



Redistribution
Federal Electoral Districts

Redécoupage
Circonscriptions fédérales



Report of the Federal Electoral Boundaries Commission for the Province of **Nova Scotia**

Published pursuant to the *Electoral
Boundaries Readjustment Act*

ISBN 978-0-660-45944-8

Cat. No.: SE3-123/1-1-2022E-PDF

© Federal Electoral Boundaries Commission for the Province of Nova Scotia, 2023

All rights reserved

Table of Contents

| | |
|--|-----------|
| Foreword | 5 |
| Report (November 15, 2022) | 6 |
| Introduction | 7 |
| The Proposal | 9 |
| Public Feedback and Consultation | 12 |
| Written submissions | 12 |
| Public hearings..... | 12 |
| Conclusion | 16 |
| Redistribution is more than a “numbers game” | 16 |
| Effective representation | 16 |
| A fifth urban riding | 17 |
| Riding-specific determinations | 18 |
| Looking Ahead | 21 |
| Acknowledgements | 22 |
| APPENDIX – Maps, Boundaries and Names of Electoral Districts | 24 |
| Nova Scotia..... | 33 |
| Halifax | 34 |
| Addendum to the Report – Disposition of Objections (April 21, 2023) | 35 |
| Introduction | 36 |
| Electoral District Name Changes | 37 |
| Electoral Boundary Changes | 38 |
| Conclusion | 64 |

| | |
|--|-----------|
| APPENDIX – Modified Maps and Boundary Description | 65 |
| Nova Scotia..... | 66 |
| Halifax | 67 |

Foreword

The Federal Electoral Boundaries Commission for the Province of Nova Scotia complied with its mandate under the *Electoral Boundaries Readjustment Act*, R.S.C. 1985, c. E-3 by filing its report on November 15, 2022. The report was tabled in the House of Commons and referred to the Standing Committee on Procedure and House Affairs (PROC) on November 17, 2022. PROC received three objections to the report and chose to forward all three to the Commission in March 2023 for its consideration.

The Commission's report is included in its entirety in this final document. The new section entitled Addendum to the Report – Disposition of Objections provides the Commission's consideration and disposition of the objections endorsed by PROC. As a result, the following change is made:

- The electoral district of Pictou—Eastern Shore has been renamed Central Nova.

This change is reflected in the accompanying section entitled Addendum to the Report – Disposition of Objections.

In all other respects, the Commission's report of November 15, 2022, is unaltered.



Report

(November 15, 2022)



Introduction

By Order in Council dated November 1, 2021, the Federal Electoral Boundaries Commission for the Province of Nova Scotia (the Commission) was established pursuant to the *Electoral Boundaries Readjustment Act*, R.S.C. 1985, c. E-3 (the Act).

The Commission is comprised of three members: Dr. Louise Carbert, Dr. David Johnson and Justice Cindy A. Bourgeois. Both Dr. Carbert and Dr. Johnson are political science professors, at Dalhousie University and Cape Breton University, respectively, and were appointed by the Speaker of the House of Commons. Justice Bourgeois sits on the Nova Scotia Court of Appeal and was appointed by the Chief Justice of Nova Scotia. The Commission is assisted in its work by its Secretary, Ms. Carol Moulaison.

The role of the Commission is, in response to the 2021 decennial census, to examine and readjust the boundaries of the federal electoral districts (also known as constituencies or ridings) within the province. There are currently 11 electoral districts, and that remains unchanged.

The 2021 decennial census documented the population of the province as 969,383. Dividing the total population by 11, gives an average or “electoral quota” of 88,126 people in each district. Section 15 of the Act says that the number of people in each electoral district must correspond as closely as is reasonably possible to that electoral quota. In attempting to achieve that goal, the Commission must consider two factors:

1. The community of interest or community of identity in or the historical pattern of an electoral district in the province; and
2. A manageable geographic size for districts in sparsely populated, rural or northern regions.

Those factors can also provide justification to depart from the electoral quota in an electoral district. However, the Act provides that, except in extraordinary circumstances, the population in the electoral district must remain within 25% more or 25% less of the electoral quota. For the Commission’s work, that means an electoral district can have no fewer than 66,095 people and no more than 110,158, unless there are extraordinary reasons to depart from that variance.

