

# Western Australian Electoral Reform: Legislative Council 2021

## Personal Submission to the Ministerial Expert Committee

### About this Submission

This submission seeks to address the terms of reference as the Ministerial Expert Committee (“the Committee”) and the further four questions posed by the Committee in a supplementary discussion paper. All views expressed in this document are my own.

### Summary

The current model of the Legislative Council does provide electoral equality – which I have defined as *the right to a vote for a representative in Parliament, based on a geographical area, who is elected by a fair and robust voting system*.

The current model of six seats with six members each should continue as this model considers equity and equality when providing representation for constituents. However, improvements could be made to better reflect demographics across the State and public funding could be the leverage to achieve this.

Group ticket voting should be abolished and the Committee should consider whether utilising a Robson Rotation method would ensure better engagement from Members of Parliament with their constituency.

### Background and Context

Western Australia is a jurisdiction of approximately 2.5 million square kilometres. Originally a colony of the British Empire, it adopted a bicameral and Westminster style of Parliament when it became a State. The two houses of Parliament are referred to as the Legislative Assembly (LA), where Government is formed over 59 seats, and the Legislative Council or House of Review which consists of 36 seats over 6 regions.

Western Australia’s parliament is well renowned for being democratically sound, with structural reforms to the parliament every 20 years or so. There is no rolling committee of electoral review or reform, as seen in other jurisdictions. In 1977, 1980 and 2005-06 significant reforms were made which have led to the construct of our State Parliament today. Most significantly, the reform in the late 1980s resulted in a drastic drop in malapportionment in Legislative Council seats, from roughly 11:1 down to 2:1 across both houses of Parliament. In 2005-06, the current system of equal geographical representation was endorsed by the Parliament.

Two years after an election, the boundaries of seats in the LA are redrawn based on population and communities of interest; whereas the LC has avoided that scrutiny or scrutiny of review. The LC is argued by some to be over-representative however to decrease the number of representatives would require a referendum. The current number of seats (36) was determined in the 2005-06 reviews where the Greens WA requested equal representation across the six regions.

There are four major parties who have had some form of continuous representation in the parliament: WA Labor (the current Government), The Liberals WA, The Nationals WA, and the Greens WA. When it comes to electoral reform, only WA Labor has held a particular view – that that the Legislative Council should be one statewide electorate<sup>1, 2</sup> whilst the other three parties have held varying views over the years, often in line with their constituent’s views and electoral sentiments.

To get elected to the parliament, LA members must reach a majority either in their own right or after preferences. In the LC, members must gain one quota of a vote either in their own right or after preferences. One LC quota is equivalent to 14.29% of the region that the member is contesting.

Like the State of Victoria, Western Australia allows for group ticket voting (GTV). This process allows for parties to negotiate a full list of preferences for the Legislative Council, in effect helping each other to maximise a change of gaining one quota. At the last election several parties worked together to better each other’s chances of election: the Health Australia Party, Great Australian Party, Daylight Saving Party, Liberals for Climate, Liberal Democrats, Sustainable Australia Party, and the Western Australia Party.

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<sup>1</sup> Page 4 (page 59) [https://www.parliament.wa.gov.au/parliament/library/MPHistoricalData.nsf/2dcc1c76055b0c8c48257fc600037ddc/96a9bed8b264d287482577e0002ccc4c/\\$FILE/MP321%20Bryce%20M%20.pdf.PDF](https://www.parliament.wa.gov.au/parliament/library/MPHistoricalData.nsf/2dcc1c76055b0c8c48257fc600037ddc/96a9bed8b264d287482577e0002ccc4c/$FILE/MP321%20Bryce%20M%20.pdf.PDF)

<sup>2</sup> Page 138, [https://walabor.org.au/media/hptfyp13/2019walabor\\_platform.pdf](https://walabor.org.au/media/hptfyp13/2019walabor_platform.pdf)

Despite ruling out any electoral form during the campaign, a few weeks after the election the Premier and the new Minister for Electoral Affairs announced a review of the LC would occur. There would be four experts appointed to a Ministerial Expert Committee (the Committee) and there would be two terms of reference:

1. How electoral equality might be achieved for all citizens entitled to vote for the Legislative Council; and
2. The distribution of preferences in the Legislative Council's proportional representation system.

