

**Australian Capital Territory
Legislative Assembly
Electoral Boundaries Redistribution 2003**

**Statement by the
augmented ACT Electoral Commission**

This statement by the augmented ACT Electoral Commission under section 51 of the *Electoral Act 1992* sets out the substance of the augmented Commission's findings and conclusions concerning the Redistribution Committee's proposed redistribution and sets out particulars of the augmented Commission's proposed redistribution under section 50 of the Electoral Act.

2. The augmented Commission comprises the members of the ACT Electoral Commission (Chairperson, Graham Glenn; Electoral Commissioner, Phillip Green; and Commission Member, Christabel Young) and members of the Redistribution Committee (the acting Chief Planning Executive, ACT Planning and Land Authority, Colin Adrian; the Commissioner for Surveys, David Dobson; and the Regional Director, ACT Office, Australian Bureau of Statistics, Tracy Stewart).

3. The augmented Commission met on 19 August 2003 to investigate six objections made in accordance with section 46 of the Electoral Act to the Redistribution Committee's proposed redistribution of the ACT Legislative Assembly's electoral boundaries published on 11 July 2003. The objections were made by:

- Name and address withheld by request, Nicholls, Gungahlin
- R G Shelton, Spence, Belconnen
- Garry Haensel, Richardson, Tuggeranong
- Roma Hosking, Palmerston, Gungahlin
- David Menzel Chair, Woden Valley Community Council
- Barry Dee, President, Gungahlin Community Council Inc

4. As some matters raised in the objections were not raised in suggestions or comments given to the Redistribution Committee, the augmented Commission was required to hold a public hearing into the objections under section 49(2) of the Electoral Act. This public hearing was held at 2.00 pm on 2 September 2003 at the ACT Legislative Assembly reception room. The following persons made spoken submissions at the public hearing:

- Ian Ruecroft, Gungahlin Community Council (on behalf of Barry Dee, Gungahlin Community Council, who made a written suggestion, comment and objection)
- Jonathon Reynolds, ACT Equality Party (who made a written suggestion)
- Jeff Carl, Weston Creek Community Council (who made a written suggestion and comment)
- Daniel Clode, Liberal Party of Australia (A.C.T. Division) (who made a written suggestion)

5. Some general discussion also took place after the formal submissions, which included comments from Cathy Hales from Aranda, who had made a written comment.

Barry Raison from Curtin, who had also made a written comment, who arrived after the public hearing had ended, also spoke with the augmented Commission.

6. The augmented Commission met immediately after the public hearing to consider the matters raised at the hearing.

Summary of the proposal of the augmented ACT Electoral Commission

7. After considering the six written objections to the electoral boundaries proposed by the Redistribution Committee and the further spoken submissions presented at the public hearing, the augmented Commission has adopted the Committee's proposed redistribution without change. Therefore the augmented Commission proposes in accordance with section 50 of the *Electoral Act 1992* that the ACT be divided into three electorates as follows:

- **BRINDABELLA**, a five member electorate comprising the district of Tuggeranong (excluding the suburb of Hume), the Woden Valley suburbs of Chifley, Pearce and Torrens and the districts of Booth, Coree, Cotter River, Paddys River, Rendezvous Creek, Tennent and Mount Clear;
- **GINNINDERRA**, a five member electorate comprising the districts of Belconnen and Hall (including the entire Village of Hall) and the Gungahlin suburb of Nicholls; and
- **MOLONGLO**, a seven member electorate comprising the districts of Gungahlin (excluding the suburb of Nicholls), Canberra Central, Weston Creek, Woden Valley (excluding the suburbs of Chifley, Pearce and Torrens), Jerrabomberra (including the entire suburb of Hume), Kowen, Majura, and Stromlo.

