the issue of the size of the Assembly. Nine of these inquiries recommended that the Assembly should be larger than its present size. Two inquiries held in 1990 and 1999 recommended the Assembly remain at its present size.
5. The ERG sought community, expert and stakeholder views on the size of the Assembly. These consultations revealed extensive support for an increase of the Assembly, while a minority of submissions either supported the status quo and/or raised issues such as winding back self-government or other models of government. The ERG considers that these consultations indicate significant, broad and strong community support for increasing the size of the Assembly.
6. The ERG is of the view that an increase in the size of the Assembly is warranted. Compelling evidence was provided that demonstrated the small size of the Assembly, and particularly the ministry, poses a significant risk to good government in the ACT.
7. The ERG adopted the following guiding principles, the first two of which are entrenched in ACT legislation:
  - (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.
8. These principles give some structure around available options. However 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 the appropriate size of the ministry and the number of members required to fill back bench, cross bench and opposition scrutiny and representational roles.

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<sup>1</sup> The Terms of Reference for the ERG are reproduced below at page 33.

<sup>2</sup> Australian Bureau of Statistics (2012), Australian Demographic Statistics, June 2012, 3101.0

9. Calculating the appropriate number needed for a legislature to adequately fulfil its functions is as much an art as a science. However, in reviewing legislatures throughout Australia and the world, it is clear that while numbers can vary according to history and local circumstances, there is generally a correlation between population and the size of legislatures – the greater the population, the greater the size of the parliament. All other parliaments in Australia have at least 25 members.

10. It is also noteworthy that all other Australian jurisdictions have elected local councils underneath the State and Northern Territory parliaments. By contrast, local government functions are also carried out by the ACT Assembly.

11. The ACT Government has a significantly wider range of roles and responsibilities than existed in 1989, the first year of self government. These include Council of Australian Government (COAG) activities in which the people of the ACT expect their government to participate. The ACT also provides an extensive range of services to residents in the wider capital region in NSW.

12. A convincing case was made in the submissions and other discussions that the current 5 member ministry in the ACT is too few. It was suggested that it would be appropriate to appoint up to 9 ministers in the ACT. The Northern Territory has 9 ministers and Tasmania has 8 ministers – noting that a recent report has suggested that Tasmania has too few ministers.

13. The ERG is persuaded that it would be appropriate to increase the ACT ministry to between 7 and 9 members.

14. In the line with the principles listed at paragraph 7 and the functions of the Assembly outlined in paragraph 8 above, the ERG considered that an increase in the size of the Assembly to 21 members would be too few to guarantee a sufficient number of available members.

15. Options of 25, 27 and 35 were all considered viable although none are ideal.

16. Examining only electorate sizes, 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.

17. 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 as early as 2016.

18. 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, consisting of 5 electorates each returning 7 members. This number would permit a ministry of 9, a significant government backbench, a robust opposition and opportunities for appropriate representation of minor parties and independents. The ERG considers it would be appropriate to enlarge the Assembly to 35 in either 2020 when the population is expected to reach 410,000, or in 2024 when the population is projected to reach 428,000.

19. With this long term goal in mind, the ERG considers that it would be appropriate 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 33 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.

20. However, should Assembly members be persuaded of the advantages of 9 member electorates over 5 member electorates, the ERG would also support the adoption of a 27 member Assembly as a transition towards a 35 member Assembly.

21. The ERG notes that the proposed increase in the size of the Assembly will come at a cost to the ACT budget. However, the ERG is of the view that this additional cost would be more than offset by significant improvements in good governance in the ACT.

### **Recommendations**

22. The Expert Reference Group recommends that:

- (a) The ACT Legislative Assembly be increased to 25 members at the 2016 election, consisting of 5 electorates each returning 5 members; and
- (b) The Assembly be increased to 35 members at the 2020 election, consisting of 5 electorates each returning 7 members.

23. If the Assembly does not accept an increase to 25 members, the ERG supports an increase to 27 members at the 2016 election, consisting of 3 electorates each returning 9 members.

24. If the Assembly does not accept an increase to 35 members in 2020, the ERG supports an increase to 35 members at the 2024 election. The ERG understands that the electorate may need a longer transition period for such a change.

## Introduction

25. The ACT Chief Minister, Ms Katy Gallagher MLA, appointed this ERG to conduct a review into the size of the ACT Legislative Assembly on 13 December 2012.<sup>3</sup> In conducting the review, the ERG was asked by the Chief Minister to:

- (a) undertake community consultation and provide an opportunity for making submissions;
- (b) examine past reviews into the size of the Assembly;
- (c) consider factors relevant to increasing the size of the Assembly;
- (d) consider any limitations placed on changes to the size of the Assembly by the *Proportional Representation (Hare-Clark) Entrenchment Act 1994* (the PRHCE Act); and
- (e) recommend options for increasing the size of the Assembly, including the number of electorates and the number of members for each electorate.

26. The terms of reference for this inquiry do not extend to considering proposals to alter the fundamental nature of the ACT's electoral arrangements. Key principles of the ACT's Hare-Clark electoral system are entrenched<sup>4</sup> under the PRHCE Act.

27. As part of its deliberations, the ERG consulted with the community, experts and stakeholders regarding options for changing the size of the Assembly.

28. The need for a review of this kind was identified in recent reviews into the ACT Government arrangements that argued that the comparatively small size of the ACT Assembly hinders the performance and capacity of the ACT's parliament and executive government.

29. The Legislative Assembly commenced with 17 members when the ACT was granted self-government in 1989 and has remained that size. The ACT's population has increased from around 275,000 in 1989 to 375,000<sup>5</sup> in 2012.

30. At the first two elections held in 1989 and 1992, all 17 members were elected "at large" from one electorate, using the modified d'Hondt electoral system. From the 1995 election onwards, the Hare-Clark electoral system has been used to elect members representing two 5-member electorates (Brindabella and Ginninderra) and one 7-member electorate (Molonglo).

