

Submission

Electoral Commission Review on the Mixed Member Proportional
(MMP) Electoral System

31 May 2012

Electoral Commission
PO Box 3220
Wellington 6140

To whom it may concern,

Please find attached the McGuinness Institute's submission on the Electoral Commission Review on the Mixed Member Proportional (MMP) Electoral System. The Institute believes that the electoral system is a pivotal instrument for ensuring that the people of New Zealand have a voice in the nation's direction. A well-functioning system therefore is fundamental to New Zealand's long-term wellbeing. We welcome this opportunity to contribute research in this area.

In this submission we provide context on two changes occurring in New Zealand's social and political landscape – namely the increasing population and diversity of population; and the indications of declining voter engagement. These have the potential for significant impact on the operation of our voting system.

We also outline our specific responses and provide a brief assessment of the questions provided by the Electoral Commission in the *Consultation Paper*.

We would like to register our interest in speaking on our submission. Our contact details are provided below.

Kind regards,



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McGuinness Institute Submission: Review on the MMP Electoral System

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About the McGuinness Institute

The McGuinness Institute, formerly the Sustainable Future Institute, was founded in 2004 and is a non-partisan think tank working for the public good, contributing strategic foresight through evidence-based research and policy analysis.

Experience

In preparing this submission we draw on two of the McGuinness Institute's projects; *Project 2058* and *Project Constitutional Review*.

Project 2058 is the Institute's flagship project. It includes a research programme that aims to explore New Zealand's long-term future with a view to put forward a National Sustainable Development Strategy (NSDS) for New Zealand. Of particular relevance to this submission is our July 2010 publication Report 8: *Effective Māori Representation in Parliament*¹, which explored the mechanisms that could be implemented to improve the quality of Māori representation in the New Zealand. This report forms part of a package of eleven research reports and working papers prepared by the Institute to examine the shared goals of Māori and matters of Māori representation.

Project Constitutional Review is an important focus for the Institute's work in 2012 and 2013. This project began in December 2010 following the announcement by Deputy Prime Minister Bill English and Māori Affairs Minister Pita Sharples that the Government would conduct a wide-ranging review of New Zealand's constitutional arrangements. The aim of *Project Constitutional Review* is to build capacity so that New Zealanders – in particular youth between the ages of 18–25 – can engage with the Constitutional Advisory Panel in an informed and considered manner. The Institute is also running a public engagement workstream focusing particularly on youth, called *EmpowerNZ*.² The Institute will be running a workshop at Parliament on the 28th and 29th of August 2012, for young New Zealanders to explore what a workable constitution for the 21st Century could look like. This conference aims to create a space in which young New Zealanders can explore the future of New Zealand's constitution and contribute to the current Constitutional Review. The purpose is to facilitate a prescription-free exploration, creating an opportunity to treat the constitution as a blank canvas.

¹ This report is available on our website, http://mcguinnessinstitute.org/Site/Publications/Project_Reports.aspx

² See empowernz.co.nz for more on this project.

Introduction

The McGuinness Institute feels that the current MMP electoral system is working well for New Zealand. However, we would like to emphasise the importance of the Electoral Commission considering the long-term implications of improving the MMP system for future generations of New Zealanders. We would like to draw attention to a statement made by the 1986 Royal Commission that:

The best voting system for any country ... will be one which provides the most satisfactory overall balance, taking account that country's history and current circumstances. (Royal Commission, 1986: 11)

Of significance here is the need to recognize how changing circumstances can impact the ability of an electoral system to deliver outcomes for its population, and that the system must be capable of adapting to changes in those circumstances.

This submission is divided into two parts. The first addresses two general transformations in New Zealand's social and political landscape that could have a major impact on the context in which our voting system operates. These concerns are the increasing size and diversity of the population, and indications of declining voter-engagement with politics in New Zealand. These subject matters have been of long-standing interest to the Institute. The second part addresses the specific questions outlined in the *Consultation Paper on the 2012 Review of the MMP Voting System*. We briefly assess these questions with a particular view to how these issues are affected by the points raised in the first part of the submission. We provide a recommendation for the best course of action for each question.