Objections to the Redistribution Committee's proposal

8. A brief summary of each of the six objections follows.

Name and address withheld by request, Nicholls

9. This resident of Nicholls objects to the inclusion of Nicholls in Ginninderra. The objection states that Nicholls residents did not receive information from Ginninderra candidates at the last ACT election. The objection also states that the village of Hall identifies itself much more with Gungahlin than with Belconnen. The objection suggests changing the number of members in Ginninderra and Molonglo to make the numbers balance, or to transfer another Woden suburb to Brindabella.

R G Shelton, Spence

10. This resident of Spence objects to the inclusion of Nicholls in Ginninderra. The objection states that Nicholls is part of the Gungahlin community and that there are considerable physical barriers between Nicholls and the rest of Ginninderra, including restricted transport links. The objection notes that Nicholls will not be represented in the Legislative Assembly by the 7 members concerned with the rest of Gungahlin, but also notes that "paradoxically, this [placing Nicholls in Ginninderra] could result in

Gungahlin as a whole being able to validly expect close attention by 12 members to the detriment of other parts of Canberra.”

Garry Haensel, Richardson

11. This objection from a resident of Richardson states that the use of the term “redistribution” may be misleading given that there was no proposed change to the existing boundaries. This objection also relates to the lost opportunity to equalise the number of members in each electorate. It is suggested that each electorate should elect 6 members, or alternatively 5 members.

Roma Hosking, Palmerston

12. This objection from a resident of Palmerston (who had also submitted a comment as the Editor, Gunsmoke Newsletter, Gungahlin Community Council) states that the citizens of Gungahlin are disadvantaged by the present distribution in that they are divided into the 2 electorates of Ginninderra and Molonglo. The objection states that it would be better if Gungahlin was together and linked to Belconnen or Central Canberra, than being with Woden and Weston Creek or Jerrabomberra.

David Menzel Chair, Woden Valley Community Council

13. This objection from the Chair of the Woden Valley Community Council states that Chifley, Pearce and Torrens are an integral part of Woden and should join the rest of Woden’s suburbs in Molonglo. It also states that Nicholls would be better placed with the remainder of Gungahlin.

14. The objection challenges the notion that the criteria set out in section 36(c) of the Electoral Australian Capital Territory are subservient to the numerical criteria.

15. The objection also questions the validity of the Redistribution Committee’s statement that it was not aware of any widespread dissatisfaction with the current boundary of Brindabella. It states that “a simple solution ... could be for all of Gungahlin and Belconnen to in one Electorate (Ginninderra), for Central Canberra to be in Molonglo, and for Woden Valley, Weston Creek and Tuggeranong to be in Brindabella. The number of MLAs for each Electorate would, of course, be adjusted to reflect the number of voters.”

Barry Dee, President, Gungahlin Community Council Inc.

16. This submission from the President of the Gungahlin Community Council “strenuously objects to the recommendation ... that the suburb of Nicholls continue to be located in an Electoral Division different to that of the rest of Gungahlin.” The submission was also sympathetic to same issue experienced by Woden Valley District by the inclusion of Chifley, Pearce and Torrens in Brindabella. Barry Dee had also made a written suggestion and a written comment on behalf of the Gungahlin Community Council.

17. The objection argues that the Redistribution Committee adopted a narrow interpretation of the requirement in section 36(b) of the Electoral Act that states that the augmented Commission shall endeavour to ensure, as far as practicable, that the number of electors in each electorate will not be greater than 105% or less than 95% of the

expected enrolment quota at the time of the next election. The Community Council believes that the words “endeavour to ensure” and “as far as practicable” implies that this requirement was to be used in the context of a general guideline and not as a specific and inflexible constraint. The objection went on to suggest that section 36 could be read as indicating that a variation of less than 5% in enrolments at the time of the next election was preferable, but not mandatory if the other criteria in section 36(c) provided for a better redistribution, provided the 10% tolerance specified in the Self-Government Act was satisfied.