In conjunction with the Act, the Commission's decisions must also be guided by the *Canadian Charter of Rights and Freedoms*, particularly section 3, which guarantees Canadian citizens the right to vote in federal and provincial elections. This right has been interpreted by the Supreme Court of Canada in a manner that sets constitutional criteria for the drawing of electoral boundaries. In what is known as "the *Carter* decision", the Supreme Court said the right to vote means the right to "effective representation," not just an equality of voting power. The Court ruled "effective representation" requires "relative parity of voting power." Absolute equality of population size among electoral districts is not required. However, deviations from equality resulting in "relative parity of voting power" for the purpose of accommodating geography, community of interest or minority representation must be "justified on the ground that they contribute to better government of the populace as a whole." In other words, the variation from the electoral quota established under the Act must be justified.

The Proposal

The Commission received the 2021 decennial population figures on February 9, 2022, and immediately began its review, guided by the above principles. As a preliminary matter, the Commission considered whether there were any “extraordinary circumstances” that might require or justify any of the 11 electoral districts falling outside of the plus or minus 25% range. The Commission determined there were no extraordinary circumstances, and, as a result, all ridings in the province are required to have a population no lower than 66,095 people and no higher than 110,158.

The Commission began its review by considering the population in each of the 11 electoral districts following the last redistribution in 2012 and comparing it to the population as shown in the 2021 decennial census. A table was created to show the change in population as well as the variation from the electoral quota for the 11 ridings. It was included in the Commission’s Proposal published in the *Canada Gazette* and on the Commission's website ([redistribution2022](#)) and is reproduced below:

Table 1 – Federal Electoral Districts – Census Population 2011 and 2021

| Electoral District Name | After Redistribution 2012 (Electoral Quotient 83,793) | | Prior to Redistribution 2022 (Electoral Quotient 88,126) | |
|-----------------------------------|--|-------------------|---|-------------------|
| | 2011 Population | 2011 Variation | 2021 Population | 2021 Variation |
| Cape Breton—Canso | 75,247 | -10.20% | 71,380 | -19.00% |
| Central Nova | 74,597 | -10.98% | 73,188 | -16.95% |
| Cumberland—Colchester | 82,321 | -1.76% | 82,014 | -6.94% |
| Dartmouth—Cole Harbour | 91,212 | +8.85% | 96,165 | +9.12% |
| Halifax | 92,643 | +10.56% | 107,010 | +21.43% |
| Halifax West | 87,275 | +4.16% | 111,944 | +27.03% |
| Kings—Hants | 83,306 | -0.58% | 87,744 | -0.43% |
| Sackville—Preston— Chezzetcook | 85,583 | +2.14% | 89,524 | +1.59% |

Table 1 – Federal Electoral Districts – Census Population 2011 and 2021

| Electoral District Name | After Redistribution 2012 (Electoral Quotient 83,793) | | Prior to Redistribution 2022 (Electoral Quotient 88,126) | |
|---------------------------|--|-------------------|---|-------------------|
| | 2011 Population | 2011 Variation | 2021 Population | 2021 Variation |
| South Shore—St. Margarets | 92,561 | +10.46% | 94,482 | +7.21% |
| Sydney—Victoria | 73,328 | -12.49% | 72,361 | -17.89% |
| West Nova | 83,654 | -0.17% | 83,571 | -5.17% |
| Total | 921,727 | | 969,383 | |

Having considered the population changes, the Commission was of the view that existing electoral boundaries required alteration. The Commission observed that:

- The province recorded a population increase of 47,656 since the 2011 decennial census.
- There was a significant increase in population in urban Halifax and its outlying areas. The riding of Halifax increased in population by 14,367 in the last decade, and Halifax West accounted for over 50% of the province’s growth, with an increase in population of 24,669.
- Although other rural constituencies showed smaller decreases in population, Cape Breton—Canso (a decrease of 3,867), Central Nova (a decrease of 1,409) and Sydney—Victoria (a decrease of 967) have shown the greatest decreases.
- One electoral district, Halifax West, exceeded the permissible 25% variance (+27.03%). In addition, several other ridings, based on the new population data, had variances approaching the upward limit.

The Commission undertook a process of reconsidering all the existing boundaries, with the aim of bringing most of the 11 ridings within a closer population range. This resulted in several significant shifts in the existing boundaries. The details were published in the Commission’s Proposal, with the resulting population variances included in Table 2 of that document. It should be noted that, in addition to changes to the geographical boundaries, several name changes were proposed.