It is important to note the complicated nature of electoral reform. The Institute understands why the consultation paper has been divided into questions on particular electoral mechanisms, however, there is an inherent weakness in this process; having broken the problem down it can be very difficult to build it up again. We believe that electoral change should be a holistic consideration. There are a variety of different mechanisms that can be changed to address problems or generate outcomes; however examining these in isolation can distort the broad view that looks at the strategic options available to address the overarching purpose of the MMP review. In preparing Report 8: *Effective Māori Representation in Parliament*, the Institute highlighted different ways for adjusting the parliamentary system, particularly with a view to Māori representation.³ In developing this list it became clear that there is a complicated interrelationship between these mechanisms and a particular outcome can be pursued in a variety of ways.

What is critical, and should be addressed through the questions in the Consultation Paper, is clarity over the primary purpose behind the voting system. The 1986 *Report of the Royal Commission on the Electoral System* provides 10 criteria for judging voting systems; Fairness between political parties, Effective representation of minority and special interest groups, Effective Māori representation, Political integration, Effective representation of constituents, Effective voter participation, Effective government, Effective Parliament, Effective parties, and

³ See page 81 of Report 8: *Effective Māori Representation in Parliament*

Legitimacy (Royal Commission, 1986: 11-12). The report notes that there are a number of competing objectives that have to be satisfactorily balanced. Identifying those objectives that should be prioritized is the basis for making strategic decisions concerning how the mechanisms in the electoral system are calibrated.

Finally, the electoral system is a piece of the wider constitutional pie. The current constitutional review is a rare opportunity to discuss the future of New Zealand and provides a broader forum for examining the shape of New Zealand's political processes. However, the electoral system is a pivotal instrument for ensuring that the people of New Zealand have a voice in the nation's direction. The Institute supports any initiatives that increase the transparency and integrity of our political institutions.

Part One: The Evolving Electoral Landscape

(i) Increased Population and Increased Diversity of Population

In 2010 the McGuinness Institute, formerly the Sustainable Future Institute, published *Report 8: Effective Māori Representation in Parliament*. This submission draws from the information in that Report, in particular emphasising that New Zealand's population is expected to increase overall, especially the Māori population, and diversify significantly.

The national ethnic population projections for the period 2006–2026 indicate that New Zealand's population will exhibit greater ethnic diversity in the future. Māori, Asian and Pacific populations will comprise an increasing proportion of the overall New Zealand population (Bromell, 2008: 32).

Furthermore, projections indicate that the Māori population, with a high birth rate and increasing life expectancy, is set to increase at a steady rate, resulting in a Māori population that could make up 16% of the total New Zealand population by 2026 (Statistics NZ, 2010). Interestingly, the Asian and Pacific Island populations are expected to increase at a much faster rate, with the Asian population equalling the Māori population by 2026. In contrast, the 'European or other' population group is both ageing and proportionately in decline. More and more of New Zealand's population increasingly identifies with one or more ethnic groups. (Statistics NZ, 2006). In addition, New Zealand's total population is projected to reach 6.71 million by 2061 (Statistics NZ, 2009: Table 1).

These factors will all create new circumstances which future governments must work to address. Therefore, the McGuinness Institute wishes to stress the importance of New Zealand's need for an electoral system that will produce a parliament representative of its ethnic makeup.

(ii) Voter Engagement Trends

In making our submission, core areas of concern are the current and future levels of voter engagement, voter understanding, and voter confidence of the political and electoral system and its outcomes. We have examined three key elements relating to this – general voter turnout, youth engagement and Māori engagement, and are concerned at the general decline in these three areas, and what impact this will have on future of New Zealand's political landscape. We note that while voter turnout rates are not an exact science, they can be a good indicator of the confidence of a population in a political institute, the importance they attach to them, and the extent to which they feel their participation can make a difference (MSD, 2010). We stress the importance of these areas for the MMP review, in light of enhancing voter understanding and confidence in the system.