The Committee has a website where submissions are requested from the public and has recently released a research paper further outlining what they seek to answer the following questions to help guide recommendations for the terms of reference:

- a) which model (state electorate or region-based) is preferable to achieve electoral equality
- b) the strengths and drawbacks of each model;
- c) whether any other electoral model, not covered in this Discussion Paper, is better suited to achieve electoral equality, with reasons; and
- d) what changes (if any) should be made to the distribution of preferences in the Legislative Council's proportional representation system, including group voting tickets.

This paper will attempt to succinctly address the four questions as posed by the Committee, as well as address the two matters which are the core focus for the Committee.

## Regions verse Statewide electorate

As the Committee highlights in their discussion paper, some states within Australia use a statewide electorate versus different regions. In Queensland, Northern Territory, Australian Capital Territory and New Zealand there is no Legislative Council but in New Zealand has this and robust committee processes, open to public feedback on each Bill before Parliament. Due to the same reforms in the 1960s which prevent a reduction in numbers of seats in the LC, we cannot entertain an abolishment of the LC without a referendum.

A regional model is applied in Victoria and Western Australia. It has arguably served both states well, allowing minority concerns and regional concerns to be aired. In Western Australia particularly, it has helped parties to maintain representation across regions where they may not hold seats. For example, the Liberals have no lower house seats in the Mining and Pastoral region or Agricultural region, yet they did accrue one quota in each to ensure a Liberal represents members in both regions.

A statewide model is applied in New South Wales and South Australia. In both councils, members serve two terms before they are up for re-election. This poses a risk to democracy, as members may vote in a populist figure but not really intend for them to be elected for a term let alone two. Members for populist parties such as One Nation and SA Best / the Nick Xenophon Team can virtually do what they like for their 6-8 year terms. This means there's no mechanism for the public to vote out members who aren't doing their jobs.

Another key issue with a statewide electorate is that there is generally a massive centralisation of power. No major party in NSW has its headquarters outside of Sydney and there are only three or four members who retain regional offices. Regional issues are less likely to be considered without regional members of all persuasions having a chance to represent certain areas. It also means it's harder for those constituents to get political or become political. This is a concern when discussing electoral equality.

## Electoral equality

The concept of electoral equality has not been defined by the Committee. I will define electoral equality by my personal definition and understanding as:

*The right to a vote for a representative in Parliament, based on a geographical area, who is elected by a fair and robust voting system.*

I would like to also define two further terms which will be referenced heavily throughout the remainder of this document: equity and equality. Equality is “ensuring that every individual has an equal opportunity to

*make the most of their lives and talents.*<sup>3</sup> I will define equity as: *giving people the tools and opportunities they need in order to make their life fair.*<sup>4</sup> Although both equity and equality seek a similar resolution – to promote fairness – they are applied differently.

Equity and equality are most often applied when considering decisions affecting the public, such as public health orders, or when approaching complex problems. The Milken Institute of Public Health at the George Washington University acknowledges this by stating “recognizing (sic) the difference between equality and equity is important in just about every sphere of life: public health, politics, education, racial justice, and more.”<sup>5</sup>

If the Committee is approaching the terms of reference as a complex problem, then it’s highly important to consider both concepts of equity and equality when putting forward recommendation(s) for the government to consider.

### Addressing Electoral Equality in a Western Australian context

If we define electoral equality as the above, then there must be some sort of malapportionment or a mechanism to ensure regional and regionally based Western Australians remain in our Parliament. The Committee must also consider the size of our state and the different communities of interest.

At the last boundary review in 2019, there was some concern about Kalbarri moving from the Agricultural Region to the Mining and Pastoral region however this was the only option available to ensure that the population quotas were met. The Kimberley was only able to remain above quota by adding more geographical representation. Something the Committee may want to consider is how to ensure small regional and remote communities can best reach electoral equality.

When I consider the above, it’s clear that the current model works well to ensure that members are accessible. If the Mining and Pastoral region was split to provide better geographical representation, then the malapportionment would be greater for our more remote communities. Malapportionment should be a useful tool to help drive regional development and population growth, theoretically decreasing the malapportionment itself over time. This is more a consideration of Government than anything else.

There could, however, be a more diverse Parliament. This will also help achieve electoral equality by highlighting the needs of specific demographics and the stigmas they face in society. For example, the Legislative Council in the 41<sup>st</sup> Parliament is expected to have 15 female members, which is only 41.7% of the council. Yet women are roughly 55% of the Western Australian population. The 2021 election has elected the first ever Aboriginal member of the Legislative Council, Hon Rosetta Sahanna<sup>6</sup> for the Mining and Pastoral region. It has arguably taken too long for this to occur. The LGBTIQ+ community may construct 11% of the population<sup>7</sup>, we only have two openly LGBTIQ+ members of the Legislative Council, not four.

