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Holders

Submission Cover Sheet

Inquiry into the operation of the 2024 ACT Election and Electoral Act 1992

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Inquiry into the operation of the 2024 ACT Election and Electoral Act 1992

Changing away from the Hare-Clark system

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This submission to the Inquiry into the operation of the 2024 ACT Election and the Electoral Act 1992 proposes changing from the Hare-Clark system to a Mixed Member Proportional (MMP) system. MMP combines single-member electorates with a compensatory proportional allocation. Thus enabling the benefits of single-member electorates whilst maintaining the proportionality enshrined in the Electoral Act 1992.

The change would ensure adequate representation across the Assembly, provide voters with a familiar system similar to federal elections, and allow candidates to campaign for their electorate without competing against colleagues from their own party.

It calls for the Inquiry to recommend a change in the electoral system for the ACT Legislative Assembly to consider.

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1 Preamble

The author thanks the Inquiry for extending the submission period.

The Inquiry into the operation of the 2024 ACT Election and the *Electoral Act 1992* includes consideration of how members of the ACT Legislative Assembly are elected under the Hare-Clark system. This submission proposes that the Assembly consider alternatives, including the possibility of amending the Act to enable a change of system.

The Electoral Act 1992 notes in its Preamble that:

2 The electors chose the proportional representation (Hare-Clark) system as outlined in the Referendum Options Description Sheet set out in the *Australian Capital Territory (Electoral) Act 1988* (Cwlth), schedule 3.

Proportionality was therefore the key reason the system was adopted. Hare-Clark was later entrenched in the **Proportional Representation (Hare-Clark) Entrenchment Act 1994**, which requires both a two-thirds majority of the Assembly and a majority of electors at a referendum for any change:

5.(1) This Act, or any amendment or repeal of this Act, has no effect unless it is passed by—

- (a) at least a $\frac{2}{3}$ majority of the members of the Legislative Assembly; and
- (b) a majority of electors at a referendum held in accordance with the *Referendum (Machinery Provisions) Act 1994*.

In the author's view, the appropriateness of the electoral system is relevant to this Inquiry under the terms of reference, specifically:

- (2) voter engagement, including:
 - (d) increasing voter turnout and participation in elections and encouraging political activity;
 - (e) expanding voter franchise;
- (3) the voting process, including:
 - (c) voting instructions, as provided by the ACT Electoral Commissioner;

For these reasons, the author submits this report for consideration by the Inquiry.

2 Introduction

The Australian Capital Territory (ACT) has been self-governing since 1989 [1]. Since 1995, members of the ACT Legislative Assembly have been elected under the Hare-Clark system [2]. The Assembly began with 17 members, and was later expanded to 25 members in 2016, with five representatives elected from each of five electorates.

Under Hare-Clark, voters rank candidates in order of preference. Candidates who reach a quota are elected, and their surplus votes are redistributed. The candidate with the fewest votes is then eliminated, and their preferences are distributed. This process continues until five candidates in each electorate are elected [3]. If a ballot is not fully completed, it becomes exhausted once all its listed candidates are eliminated.

This submission proposes an alternative: a mixed-member proportional (MMP) system. MMP combines single-member electorates with a proportional correction, applied at the ACT-wide level. After the single-member votes are counted and winners declared, the ACT-wide party vote is tallied to determine the total number of seats each party is entitled to. The difference between single-member seats won and overall entitlement is corrected through proportional allocation. Typically, a party must secure at least 5% of the primary vote to qualify for proportional seats, although parties that win at least one single-member seat are also included.

In practice, this would mean voters cast two votes: one for a local candidate and one for an ACT-wide party. This mirrors the process familiar to voters in federal elections and many state elections, making the system easier to understand while maintaining proportional outcomes.

3 Issues with the Hare-Clark system

The Hare-Clark system has several shortcomings, and this submission does not attempt to cover them all. The focus here is on: (i) competition among candidates from the same party, (ii) comprehension by voters, (iii) the burden on voters during pre-polling and election day, and (iv) the quality of constituency representation.

This submission asks the Inquiry to consider whether Hare-Clark remains an appropriate system for electing the ACT Legislative Assembly.

3.1 Restrictions on the candidates

With up to five candidates per party but only two to three winnable seats for the major parties, a number of issues arise. In some cases, a party favours only two or three candidates, or those candidates are clearly the frontrunners. This leaves the remaining party candidates largely inactive, reducing political activity. In other cases, all candidates are equally competitive, which leads to intra-party rivalry as they compete for a limited number of winnable positions.

