



Submission to the Queensland Parliamentary Legal Affairs and Community Safety Committee

**Inquiry into Electoral (Redistribution Commission) and
Another Act Amendment Bill 2015.**

As at 14/08/2015

Liberal National Party Queensland
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Research Director
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Dear Research Director

**Re: Legal Affairs and Community Safety Committee's consideration of
*Electoral (Redistribution Commission) and Another Act Amendment Bill 2015***

1. Introduction

1.1 The Liberal National Party of Queensland (the LNP) responds to the invitation of the Queensland Parliamentary Legal Affairs and Community Safety Committee for submissions to the *Electoral (Redistribution Commission) and Another Act Amendment Bill 2015* (the Bill). The LNP's comments are submitted on behalf of its membership and are confined to issues which relate to the terms of reference.

1.2 The LNP supports the objectives of the Bill:

1. Provide for broader representation in the Redistribution Commission by increasing the membership of the Commission from 3 to 5 members. In the interests of transparency, the appointments of all Commissioners, with the exception of the Electoral Commissioner who has already undergone a separate appointment process, be subject to the approval of the leaders of all recognised parties represented in the Legislative Assembly.
2. Implement a recommendation by the Electoral and Administrative Review Commission by providing that the independent Redistribution Commission has the ability to determine the number of electoral districts in the Legislative Assembly, subject to a maximum increase of up to 5 additional electoral districts, i.e. the total seats in the assembly would at the Commission's discretion be between 89 and 94.
3. Provide that Queenslanders have more equitable access to representation in the Parliament by legislating for the Redistribution Commission to have the capacity, at its discretion, to amend the additional large district number, currently set at 2%, up to 4%.

2. Context

2.1 In making this submission, the LNP is of the view that careful and considered thought and consultation must apply to the architecture/composition and powers of the Queensland Redistribution Commission (QRC) so that it has the required expertise and capabilities to permit it to undertake electoral system analysis and make decisions that reflect Queensland's demographic and socio-

economic circumstances in the 21st century to ensure equity and access to public service and representation by its citizens.

3 Discussion

3.1 Queensland Redistribution Commission Architecture/Composition

3.1.1 Under the *Queensland Electoral Act 1992* (the Act), (s 6(2)) provides that the composition of the QRC consist of:

- The chairperson
- The electoral commissioner; and
- 1 other commissioner

The chair must be a current or former judge and the other commissioner must be the chief executive of a department or equivalent. The chair and other commissioner are appointed by the Governor in Council only after the Minister has consulted with the leader of each political party in the Legislative Assembly about the proposed appointment.¹

3.1.2 Since 1949, the QRC has consisted of three Commissioners² which is similar to the composition of Australian mainland state's Redistribution Commissions.³

3.1.3 Under the *Commonwealth Electoral Act 1918* (CE Act) (s 60 (1-4)), a redistribution is undertaken by a committee consisting of the Electoral Commissioner, the Australian Electoral Officer for the State concerned, the State Surveyor-General and the State Auditor-General and the Augmented Electoral Commission (S 70 (1,2)) comprising: the Chairperson of the Electoral Commission (Federal Court Judge), the Electoral Commissioner, the non judicial Commissioner and Australian Statistician, the State Electoral Officer, the State Surveyor General and the State Auditor General.⁴

3.1.4 The LNP is of the view that there is a correlation between the duties of the Commonwealth Redistribution Committee comprising 4 Commissioners for each State, the Augmented Electoral Commission consisting of 6 Commissioners for each State and the QRC comprising 3 Commissioners. The electoral enrolments are similar and the criteria that the Commissions must take into consideration are similar. For example under the Act, the matters that the QRC must include are:

- Numerical limits (s 45)
- Other factors (s 46) for example:
 - (a) The extent of common economic, social, regional or other interests within a district
 - (b) Lines of communication and travel within a district
 - (c) Physical features
 - (d) Current boundaries
 - (e) Demographic trends

¹ van der Merwe, W. Electoral Commissioner: Electoral Redistribution Arrangements, Legal Affairs and Community Safety Public Briefing and Hearings, Document tabled 30th July 2015.