31. The ACT's Legislative Assembly members have responsibility for both state and local government issues. Unlike the Northern Territory or any other jurisdiction in Australia, the ACT does not have a local government body at the city council level. It also (unlike New South Wales, Victoria, Western Australia, South Australia, Tasmania and the Commonwealth) has no upper house.

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<sup>3</sup> The Terms of Reference for the ERG are reproduced below at page 33.

<sup>4</sup> The electoral principles that are entrenched by the PRHCE Act can only be changed by a 2/3 majority of the Assembly, or by a simple majority of the Assembly and by a majority of electors at a referendum.

<sup>5</sup> Australian Bureau of Statistics (2012), Australian Demographic Statistics, June 2012, 3101.0



32. The formal mechanism to increase the number of members elected to the Assembly requires action by both the ACT Legislative Assembly and the Commonwealth Parliament.

33. The Commonwealth *Australian Capital Territory (Self-Government) Act 1988* (Self-Government Act) currently sets the size of the Assembly at 17 members. Under this Act prior to 2013, the only mechanism for increasing the size of the State was for the relevant Commonwealth Minister to make regulations altering the size of the Assembly, but only in accordance with a resolution passed by the Assembly. This mechanism has never been used.

34. On 13 February 2013, the federal Government introduced the Australian Capital Territory (Self-Government) Amendment Bill 2013, which amends the Self-Government Act to give the ACT Legislative Assembly the power to set its own size by enactment passed by at least a 2/3 majority of members. This Bill was passed by the House of Representatives on 12 March 2013 and by the Senate on 21 March 2013.

35. Several reviews have considered the size of the Legislative Assembly (see *Previous inquiries regarding the size of the ACT Legislative Assembly* below). Reviews conducted in 1974, 1984 and 1985, before the ACT was granted self-government in 1989, recommended the Assembly should consist of 19 or 21 members. Reviews conducted in 1990 and 1999 recommended the Assembly should remain at 17 members. Reviews conducted in 1998 and 2002 recommended the Assembly be increased to 21 members.

36. More recent reviews into the ACT Government arrangements conducted in 2011 concluded that there is a substantial case for increasing the size of the Assembly.<sup>6</sup>

37. This report by the ERG examines the arguments about increasing the size of the Assembly. It examines other Australian State and Territory parliaments and overseas parliaments to assist in assessing what might be an appropriate size for the ACT Assembly. The report notes that there is a range of factors influencing the size of the Assembly, including population size, the size of the ministry and number of members needed to fulfil parliamentary scrutiny and representational roles.

38. Having concluded that an increase in both the ACT Assembly and ministry is warranted, the report examines a range of options for increasing the size of the Assembly in the context of the ACT's proportional representation electoral system.

39. The ERG would like to acknowledge the secretariat support provided by the Chief Minister and Treasury Directorate and particularly to thank Ms Renate Moore and Ms Vasiliki Bogiatzis for their assistance.

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<sup>6</sup> Hawke, Allan (2011), *One ACT Government – One ACT Public Service*, p. 33.

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

## Consultation

40. An important aspect of the ERG's review included consultation with the community, experts and other stakeholders. This consultation process included a call for public submissions, meetings with stakeholders and a seminar with expert academics.

41. A discussion paper<sup>7</sup> was released on 17 January 2013 to provide background information on the ACT Legislative Assembly, previous reviews and comparative data with other jurisdictions. Public submissions were sought with a deadline of 1 March 2013. Submissions were received up until 4 March 2013 following requests for extension of the deadline.

42. The ERG was conscious that there was already considerable information available to it from the Canberra community. Accordingly, it decided to call for written submissions as its main additional community input. It targeted specific individuals and groups for further discussion and advice. This included current members of the Assembly, current and previous senior public servants, the Clerk of the Assembly and a range of academics. In addition, the chair of the ERG was invited to speak with community groups.

43. The mix of 51 submissions and other verbal representations was pleasing as a wide range of individuals and organisations provided useful advice.

## Submissions

44. The ERG considered in detail the arguments put forward by individuals and groups in their submissions and verbally. Submissions<sup>8</sup> and representations covered the following categories:

- (a) **Increasing numbers:** 32 submissions can be categorised as supporting an increase in the size of the Assembly:
- 9 submissions did not specify a single favoured size;
  - 6 submissions favoured an increase to 21 members;
  - 13 submissions favoured an increase to 25 members;
  - 1 submission favoured an increase to 27 members; and
  - 3 submissions favoured an increase to 35 members.

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<sup>7</sup> ERG (2013), *Review Into The Size Of The ACT Legislative Assembly: A Discussion Paper*. Available at [http://www.elections.act.gov.au/\\_\\_data/assets/pdf\\_file/0010/9010/Assembly\\_Size\\_Discussion\\_Paper.pdf](http://www.elections.act.gov.au/__data/assets/pdf_file/0010/9010/Assembly_Size_Discussion_Paper.pdf)

<sup>8</sup> Authors and submissions are listed from page 57 and the submissions can be found at [www.elections.act.gov.au/electoral\\_boundaries/review\\_into\\_the\\_size\\_of\\_the\\_legislative\\_assembly/#PubSub](http://www.elections.act.gov.au/electoral_boundaries/review_into_the_size_of_the_legislative_assembly/#PubSub)

(b) **No change:** A total of 18 submissions did not support increasing the size of the Assembly. A further submission supported 5 member electorates but did not indicate whether an increase was supported. Several of the submissions not supporting an increase argued for other governance models. Of these:

- **Retain current numbers:** Eight submissions argued for the current numbers to be retained. A majority of these submissions argued that the ACT could not afford to increase numbers.
- **Other models:** Five submissions and other discussions addressed a range of other models that the ACT and Commonwealth Governments should consider. These included:
  - Managing the ACT as a small Council.
  - Appointing non elected ministers.
  - Expanding the number of staff available for elected representatives, especially backbenchers.
  - Changing electorates, mostly so that communities are not divided. Suggestions were also made to return to single member electorates.
  - Conducting a referendum to address the size of the Assembly.
  - Unwinding of self government for the ACT.

