



**LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY**

**Social Policy Scrutiny Committee**

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# **Inquiry into the Electoral Amendment Bill 2018**

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**November 2018**



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## Chair's Preface

This report details the Committee's findings regarding its examination of the Electoral Amendment Bill 2018. Based on recommendations from the Northern Territory Electoral Commission's *2016 Northern Territory Election Report*, the proposed amendments to the *Electoral Act* seek to strengthen the electoral boundary redistribution process. As highlighted by the Chief Minister, the Hon Michael Gunner MLA, in presenting the Bill, "the proposed electoral reforms are part of the development of a strong integrity framework for the Northern Territory."<sup>1</sup>

The Committee received one submission to its inquiry from the Northern Territory Electoral Commission. While noting that "overall, this Bill in its entirety is good for democracy in the Northern Territory"<sup>2</sup>, the Electoral Commissioner raised concerns about the practical application of section 145B regarding the inclusion of an additional public objection period in the redistribution process. However, following consideration of the evidence received, the Committee is satisfied with the Department's clarification on the anticipated operation of this section and has recommended that the Assembly pass the Bill.

On behalf of the Committee, I would like to thank the Electoral Commissioner for his submission and for appearing before the Committee at its public hearing. The Committee also thanks the Department of the Chief Minister for their advice.

I would also like to thank my fellow Committee members for their bipartisan commitment to the legislative review process.



**Ms Ngaree Ah Kit MLA**

**Chair**

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<sup>1</sup> Hon Michael Gunner MLA, Chief Minister, Parliamentary Record, *Debates Day 5 – 22 August 2018*, <http://www.territorystories.nt.gov.au/jspui/handle/10070/300582>, p.2

<sup>2</sup> Mr Iain Loganathan, Committee Transcript, Monday 15 October 2018, p.3

## Committee Members

	<b>Ms Ngaree Ah Kit MLA</b> Member for Karama	
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	<b>Parliamentary Position:</b>	Acting Deputy Speaker
	<b>Committee Membership</b>	
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	<b>Sessional:</b>	Social Policy Scrutiny
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	<b>Parliamentary Position:</b>	Acting Deputy Speaker
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	<b>Ms Sandra Nelson MLA</b> Member for Katherine	
	<b>Party:</b>	Territory Labor
	<b>Committee Membership</b>	
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	<b>Sessional:</b>	Social Policy Scrutiny
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	<b>Parliamentary Position:</b>	Deputy Speaker
	<b>Committee Membership</b>	
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## **Acknowledgements**

The Committee acknowledges the individuals and organisations that provided written submissions or oral evidence at the public briefing and hearing.

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## Terms of Reference

### Sessional Order 13

#### *Establishment of Scrutiny Committees*

- (1) Standing Order 178 is suspended.
- (2) The Assembly appoints the following scrutiny committees:
  - (a) The Social Policy Scrutiny Committee
  - (b) The Economic Policy Scrutiny Committee
- (3) The Membership of the scrutiny committees will be three Government Members and one Opposition Member nominated to the Speaker in writing by the respective Whip and one non-party aligned Member to be appointed by motion.
- (4) The functions of the scrutiny committees shall be to inquire and report on:
  - (a) any matter within its subject area referred to it:
    - (i) by the Assembly;
    - (ii) by a Minister; or
    - (iii) on its own motion.
  - (b) any bill referred to it by the Assembly;
  - (c) in relation to any bill referred by the Assembly:
    - (i) whether the Assembly should pass the bill;
    - (ii) whether the Assembly should amend the bill;
    - (iii) whether the bill has sufficient regard to the rights and liberties of individuals, including whether the bill:
      - (A) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; and
      - (B) is consistent with principles of natural justice; and
      - (C) allows the delegation of administrative power only in appropriate cases and to appropriate persons; and
      - (D) does not reverse the onus of proof in criminal proceedings without adequate justification; and
      - (E) confers powers to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer; and
      - (F) provides appropriate protection against self-incrimination; and
      - (G) does not adversely affect rights and liberties, or impose obligations, retrospectively; and

- (H) does not confer immunity from proceeding or prosecution without adequate justification; and
  - (I) provides for the compulsory acquisition of property only with fair compensation; and
  - (J) has sufficient regard to Aboriginal tradition; and
  - (K) is unambiguous and drafted in a sufficiently clear and precise way.
- (iv) whether the bill has sufficient regard to the institution of Parliament, including whether the bill:
- (A) allows the delegation of legislative power only in appropriate cases and to appropriate persons; and
  - (B) sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly; and
  - (C) authorises the amendment of an Act only by another Act.
- (5) The Committee will elect a Government Member as Chair.
- (6) Each Committee will provide an annual report on its activities to the Assembly.