Table 2 – Population Information As It Would Be After the Proposed Boundary Readjustments (Electoral Quota 88,126)

| Electoral District Name | After Redistribution in 2022 (Electoral Quota 88,126) | |
|------------------------------|---|-----------|
| | 2021 Population | Variation |
| Acadian Shore—Shelburne | 89,956 | +2.08% |
| Cape Breton—Antigonish | 84,999 | -3.55% |
| Cumberland—Colchester | 82,014 | -6.94% |
| Dartmouth—Cole Harbour | 93,622 | +6.24% |
| Halifax | 97,243 | +10.35% |
| Halifax West | 90,917 | +3.17% |
| Kings—Hants | 87,409 | -0.81% |
| Pictou—Eastern Shore—Preston | 88,398 | +0.31% |
| Shubenacadie—Bedford Basin | 91,176 | +3.46% |
| South Shore—St. Margarets | 91,288 | +3.59% |
| Sydney—Victoria | 72,361 | -17.89% |
| Total | 969,383 | |

Public Feedback and Consultation

As noted above, the Commission's Proposal was published in the *Canada Gazette* and is available on the Commission's website. In addition, notice of the Proposal and the schedule of public hearings were given as required in the Act.

Written submissions

Immediately following the publication of the Proposal, the Commission began to receive a significant volume of telephone and email enquiries. Many individuals who reached out to the Commission were of the belief that the notice published in provincial newspapers was in fact the complete Proposal. As such, the Commission received complaints regarding the visual clarity of the new boundaries being proposed and the lack of justification for the alterations. The Commission regularly redirected such enquiries to its website where the Proposal, including maps of the existing and proposed boundaries, could be easily accessed. It is clear from the written submissions received that many submitters did take the opportunity to review the Proposal, although it was also evident that many did not.

The Commission received in excess of 1,000 submissions in various forms. Submissions ranged from short emails to detailed written submissions with maps showing alternate boundaries. One community-based campaign resulted in hundreds of postcards being sent to the Commission expressing opposition to a particular boundary change being proposed. All submissions were reviewed and considered by the Commission. Despite the volume, the Commission Secretary made every effort to acknowledge receipt of the submissions received.

Public hearings

Nine public hearings were held throughout the province. To encourage and facilitate public involvement, the Commission scheduled the hearings during evening hours. For the first time, the Commission also scheduled a hearing in virtual format, again to enhance the opportunity for public engagement. The Commission required those wishing to present at a hearing to give notice of their wish to do so, as well as to advise of any accommodations that would be required. To ensure the venues could accommodate all who wished to attend, the Commission also requested those wishing to observe the public hearings to also give notice in advance of their anticipated attendance.

Notwithstanding many individuals attending hearings who had not provided notice of their intent to do so, the Commission was able to accommodate all present in terms of both seating and being given an opportunity to express their views.

The schedule of hearings was as follows:

| Location | Date of hearing | Presenters |
|-----------------|-----------------|------------|
| Sydney | May 30, 2022 | 6 |
| Antigonish | May 31, 2022 | 13 |
| Truro | June 1, 2022 | 16 |
| Kentville | June 6, 2022 | 9 |
| Yarmouth | June 7, 2022 | 5 |
| Bridgewater | June 8, 2022 | 11 |
| Cole Harbour | June 13, 2022 | 18 |
| Lower Sackville | June 14, 2022 | 13 |
| Virtual hearing | June 27, 2022 | 13 |

The Commission was pleased to hear three of the above presentations in French.

Themes

A number of themes emerged from the feedback received. Some were general in nature, while others were more specific. Much of this feedback is reflected directly or indirectly in the Commission's final conclusions, and, as such, it will be helpful to outline the more dominant themes expressed to us.

With respect to more general observations, the Commission noted in particular:

- People do not like change. Repeatedly the sentiment “if it is not broken, don’t fix it!” was communicated in the feedback. It was repeatedly asserted that change to existing boundaries should only occur where it is necessary.
- There is a strong sense of history throughout the province. There is a clear desire, especially in rural areas to have particular counties remain together in the same electoral districts, “as they have since Confederation.”
- Many submissions suggested the Commission had placed undue weight on attempting to minimize the variance between the electoral districts to the detriment of other factors such as community of interest, language and geographical considerations. This was perceived to result in unnecessary or ill-informed changes being proposed based solely on “a numbers game.”