Downward Voter-Turnout Trends

A strong trend both in New Zealand and internationally, is declining voter turnout rates. Voter turnout in the mid-20th Century in New Zealand was almost consistently very high – between 1922 and 1972, it ranged from 83.3% (1931) to 93.5% (1946 and 1949) (Electoral Commission, n.d.). The highest turnout was recorded in 1984 with 93.7% of eligible voters voting (ibid.). This is significantly higher than voter turnout in recent elections.

In 2010 the Ministry of Social Development published *The Social Report*, and noted the general downward trend of voter turnout in New Zealand since 1984 (MSD, 2010). The last three elections have seen a 77% turnout in 2005 and 76% turnout in 2008 (ibid) fall to a new low in the last century of 74.21% in 2011 (Electoral Commission, 2011).

Youth Voter-Turnout and Civic Engagement

Within this general downward voter-turnout trend, an area of particularly alarming concern is the even larger proportion of young New Zealanders who are not voting. This is obviously especially important with regards to the future of citizen engagement with the political system. As noted by several academics, for young people, voting is not necessarily to be considered an indicator of civic engagement. Dr Jennifer Curtin, a political science lecturer at Auckland University notes that ‘the way we measure political participation – for example, through trade-union or party membership – does not capture the way young people nowadays do politics’, and that other formats of political engagement, for example, online viral campaigns may be a more accurate measure of actual interest and engagement with civil society (Black, 2011).

The system, therefore, needs to be more accommodating of the ways in which young people are accustomed to carrying out their civic interests. However, in addition to that, there is still scope within the current methods of civic participation to address the lack of young New Zealanders becoming enrolled of the electoral roll, and voter-turnout on election day. Certainly, there is a growing trend of young people not having an informed understanding of our political system – with a study by the Electoral Commission noting that two prevalent views of some non-voters were ‘I’m in the dark’, or ‘It’s not on my wavelength’ (Electoral Commission, 2008). There is evidence to suggest that developing a ‘voting habit’ is one of the keys to ensuring voter participation, and thus especially important for young people (Black, 2011).

New Zealand has a poor record of civic education of young people, and we are particularly concerned that little is being done to remedy the situation. One of the core recommendations of the 2005 Inquiry into the Constitution was to increase civics and citizenship education in schools to provide young people with the knowledge needed to become responsible and engaged citizens (Constitutional Arrangements Committee, 2005). Graeme Aiken, a senior lecturer at Auckland University has recommended that New Zealand’ implement a more specific civics education course into New Zealand’s social studies education system (Electoral Commission, 2006). Citizenship education should engage young people to include an understanding of identity, civil and legal rights, social concepts and political concepts (ibid.). To this end the Institute also supports exploring the possibility of lowering the voting age to 15 or 16 so that civics and political education is relevant and addressed in schools.

One of the McGuinness Institute’s key areas of work presently is on the current Constitutional Review, and in particular a project called *EmpowerNZ*, which aims to raise awareness and facilitate discussion among young New Zealanders around the review. We are concerned by the lack of awareness in the general population, and particularly among young people about this Constitutional Review, and its potential to enact positive changes that have far-reaching benefits for New Zealand’s future.⁴

⁴ See empowernz.co.nz for more on this project.