If we turn to regional Western Australia, there are still massive inequities and inequalities. These aren’t going to disappear overnight. People living in country areas experience poorer health outcomes and mortality rates than the rest of the Western Australian population.<sup>8</sup> Despite being 2021, there are towns with insufficient power to store food and drink effectively. Telecommunications infrastructure is also lacking across large swathes of the State. Road infrastructure is relied upon heavily by regional Western Australians, and with large distances between towns means that there is a greater chance of car crash resulting in death or serious injury. At time of writing, there had already been 62 deaths on roads in WA, of which 43 (69%) were on regional roads.<sup>9</sup>

Some consideration should be given to the levers currently available to close these gaps. In Quebec, the Parliament is considering using public funding to ensure parties meet or exceed diversity. This model will

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<sup>3</sup> <https://www.equalityhumanrights.com/en/secondary-education-resources/useful-information/understanding-equality>

<sup>4</sup> <https://social-change.co.uk/blog/2019-03-29-equality-and-equity>

<sup>5</sup> <https://onlinepublichealth.gwu.edu/resources/equity-vs-equality/>

<sup>6</sup> <https://www.abc.net.au/news/2021-03-16/red-wave-across-regional-wa-sees-second-kimberley-mp-elected/13249734>

<sup>7</sup> <https://ww2.health.wa.gov.au/-/media/Files/Corporate/general-documents/Health-Networks/PDF/LGBTI-Health-Strategy-2019-2024.pdf>

<sup>8</sup> <https://healthywa.wa.gov.au/-/media/Files/Corporate/general-documents/Sustainable-Health-Review/Background-papers/Addressing-inequity.pdf>

<sup>9</sup> <https://www.rsc.wa.gov.au/Statistics/Latest-Statistics>

mean if there are 50% women on a ticket, then the party gets 10% extra funding. If they have over 50% and their party demographic is more than 50% male, then the party gets 30% extra funding. They are considering whether to consider regionality too and the ability to ensure regional representation. In New Zealand there are specific seats for Māori candidates, in order to improve social outcomes for Māori. If parties want to win those seats, they must field Māori candidates. Either of these models could be easily applied here. In Western Australia, we have specific seats for regional members of Parliament in our Legislative Council. This ensures regional people have a voice to fight for a better standard of living.

Group ticket voting should be abolished. It does not enable better equity or equality; and there are other methods to ensure that voters can elect the people they want to elect, such as the Australian Senate model. I understand that The Greens WA had a private members bill in 2019 to abolish ticket voting and replace it with a system similar to the election of the Australian Senate. This legislation was not passed but received wide support.

Consideration should also be given to employing the Robson Rotation method of candidates appearing on the ballot paper. The Robson Rotation is a process of rotating candidate names within each column so that the advantage of appearing at the top of the column or directly below another popular candidate are shared equally between candidates.<sup>10</sup>

## Conclusion

The ground rules for representation must not only be fair but they must be seen to be fair. It is vital that, while inequalities exist in this vast state, that context remains king and equity is kept front of mind when discussing electoral equality.

Given the above, I therefore request the Committee consider:

1. **Equity:** Retaining all six (6) regions, each with six (6) members. This ensures electoral equality by recognising the inequities that many regional voters face. There may need to be consideration of regular reviews.
2. **Fairness:** The abolishment of ticket voting and replacing with a more robust system, which voters can easily comprehend. Implementing a Robson Rotation system to remove the need for ballot draws. Closing the register of political parties more than 6 months before an election, and a page featuring standardised biographies for political candidates. This would provide voters with an equal opportunity to know the candidates a party places forward for the election.
3. **Equality:** Consideration of publicly funding targets for parties wishing to field candidates in the Legislative Council. The proposed Quebecois system would be a solid grounding for further investigation. Some suggestions of targets for winnable seats include: candidates with lived experience in regional towns for a set period of time, gender, First Nations representation.

If the Committee decides to move away from a region-based model then I request the Committee consider models which ensure equity, fairness and equality are part of any changes to the way Western Australians vote. The retention of regional representation is vital, as current inequities and inequalities won't disappear overnight and a much more concerted effort from politicians will be required to do ensure they do.

Warm regards,

Tay Alers

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<sup>10</sup> <https://www.tec.tas.gov.au/Info/Publications/HareClark.html>