- The Commission was encouraged to keep in mind that “effective representation” may require different considerations in different areas of the province and that it does not mandate similar populations across all 11 electoral districts. For example, rural ridings are typically large in geographic size, causing challenges with effectively representing their residents (such as dispersed communities and uncertain Internet access). It was submitted that this provides justification for lower populations being viewed as acceptable where it is more difficult for a member of Parliament to effectively represent their constituents.
- The four urban electoral districts within the Halifax region continue to experience substantial growth in population. This is demonstrated by the four ridings being consistently above the electoral quota and the pattern of their boundaries being pushed into semi-rural areas in an attempt to lower the variance in comparison with other ridings in the province. Based on the existing population and the growth that will continue, it was suggested that a fifth riding should be shifted to the urban Halifax area.

Many of the written submissions and representations offered at the public hearings focused on changes being proposed in relation to particular electoral districts. This included the following views:

- Cape Breton should be divided into two electoral districts, one urban, reflecting “industrial” Cape Breton, and the other, more rural, not as proposed by the Commission.
- Cape Breton should constitute one riding not the present two. This would eliminate the encroachment of the second proposed riding (Cape Breton—Antigonish) into the mainland.
- The Commission erred when it removed Antigonish County from what is now the current Central Nova riding, joining it with a large portion of Cape Breton. Its shared community of interest with Pictou County required a continuation of the two neighbouring counties being represented by the same member of Parliament.
- Conversely, the Commission was also advised that Antigonish County shared a strong community of interest with Cape Breton and received support for the boundaries remaining as established in the proposed Cape Breton—Antigonish riding.
- In addition to the concern regarding the county of Antigonish being excluded from the newly proposed electoral district of Pictou—Eastern Shore—Preston, many questioned the inclusion of the communities of Preston, East Preston and North Preston in what is an otherwise predominantly rural constituency. Many suggested that the Prestons shared no commonality with the other communities in the proposed Pictou—Eastern Shore—Preston riding and belonged in an urban constituency.
- The Commission’s inclusion of Enfield, Elmsdale, Lantz and a portion of Milford into Pictou—Eastern Shore—Preston attracted significant criticism. Historically, these areas have been part of the Kings—Hants riding. Feedback in both written form and at public hearings demonstrated the consistent view that the Commission’s proposal had failed to recognize the importance (politically, socially, and economically) of keeping “the Corridor” area of the Municipality of East Hants intact and part of the Kings—Hants electoral district.

- The Commission proposed to remove Shelburne County from the existing South Shore—St. Margarets electoral district and to add it to the newly constituted Acadian Shore—Shelburne riding. Significant opposition to this change was received, most arguing that Shelburne shared a stronger community of interest and historical ties with the “South Shore” in comparison with Yarmouth, the surrounding Acadian communities and communities in the Annapolis Valley. Further, the Commission was warned the proposed change may have a negative impact on Acadian communities, in particular, in terms of ensuring effective representation and protection of this linguistic minority.
- It was not only what the Commission had proposed to remove from South Shore—St. Margarets that garnered strong feedback. Given the growth in Halifax, the Commission proposed adding the southern coastal areas of that riding to South Shore—St. Margarets. Specifically, the communities on the lower part of the “Sambro Loop” (Herring Cove, Portuguese Cove, Sambro, Williamswood and Harrietsfield) were added to the newly redistributed South Shore—St. Margarets riding. The Commission heard, resoundingly, that the proposed redistribution served to arbitrarily divide the Sambro Loop area, placing residents of this community in two different electoral districts. Many presenters highlighted that the proposal served to isolate the southern area of the Sambro Loop. Although geographically contiguous with the remainder of the riding, constituents in the area would be required to drive through the Halifax riding to access the remainder of the South Shore—St. Margarets constituency.
- The Commission’s decision to add the Eastern Passage area into the Dartmouth—Cole Harbour was viewed positively. Under the boundaries established in 2012, Eastern Passage, Cow Bay and Rainbow Haven were included in the Sackville—Preston—Chezzetcook electoral district but were geographically separated from the remainder of that constituency. The Commission’s proposed addition of the Eastern Passage area to the Dartmouth—Cole Harbour riding eliminated the area’s geographical separation and coincided with the view the area is more closely associated with Dartmouth than the Eastern Shore.
- It was evident residents of the Eastern Passage area were not the only ones who felt a close affiliation with the Dartmouth—Cole Harbour constituency. In its Proposal, the Commission had made significant changes to other boundaries of the riding. In particular, Wallace Heights, Port Wallace, Tam O’Shanter Ridge and the Burnside Industrial Park were removed from Dartmouth—Cole Harbour and included in the newly constituted riding of Shubenacadie—Bedford Basin. The Commission was advised there is a strong identity associated with the former City of Dartmouth, and dividing neighbourhoods, which historically fell within it, between two electoral districts was negatively received. Residents of these areas advised the Commission they do not view themselves as sharing a community of interest with residents of Bedford or Sackville and wished to remain part of the Dartmouth—Cole Harbour electoral district.