Māori Voter-Turnout

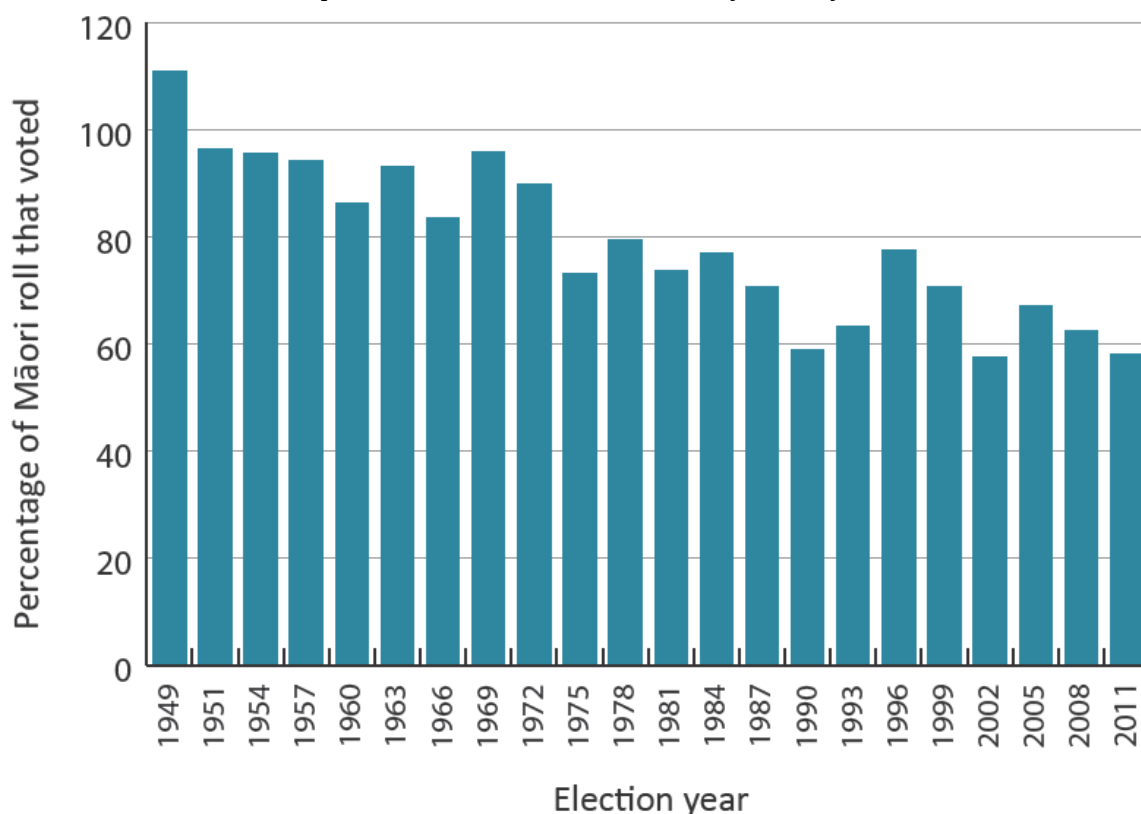
Our findings on Māori voter-turnout in our 2010 report *Effective Māori Representation in Parliament*, are of particular relevance to this submission – chiefly that turnout for Māori voters is significantly lower than that of with non-Māori voters. Low turnout is considered to be influenced by a number of demographic characteristics within the Māori population; for example the higher proportion of Māori people between the 20-30 age bracket, lower income levels, and lower levels of formal education (SFI, 2010). We believe it is particularly important for the Electoral Commission to address the low turnout of Māori voters in order to maintain the legitimacy of our democracy.

There has been a significant decline in voter turnout in recent New Zealand elections, and this trend has been even more pronounced in Māori electorates. For example, in 2008 the highest turnout in a Māori electorate was lower than in the lowest turnout in a general electorate (Chief Electorate Office, 2008; Electoral Commission, 2009). The 2011 Māori roll turnout was the lowest in any election since the first Māori roll was compiled in 1949, apart from 2002 when it was 57.6%. Turnout for those on the Māori roll was 58.2% – a decrease from the 2008 Māori roll turnout of 62.4% (Parliamentary Library, 2012: 10-11). This is a 16 percentage points lower than the turnout for the general roll of 74.21% (ibid.)