Adopted 24 August 2017

## **Recommendations**

### **Recommendation 1**

The Committee recommends that the Legislative Assembly pass the Electoral Amendment Bill 2018.

# 1 Introduction

## Introduction of the Bill

- 1.1 The Electoral Amendment Bill 2018 (the Bill) was introduced into the Legislative Assembly by the Chief Minister, the Hon Michael Gunner MLA, on 22 August 2018. The Assembly subsequently referred the Bill to the Social Policy Scrutiny Committee for inquiry and report by 27 November 2018.<sup>3</sup>

## Conduct of the Inquiry

- 1.2 On 22 August 2018 the Committee called for submissions by 19 September 2018. The call for submissions was advertised via media release, the Legislative Assembly website, Facebook, Twitter feed and email subscription service. In addition, the Committee directly contacted a number of individuals and organisations.
- 1.3 As noted in Appendix 2, the Committee received one submission to its inquiry from the Northern Territory Electoral Commission which supported the Bill. The Committee held a public briefing with the Department of the Chief Minister on 10 September 2018 and a public hearing with four witnesses in Darwin on 15 October 2018.

## Outcome of Committee's Consideration

- 1.4 Sessional order 13(4)(c) requires that the Committee after examining the Bill determine:
- (i) whether the Assembly should pass the bill;
  - (ii) whether the Assembly should amend the bill;
  - (iii) whether the bill has sufficient regard to the rights and liberties of individuals; and
  - (iv) whether the bill has sufficient regard to the institution of Parliament.
- 1.5 Following examination of the Bill, and consideration of the evidence received, the Committee is of the view that the Legislative Assembly should pass the Bill with no amendments.

### Recommendation 1

**The Committee recommends that the Legislative Assembly pass the Electoral Amendment Bill 2018.**

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<sup>3</sup> Hon Michael Gunner MLA, Chief Minister, Parliamentary Record, *Debates Day 5 – Wednesday 22 August 2018*, <http://www.territorystories.nt.gov.au/jspui/handle/10070/300582>, pp.1-4

## **Report Structure**

- 1.6 Chapter 2 provides an overview; of the policy objectives of the Bill and the purpose of the Bill as contained in the Explanatory Statement.
- 1.7 Chapter 3 considers the main issues raised in evidence received.

## 2 Provisions of the Bill

### Background to the Bill

2.1 In presenting the Bill, the Chief Minister noted that “the proposed electoral reforms are part of the development of a strong integrity framework for the Northern Territory.”<sup>4</sup> Based on recommendations from the Northern Territory Electoral Commission’s *2016 Northern Territory Election Report*<sup>5</sup> regarding the electoral boundary redistribution process, the Chief Minister advised that the Bill sought to:

improve participation of Territorians in elections and voting, and to increase public support and confidence in our system of governance ... the amendments set out in this Bill will support an impartial, independent and clear electoral boundary process.<sup>6</sup>

2.2 With regards to the latter, the Statement of Compatibility with Human Rights accompanying the Bill noted that:

a redistribution is the process by which electoral boundaries are changed and is the mechanism that implements the democratic principle of one vote: one value within our electoral system. The redistribution process must be seen to be transparent, to have integrity, and be independent from politics.<sup>7</sup>

2.3 The Chief Minister further advised that any changes to the electoral boundary redistribution process need to be finalised before the next redistribution scheduled for February 2019.<sup>8</sup> In accordance with section 138 of the *Electoral Act*, it is noted that a redistribution must be conducted after each general election and ‘must start as soon as practicable after 2 years and 6 months after the polling day for the general election.’<sup>9</sup>

### Purpose and Overview of the Bill

2.4 As highlighted in the Explanatory Statement, the proposed amendments to the *Electoral Act*, as set out in the Bill, aim to strengthen the electoral boundary redistribution process in the following ways:

- a) a single Redistribution Committee is established to ensure a streamlined redistribution process providing greater transparency for the public, while maintaining the rigour of the process;
- b) the appointment process for the Chairperson of the Redistribution Committee is tightened to require stricter eligibility criteria for candidates, ensuring independence from Government and political influence;