Conclusion

As will be demonstrated herein, the Commission has made a number of changes to the initial Proposal. To explain how the Commission reached its final conclusions, it is helpful to begin with an explanation of how we approached our work. We will begin with broader principles adopted (or rejected) by the Commission, and then proceed to our riding-specific determinations.

Redistribution is more than a “numbers game”

The Commission accepts there is validity to the view, expressed in the public feedback, that we placed undue reliance on seeking to decrease the variance between the 11 electoral districts in the Proposal. In saying this, the Commission is mindful there are Commissions elsewhere in the country that have adopted the view that the variance between ridings should be no more than 10%, or even less. There is also support in the academic literature for closing the gap and moving away from the wide variance of plus or minus 25% permitted by law. While we respect these views, the Commission has concluded we should not apply such an approach within the Nova Scotian context, notably due to our geography and historic patterns of settlement.

Since the arrival of the earliest Europeans, settlement in the province has been predominantly adjacent to the coastline and in-land water sources. This has resulted in much of the interior of the province being lightly populated. The geography of the province, combined with the settlement patterns, makes unworkable an approach that focuses on obtaining close equivalency of population among the 11 electoral districts. As one presenter said, taking the view that all ridings should be within a pre-determined percentage of variation, “would be like fitting a square peg in a round hole.” In our deliberations, the Commission was mindful of balancing all of the considerations mandated by law and did not view itself as having a primary goal of minimizing the variance among ridings.

Effective representation

Every citizen is constitutionally guaranteed the right to “effective representation.” As will be recalled from the *Carter* decision, the right to vote found in the Charter does not mandate absolute equality of voting power but “relative parity.” The Commission accepts that “effective representation” is not absolutely tied to the number of persons in an electoral district.

The role of a member of Parliament is to effectively represent their constituents. How a member undertakes that responsibility, however, and the challenges involved in doing so, may vary greatly. The Commission was pleased to receive representations from seven sitting

parliamentarians, all of whom provided valuable information not only with respect to their particular constituencies but also regarding how they undertake their responsibilities.

The Commission accepts that members of Parliament in rural electoral districts face challenges that are different from those of their urban counterparts. Rural ridings, because of their lower populations, are geographically large, some with challenging terrain. Services such as a reliable Internet connection, cell phone reception and public transit—which facilitate the ability of constituents to readily engage with their representatives in urban areas—simply do not exist in many rural regions of the province. We acknowledge this poses practical difficulties for members of Parliament representing rural ridings. The Commission is mindful that expanding the geographic area of a rural electoral district in an attempt to bring it closer to the electoral quota may have negative consequences for the ability of a representative to effectively serve their constituents. In other words, in a rural riding, a member of Parliament may be challenged to effectively represent a geographically dispersed population of 70,000, whereas their colleague in an urban riding may readily provide effective representation to 100,000 or more constituents. The acceptance of this proposition provides support for wider population variances between urban and rural constituencies being justified and in accordance with the fundamental goal of “effective representation.”

A fifth urban riding

The proponents of adding a fifth riding in the Halifax area made a compelling argument based on the growing population of the Halifax Regional Municipality. In short, approximately 42% of the province’s population resides within this urban area, yet it only accounts for 4 of the 11 electoral districts. Proponents say adding a fifth riding is not only justified but **required** by a numerically strict application of the principles governing redistribution.

The population data speaks for itself, and the Commission takes no issue with the proposition that a fifth urban riding would have the numeric effect of bringing those district populations closer to the provincial quota (albeit overshooting somewhat to the low side). However, as noted above, achieving relative voting parity and ensuring effective representation is more than a “numbers game.” We respectfully disagree that the addition of a fifth riding in the Halifax region (and the resulting net loss of a riding elsewhere in the province) is required in the present circumstances.