18. The Community Council also stated that it did not believe that an electorate had to be wholly contiguous provided that the criteria of section 36(c) of the Electoral Act could be met, and argued that non-contiguous electorates should be considered. The Community Council offered a suggested redistribution consisting of:

- A five member electorate comprising Gungahlin, Hall, Majura and Woden, and the Canberra Central suburbs north of Lake Burley Griffin other than Lyneham and O'Connor;
- A five member electorate comprising Belconnen and the Central Canberra suburbs of Lyneham and O'Connor; and
- A seven member electorate comprising Tuggeranong, Weston Creek, Jerrabomberra, Hume, Kowen, Stromlo, Fyshwick, Pialligo, Oaks Estate, Harman, the southern remainder of the ACT and the Central Canberra suburbs south of Lake Burley Griffin.

Discussion at the public hearing

19. The discussion at the public hearing centred around the inclusion of Nicholls in Ginninderra. The inclusion of Chifley, Pearce and Torrens in Brindabella was also raised at the public hearing.

20. The objections regarding non-contiguous districts within electorates and the possibility of working within a 10% tolerance of quotas, which had been put forward in the public submissions as solutions to the above problems, were both discussed at the public hearing. Also discussed was whether the subjective criteria set out in section 36(c) of the Electoral Act were more or less important than the requirement to ensure that enrolments were within 5% of the quotas at the time of the next election.

21. The concept of ‘sharing the pain’, whereby other suburbs would take turns at being separated from their districts instead of Nicholls, Chifley, Pearce and Torrens was raised by two speakers.

22. Three people supported the existing redistribution. Two spoke against the use of non-contiguous areas within electorates and one spoke against the use of a 10% tolerance of quotas. The Weston Creek Community Council emphasised the wish to keep Weston Creek together, and a speaker from Belconnen similarly expressed the need to keep Belconnen together.

23. The objection to the use of the term ‘redistribution’ when no change had occurred and the objection related to the inclusion of Hall in Ginninderra were not discussed at the public hearing.

Consideration of the objections and the discussion at the public hearing

24. Most of the objections and the issues raised at the public hearing related to the inclusion of Nicholls in Ginninderra, thereby separating it from the rest of Gungahlin, which is included in Molonglo; and the inclusion of Chifley, Pearce and Torrens in Brindabella, thereby separating those suburbs from the remainder of Woden Valley, which is included in Molonglo.

25. The augmented Commission notes that the issues regarding these suburbs were addressed in detail in the public suggestions and comments and in the Redistribution Committee's reasons for its proposed redistribution. The augmented Commission accepts that, ideally, districts such as Gungahlin and Woden Valley should not be split between electorates. However, the augmented Commission also agrees with the Redistribution Committee that it is not possible to satisfy the statistical requirements for a redistribution set out in the Electoral Act without splitting districts between electorates.

26. Several solutions to this dilemma were put forward in the objections. Some objections suggested changing the number of Members to be elected to combinations other than two electorates of five Members and one electorate of seven Members, in order to allow whole districts to be kept together in the same electorate by changing the statistical quotas that must be met. As section 34 of the Electoral Act states that the ACT must be divided into two electorates each returning five Members, and one electorate returning seven Members, the augmented Commission is not able to consider any of these suggestions.

27. Another suggested solution was to adopt non-contiguous boundaries. For example, the Gungahlin Community Council and the ACT Equality Party suggested that a five Member electorate could consist of Gungahlin, North Canberra (other than Lyneham and O'Connor) and Woden Valley. This proposal would mean that the Woden Valley part of the electorate would have no physical connection with the rest of the electorate. The augmented Commission considers that the adoption of non-contiguous boundaries would not be consistent with several of the criteria that must be duly considered in section 36(c) of the Electoral Act, particularly community of interests, especially regional interests; means of communication and travel within each proposed electorate; the physical features and area of each proposed electorate; and the boundaries of existing electorates. The augmented Commission also notes that all jurisdictions in Australia have adopted contiguous boundaries as standard practice, and that there are very few examples of non-contiguous boundaries in Australian electoral history. For these reasons the augmented Commission rejected this suggestion.