² Electoral and Administrative Review Commission (EARC), Report on Queensland Legislative Assembly Electoral

² Electoral and Administrative Review Commission (EARC), Report on Queensland Legislative Assembly Electoral System, Volume 2, November 1990, p.17 and van der Merwe, W. Electoral Commission, Public Briefing and Hearing, 30th July 2015.

³ EARC, op. cit, Volume 1, November 1990, p.213 and van der Merwe, W., op.cit

⁴ EARC, op. cit.

(f) Local Government boundaries⁵

Under the CE Act including numerical limits, consideration must be given for each proposed Division:

- (i) community of interests including economic, social, and regional interests
- (ii) means of communication and travel within the proposed Electoral Division
- (iii) the physical features and area
- (iv) the boundaries of existing Divisions in the State or Territory

3.1.5 The processes, administration, analysis and intellectual rigor for the entities⁶ are similar. The fundamental difference is that the Commonwealth Redistribution Committees/Commissions are numerically larger which enables increased analytical and capacity skills. It is the LNP's view, that the QRC should have similar capabilities.

3.1.6 It is noted that the Electoral and Administrative Commission (EARC) considered that three members "would be appropriate for a future Redistribution Commission in Queensland"⁷. Since 1990 demographic, community structures, and socio-economic circumstances have changed markedly as indicated by a 65 per cent increase in the State-wide enrolments from 1,802,235⁸ to 2,985,536⁹ at the end of the 2015 financial year. The average electoral district in 1990 was 20,250 electors¹⁰ compared to 33,545 at the end of June 2015.¹¹ In that time Queensland's population has increased from 2,929,000 in 1990¹² to 4,789,098 in 2015¹³ - an increase of 54 per cent. Midst this change, and significantly, the number of Queensland electoral districts has remained unchanged.

3.1.7 In the view of the LNP, the significant demographic, community and socio-economic changes provide sound grounds for the QRC's numerical strength to be enhanced with an increase from 3 to 5 similar to its Commonwealth entity, to ensure it has the necessary skills within its ranks without having to import or buy-in the additional expertise from other agencies. Since the 2008 Queensland redistribution, the Australian Bureau of Statistics has introduced a new statistical geography - the Australian Statistical Geography standard - for the release of the data from the 2011 Census replacing well known statistical boundaries¹⁴. This in itself is a new challenge and one that more than likely will require additional expertise.

3.1.8 The LNP unequivocally agrees with the statement in the first objective that in the interests of transparency, the appointments of any additional Commissioners be subjected to the approval of the leaders of all recognised parties represented in the Legislative Assembly.

⁵ van der Merwe, W. Electoral Commissioner, op.cit.

⁶ See para. 3.1.4 this document.

⁷ EARC, op. cit. Volume 1, para. 11.231, p. 221.

⁸ Op.cit., para. 7.58, p. 71.

⁹ Queensland Government Gazette, No. 59, 10 July 2015, pp. 535, 534.

¹⁰ EARC, op.cit. Volume 1, para. 7.58, p.71.

¹¹ Queensland Government Gazette, op. cit. p. 534.

¹² Office of Economic and Statistical Research, Queensland Past and Present: 100 years of Statistics 1896-1996, Queensland Government, p. 64.

¹³ Queensland population counter, Statisticians Office, Queensland Treasury, June 2015.

¹⁴ Australian Bureau of Statistics, Statistical Geography Fact Sheet, "Changes to geographic areas between censuses", www.abs.gov.au.

3.2 The Independent QRC determine the number of Legislative Assembly electoral districts

3.2.1 It is the LNP's view that the number of Legislative Assembly electoral districts should be a legislated matter for the consideration by the QRC determined by demographic, socio-economic and community analysis to ensure equity and access to public service and representation by citizens.