45. Issues raised by those in favour of increasing the size of the Assembly include:

- (a) The heavy workload of ministers holding multiple portfolios;
- (b) The ability of non-executive members to adequately scrutinise the business of government;
- (c) The unique nature of the ACT Assembly encompassing both State and local government responsibilities;
- (d) Comparisons with other Australian parliaments and the proportion of population to elected representatives; and
- (e) The risks to good governance in the ACT raised by the small size of the Assembly and the ministry.

46. Issues raised by those opposed to increasing the size of the Assembly include:

- (a) The cost of increasing the size of the Assembly;
- (b) Opposition to the concept of self-government in the ACT; and
- (c) Alternative governance models, including restricting the powers of the Assembly to those of a city council and permitting the appointment of ministers from outside the Assembly.

47. It is notable that many of the submissions made in favour of increasing the size of the Assembly were made on behalf of organisations represented in the ACT. These include 5 ACT Community Councils, 2 political parties, a trade union, YWCA of Canberra, the Proportional Representation Society of Australia, the Canberra Business Council and the Property Council of Australia.

48. All of the submissions that opposed an increase in the size of the Assembly were made by individuals in a private capacity.

49. The ERG considers that the submissions indicate significant, broad and strong community support for increasing the size of the Assembly by nearly two to one.

50. One important concern raised in several submissions, particularly those made by the community councils, addressed the issue of avoiding the splitting of districts by electoral boundaries. This matter is discussed later.

51. Several submissions noted the oft-repeated claim that there were two referendums held on the question of self-government in the ACT. However, only one referendum on self-government has ever been held in the ACT, on 25 November 1978.

### **Meetings with stakeholders**

52. The ERG met with a range of people with an interest in the size of the Assembly. These included current members of the Assembly, including party leaders, ministers, shadow ministers and backbenchers of each of the parties represented in the Assembly, past and present senior ACT and Commonwealth public servants, academics and the Clerk and Deputy Clerk of the Assembly.

53. These meetings provided the ERG with valuable background information on the workload carried by current members of the Assembly, including ministers, back-bench members and opposition members.

### **Academic seminar**

54. Academics with an interest in the size of the Assembly were invited to attend a seminar held at the University of Canberra on 18 March 2013.

55. This seminar discussed relevant issues, particularly those raised in the public submissions to the ERG.

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

56. There have been 11 previous inquiries relevant to the size of the ACT Legislative Assembly between 1974 and 2012. These inquiries are listed and summarised in the *Appendix –Previous inquiries regarding the size of the ACT Legislative Assembly* at page 45.

57. Reviews conducted in 1974, 1984 and 1985, before the ACT was granted self-government in 1989, recommended the Assembly should consist of 19 or 21 members. Reviews conducted in 1990 and 1999 recommended the Assembly should remain at 17 members. Reviews conducted in 1998 and 2002 recommended the Assembly be increased to 21 members.

58. More recent reviews into ACT government arrangements and the Self-Government Act conducted in 2011 [Halligan and Hawke<sup>9</sup>] and 2012 [ACT Legislative Assembly Standing Committee on Administration and Procedure] have concluded that there is a sound case for increasing the size of the Assembly, but have not recommended a particular Assembly size.

59. To date no action has been taken to increase the size of the Assembly arising from these earlier inquiries.

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<sup>9</sup> Hawke, Allan (2011), *One ACT Government – One ACT Public Service*, p. 33.

### **The role of parliament in Australian democracy**

60. The ACT Legislative Assembly is first and foremost a parliament. As set out in the Self-Government Act, it essentially follows the Australian model of the Westminster system adopted by all of Australia's federal, State and Territory parliaments.

61. The range of roles expected to be undertaken by a parliament include:<sup>10</sup>
- (a) Forming the government of the day;
  - (b) Providing a public platform for deliberation over major public issues;
  - (c) Providing a public forum for the opposition to show its credentials as the alternative government;
  - (d) Oversight of and ultimately control of the government and the public sector;
  - (e) Approving the raising and spending of public moneys;
  - (f) Making legislation and supervising the making of delegated legislation by government; and
  - (g) Providing a forum for the ventilation and resolution of grievances of individuals.

62. Key features of the Australian Westminster model include:

- (a) An appointed head of state (for the States, this role is taken by a Governor appointed by the Queen; for the Commonwealth and the ACT, this role is taken by the Governor-General appointed by the Queen; for the Northern Territory, this role is taken by an Administrator appointed by the Governor-General);
- (b) An elected legislature consisting of one (unicameral) or two (bicameral) houses of parliament;
- (c) A government, consisting of members of parliament securing the confidence of the lower (or only) house of parliament;
- (d) A head of government (the prime minister for the Commonwealth; premier for the States and Chief Minister for the Territories);
- (e) An executive branch, made up of members of parliament appointed as ministers, forming a cabinet lead by the head of government;
- (f) An apolitical professional public service; and
- (g) A parliamentary opposition.

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<sup>10</sup> Constitutional Centenary Foundation (1994), *Representing the People: The Role of Parliament in Australian Democracy*, p. 17 .

## Role of the Assembly

63. The ACT Legislative Assembly has two distinct roles, unlike other Australian parliaments: it is responsible for the usual State-Territory activities such as health, education, law and order, and industrial relations. It also has responsibility for local government activities such as rates, roads and collection of rubbish.

64. When the Assembly was established, the driving principles behind its size were that it should<sup>11</sup>:

- (a) be large enough to provide for adequate and fair representation of the ACT community;
- (b) function as a workable legislature; and
- (c) have the capacity for adequate scrutiny of the executive government.

65. The formal powers of the Assembly include<sup>12</sup>:

- (a) making laws for the peace, order and good government of the Territory;
- (b) investigating and debating matters of public importance;
- (c) reviewing the actions of government; and
- (d) overseeing the financial matters of government.