28. The Gungahlin Community Council also argued that the Redistribution Committee had adopted a narrow interpretation of the requirement in section 36(b) of the Electoral Act that states that the augmented Commission shall endeavour to ensure, as far as practicable, that the number of electors in each electorate will not be greater than 105% or less than 95% of the expected enrolment quota at the time of the next election. The Community Council believed that the words "endeavour to ensure" and "as far as practicable" implied that this requirement was to be used in the context of a general guideline and not as a specific and inflexible constraint. The objection went on to suggest that section 36 could be read as indicating that a variation of less than 5% in

enrolments at the time of the next election was preferable, but not mandatory if the other criteria in section 36(c) provided for a better redistribution, provided the 10% tolerance specified in the Self-Government Act was satisfied. At the public hearing it was also suggested that the 5% tolerance set out in the Electoral Act was inconsistent with the 10% tolerance set out in the Self-Government Act, and that the Commonwealth law should prevail.

29. The augmented Commission does not agree with this argument. The augmented Commission notes that the 10% tolerance set out in the Self-Government Act must be met immediately after the making of a redistribution, whereas the 5% tolerance set out in the Electoral Act must be met so far as practicable at the time of the next scheduled election. These two requirements are complementary and are not inconsistent with one another.

30. The augmented Commission considers that the 5% tolerance set out in the Electoral Act is intended to provide for the principle of “one vote, one value” in ACT elections. That is, each person’s vote should be worth the same as any other person’s vote. This principle is best met by providing that the voting population in each electorate per Member to be elected is to be as close to each other as possible. The augmented Commission takes the view that proposing boundaries outside the 5% tolerance at the time of the next election would be contrary to the one-vote, one value principle embodied in section 36(b) of the Electoral Act. In particular, it notes that inclusion of Nicholls, Chifley, Pearce and/or Torrens in Molonglo (which would mean that Molonglo had significantly more electors than the applicable quota) would reduce the value of each person’s vote in Molonglo, while increasing the value of a person’s vote in the other electorates.

31. The augmented Commission also considers that the words “endeavour to ensure” and “as far as practicable” are used in relation to the 5% tolerance at the time of the election in recognition of the fact that it is not possible to predict future population changes and hence future enrolment numbers with certainty. It would not have been practicable to state in the Electoral Act that the augmented Commission must ensure that the enrolments in each electorate must be within the 5% tolerance at the time of the next election, as this would be a requirement that could not be guaranteed to be met. However, it is within the power of the augmented Commission to endeavour to ensure that each proposed electorate would be within the 5% tolerance at the time of its next election by using appropriate population projections. The augmented Commission considers that it would not be complying with section 36(b) of the Electoral Act if it proposed boundaries that were outside the 5% tolerance on the basis of the enrolment projections available to it.

32. In its objection, the Woden Valley Community Council challenged whether the subjective criteria listed in section 36(c) were subservient to the numerical criteria set in out in sections 36(a) and 36(b). The Gungahlin Community Council also indicated in its objection that it considered it acceptable to fail to comply with section 36(b) if doing so would disrupt communities of interest (as represented by districts) under section 36(c). The augmented Commission considers that its task is to comply with all three of the requirements constituted by sections 36(a), (b) and (c). However, as sections 36(a) and (b) are fixed numerical requirements, section 36(c) must be taken as a list of criteria to be duly considered in the context of ensuring that sections 36(a) and (b) are met.

33. The augmented Commission also took note of the intentions of the legislature in proposing the redistribution criteria set out in the Electoral Act by examining the criteria listed in the Electoral Act and the parliamentary debates on the relevant provisions.

34. Section 36(c)(v) lists the boundaries of divisions and sections (that is, primarily, suburbs and parts of suburbs) as factors that have to be duly considered. The boundaries of districts (that is, primarily, townships such as Gungahlin and Belconnen) are not listed as factors to be considered. This would indicate that the legislature recognised that it would not be practicable to constrain electorate boundaries to districts and at the same time to satisfy the one vote, one value enrolment requirements. The Legislative Assembly debate on the redistribution criteria on 24 November 1992 lends weight to this view, with Members acknowledging that it would sometimes be necessary to split districts to comply with the numerical constraints.