3.2.2 The Act (s 3 (1)) and the *Constitution of Queensland 2001* (s 34) stipulates that there are 89 electorate districts for the State. The number of Legislative Assembly electoral districts has remained static since the 1985 Queensland Redistribution when the number of districts was increased by 7, from 82 to 89.¹⁵ Conversely, the 1984 Federal Redistribution for Queensland House of Representative divisions increased the number by 5 - from 19 to 24.¹⁶ Since the 1984 Queensland Federal redistribution, the number of divisions has increased from 24 to 30 - an increase of 6¹⁷ - due to increases in enrolments. It is notable that the Queensland electoral districts over the period of some thirty years have remained unchanged although there have been substantial increases in enrolments and population and changes in community structures, communications, transport etc.

3.2.3 The EARC, considered the size of the Legislative Assembly and the optimum number of Parliamentary representatives¹⁸ recommending that the Queensland Legislative Assembly continue, for the time being, to be comprised of 89 members."¹⁹ It adjudged "that a periodic review of the number of Members of the Legislative Assembly be undertaken by an independent electoral authority every 7 years"²⁰. This has not occurred over the intervening some 25 years - 1990-2015.

3.2.4 In determining the number of MLAs there was two relevant functions for consideration:

- The constituency role
- The legislative role which includes membership of Parliamentary Committees.²¹

3.2.5 The LNP since its inception in 2008 has canvassed with its parliamentary representatives their respective constituency and Parliamentary Committee roles. In terms of its MLAs, constituency roles vary according to the demography and geography of the region, socio-economic, climatic, community, communications, and transport considerations. Consistent over those 8 years is that the nature of constituency work is more demanding, constant, and complex. The servicing and the range of constituents' and the electorates' needs and the accompanying representations is more demanding due to community expectations, enrolment changes, policy reforms and decision making processes, economic circumstances and community outlook and standards.

3.2.6 Anecdotal information from recently retired long term MLAs is that the demands of servicing new and existing constituencies and community expectations coupled with the immediacy of information technology and parliamentary commitments now out-compete their family obligations and private responsibilities.

¹⁵ EARC, op. cit. Volume 1, para. 7.4, p. 60.

¹⁶ AEC Research, Australian Federal Redistributions 1901-2003, Research Report Number 4, April 2004, p. 21)

¹⁷ The Australian Election Archive, Index of House of Representative Divisions 1901-2013 (Blair 1998, Bonner, 2004, Dickson 1993, Flynn 2007, Longman 1996, Wright 2010.)

¹⁸ EARC, op. cit. Volume 1, Chapter 7, pp. 60-71.

¹⁹ Op. cit. para. 7.63, p 71, and para. 13.22, p. 237.

²⁰ Op. cit. paras. 7.62 and 7.64. p. 71.

²¹ Op. cit. para. 7.34, p. 67.

3.2.7 MLAs legislative roles are fundamental to good government. Constituents expect MLAs to balance in the best interest of the electorate their parliamentary and constituency roles. Electors believe that it is their MLA's duty to fully engage in Parliamentary business and to contribute to the working of the Parliament e.g. committee work; to lead local deputations when Parliament is sitting; and to present causes, cases and issues to Ministers and government agencies on their behalf.

3.2.8 The LNP rank and file has a considered outlook on any increase in the number of electoral districts due in part to its large and decentralised membership. The feeling, and in some cases fear, is that as a consequence of the 2016 Redistribution, the populous south east corner may gain additional electoral district/s at the expense of the regions. This has the potential to diminish the regional and decentralised voice in the Parliament. In turn, for residents in electoral districts over 100,000 square, any increase in size will reduce reasonable access to local and effective representation and participation in public affairs.