66. A parliamentary body such as the ACT Legislative Assembly performs a variety of functions. Its members represent its constituents both in making laws for the peace, order and good government of the Territory and in dealing with individual matters raised with them by constituents.

67. One member is elected Speaker of the Assembly, responsible for keeping order in the chamber and for overseeing the operation of the Assembly and its secretariat. The ACT's Chief Minister is elected by the Assembly and the other Ministers are appointed from the ranks of the members.

68. Members from the largest non-government party take on the roles of Opposition Leader and opposition shadow ministers.

69. Cross bench members including minor party representatives and independents pursue their own legislative agenda and, although they have no formal recognised position such as Leader of the Cross Bench, are required to keep abreast of issues across all portfolios.

70. Backbench members also serve on Assembly committees. The current Assembly has 6 standing committees<sup>13</sup> and can be expected to establish various select committees as its term progresses; the previous Assembly had 8 standing committees and 10 select committees.

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<sup>11</sup> Quoted in Hawke, Allan (2011), Canberra : A Capital Place, Report of the Independent Review of the National Capital Authority, p 17. .

<sup>12</sup> ACT Legislative Assembly Website: <http://www.parliament.act.gov.au/education/role-of-the-assembly.asp>

<sup>13</sup> A list of the current committees can be found at Table 7 on page 44.

## **Factors relevant to increasing the number of members of the ACT Legislative Assembly**

71. Previous inquiries have highlighted the difficulties the current 17 member Legislative Assembly has in providing for adequate representation of ACT citizens, in functioning as a working legislature and executive and in having the capacity to adequately scrutinise the executive government.
72. Factors the ERG considered relevant to the size of the Assembly include:
- (a) The ability of the Assembly to provide for adequate and fair representation of the ACT community;
  - (b) The ability of the Assembly to fulfil legislative and executive functions;
  - (c) The size of the ACT ministry;
  - (d) The ability to scrutinise the government; and
  - (e) Academic modelling of size of representative parliaments.

### **The ability of the Assembly to provide for adequate and fair representation of the ACT community**

73. As the ACT's population has continued to steadily increase in the past two decades, there has been no increase in the number of members serving the ACT. Increases in population size can be expected to increase the workload of elected representatives (see also below on academic modelling). The ACT's population has increased from approximately 275,000 in 1989 to 375,000<sup>14</sup> in 2012 with no increase in the size of the Assembly. By 2024, it is estimated that the population of the ACT will reach 428,014; by 2044, it is estimated the ACT population will reach 505,200.<sup>15</sup>

74. In addition, the ACT is also responsible for providing services to residents in the wider national capital region surrounding the ACT, such as health and education services. This adds approximately 150,000 people living in New South Wales who have a direct interest in good government in the ACT.

75. Despite the ACT Assembly's unique range of legislative and executive functions, when compared with other Australian jurisdictions, the ACT has fewer elected members per enrolled elector and per 100,000 population than any other State or Territory if local government elected representatives are taken into account. When compared only to State level parliaments, the ACT has fewer representatives per 100,000 population than Tasmania and the Northern Territory. It has a similar number as South Australia. As populations get bigger in the larger States, the number of representatives per 100,000 population drops below the ACT figure. This result reflects the economies of scale that can be achieved as populations get significantly larger. In absolute terms, the ACT's 17 member parliament is smaller than all other Australian parliaments. (See the following section *Comparing the ACT Legislative Assembly with other Australian parliaments* on page 21.)

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14 Australian Bureau of Statistics (2012), Australian Demographic Statistics, June 2012, 3101.0

15 ACT Chief Minister and Treasury Directorate, ACT Populations Projections (accessed 20 March 2013), [www.cmd.act.gov.au/policystrategic/actstats/projections/act/total](http://www.cmd.act.gov.au/policystrategic/actstats/projections/act/total) .



76. Further to the unique role of the ACT Assembly in undertaking State/Territory type functions as well as local government functions, it also has responsibilities through its Chief Minister as a member of the Council of Australian Governments (COAG). All Ministers are members of several ministerial committees and attend ministerial council meetings to represent the ACT's position on issues of national concern.

77. COAG is the peak intergovernmental forum in Australia, made up of the Prime Minister, State and Territory Premiers and Chief Ministers and the President of the Australian Local Government Association. This is supported by a number of standing councils, select councils and ministerial, legislative and governance forums.

78. COAG and its support committees lead major reforms in traditionally state-based responsibilities such as school education, health, skills and workforce development, business regulation and most recently in the delivery of disability services. There has been an increased demand for State and Territory Ministers to take a more active and diverse role in intergovernmental relations in order to achieve the best results for their jurisdiction, and the nation as a whole. More recent activities include, for example, climate change, environmental sustainability and disability reform.

79. The ERG has reviewed debates and discussions in the Assembly over a sample 4 week period and a summary is included at Table 14 on page 57. This review demonstrates clearly that that the Assembly has at its forefront State-type jurisdictional issues. It is estimated from this observation of Assembly activity and interviews with ministers that around 75%-80% of time is spent by ministers on State-type jurisdictional matters and 20%-25% on local issues.

80. In 2011, Dr Allan Hawke considered that "there is an overwhelmingly sound case for increasing the size of the Assembly."<sup>16</sup> His view was 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. ... ACT citizens remain significantly under-represented today in comparison to the rest of Australia."<sup>17</sup>

### ***The ability of the Assembly to fulfil legislative and executive functions***

81. Regardless of population size, any parliamentary body needs a sufficient number of members to adequately perform the legislative and executive tasks required. The information gathered by this inquiry and the various earlier inquiries into the size of the Assembly and the governance of the ACT have highlighted the heavy workload carried by the 17 members of the Assembly. Currently, 5 members comprise the ministry and each Minister has a load of between 4 and 6 ministries.<sup>18</sup> All shadow ministers have a similar load with between 2 and 7 shadow portfolios.<sup>19</sup>

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<sup>16</sup> Hawke, Allan (2011), *One ACT Government – One ACT Public Service*, p. 33.

