

# Electoral boundaries submission

## Submission details

**Submission name:** Democracy/ Human Rights - Jervis Bay Territory

**Submitted by:** Daniel McConell

## Submission description

Please consider the following Judgement in Law ACT.

Hon. Justice MOSSOP

Australian Capital Territory

Supreme Law Court

McConell versus ACT

<https://courts.act.gov.au/supreme/judgments/mcconell-v-act>

Please note the following reference within this above mentioned judgement specifically relating to the Jervis Bay Territory.

Jervis Bay Territory Acceptance Act 1915 (Cth)

20. This conclusion is not affected by the terms of the Jervis Bay Territory Acceptance Act 1915 (Cth).

21. Section 4A of that Act provides:

4A Laws of Australian Capital Territory to be in force

(1) Subject to this Act, the laws (including the principles and rules of common law and equity) in force from time to time in the Australian Capital Territory are, so far as they are applicable to the Territory and are not inconsistent with an Ordinance, in force in the territory as if the Territory formed part of the Australian Capital Territory.

(2) Subsection (1) extends to:

(a) sections 6 and seven of the Seat of Government Acceptance Act 1909; and

(b) the whole of the Seat of Government (Administration) Act 1910 except sections 9 and 12 of that Act;

but does not extend to any other Act or provision of an Act.

22. This section makes residents of the JBT subject to ACT laws so far as they are “applicable”. In *Wreck Bay Aboriginal Community Council v Williams* [2017] ACTCA 46; 12 ACTLR 207 at [39] the Court of Appeal explained what is required for laws to be “applicable” to the JBT as follows:

The requirement that the laws be “applicable” to the JBT means that laws that clearly could only apply to places or subject matters in the ACT are not picked up and applied. In other words, if the terms of an ACT enactment are clearly confined to a subject matter which only exists in the ACT and does not exist in the JBT, then they will not be applied in the JBT.

23. Even if it could be said that the Electoral Act was “applicable” to the JBT (a proposition which I doubt), s 4A would not extend or alter the operation of the Electoral Act when operating in the JBT. This is because it does not have the effect of altering the fact that there is no electorate defined under the Electoral Act in which the plaintiff has an address.

24. Therefore, the Jervis Bay Territory Acceptance Act does not alter the conclusion that the plaintiff is not entitled to be enrolled to vote in any electorate in the ACT general election and hence not entitled to vote in that election.

Please note the following details of the above mentioned judgement with respect to this onus being now upon A Redistribution Committee that must be appointed by the Electoral Commission as this duty to redistribute the boundaries of the ACT electorates is now to include this Jervis Bay Territory:

23. Even if it could be said that the Electoral Act was “applicable” to the JBT (a proposition which I doubt), s 4A would not extend or alter the operation of the Electoral Act when operating in the JBT. This is because it does not have the effect of altering the fact that there is no electorate defined under the Electoral Act in which the plaintiff has an address.

Conclusion:

To remove all doubt with respect to a proposition that the above mentioned electoral Act is to become “Applicable” to the above mentioned JBT, I believe the onus to be now upon the ACT to support the people of the Jervis Bay Territory to qualify as electors in the 2024 ACT General Election.

This is to be made done by providing equity and Human Rights to the people of the JBT subject to both ACT and Commonwealth law, through a Redistribution Committee as this must be appointed by the Electoral Commission.

This act of duty made done by this ACT Redistribution Committee, two years prior to the 2020 ACT General Election did not consider with respect to the Governor General and this duty to see good governance in the JBT, this will forever alter this fact in priority, as this being ever since then relied upon as evidence by the ACT and supported by the Commonwealth of Australia, and made allowable in judgement (although in doubt) Hon. Justice Mossop, as this 2020 ACT electoral boundary distribution did not show the Jervis Bay Territory within an electoral boundary of the ACT.

Please consider now in deliberation and with ACT Human Rights Law, Equity inherent in both Commonwealth and ACT Law and the Law of the ACT, this being the Jervis Bay Territory and people may now enjoy democracy as part of the ACT, for the

purposes of electoral distributions in the public interest to effect law and hold law makers to account being Human Rights.

I remain humble, PEACE through EQUITY