3.2.9 The decentralised membership is concerned that ultimately, there is a probability of a loss of one of these large electorates further eroding their access to fair representation and participation in public affairs. An independent QRC assessment of the optimum number of electoral districts to enable fair access to representation now and into the near to medium terms based on current data and circumstances is timely.

3.2.10 Under the Act (s 37) and the *Constitution of Queensland* 2001 (s 14) the Parliament may vary the number of members elected. It is noted too, that in evidence before the Parliamentary Legal Affairs and Community Safety Affairs Committee, the Deputy Electoral Commission said, "the decision of parliament would be informed by a recommendation of the Commission".²² The membership of the LNP is supportive of this statement and the objective outlined in the Bill, "subject to a maximum increase of up to 5 additional electoral districts, i.e. the total seats in the assembly would, at the Commission's discretion, be between 89 and 94."

3.2.11 The LNP's membership has a pragmatic approach to the concept of more politicians, weighing carefully the current low esteem of the Nation's and the State's representatives with the need for fair access to representation to voice the need for services, jobs, growth, development and to participate in the State's public affairs. The counter argument of more resources and entitlements for State Representatives may appear to be the solution but does not resolve the key issue of the increasing demand and the community's expectations of fair access to representation and participation in public affairs as exemplified in the Mount Isa electorate (See para. 3.3.7).

3.3 Amend the additional large district weightage set at 2% up to 4%

3.3.1 It is instructive to consider the principle on which EARC based its determination for the 5 large remote electorates and the accompanying weightage. It cited a Canadian decision²³ (the Dixon Case) in which the Chief Justice addressed the application of weightage and tolerance principles in the context of Sections 1 and 3 of the Canadian Charter of Rights and Freedoms. He was considering an

²² Tiernan, M, Assistant Electoral Commissioner, Public Briefing - Examination of the Electoral (Redistribution Commission) and Another Amendment Act 2015, Transcript of Hearings, 30th July 2015, p. 4.

²³ EARC, op. cit. Volume 1, para. 10.21, p.121. Re Dixon v. British Columbia (Attorney General) (1989) 59 D.L.R. (4th) 247, Supreme Court of British Columbia.

electoral distribution in British Columbia which had quite wide weightage between electoral districts.²⁴ The EARC stated that other authorities particularly Article 25 of the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights (ICCPR) and the Dixon Case suggest the following principles:

- (a) *equal suffrage is an important civil and political right recognised internationally and increasingly in comparable jurisdictions as well as in Australia;*
- (b) *equal suffrage is not absolute but must be considered in relation to other civil and political rights, particularly the right of citizens to take part in the conduct of public affairs directly or through freely chosen representatives;*
- (c) *if the application of equal suffrage results in a prejudice to good government it can be restricted provided the restriction:*
 - (i) *is not unreasonable;*
 - (ii) *is not proportionate to the prejudice identified; and*
 - (iii) *does not produce unfairness in the overall system.*²⁵

3.3.2 The EARC went on to state that:

*If there exists in Queensland a situation in which citizens, because of remoteness, distance, or other geographic factors, are placed at a disadvantage in terms of effective access to their MLAs this must affect their ability to take part in the conduct of public affairs. Such a disadvantage must prejudice good government because representative democracy requires reasonable access by electors to their elected representatives. If some deviation from equal suffrage is necessary to overcome this disadvantage then, in the opinion of this Commission, such deviation is justified.*²⁶

3.3.3 Additionally it stated:

*Modern democracy in essence means that persons participate in the democratic process by electing persons to represent them. As stated in Article 25 of the ICCPR citizens have the right to take part in public affairs through their elected representative. If by creating electoral districts so large as to diminish reasonable access by an elector to a representative the consequence will be that this essential function is prejudiced. This prejudices good government.*²⁷

3.3.4 The 2008 State Redistribution created 5 electoral districts over 100,000 square kilometres: Cook -196,805 kms²; Gregory - 327, 212 kms²; Dalrymple - 105,337 kms²; Mount Isa - 570,502 kms²; Warrego - 279,546 kms².