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<sup>4</sup> Hon Michael Gunner MLA, Chief Minister, Parliamentary Record, *Debates Day 5 – 22 August 2018*, <http://www.territorystories.nt.gov.au/jspui/handle/10070/300582>, p.2

<sup>5</sup> Northern Territory Electoral Commission, *2016 Territory Election Report*, Northern Territory Electoral Commission, Darwin, 2017

<sup>6</sup> Hon Michael Gunner MLA, Chief Minister Parliamentary Record, *Debates Day 5 – 22 August 2018*, <http://www.territorystories.nt.gov.au/jspui/handle/10070/300582>, pp.1-2

<sup>7</sup> Statement of Compatibility with Human Rights, *Electoral Amendment Bill 2018 (Serial 61)*, <https://parliament.nt.gov.au/committees/spsc/61-2018>, p.1

<sup>8</sup> Hon Michael Gunner MLA, Chief Minister Parliamentary Record, *Debates Day 5 – 22 August 2018*, <http://www.territorystories.nt.gov.au/jspui/handle/10070/300582>, p.2

<sup>9</sup> *Electoral Act (NT)*, s138

- c) the inclusion of an additional public objection period, if the second proposed redistribution is significantly different from the first, ensures strong public input into, and transparency of, the redistribution process. It assists in maintaining a robust process even with the change to a single redistribution committee;
- d) 'the number of electors in each proposed division should be equal' is clarified as the primary object of redistribution – the basis of the *one vote: one value* principle;
- e) inclusion of the timeframe and justification for calculation of the quota of electors during the redistribution process enacts current convention, increases understanding and reinforces the transparency and integrity of the process;
- f) further specifying the content of the redistribution report supports the Redistribution Committee in providing full reasons for their decisions, strengthening transparency and integrity of the process; and
- g) specifying that a redistribution process is ceased where an extraordinary general election is called, clarifies the status of a process in that event.<sup>10</sup>

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<sup>10</sup> Explanatory Statement, *Electoral Amendment Bill 2018 (Serial 61)*, <https://parliament.nt.gov.au/committees/spsc/61-2018>, p.1

### 3 Examination of the Bill

#### Introduction

3.1 The submission received from the Northern Territory Electoral Commission (NTEC) supported the Bill and noted that the proposed amendments “enact recommendations four to nine in the *2016 Territory Election Report*...modernise the electoral redistribution process and enshrine greater independence.”<sup>11</sup> However, NTEC queried the practical application of proposed section 145B regarding the inclusion of an additional public objection period in the redistribution process. The following discussion considers the issues raised by NTEC and subsequent advice received from the Department of the Chief Minister.

#### Inviting Objections to Second Proposed Distribution

3.2 Pursuant to Part 8, Division 3 of the *Electoral Act*, the current redistribution process incorporates three public consultation components – initial suggestions relating to the redistribution, comments on the suggestions received, and objections to the draft boundaries resulting from the first distribution.<sup>12</sup> However, as NTEC pointed out in its *2016 Territory Election Report*:

In the event of substantial changes to boundaries following the initial objection process, there is no opportunity for the public and organisations to further object, as is the case with AEC’s [Australian Electoral Commission] redistribution process.<sup>13</sup>

3.3 To facilitate a more transparent and consultative process, NTEC subsequently recommended that:

after all the initial objections lodged have been considered, the Redistribution Committee releases a second proposed redistribution. If this second proposal is the same as, or not significantly different from, the one first proposed, the second set of proposed boundaries becomes final.

If the Redistribution Committee considers its second proposal to be significantly different from the first, further objections will be invited from individuals or organisations. These objections must be lodged within 14 days for consideration by the Redistribution Committee, and then a final determination of boundaries and names of divisions will be undertaken.<sup>14</sup>

3.4 Similar to equivalent provisions in the Commonwealth, ACT, NSW and Tasmanian legislation, NTEC envisaged that the decision as to whether or not a second public objection period is required would be at the discretion of the Redistribution Committee.<sup>15</sup> However, proposed section 145B(1) prescribes a quantitative measure

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<sup>11</sup> Northern Territory Electoral Commission, Submission No. 1, p.1