<sup>17</sup> Ibid, pp. 17-18.

<sup>18</sup> A list of current Ministerial responsibilities can be found at Table 5 on page 39.

<sup>19</sup> A list of current Opposition shadow responsibilities can be found at Table 6 on page 40.

82. While the Assembly is sometimes described as being more akin to a city council, it carries a wider variety of responsibilities than any Australian city council. Responsibilities shared in a State such as New South Wales between the lower house, the upper house and the various councils are all vested in the ACT's 17 members. It is to be noted that not only are there no local councils in the ACT but there is also no upper house in the ACT.

83. An important role of the Assembly is its scrutiny of the executive. This role can be exercised on the floor of the Assembly and, particularly, in Assembly committees. The current Assembly has 6 standing committees<sup>20</sup>; the previous Assembly had 8 standing committees and 10 select committees. It can be expected that the current Assembly will establish further committees as the current term of the Assembly matures. In the present Assembly, the average number of committee positions per member is 2.4. By comparison, in Tasmania the average is 1.8 committee positions per member, and in the Northern Territory the average is 0.7.

84. In discussion with the Clerk of the Assembly, the ERG was particularly struck by the heavy load on the Public Accounts Committee, which receives frequent references of audit reports and statutory appointments, and has a heavy annual reports workload as well other tasks. In the last Assembly, this Committee had three members only, with one member from each party. With so few members, the Committee could be expected to struggle to adequately scrutinise government performance and financial information. Similarly, during the 6 week period when the various committees are examining estimates, the concentrated workload this imposes on the committees effectively prevents these committees from carrying out any other inquiries.

85. The ERG notes that the workload of a government backbench member is different from that of one in the opposition or on the cross benches. While government backbenchers may have the benefit of material provided by the public service, opposition and cross bench members are expected to research and develop arguments using their own resources and staff. However, it is noted that all back bench members carry an additional workload in representational activities.

86. In 2002 the Assembly's Standing Committee on Legal Affairs considered "that the present size of the Legislative Assembly makes it difficult for the Assembly to perform its function as a legislative body."<sup>21</sup>

87. In 2011 Professor John Halligan noted that:

The Legislative Assembly needs to have its numbers substantially increased as soon as possible. ... 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.<sup>22</sup>

88. Professor Halligan added that:

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<sup>20</sup> A list of the current committees can be found at Table 7 on page 44.

<sup>21</sup> ACT Legislative Assembly Standing Committee on Legal Affairs (2002), *Report on the appropriateness of the size of the Legislative Assembly*, p. 31.

<sup>22</sup> Halligan, John (2011), *An Assessment of the Performance of the Three Branches of Government in ACT Against Latimer House Principles*, p. 4.

The number of ACT government Ministers is fixed at five ... . 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 ... and constraints on proper debate where a Minister has both whole-of-government and line responsibilities.<sup>23</sup>

89. In 2011, Dr Hawke considered that "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 four or five spanning the uniquely broad range of functions with which the Government is charged"<sup>24</sup>.

90. Increasing the size of the Assembly would enable the appointment of more Ministers and shadow ministers to spread the portfolio workload.

91. In 2011 Professor Halligan noted "The Standing Committee on Public Accounts (SCPA) has a central place in parliamentary oversight ... There are questions therefore about the breadth and timeliness of SCPA's oversight. This derives from two issues, one the number of MLA's on the committee and second, the level of resources made available. Both require attention: the first will presumably be resolved if the overall size of the Assembly is attended to; the second, requires acceptance of the need for greater resources to address the backlog."<sup>25</sup>

92. Again, increasing the size of the Assembly would spread the committee workload across a greater number of backbench members.

93. In the context of the 1998 reduction of the size of the Tasmanian House of Assembly from 35 to 25 members, Dr Richard Herr noted that the reduction in the size of the parliament threatened its viability, while the consequent reduction in the size of the ministry placed executive government under significant stress; he also noted that, after the 2002 election, the opposition was unable to provide a full shadow ministry, much less a back bench.<sup>26</sup>

### ***The size of the ACT ministry***

94. Many submissions made to this inquiry – and many of the previous inquiries – contend that the present number of ministers in the ACT is too small and below critical mass. It is clear that each minister carries a heavy workload. In the current 5 member ministry, each minister has from 4 to 6 portfolios.<sup>27</sup>

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<sup>23</sup> Halligan, John (2011), *An Assessment of the Performance of the Three Branches of Government in ACT Against Latimer House Principles*, p. 22.

<sup>24</sup> Hawke, Allan (2011), *One ACT Government – One ACT Public Service*, p. 33.

<sup>25</sup> Halligan, John (2011), *An Assessment of the Performance of the Three Branches of Government in ACT Against Latimer House Principles*, p. 22.

<sup>26</sup> Herr, Richard (2005), *Democracy and Small Parliaments: Some Diseconomies of Scale*, [http://democratic.audit.anu.edu.au/papers/200512\\_herr\\_smallparls.pdf](http://democratic.audit.anu.edu.au/papers/200512_herr_smallparls.pdf), pp. 2-3.

<sup>27</sup> See the table of ministerial responsibilities at page 39.

95. The number of ministers is set by the Self-Government Act at a maximum of 5, although this number may be increased by an enactment of the Assembly. This option has not to date been exercised. Since self-government, the ACT has had either 4 or 5 ministers.

96. The following table shows the number of ministers appointed for each Australian State and Territory parliament.

| <b>State/Territory</b> | <b>Number of ministers</b> |
|------------------------|----------------------------|
| NSW                    | 22                         |
| VIC                    | 23                         |
| QLD                    | 19                         |
| WA                     | 17                         |
| SA                     | 13                         |
| TAS                    | 8                          |
| ACT                    | 5                          |
| NT                     | 9                          |

97. This table shows that the ACT has fewer ministers than any Australian jurisdiction. Given that ACT ministers carry both State and local government responsibilities, it would appear reasonable to conclude that the number of ministers in the ACT ought to be increased to at least the numbers found in Tasmania and the Northern Territory. This lends support to the suggestion that 8 or 9 would be an appropriate size of the ACT ministry.