This table demonstrates that the turnout of voters on the Māori roll has fallen over time. While Māori are just as likely to enrol as non-Māori, they are much less likely to cast a vote (SFI, 2010). It is notable that while turnout on the Māori and general rolls differ significantly, both rolls show a trend of declining turnout over time (ibid.).

Figure 1: Māori roll turnout 1949-2011

Source: SFI, 2010: 46; adapted for 2011 from Parliamentary Library 2012: 10



The Electoral Commission commissioned UMR research in 2006, which indicates that there are several demographic characteristics that are predictors of low turnout. For example, the Māori population is, on average, more youthful, and has lower levels of both income and formal educational achievement than non-Māori, factors which influence the lower levels of turnout in the Māori population (Electoral Commission, 2007; UMR Research, 2005:5). The UMR research indicated that Māori non-voters were not so much dissatisfied with national and regional politics, so much as disengaged from it (UMR Research, 2005:5). However, although they are disengaged from national politics, the evidence suggests that Māori non-voters are not disengaged from New Zealand society as a whole (ibid.). Further, a point that is not noted often in the literature is the strong possibility that Māori voters actually vote for the number of Māori electorates through registering for the Māori roll, therefore directly affecting the number of Māori MPs in the house before the election takes place. This means that many Māori may feel that they have met their obligations and do not need to vote at the election. Māori non-voters are as likely as Māori voters to have opinions on prospects for the economy, their personal standard of living, and for unemployment, among other factors (ibid.).

Summary

The trends noted above are likely to significantly change the future electoral landscape in New Zealand. It is important the electoral system has the capacity to recognise and respond to these changes in order to successfully balance the electoral mechanisms to achieve the best objectives for New Zealanders. The key questions addressed in Part 2 of this submission are largely informed by these concerns and focus on how the particular issues raised need to be answered in the context of a changing population and declining voter-engagement.

Part Two: MMP Electoral System Review Areas for Consideration

Key Question One: What thresholds or hurdles should parties have to cross to qualify for an allocation of list seats in Parliament?

In order to achieve greater fairness, the electoral system needs to give ‘new and emerging’ political parties a chance to gain list seats in parliament. Additionally, small interest groups, and single-interest parties, who represent a sizeable proportion of the population should have an opportunity to attain political representation. This can only be achieved by reducing the party vote threshold.

Since changing to MMP, an electoral system of greater proportionality of votes to seats, representation of women and minority groups has significantly increased (Cody, 2003: 41). Yet in order to meet the challenges of the changing demographics of New Zealand, in particular, the increased diversity of population, the Institute considers it important that the system be more proportional than it currently is. Furthermore, lowering the threshold could help prevent the downward trend of voter participation rates. Voters who do not support major or medium sized parties would have a higher probability of voting if they could have a greater assurance that their vote for a smaller party would translate into seeing that party represented in parliament.

In Report 8: *Effective Māori Representation in Parliament*, the Institute argued in favour of introducing a lower threshold, and that any perceived disadvantages of doing this are manageable. A 2% threshold would reduce distortion of voter preferences as voters would feel more confident about giving their party vote to a minority party. The presence of overhang in Parliament would be reduced, and greater proportionality could be achieved. We suggest a minimal threshold of 2%, as opposed to no threshold, on the basis that there should be a required level of support before a party is represented in the House.

Having just one threshold of 2% would strike a better balance, would enable new and emerging political forces to gain representation in parliament, and not unfairly disadvantage one smaller party (and the voters it represents) against another. This would have the benefit of simplifying the situation, making it clearer for voters to understand. The balance lies in both encouraging people to vote, even if their voting preference is for a smaller party and that parliament is representational of the public, yet simultaneously maintaining or building public support that the system is producing outcomes (parties and MPs) in parliament that have robust support for their policies.

A 2% party vote threshold should be the only threshold for a party’s entry to Parliament.