<sup>12</sup> *Electoral Act* (NT), ss 141 - 145

<sup>13</sup> Northern Territory Electoral Commission, *2016 Territory Election Report*, Northern Territory Electoral Commission, Darwin, 2017, p.25

<sup>14</sup> Northern Territory Electoral Commission, *2016 Territory Election Report*, Northern Territory Electoral Commission, Darwin, 2017, p. 25

<sup>15</sup> Northern Territory Electoral Commission, *2016 Territory Election Report*, Northern Territory Electoral Commission, Darwin, 2017, pp.10 and 25; see also *Electoral Act 1918* (Cwlth), s.72(12)(c); *Electoral Act 1992* (ACT), s.51(3); *Parliamentary Electorates and Elections Act 1912* (NSW), s.14(12)(b); *Legislative Council Electoral Boundaries Act* (Tas), Division 4, ss.21,22

to determine whether an additional objection period is required for the second redistribution. That is, unless the Redistribution Committee is of the opinion that the second proposed redistribution is the only feasible option, it must invite objections to the second proposed redistribution if it ‘would result in the sum of electors added and the electors removed, from the first proposed redistribution, being greater than 15% of the total electors in that division.’<sup>16</sup>

- 3.5 In the absence of any precedents elsewhere in Australia, NTEC subsequently proposed that:

section 145B(1) of the Bill be amended by removing the 15 per cent change in elector numbers determining whether a second objection period is required, and leave that decision to the discretion of the Redistribution Committee.<sup>17</sup>

- 3.6 By way of clarification, the Department advised the Committee that:

the precedent that exists in other jurisdictions is that an Augmented Committee (i.e. a second committee body) provides a review function to proposed redistributions and decides whether or not to invite a second objection period. ... As the Bill proposes to remove the current Augmented Redistribution Committee, in line with the recommendations of the 2016 Election Report, the decision to hold a second objection period would rest solely with the Redistribution Committee. ... it was considered inappropriate for the single Redistribution Committee to decide what ‘significantly different’ means in terms of the impact of its decision relating to the number of electors added or removed from a particular division, in the absence of an Augmented Committee to arbitrate this decision. A quantitative trigger provides a more objective and transparent approach which prescribes a requirement for a second objection period to be called in relation to the number of electors added or removed as a result of the redistribution.<sup>18</sup>

- 3.7 The Department further advised that while alternate policy options were considered regarding the concept of ‘significantly different’, research confirmed that:

A qualitative term to define ‘significant difference’ in relation to the impact on the number of electors in a redistribution process is complex and could encompass a number of variables, including;

- geographical changes (i.e. boundary changes) to divisions;
- changing the number of electors in divisions;
- adding new divisions or removing existing divisions; and
- transferring electors between divisions.

In the absence of a simple qualitative definition that would indicate a ‘significant change’, relating to the number of electors affected by a redistribution, the option of a quantitative (i.e. numerical) trigger was preferred.<sup>19</sup>

- 3.8 As provided for under proposed section 145B(3), the Department also pointed out that the Redistribution Committee will have the discretion to determine whether to invite objections to the second proposed redistribution where it involves a significant

<sup>16</sup> Electoral Amendment Bill 2018, proposed section 145B(1)

<sup>17</sup> Northern Territory Electoral Commission, Submission No. 1, p.2

<sup>18</sup> Department of the Chief Minister, *Response to Written Questions*, 12 October 2018, <https://parliament.nt.gov.au/committees/spsc/61-2018>, pp.3-4

<sup>19</sup> Department of the Chief Minister, *Response to Written Questions*, 12 October 2018, <https://parliament.nt.gov.au/committees/spsc/61-2018>, p.5

change in a matter to which the Redistribution Committee must give consideration under section 140(2)(a), (c), (e), (f) or (g), namely:

- a) community of interests in each proposed division, including economic, social and regional interests;
- c) the trend of population changes in the Territory;
- e) the area of each proposed division;
- f) the physical features of each proposed division;
- g) the existing boundaries of the following:
  - (i) divisions;
  - (ii) local government areas and wards under the *Local Government Act* and suburbs and towns;
  - (iii) Divisions and Subdivisions under the Commonwealth Act;
  - (iv) areas of Aboriginal Land Councils established by or under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cwlth).