98. Discussions with ministers indicate that the need to keep on top of day-to-day issues tends to lead to strict prioritisation of those matters that require immediate attention. This workload leaves little time for longer-term strategic planning. The need to prioritise runs the risk that decisions are delayed or devolved to non elected officials.

99. Some submissions contend that this workload on ministers represents a cost to the effectiveness and efficiency of the government of the ACT. It is suggested that an increase in the number of ministers would enable more issues to be dealt with to a greater level of scrutiny by ministers, leading to an increase in effectiveness and efficiency.

100. While ministers do not need to deal with minutiae and officials are able to assist ministers with their role, ultimately ministers consider it to be their role to retain ultimate responsibility for the matters within their portfolios. As elected representatives, it is arguable that the electorate would expect ministers to be ultimately responsible in this way, and would not be satisfied with a significant devolution of authority to non-elected officials.

101. The role of a minister outside formal Assembly sitting periods is extensive, especially considering the number of portfolios allocated to each minister as indicated above<sup>28</sup>. Additionally, in the case of the Chief Minister, a whole of government approach is required; therefore a good understanding of important issues in each portfolio is essential. While some submissions point to the number of Assembly sitting days as evidence that Assembly members are not overworked, the business of the executive members (and members serving on committees) expands well beyond formal sitting time. It is important to distinguish between the formal role of Assembly and the role of individual ministers within the Assembly and as part of the executive.

102. This discussion indicates that an increase in the number of ministers is warranted. Given that, under the ACT's Westminster-style system and the provisions of the Self-Government Act, ministers are drawn from the ranks of elected members, this in turn indicates that, along with other factors, an increase in the size of the Assembly is also warranted. In order to increase the ministry, the Assembly needs to be of a sufficient size to permit the appointment of an appropriate number of ministers while leaving enough government backbenchers to fulfil parliamentary roles such as Speaker and committee members.

103. Some submissions argue that the number of ministers could be increased without increasing the number of members by appointing ministers who are not members of the Assembly. While this is an interesting proposition, the ERG does not consider that this option is within its terms of reference.

104. A key issue to consider in order to determine an appropriate size of the Assembly is to consider what the number of ministers should be for efficient and effective government. Dr Allan Hawke, in his review of the ACT Public Service, considered that the Public Service could be divided logically into 9 Directorates. This was the model adopted by the Government in the restructure of the ACT Public Service into 9 Directorates undertaken in 2011.

105. In discussion with the ERG, Dr Hawke indicated that he would consider it appropriate to appoint one minister for each Directorate. Under the current structure, this would mean that 9 ministers should be appointed, each responsible for one Directorate.

106. In his submission, Professor George Williams notes:

The size of the Assembly means that minority governments (such as the prior Stanhope government) may have to be formed out of only seven representatives. Five of these may be ministers. They must cover the full range of State and local functions, including representing the ACT in the negotiations over funding and other matters that take place in the myriad of ministerial councils. This leads to some ACT ministers having a smorgasbord of portfolios that no one person could do justice to. One or more areas can lose out. In the prior government, Andrew Barr had the portfolios of education, tourism, sport and recreation, industrial relations and planning. His was a herculean task, especially when it meant coming up against federal and State ministers with carriage of a single area.<sup>29</sup>

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<sup>28</sup> See the table of ministerial responsibilities at page 39.

<sup>29</sup> George Williams (2013), Submission to this inquiry, [www.elections.act.gov.au/\\_data/assets/pdf\\_file/0008/10070/George\\_Williams\\_comment.pdf](http://www.elections.act.gov.au/_data/assets/pdf_file/0008/10070/George_Williams_comment.pdf)

107. Some submissions have argued that the fact that the ACT is a city-state with a compact geography and an educated, politically savvy populace means that the demand for numbers of members and ministers is less than in the geographically more diverse States and the Northern Territory. It is arguable that the ACT's geographic size and demography, and the unique mix of State and local government functions allocated to the Assembly, have enabled the ACT form of government to be more efficient than in the larger States and the Northern Territory. After all, the ACT has managed to be governed by an Assembly of 17 members and an executive of 4-5 ministers since the granting of self-government in 1989.

108. However, the question at hand is whether the demonstrably small size of the ACT's parliament and ministry is a sufficient number, or whether a larger parliament and ministry would enable the ACT to be better governed. The ERG is of the view that the evidence presented to it demonstrates that failing to increase the size of the ministry and the Assembly will present a significant risk to the good governance of the ACT.

109. The ERG concludes that a sound case can be made for increasing the ACT executive to 7-9 ministers, appointed from the ranks of the elected members of the Assembly.

### **The ability to scrutinise the government**

110. A key role of opposition members, cross bench minor party members and any independent members is to scrutinise government and hold it to account.

111. These members undertake a range of roles in parliament. They are required to develop responses to all pieces of legislation that are tabled. They also have the role of developing alternative policy and preparing their own legislation. They monitor the performance of the government and hold it to account at question time and in debates.

112. Non government members sit on all Assembly committees and can chair important committees. Currently opposition members chair the Standing Committee on Public Accounts and the Standing Committee on Justice and Community Safety. Non executive government members also chair some committees. In the present Assembly, the Speaker is an opposition member.

113. Non government members, like government back bench members, also have a representative role, taking up issues raised by constituents.

114. Increasing the size of the Assembly would in turn increase the number of non government members available to scrutinise the government and hold it to account, and spread the workload accordingly.