35. Turning to other matters raised in the objections, Garry Haensel noted in his objection that the advertisement published by the Redistribution Committee that stated that the Redistribution Committee proposed that the boundaries should be unchanged could be misleading as it referred to a “proposed redistribution”. The augmented Commission notes that the term “redistribution” is used in the Electoral Act to refer to the process of proposing electoral boundaries. “Redistribution” is also adopted as a generic term for this purpose in Australian usage. The augmented Commission does not consider that it is misleading to refer to a proposed set of boundaries as a “redistribution” even where the proposed boundaries are unchanged from the current boundaries.

36. It was suggested at the public hearing that the boundaries should be altered to “share the pain”. That is, various suburbs should take turns to be put in a different electorate from the rest of their districts. For example, Nicholls could be included with the rest of Gungahlin in Molonglo, and O’Connor and Lyneham could be transferred to Ginninderra from Molonglo to compensate. The augmented Commission considers that this would be inconsistent with the requirement to take account of the boundaries of existing electorates, and that this would be confusing for electors and contrary to the aim of minimising disruption.

37. The objection lodged by [Name and address withheld by request] of Nicholls also suggested that the village of Hall identifies itself much more with Gungahlin than with Belconnen and that consideration could be given to including it in Molonglo. The augmented Commission notes that the village of Hall is in a separate district of Hall, and so its inclusion in Ginninderra does not encroach on the district of Gungahlin (except for two small plots of land in Gungahlin district that are included in Ginninderra as they are part of the village of Hall). The augmented Commission also notes that the closest suburb to Hall is Nicholls, which is currently proposed to remain in Ginninderra. While it would be possible to include Hall in Molonglo within the permitted 5% enrolment tolerance at the time of the next election, this would serve to increase the enrolment of Molonglo, which is already over quota, and decrease the enrolment in Ginninderra, which is under quota, so that the principle of one vote, one value would be lessened. For these reasons the augmented Commission decided to retain Hall in Ginninderra.

Conclusion

38. The augmented Commission concludes that options that included either non-contiguous electorates or electorates that would be outside the projected 5% enrolment tolerance at the time of the next election would not be acceptable under section 36 of the Electoral Act. Furthermore, of the options put forward in the public submissions that met the 5% enrolment tolerance, none were able to avoid splitting any districts.

39. While the augmented Commission is sympathetic to the objections to splitting a district and sympathetic to the ideal of not splitting Gungahlin or Woden Valley, it is bound by the requirements of the Electoral Act and the Self-Government Act. These requirements dictate that, given the current and projected enrolment statistics, some districts must be split to satisfy the one vote, one value principle. The augmented Commission was not persuaded that any of the alternative boundaries proposed in the public submissions or that were considered by the Redistribution Committee better met the redistribution criteria than the current boundaries. The augmented Commission was also of the view that stability in electoral boundaries was desirable, in accordance with section 36(c)(iv) of the Electoral Act and as proposed by several submissions that argued for no change to the current boundaries. For these reasons, the augmented Commission saw no reason to vary the Redistribution Committee's proposal.

Names of the proposed electorates

40. The augmented Commission shares the view of the Committee that the names adopted in 1993 would appear to have gained general community acceptance and does not propose to change the names.

Next stage of the redistribution process

41. As the augmented Commission has accepted the proposal of the Redistribution Committee without change, the proposal of the augmented Commission is not, within the meaning of section 51(2)(c) of the Electoral Act, significantly different from the Redistribution Committee's proposal. Consequently, there are no further opportunities for public objections, and the augmented Commission will formally complete the redistribution process in the near future by publication of a notifiable instrument of determination under section 35 of the Electoral Act and publication of a report concerning the redistribution.

Augmented ACT Electoral Commission
Graham Glenn — Phillip Green — Christabel Young
Colin Adrian — David Dobson — Tracy Stewart

12 September 2003