3.3.5 Considering the Mount Isa electorate, the 2007-08 QRC expanded the district to the south and the east to include the Diamantina Shire from the (then) existing Gregory electorate and the Etheridge, Richmond and Flinders Shires from the (then) existing district of Charters Towers.²⁸ There were concerned and worried responses to the Mount Isa electorate's size. In particular then Premier Anna Bligh said "she recognised the challenge in Mount Isa, where Labor MP Betty Kiernan's seat was now the size of France, and said the government would have "a good look" at the seat when making its

²⁴ EARC, op. cit. para. 10.22, p.121.

²⁵ op. cit. para. 10.26, pp.122, 123.

²⁶ op. cit. para. 10.29, p. 123.

²⁷ op. cit. para. 10.185, p. 159.

²⁸ QRC, Proposed Electoral Districts - Reasons, Descriptions and Maps, May 2008, p.8.

submission to the electoral commission.” “It will require, I think, some imaginative thinking about how people who live in these remote parts of our state can effectively get good representation in a democracy.”²⁹

3.3.6 Further, Premier Bligh in response to a question from a journalist, “ With Mount Isa, isn't it ridiculous, you've got a seat now bigger than France, how can she (MLA Betty Kiernan) possibly expect to represent that appropriately?” The Premier response was, “We'll have to have a very good look at the proposed boundaries for the seat of Mount Isa; it is an extraordinarily large seat with these new draft boundaries ...”³⁰

3.3.7 Illustrative of the demands on MLAs who service large electorates and the struggle to meet community expectations is the small centre of Urandangie on the Georgina River some 200 kilometres from Mount Isa with a population that oscillates between 50 to 90 persons.³¹ In the lead up to the 2012 State general election, the residents of the small town could not recall the local Member of Parliament visiting the community in the last four years although the then incumbent admitted there had not been a visit “at least in a year and couldn't recall the reason for the visit.”³²

3.3.8 The then Boulia Mayor Rick Britton, whose shire encompasses the community, said he could not remember the last time the State member called in. “We spent \$20,000 coming up with a plan for Urandangie that we gave to the State Government and it's been totally ignored. If the people of Urandangie feel isolated they've got good reason.”³³

3.3.9 Community expectations not being realised is further exemplified by Burke Mayor Ernie Camp who indicated that the Mount Isa electorate was too large and should be changed “... no matter how hard an MP tries, the area's too vast to adequately cover and represent. ... It's near impossible just for one person to cover an area that size.”³⁴ The current Mount Isa MLA Rob Katter said, “I won't lie, I do struggle with the size of it all, but I do my best and work very hard.”³⁵

3.3.10 Griffith University political analyst Dr Paul Williams said purists of the electoral system could argue the Mount Isa electorate is not underrepresented if the population of 17,000 voters was taken into account. “I don't necessarily support that ... I feel that to be a long, long way from the city and the coast is problematic for regional voters.” In a perfect world communities in an electorate should be guided by one economic interest – like mining, agriculture or tourism. But it was not an ideal world and the Mount Isa economy was diverse³⁶

3.3.11 Anecdotal information is that the Mount Isa electorate since the 2008 Redistribution has been represented by MLAs with the reputation of being caring “constituency nurses”. The lack of small town and community visits or engagement was not the lack of commitment, or the entitlements to service the electorate, simply it was the competing demands of servicing a large electorate and the

²⁹ Tucker, C., & AAP, “New electorate proposed for the coast”, Sunshine Coast Daily, 23rd May 2008.

³⁰ Taylor, J. “ Premier Talks”, ABC Stateline, 23rd May 2008.

³¹ Sorensen, H., “Town that Government forgot”, North West Star, 23rd March 2012.

³² Ibid.

³³ Ibid.