115. An issue raised with the ERG related to the resources provided to non government members, particularly staff numbers, research capabilities, parliamentary library resources and allowances for communicating with constituents. This issue is beyond the terms of reference of this inquiry

***Academic modelling of size of representative parliaments***

116. It has been suggested that calculating the appropriate number needed for a legislature to adequately fulfil its functions is as much an art as a science<sup>30</sup>. In looking at legislatures throughout Australia and the world, it is apparent that the number of members elected to representative parliaments can vary according to history and local circumstances. Nevertheless, it is clear that there is generally a correlation between population and the size of legislatures – the greater the population, the greater the size of the parliament.

117. This general rule applies to all Australian parliaments (combining upper and lower house numbers) with the exception of Queensland (Queensland's single house of parliament is comprised of 89 members, whereas Western Australia's parliament consists of 59 lower house members and 36 upper house members, giving a total of 95) and the ACT, which has fewer members than the smaller Northern Territory. (See *Table 5: Ratio of State/Territory per 100,000 population* on page 37.)

118. Submissions to the ERG have referred to literature which uses different formulae to determine the appropriate size of representative parliaments.

119. In his submission to this inquiry, the federal Member for Fraser, Dr Andrew Leigh MP, argues that the cube root law implies that the ACT Assembly should have 72 members. He also notes that the cube root law would indicate that the appropriate population for an Assembly of 17 members would be about 5,000 people.

120. The cube rule to which Dr Leigh refers was developed by Professor Rein Taagepera and others as a quantitatively predictive logical model that agrees with world averages for national lower house parliaments.<sup>31</sup> This model predicts that the size of a parliament will be approximately equal to the cube root of the country's population. He argues that: "Unconsciously, assembly sizes are chosen to fit the cube root of population, because this size minimises the workload of a representative." He also notes that subnational assemblies (like State and Territory parliaments) tend to have fewer members than the model predicts.

121. Applying this "cube root law" to the Australian experience, it gives a number that is greater than the actual number for each of the Australian State and federal parliaments (combining upper and lower houses). The actual number for each State tends to be around 50% to 70% of the number predicted by the cube root law. The Commonwealth parliament has 80% of the predicted number of members. The following table shows the application of the cube root law to the Australian federal and State parliaments.

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<sup>30</sup> JR Nethercote, *Bigger need not mean better*, *Canberra Times* 18 January 2013, [www.canberratimes.com.au/opinion/bigger-need-not-mean-better-20130117-2cvu1.html](http://www.canberratimes.com.au/opinion/bigger-need-not-mean-better-20130117-2cvu1.html) .

<sup>31</sup> Taagepera, Rein, & Shugart, Matthew Soberg (1989), *Seats and Votes – The Effects and Determinants of Electoral Systems*, pp. 173-183.  
Taagepera, Rein (1972), *The Size of National Assemblies*, pp. 385-401.

|                  | <b>Population<br/>@<br/>30/6/2012</b> | <b>Cube root law<br/>=(Population)<sup>1/3</sup></b> | <b>Lower and<br/>upper<br/>house<br/>members</b> | <b>%<br/>Members/<br/>Cube rule</b> |
|------------------|---------------------------------------|--|--|-------------------------------------|
| <b>NSW</b>       | 7,290,300                             | 194  | 135  | 69.6%                               |
| <b>VIC</b>       | 5,623,500                             | 178  | 128  | 71.9%                               |
| <b>QLD</b>       | 4,560,100                             | 166  | 89   | 53.6%                               |
| <b>WA</b>        | 2,430,300                             | 134  | 95   | 70.9%                               |
| <b>SA</b>        | 1,654,800                             | 118  | 69   | 58.5%                               |
| <b>TAS</b>       | 512,000                               | 80   | 40   | 50.0%                               |
| <b>ACT</b>       | 374,700                               | 72   | 17   | 23.6%                               |
| <b>NT</b>        | 234,800                               | 62   | 25   | 40.3%                               |
| <b>Australia</b> | 22,680,500                            | 283  | 226  | 79.9%                               |

122. The cube root law predicts that the appropriate size of the ACT parliament would be 72 members. Using the actual representation seen in the Australian States and taking the most modest proportion (Tasmania), taking 50% of this result would give a comparable result of 36 members. Taking into account the particular factors relating to the desirable size of electorates peculiar to the ACT using the Hare-Clark system, this calculation lends weight to the submissions stating support for a 35 member Assembly, consisting of 5 electorates each returning 7 members.

123. In his submission to this inquiry, Mr Keith Helyar uses a different predictive model to calculate the appropriate size of the Assembly as 35 members. This model also predicts the appropriate size of the Tasmanian parliament to be 41 members (compared to an actual 40 members) and for the Northern Territory, 28 members (compared to an actual 25 members).

124. Mr Helyar's modelling indicates that the ACT Legislative Assembly is significantly smaller than its population would appear to warrant. Whether an increase in size to 35 or more members is warranted is matter for judgement, taking into account the particular nature of the ACT's self-government model.

125. In another submission to this inquiry, Mr Stephen Wallace uses a different predictive model using the square root of the number of enrolled electors to calculate the appropriate size of the Assembly as 25 members. The ERG notes that this method does not appear to have the same rigour applied as the work of Professor Taagepera.



## **Comparing the ACT Legislative Assembly with other parliaments**

126. Table 1 (on page 35) shows the number of elected members in each State and Territory at the three levels of government in Australia. The table shows that the ACT is the only jurisdiction that does not have elected local government representatives and one of 3 without an upper house. For each State and Territory, the number of elected representatives is divided into the total number of electors on the Commonwealth electoral roll as at 30 September 2012 to calculate a ratio of elected representatives to enrolled electors.

127. Table 1 shows that the ratio of elected representatives at all levels of government to the number of enrolled electors in the ACT is 1 member to 12,247 electors, a ratio much higher than any other jurisdiction. The next highest ratio of representatives to electors is Victoria, where the ratio is 1 representative to 4,480 electors.

128. Table 1 also shows that, in absolute terms, the ACT has by far the smallest number of elected representatives of any Australian jurisdiction.