Key Question Two: Should a list MP be able to stand as a candidate in a by-election?

The current situation with list MPs being entitled to run in a by-election without first resigning should remain the same. The legislation should specifically provide for this. This potentially may inadvertently reinforce the notion that there are two unequal classes of MPs (Cody, 2003: 30),⁵ and may affect the proportionality as dictated by the previous general election. However on balance, the electorate voters' right to a democratic choice, more information and awareness about candidates, their parties and their policies; and stronger voter understanding and confidence in the system means the status quo is most in line with the long term interests of New Zealand's citizens.

To deny list candidates the opportunity to run in by-elections would disadvantage smaller parties that rely on lists to gain representation in parliament because they would be unable to run high profile candidates in by-elections.

The Legislation should be amended to specifically provide for list MPs being entitled to run in electorate by-elections.

Key Question Three: Should a person be able to stand as a candidate both for an electorate seat and on a party list?

Since 1999, a total of 24 unsuccessful incumbent electorate MPs have been returned to Parliament via the list. Importantly, as noted by political scientist Jack Vowles, over half of those who remained in Parliament did not contest the next election, either because they stood down before hand, or declined to take a list position at the next election, or because parties lower the list ranking of defeated electorate MPs for the next election to less 'winnable' places (Vowles, n.d.). If dual candidacy was banned, smaller parties would inevitably lose precious opportunities for exposure of their policies and ideas, which has the consequence of voters not being as well informed at the polls (ibid.).

On balance, the Institute considers that the current situation should remain. By allowing for dual candidacy, voters stand to benefit from electorate campaigning of politicians, even ones who are not likely to win that particular electorate, primarily through being more informed about their options. Voters can gain more knowledge of their politicians and the parties they represent, through increased awareness of their policies and values.

The current system of Dual Candidacy should continue to be allowed.

⁵ The issue is that that public perception does not consider the two classes of MPs equally legitimate (Cody, 2003: 39). List MPs have been seen as 'second-class' by the general public, media and other parliamentarians (Lundberg, 2006: 60). This may be exacerbated when a party runs a list-MP in a by-election, creating the impression that the party considers it important to try and secure an electorate seat for a list candidate.

Key Question Four: Who should decide the order of candidates on the party lists? Political parties only, or voters?

New Zealand's current closed voting system should remain, however we submit that party lists must be finalised 8 weeks prior to the election, and made widely available to the public. Voter education campaigns that are run in the weeks prior to the election should indicate where voters can go to see these lists, and more effort should be made to explain the difference between list and electorate seats.⁶

We agree with the Royal Commission that closed lists are advantageous because of the unlikelihood of a large proportion of voters knowing enough detail about each of the candidates in order to place them within a list. However, we feel that currently the legislative requirements for when lists will be published are not clear enough, and may not allow the public enough time to make an informed opinion about whether they will indirectly oppose a party's list by not giving them their vote. The 2011's Election's nomination day was less than a month before the election, and we believe this is insufficient time.

If the lists were made publically available early in the electoral campaign, it will give the public the chance to be informed and can cast their vote on that basis. In addition, we submit that the release of the lists be accompanied by profiles of the candidates and a brief statement from the parties about how their list has been created.

Party lists should be decided by the parties and made available to the public 8 weeks prior to the election along with a brief biography of list members to give the public some background on the candidates, and therefore provide some rationale behind the list order.

Key Question Five: What should happen when a party wins more electorate seats than it would be entitled to under its share of the party vote?

The options are either to continue with the current state of 120 seats plus the overhang; or 120 seats plus overhang *and* the proportional balance seats; or a set 120 seats, with the quotient number reduced to compensate for any overhang. We also note that changing the party threshold to 2% as recommended earlier could have a major impact on the levels of overhang experienced by Parliament.