This occurs because many voters rely on their party's how-to-vote card rather than distinguishing between individual candidates. Only a minority of politically engaged voters actively choose between their preferred party's candidates.

The result is to distance candidates in the initial campaign by carving out the electorate in which to campaign individually, creating turf wars.

Nevertheless, Hare-Clark can provide opportunities for voter expression. For example, in Brindabella, Labor voters showed disapproval of the incumbent without abandoning the party altogether. Under a single-member system, this would have required voters to abandon their party entirely to send such a message — a choice that is both difficult and arguably unfair.

3.2 The toll on the voter

Multi-member electorates often result in up to five candidates per party contesting five available seats. While not all parties nominate the full slate, the major parties generally do. As a result, voters are frequently approached by a large number of candidates distributing different how-to-vote cards. Even if they take cards only from the major parties, a voter may still carry around ten cards, and in some cases up to thirty.

This constant approach can be overwhelming. During pre-polling in 2024, many older voters with mobility aids struggled through campaign areas only to be handed stacks of how-to-vote material. The 100 m exclusion zone around polling places did little to reduce the pressure. One voter asked the author, “Why are people from the same party giving me different how-to-vote cards?” — a question that highlights the confusion caused by intra-party competition. Other voters proudly announced which party they would be voting for whilst running the gauntlet of political advertising, only to be taken aback by having to choose between individuals within the party.

By contrast, single-member electorates would allow each party to field only one candidate, providing a clearer choice for voters and reducing unnecessary stress.

3.3 ACT wide comprehension

Despite significant education efforts, many voters do not understand how the Hare-Clark system operates. The rules are set out clearly in the **Proportional Representation (Hare-Clark) Entrenchment Act 1994**, but practical understanding remains low.

During the 2024 ACT election, the author conducted informal questioning at pre-polling locations and found that many voters could not explain the system. Follow-up conversations with Canberra residents, including public servants, revealed similar knowledge gaps. This may be due in part to the ACT’s transient population — with many arriving for study or public service work — who are unfamiliar with the Territory’s unique system.

Adopting a voting system more consistent with the federal model would reduce this problem and make the process easier for voters to understand.

3.4 Representation of the constituency

In the 2024 ACT Legislative Assembly election, the Labor Party formed a minority government with 10 of 25 seats. Importantly, this election also saw the first independents

elected since 2001: Fiona Carrick (FCI) and Thomas Emerson of Independents for Canberra (ICP). The Greens lost two seats despite only a modest decline in their primary vote. This outcome suggests that the seat distribution under Hare-Clark did not fully reflect first-preference voting patterns.

Table 1: 2024 ACT Legislative Assembly results, showing the overall primary vote of parties that won seats.

Party Name	Primary Vote (%)	Seats Won	Seat Proportion (%)
Labor	34.1	10	40
Liberals	33.4	9	36
Greens	12.2	4	16
ICP	8.5	1	4
FCI	2.7	1	4

Table 1 highlights the discrepancy between primary votes and final seat allocation. ICP in particular was underrepresented, while the Greens were overrepresented.

While Hare-Clark is designed to mirror voter preferences through proportional representation, these results suggest that it does not always achieve this goal in practice.

4 MMP

Mixed Member Proportional (MMP) systems combine single-member electorates with proportional correction. They are used to elect the unicameral parliaments of Germany and New Zealand, as well as the devolved assemblies of Scotland and Wales, and London’s Legislative Assembly. These international examples provide practical models for adopting MMP in the ACT Legislative Assembly.

This submission therefore asks the Inquiry to consider replacing Hare-Clark with an alternative proportional system, with MMP identified as the most appropriate option.

4.1 Benefits of single-seat electorates

Single-member electorates ensure that local issues remain central to a candidate’s campaign. This mirrors the structure of local councils, which the ACT Legislative Assembly effectively performs. As in federal elections, candidates in single-member electorates must balance local concerns with their party’s wider policy platform. Independent candidates, in particular, can focus their campaigns on local issues while still drawing attention to ACT-wide priorities.

It allows candidates to campaign over their entire electorate and fight only with candidates of other parties rather than splitting the party vote.

Although single-member electorates often favour the major parties, a proportional correction ensures that smaller parties and independents can still gain representation.

4.2 Benefits of proportional systems

Proportional systems guarantee fairer representation for smaller parties. For example, in 2024, the FCI candidate gained a seat with only 2.7% of the vote in one electorate, while the Greens won 16% of Assembly seats despite receiving just 12.2% of the primary vote. If the election had been conducted solely with single-member electorates, the two major parties would have secured an even greater share of seats, despite neither achieving more than 34% of the primary vote.