129. Table 2 (on page 35) shows the comparison of the number of elected representatives in each State and Territory at the State/Territory and local levels of government.

130. As the ACT Assembly undertakes responsibilities at both the State/Territory level and local government level, the information in Table 2 compares more closely the level of representation across the jurisdictions. Table 2 shows that the ACT has a significantly higher ratio of electors to elected representatives than any other jurisdiction.

131. At the time of the first Assembly election in 1989 when there were approximately 169,500 enrolled electors, the ratio of members of the Assembly to electors was roughly 1 per 10,000 electors. There are currently about 257,190 electors on the ACT electoral roll, giving a ratio of members to electors of approximately 1 per 15,130 electors. A 21 member Assembly would result in a member to elector ratio of approximately 1 per 12,250 electors, a 23 member Assembly would result in a ratio of 1 member per 11,180 electors, a 25 member Assembly would result in a ratio of 1 member per 10,290 electors, and a 27 member Assembly would result in a ratio of 1 member per 9,530 electors.

132. Another way in which to examine the level of representation of the ACT is to compare numbers of elected representatives with population numbers. Table 3 (on page 36) and Graph 1 (on page 38) show the number of elected representatives per 100,000 population for each State and Territory, and nationally. Table 3 shows that the ACT has 5.6 elected representatives for every 100,000 people. The next smallest jurisdiction is Victoria, with 14.4 representatives for every 100,000 people. The jurisdiction with the highest ratio is the Northern Territory, with 75.4 representatives for every 100,000 people. The national average is 26.0.

133. Table 4 (on page 37) shows the number of elected representatives per 100,000 population in the event of a change of the number of ACT MLAs from 17 to 21, 23, 25, 27 and 35 members. Even with 35 members, the ACT would have only 10.4 representatives per 100,000 people, still considerably fewer than any other Australian jurisdiction.

134. Some have argued that comparing the total number of Commonwealth, State and Territory elected representatives against the number of ACT Assembly members is not appropriate, given both the discrepancy of representation of the ACT in the Commonwealth parliament (as the ACT does not have the constitutionally guaranteed numbers of Senators and members as the States) and the fact that the ACT does not have local councils. Table 5 (on page 37) compares the numbers of elected representatives in the various State and Territory parliaments and calculates the ratio of representatives per 100,000 population. Table 6 (on page 37) shows the number of elected Assembly representatives per 100,000 population in the event of a change of the number of ACT MLAs from 17 to 21, 23, 25, 27 and 35 members.

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  |



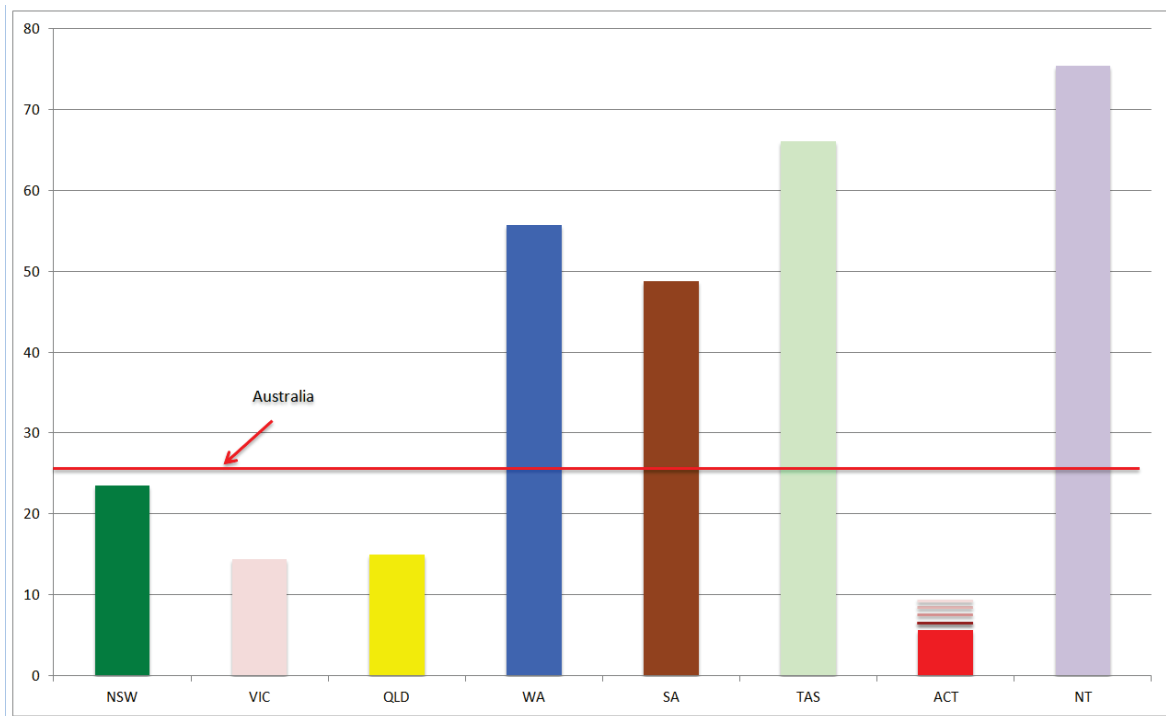
**Table 5: Ratio of State/Territory per 100,000 population**

|       | State/Territory |                | Total<br>Reps | Population @<br>30/6/2012 | Ratio of<br>representatives<br>per 100,000<br>population |
|-------|-----------------|----------------|---------------|---------------------------|--|
|       | Lower<br>House  | Upper<br>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<br>Reps | Population<br>@<br>30/6/2012 | Ratio of<br>representatives<br>per 100,000<br>population |
|-----|-----------------|----------------|---------------|------------------------------|--|
|     | Lower<br>House  | Upper<br>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<br>1974  | <b>19 members</b>  |
| Taskforce on Implementation of Self Government: Advice to the Minister for Territories and Local Government<br>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><br>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)<br>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<br>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><br>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<br>26%       | 326<br>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