3.9 The Committee also sought clarification from the Department regarding what modelling had been undertaken to arrive at the prescribed 15% trigger for the second objection period. The Department advised that, based on the most recent electoral data available, consideration had been given to three potential options for a quantitative trigger: 10%, 15% or 20% of electors added or removed:

As at 31 August 2018 there were 138 801 electors in the Northern Territory .... With 25 divisions in the Northern Territory, this would mean a quota of approximately 5 522 electors. In any given division, a 15% quantitative trigger would be approximately 830 electors added/removed; a 10% trigger would be around 555 electors added/removed; and a 20% trigger would be around 1 110 electors.

During consultation, the Electoral Commissioner observed that a 10% trigger is too low, and would likely require a second objection period to be held for many redistributions in the Northern Territory creating an administratively burdensome process.

It was noted that a 20% quantitative threshold is already used in the *Electoral Act* in relation to indicating the upper and lower limits of the quota (section 140(10)). If the number of electors in a division either falls short of or exceeds 20% of the quota in the time period between a finalised redistribution and the next election, the Administrator can call for another redistribution to be conducted (section 138(3)).

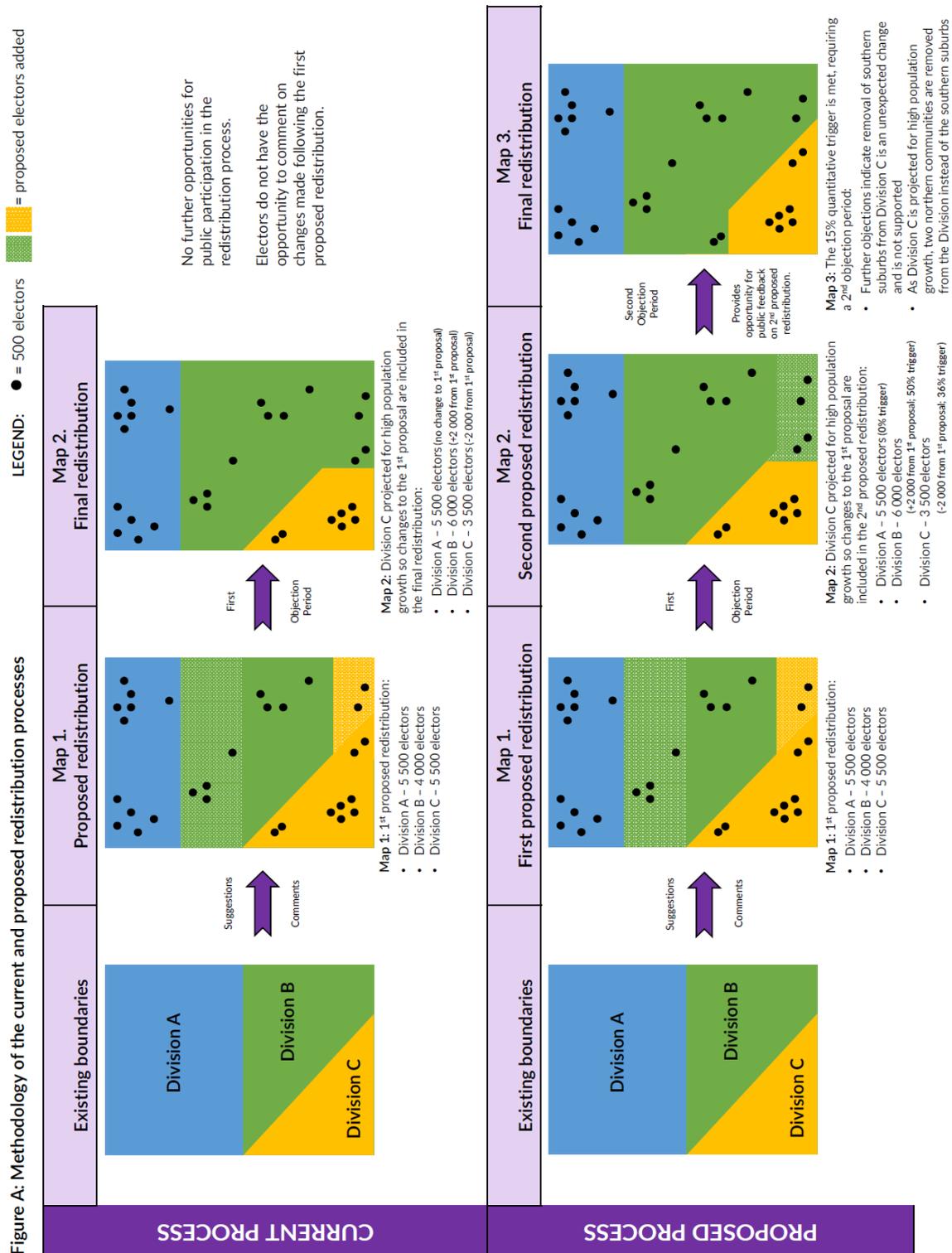
Based on the modelling undertaken, and on the basis that a 10% trigger may lead to a second objection period in most redistributions and a 20% quantitative threshold currently exists in the Act; a 15% trigger (approximately 830 electors added/removed based on AEC data at 31 August 2018) was considered an appropriate safeguard for public participation in the redistribution process.<sup>20</sup>