By comparison, proportional systems such as the federal Senate more closely reflect voter support. In the 2025 federal election, Labor won 34.6% of the national primary vote. This translated to 62% of seats in the House of Representatives (single-member electorates) and 40% of seats won in the Senate (multi-member electorates). The latter outcome more accurately reflected the share of first preferences.

4.3 How the MMP system merges the two

MMP combines the strengths of both systems. Voters cast two votes: one for a local candidate (first vote) and one for a party list (second vote) provided by each party before the election. The first vote determines single-member electorate winners, while the second ensures proportionality across the Assembly. If a party's number of seats from the first vote is less than its proportional entitlement from the second vote, additional seats are allocated from the party list to balance representation.

This model is similar to that used in New Zealand. There, the system can result in "overhang seats" when a party wins more single-member electorates than its second vote entitlement. In such cases, New Zealand expands the size of parliament to accommodate the extra members. Germany, by contrast, addresses overhang seats by removing candidates elected by the constituency that received the fewest votes, maintaining proportionality.

Scotland, Wales, and London use a different system, counting the elected members in the first round before assigning members from the party lists. This is done in order of least representation to ensure proportionality is maintained and stops once the Assembly seats are filled. This prevents overhangs by default and would benefit minor parties in the event they win more electorates than they would otherwise be entitled to by the second vote.

The ACT would need to determine whether to allow overhang seats or maintain a fixed Assembly size. The author's preference is for the New Zealand model, which preserves proportionality by adding seats, but recognises that the ACT may prefer a fixed-size Assembly in practice.

There are no inactive candidates in an MMP system. In each single-member electorate, every election is a fight. This is true even when the electorate is not marginal since the candidates still need to campaign for the second vote to win control of the Assembly.

4.4 Example in the 2024 ACT Election

If MMP had been applied to the 2024 ACT election, the Assembly would have achieved a more proportional outcome without changing its overall size, nor would it have dictated a different party in control of the Assembly.

For this demonstration, electorate winners were estimated by aggregating results from four polling places in each electorate and applying overall preference flows. Table 2 shows the calculated winners for each single-member electorate.

Table 2: Calculated winners in each single-member electorate, using aggregated polling place data from Elections ACT [3].

No.	Brindabella	Ginninderra	Kurrajong	Murrumbidgee	Yerrabi
1	Lib	ALP	ALP	Lib	Lib
2	Lib	Lib	Lib	Lib	ALP
3	Lib	ALP	Greens	ALP	Lib
4	ALP	ALP	ALP	FCI	ALP

Table 3 then compares the electorate results to the proportional entitlement based on adjusted ACT-wide first preferences (the second vote in this example), with the resulting additional seats assigned under the column “Second”. Parties with less than 5% of the vote are excluded unless they won a single-member seat (as with FCI). The final distribution shows how MMP would have adjusted representation to match voter support more closely.

Table 3: Seat allocation under an MMP model, using adjusted ACT-wide first preferences (parties below 5% excluded unless they won a seat).

Party	First	Entitled	Second	Adjusted (%)	Assembly (%)
Labor	9	10	1	37.54	40
Liberals	9	9	0	36.78	36
Greens	1	3	2	13.39	12
ICP	0	2	2	9.36	8
FCI	1	1	0	2.93	4

This model shows that under MMP, both the Greens and ICP would have been more accurately represented, while the overall outcome of the election would not have been fundamentally altered.

5 Conclusion

The ACT Legislative Assembly has matured since self-government and now requires an electoral system that reflects its role as both a local and territory-wide legislature. Hare-Clark has served the ACT well, but its complexity, the risk of vote exhaustion, and the ensuing intra-party fighting suggest that reform is needed.

This submission has argued for replacing Hare-Clark with a Mixed Member Proportional (MMP) system. MMP would provide the ACT with the benefits of single-member electorates, ensuring that local issues remain central, while also delivering proportional representation that reflects the diversity of voter preferences.

Adopting MMP would make the ACT's electoral system clearer, more representative, and better suited to the population. It would ensure that the Assembly continues to evolve in line with democratic principles and remains capable of representing the full breadth of the ACT community.

No electoral system is perfect, but it is the author's view that MMP would better serve the ACT.

References

- [1] Legislative Assembly for the Australian Capital Territory, "The road to self-government," 2024.
- [2] Elections ACT, "Fact sheet - hare clark," 2024.
- [3] Elections ACT, "Previous assembly elections," 2024.