³⁴ Stephen, K. & Senior, B. “Is the Mount Isa electorate too big?” ABC North West, 19th February 2013.

³⁵ Ibid.

³⁶ Burns, C, “Katter sacrifices personal life for role”, North West Star, 23 January 2015.

“tyranny of distance” coupled with Parliamentary duties that prevented the meeting of reasonable community expectations.

3.3.12 Any fair assessment of the 5 existing large electorates under the existing weightage formula at the 2016 redistribution suggests that there is a likelihood of an enlargement of the total area. Concerningly, there is the potential for the Mount Isa electorate to increase in size which will further disadvantage small and vulnerable communities. Worse still, ultimately, if remedial measures are not taken now, the number of large electorates may decline from 5 to 4 in the future further eroding effective and fair representation.

3.3.13 The circumstance as it stands now under the Act, the 2016 QRC will be confronted with the same dilemma of that experienced by the 2007-08 QRC and that is the weightage formula. Former Premier Bligh’s 2008 response to the draft boundaries and in particular to the size of the Mount Isa electorate inferred that her Party’s submission to the electoral commission required “some imaginative thinking about how people who live in these remote parts of our state can effectively get good representation in a democracy.”³⁷

3.3.14 Premier’s Bligh’s Party was joined by other political parties, communities, and Councils - particularly the Diamantina Shire Council in “imaginative thinking” to address the size of the Mount Isa electorate. The Diamantina Shire Council argued that its linkages were not toward the city of Mount Isa. Health, education, and communication services derived from Longreach; communications from Alice Springs and Roma; and commerce and financial services from Toowoomba and Brisbane. Its preference was to remain in the Gregory electorate. The then QRC’s final boundary changes, despite the “imaginative thinking”, did not change, reflecting the Act’s weightage formula which overruled other criteria.

3.3.15 The LNP submits, that the principles on which the EARC determined the weightage formula in 1990 remains relative in the 21st century - probably more so than in the late 20th century - due to the need for personal and compassionate representation as a consequence of significant socio-economic changes caused by on-going drought and the resources downturn across regional Queensland. Constituents in the large electorates are entitled to reasonable equitable access to representation in the Parliament and to be a part of public affairs in a modern democracy. Now is the time for the Redistribution Commission to have the discretion and capacity to consider amending the additional large district number (weightage formula), currently set at 2%, up to 4%.

4. Conclusion

4.1 In introducing the Bill into the Parliament, the Member for Mansfield and Shadow Attorney-General, and Shadow Minister for Justice, Industrial Relations, and the Arts Ian Walker stated, “it is designed to increase the transparency and fairness of the electoral process. It covers sections of the Act that have received little attention over the past quarter of a century and which, after the passing of a quarter of a century, are crying out for modernisation and renewal.

4.2 “There is an urgent need to update these provisions to account for changing circumstances. To delay any longer invites the calling into question of this important part of the electoral process. ... If passed, the members of the Redistribution Commission will need to be acceptable to all parties

³⁷ Taylor, J. op.cit.

represented here and, once appointed, they will carry out their tasks independent of political influence - in my view, a process in which the people of Queensland can have the utmost confidence.

4.3 “The bill represents important steps in improving accountability in Queensland’s political arena ... (and) - in my view, a process in which the people of Queensland can have the utmost confidence. The bill represents important steps.”³⁸

4.4 We support Mr Walker’s initiative in presenting this important electoral reform to the Parliament for consideration and concur with its objectives. We would be pleased to provide further comment on any matters in our submission that may require further clarification or amplification.

Yours sincerely,

Lincoln Folo
State Director
Liberal National Party

³⁸ Walker, I., Shadow Attorney General and Shadow Attorney General, Minister for Justice, Industrial Relations and the Arts, *Electoral (Redistribution Commission) and Another Act Amendment Bill 2015*, Introduction, Queensland Parliamentary Debates, 15th July 2015, p. 1345.