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<sup>20</sup> Department of the Chief Minister, *Response to Written Questions*, 12 October 2018, <https://parliament.nt.gov.au/committees/spsc/61-2018>, pp.5-6

3.10 Figure A below provides a visual comparison of the methodology of the current and proposed redistribution processes.

**Figure A: Methodology of the current and proposed redistribution process<sup>21</sup>**



<sup>21</sup> Department of the Chief Minister, *Response to Written Questions*, 12 October 2018, <https://parliament.nt.gov.au/committees/spsc/61-2018>, p.14

3.11 NTEC also raised concern that, as drafted, proposed section 145B(1) “could potentially compel the Redistribution Committee to undertake an additional objection period in circumstances when this is unlikely to benefit the redistribution process and add unnecessary delays.”<sup>22</sup> While acknowledging NTEC’s concern, the Department pointed out that, although it is possible no objections of importance, or indeed no objections at all, are received during a second objection period:

this does not take into account the value of allowing the *opportunity* for a second objection period. There is benefit in seeking feedback even if it does not result in a change, and a lack of objections may indicate general community acceptance for the proposed boundaries. ... If there are no major objections in the second objection period, this would mean that the second proposed redistribution would likely become the final redistribution without any further administrative delay. If there are major objections, this justifies the second objection period and supports a transparent and consultative redistribution process.<sup>23</sup>

3.12 It is further noted that proposed section 145B(2) provides that, despite subsection (1), the Redistribution Committee is not required to invite objections to the second proposed redistribution if it considers that this would:

- a) cause major inconvenience or have other serious consequences, such as causing a delay to a scheduled general election; or
- b) the second proposed redistribution is the only feasible option because there has been a natural disaster or another event causing extraordinary demographic movement.

However, a delay to the finalisation of the redistribution process is not, of itself, considered to be a major inconvenience or serious consequence.<sup>24</sup>

3.13 NTEC further suggested that if a quantitative measure is to be used to determine whether a second objection period is required, it might be more appropriate to broaden section 145B(1) to refer to a 15% change in total electors in a division to:

both existing and draft boundaries. A broadening of this definition would reduce the circumstances where the Redistribution Committee would be required to conduct an unnecessary additional public objection phase.<sup>25</sup>

3.14 However, the Committee heard that, based on the available electoral data for the Northern Territory, “there is always a significant variation between a second proposed redistribution and existing boundaries”<sup>26</sup> Consequently, Ms Maria Mohr (Acting Chief Executive Officer: Department of the Chief Minister) advised that “a comparison of this nature is not considered a robust indication of unexpected change in a redistribution.”<sup>27</sup>

It is generally expected that significant changes will always need to occur between the existing boundaries and the final boundaries in the Northern Territory. As there are four years between redistributions, large variations from

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<sup>22</sup> Northern Territory Electoral Commission, Submission No. 1, p.1

<sup>23</sup> Department of the Chief Minister, *Response to Written Questions*, 12 October 2018, <https://parliament.nt.gov.au/committees/spsc/61-2018>, pp.6-7

<sup>24</sup> Electoral Amendment Bill 2018 (Serial 61), Notes for subsection (2)(a), <https://parliament.nt.gov.au/committees/spsc/61-2018>

<sup>25</sup> Northern Territory Electoral Commission, Submission No. 1, p.2

<sup>26</sup> Ms Maria Mohr, Committee Transcript, Monday 15 October 2018, p.8

<sup>27</sup> Ms Maria Mohr, Committee Transcript, Monday 15 October 2018, p.8

the quota may have occurred due to shifts in the population. For example, the division of Braitling is currently above the quota and will likely require significant boundary changes at the 2019 redistribution.