On this question, the issues which we are focusing on are somewhat in conflict. The changing demographics requiring a more proportional result from elections would indicate a preference for the 120 quotients plus overhang *and* proportional balance seats. The effect of one party winning more electorate seats than its party vote share would see the other parties gaining extra seats proportional to that. However, it would not be easy to predict what the total number of MPs in parliament might be from election to election, and there is potential for quite

⁶ Specifically, that the nature of MMP is outlined as a system with 'two front doors', neither of which is less legitimate than the other (Shugart, 2012a). 'Those who enter parliament via the list are elected – directly elected, even – but via a different method' (Shugart, 2012b).

significant increases. Both the increase and the fluctuations might be perceived negatively by the public. This may increase voter dissatisfaction, which in turn may continue the downward trend of voter turnout rates.

Conversely, capping the number of seats at 120 by reducing the number of quotients if an overhang arises is also undesirable, given the rising population of New Zealand over the coming decades. Looking to the long term future of New Zealand, increases in the number of seats is likely and even potentially desirable in order to keep the ratio of citizens to their political representatives relatively steady. Thus, capping the number of seats at 120 exactly seems arbitrary, and may have the unwanted effect of discouraging discussion on the potential for increasing the number of seats at a later time. Furthermore, capping at 120 will still not create a proportional result in parliament and is creating artificial simplicity because the overhang will still exist, but the number of fixed quotient seats will fluctuate.

Therefore, the current situation is the most ideal choice of the three, as the other options have significant drawbacks, and may not provide voters with enough clarity to enable voter confidence in the system. The disproportionate effect of allowing for an overhang if and when they occur is likely to always be relatively small, as demonstrated by the last three election results, and on balance, can be militated against by being a less complex system and more acceptable to the public than opting for additional increases with 120 quotients *plus* overhang *and* proportional 'top ups'. However, other changes in the electoral system, particularly regarding the party threshold would likely significantly reduce the amount of overhang and reduce the need to address this issue through more direct mechanisms.

The current situation allowing a small overhang if and when they arise should continue, however, this situation can also be addressed through other mechanisms such as lowering the party threshold.

Key Question Six: Changes in population will affect the proportionality of Parliament over time.

At what point do changes in the number of electorate seats resulting from population change so affect the ratio of electorate seats to list seats that our voting system could no longer be described as proportional?

The inflexibility with regards to the method of calculating the number of electorates is an issue of concern. The Institute also notes that the question of the size and number of electorates, including the method for calculating size is one of the terms of reference under consideration in the current Constitutional Review. This issue in particular is one that needs to be considered in light of other changes to the MMP system holistically. Of further concern is the projection of rising population and the continued divergence between the North and South Island populations, this together with the already large geographic size of some electorates could result in a growing disconnect between local and national politics.

We submit that it is difficult to assess the impact of changes to the proportion of electorate seats to list seats given how other changes to MMP might affect this. Changes in the party threshold for example would affect how proportionality is maintained using different ratios of electorate to list seats. The principle concern is how small the ratio between these two types of seats needs to be if the purpose is to allow minor parties adequate access to Parliament while maintaining an appropriate level of regional representation. Clarity and consensus over the purpose underpinning the proportionality of these seats needs to be established in order to enact proper mechanisms to achieve it.

We agree with the finding of the Royal Commission that having approximately even numbers of list candidates to electorate candidates would help avoid the perception that there were two different classes of MPs. They recommended 60 of each, finding that 60 electorates would be the minimum to obtain a close relationship between the constituents and their local MP. We believe that if a lower party threshold is introduced the number of electorate seats could rise to 80 but should not go above this number to avoid larger parties being increasingly likely to be made up entirely of electorate MPs.

Given the increased diversity of New Zealand's population in the long-term, it is important to maintain and ensure proportionality. This question concerns issues of the broad objectives of the electoral system and needs to be considered within this context.

Develop clarity over the purpose underpinning the proportionality of the different seats in order to enact proper mechanisms to achieve it.

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