According to data detailed in the 2015 Redistribution Report, a significant change occurred between the existing 2011 boundaries and the final 2015 boundaries, as follows:

- the majority (17 out of 25 divisions) had a quantitative change over 15%;
- eight of those 17 divisions had a quantitative change of over 50%;
- in the division of Fong Lim, 4780 electors (98% of the total number of exiting electors ) were transferred in/out;
- a new division was added (Spillet); and
- an existing division was removed (Greatorex).

In contrast, significant change is not expected to be the norm between a first proposed redistribution and a second proposed redistribution for the following reasons:

- a first proposed redistribution is already informed by public consultation from suggestions (30 days) and comments on those suggestions (14 days);
- it is expected that if divisions are to be added, removed or renamed this would already be introduced in the first proposed redistribution; and
- there would be only 12 weeks between the first proposed redistribution and the second proposed redistribution (based on the 2015 timeframe).<sup>28</sup>

- 3.15 Noting the importance of ensuring that the quantitative trigger is simple and provides clarity for both the Redistribution Committee and constituents in its application, the Department further advised that including the additional comparison and calculation as proposed by NTEC adds complexity to the quantitative trigger and could potentially lead to unintended consequences:

For example, if a second proposed redistribution indicates a **5% change to existing boundaries** and a **45% change to the first proposed redistribution**, this would not require a second objection period under the Electoral Commissioner's proposal. However, there is a significant proposed change and it would be in the public interest to hold a second objection period. ... Based on data in the 2015 Redistribution Report ... the additional test suggested by the Electoral Commissioner to compare the existing and final boundaries would be triggered in the majority of cases. As a result, comparing the first and second redistribution (as outlined in the Bill) would be the only determining variable. Therefore, there is no benefit in having the additional calculation as proposed by the Commissioner.<sup>29</sup>

- 3.16 Pursuant to section 138 of the Act, the Committee notes that the redistribution process must commence 'as soon as practicable after 2 years and 6 months after the polling day for the general election'. As advised by NTEC, the current two stage redistribution process (drafting the first proposed redistribution, and finalising the second and final redistribution in response to public feedback) generally takes six

<sup>28</sup> Department of the Chief Minister, *Response to Written Questions*, 12 October 2018, <https://parliament.nt.gov.au/committees/spsc/61-2018>, p.8

<sup>29</sup> Department of the Chief Minister, *Response to Written Questions*, 12 October 2018, <https://parliament.nt.gov.au/committees/spsc/61-2018>, p.9

months to complete. This timeframe then provides around 12 months for political parties to undertake their preselection process.<sup>30</sup>

- 3.17 Given that the additional objection period as proposed in the Bill would add a further 14 days to receive objections, the Committee understands that this would delay the finalisation of boundaries by approximately six weeks. To ensure boundaries are finalised well in advance of the next election, NTEC recommended that:

Section 138 of the *Electoral Act* be amended so that commencement of the redistribution be brought forward to commence 24-months after the election (from the current 30 months).<sup>31</sup>

- 3.18 In light of NTEC's comments, the Committee sought clarification from the Department as to what consideration had been given to the impact of an additional objection period on the timetable for the redistribution process and subsequent pre-selection process. In response the Department pointed out that given:

variations of up to six weeks (as outlined in Election Reports from 2004 to 2015) to complete the redistribution process in previous years, a second objection period is not expected to have a detrimental impact on the electoral process which is expected to add a further six weeks. ... The simplification to one Redistribution Committee is expected to reduce the time taken to undertake redistributions as it eliminates the unnecessary duplication of technical and administrative processes. For example, since the appointed member of the Redistribution Committee will now have oversight of all processes, this is likely to streamline internal committee discussions and the process as a whole.<sup>32</sup>

- 3.19 The Department further advised the Committee that bringing forward the redistribution process would be problematic since the Redistribution Committee would not have access to the most recent data to determine population trends and calculate the quota:

Bringing the redistribution process forward by six months is not recommended since it may threaten the overall object of the redistribution. The object of the redistribution (section 139) is to ensure an equal number of electors in each proposed division at the time of the next election. It is considered the primary aim of electoral boundary redistributions to support the democratic principle of one vote, one value.

The Northern Territory has the smallest population in Australia with some of the largest population movements. As a result, there is a high risk of variance from the quota in individual divisions. If a redistribution is finalised too early (e.g. 18 months prior to an election) this may lead to a greater discrepancy from the quota at the next election and can potentially undermine the one vote, one value principle.

The timing of the final redistribution must provide an appropriate balance between allowing political parties sufficient time to undertake their pre-selection process and ensuring that the redistribution has been informed by the most recent data so that the statistical projections relied on by the Redistribution Committee are up-to-date and as accurate as possible.<sup>33</sup>

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<sup>30</sup> Northern Territory Electoral Commission, Submission No. 1, p.2

<sup>31</sup> Northern Territory Electoral Commission, Submission No. 1, p.2

<sup>32</sup> Department of the Chief Minister, *Response to Written Questions*, 12 October 2018, <https://parliament.nt.gov.au/committees/spsc/61-2018>, p.10

<sup>33</sup> Department of the Chief Minister, *Response to Written Questions*, 12 October 2018, <https://parliament.nt.gov.au/committees/spsc/61-2018>, p.12

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**Committee's Comments**

- 3.20 While acknowledging the concerns raised by NTEC, the Committee is satisfied with the Department's clarification on the anticipated operation of proposed section 145B.
- 3.21 In particular, the Committee considers that, in the absence of an Augmented Committee to review decisions of the Redistribution Committee, the inclusion of a quantitative trigger to determine whether or not to invite a second round of objections is an appropriate mechanism that provides a more objective and transparent approach than leaving this decision up to the discretion of the Redistribution Committee.
- 3.22 The Committee also agrees with the Department that it is important to ensure that the quantitative trigger is simple and provides clarity for both the Redistribution Committee and constituents in its application. As noted by the Department, NTEC's proposed amendment to section 145B(1)(a) and (b) adds complexity to the way in which the trigger would be applied and could potentially lead to unintended consequences.
- 3.23 While there is potential for a second round of objections to lengthen the redistribution process by approximately six weeks, the Committee acknowledges the need to ensure that the timing of the final redistribution provides:
- an appropriate balance between allowing political parties sufficient time to undertake their pre-selection process and ensuring that the redistribution has been informed by the most recent data so that the statistical projections relied on by the Redistribution Committee are up-to-date and as accurate as possible.<sup>34</sup>
- 3.24 As highlighted by the Electoral Commissioner, this is the first time amendments to the redistribution process have been considered since the *Electoral Act* came into force in 2004. In doing so, the Bill addresses all six recommendations as they relate to redistribution in NTEC's *2016 Election Report* to "modernise and enshrine greater independence in the redistribution process."<sup>35</sup> The Committee also notes the Electoral Commissioner's comment that, "overall, this Bill in its entirety is good for democracy in the Northern Territory."<sup>36</sup>

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<sup>34</sup> Department of the Chief Minister, *Response to Written Questions*, 12 October 2018, <https://parliament.nt.gov.au/committees/spsc/61-2018>, p.12

<sup>35</sup> Mr Iain Loganathan, Committee Transcript, Monday 15 October 2018, p.2

<sup>36</sup> Mr Iain Loganathan, Committee Transcript, Monday 15 October 2018, p.3

## **Appendix 1: Submissions Received**

### **Submissions Received**

1. Northern Territory Electoral Commission

### **Note**

Copies of submissions are available at: <https://parliament.nt.gov.au/committees/spsc/61-2018>

## **Appendix 2: Public Briefing and Public Hearings**

### **Public Briefing – 10 September 2018**

#### ***Department of the Chief Minister***

- Maria Mohr: Deputy Chief Executive Officer
- Jean Doherty: Executive Director, Federal Policy and Strategic Coordination
- Genevieve Mogridge: Director, Federal Policy and Strategic Coordination
- Catherine Pledge: Principal Policy Officer
- Tom McCrie: Principal Legal Officer, Federal Policy and Strategic Coordination

### **Public Hearing – 15 October 2018**

- Iain Loganathan: Northern Territory Electoral Commission

#### ***Department of the Chief Minister***

- Maria Mohr: Acting Chief Executive Officer
- Jean Doherty: Executive Director, Federal Policy and Strategic Coordination
- Catherine Pledge: Principal Policy Officer

#### **Note**

Copies of hearing transcripts and tabled papers are available at:

<https://parliament.nt.gov.au/committees/spsc/61-2018>

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