It is acknowledged that, in the Commission’s final report, the four most highly urbanized ridings are all well above the electoral quota of 88,126. However, all electoral districts, urban and rural, are within the acceptable variance of plus or minus 25%. We are satisfied the higher populations of the four urban ridings do not prohibit their residents from being effectively represented by their members of Parliament. It should be remembered that the Commission’s mandate is to consider whether the entirety of the province is being effectively represented. (Recall our reservations about the potential negative impacts of further expanding the size of rural ridings.) We are satisfied that, notwithstanding the higher populations demonstrated in the four urban electoral districts, the redistribution in this final report will not jeopardize the effective representation of their residents.

Riding-specific determinations

Early in our deliberations, the Commission was able to readily identify several riding-specific changes that would be implemented in our final report. Based on the feedback received, we were satisfied that:

- The East Hants “Corridor” should not be divided, as was initially proposed. The Commission accepts that the community of interest in this area strongly supports the area remaining together and as a part of the Kings—Hants riding. This change has been implemented in our final redistribution.
- Preston, North Preston and East Preston should be in a riding associated with the Halifax Regional Municipality. The Commission had two choices in this regard. The Prestons could be added to the Dartmouth—Cole Harbour riding; or it could remain affiliated with the Fall River and Sackville area, as they have been since the 2012 redistribution (Sackville—Preston—Chezzetcook).
- Shelburne County will be returned to the South Shore—St. Margarets electoral district. The Commission accepts the view that this region shares a stronger community of interest with the area identified as the “South Shore.” The Commission was equally influenced by the concerns expressed in relation to the impact of the addition of this predominantly anglophone population to the effective representation of the Acadian linguistic minority in the formerly proposed Acadian Shore—Shelburne riding.
- The “Sambro Loop” area will be returned to the Halifax electoral district. The Commission accepts that the proposed boundary served to practically divide this area from the remainder of the South Shore—St. Margarets riding, a factor not sufficiently considered in our Proposal.
- The Eastern Passage area should not be geographically separated from the rest of its electoral district. Accordingly, it will remain in the Dartmouth—Cole Harbour riding as the Commission originally proposed.

Other decisions were not so easily made and required more in-depth consideration and deliberation, notably the boundaries of the electoral districts (or district) in Cape Breton, the placement of Antigonish County, and the constitution of Dartmouth—Cole Harbour:

- The Commission was intrigued with the suggestion of a single Cape Breton riding encompassing the entirety of the island. We undertook the exercise of calculating the population of a single Cape Breton Island electoral district. It became apparent that this was presently not an option, as the population variance was well in excess of the allowable +25%.
- The Commission also explored whether it was feasible to divide Cape Breton Island into two electoral districts without the necessity of having one of the ridings extend into the mainland. Again, the Commission undertook population calculations, which quickly demonstrated that placing two ridings entirely within Cape Breton was not possible, as both would fall well below the permissible -25% variance. This meant that one of the electoral districts in Cape Breton would also need to serve areas of the mainland (as has been the case since the 2003 representation order).

- The Commission agrees Cape Breton should have an urban riding and spent considerable time debating the location of its boundaries. The newly created Sydney—Glace Bay, incorporating “industrial” Cape Breton is the result.
- Notwithstanding public input suggesting the Commission should keep Pictou and Antigonish Counties together in a single electoral district, we have determined all of Antigonish County should be included with Guysborough and rural Cape Breton in the newly named Cape Breton—Canso—Antigonish electoral district. As noted earlier, the Commission also received feedback in support of such a division. We are satisfied that, although there is a connection between the communities of Antigonish and Pictou counties, the same can be said for the Canso Strait area.
- As noted earlier, the Commission received strong public feedback for retaining Dartmouth—Cole Harbour in the configuration established by the 2012 redistribution. However, maintaining the status quo was simply not an option. We have already explained why the Eastern Passage area geographically belongs in the riding. Some suggested Preston, East Preston and North Preston shared a close community of interest with Cole Harbour and also belonged in the electoral district. Further, as we already set out, the Commission received many complaints about its proposal to remove former City of Dartmouth neighbourhoods from the riding. However, keeping all of these areas in the electoral district created a variance well beyond the permissible +25%. The Commission was faced with some difficult decisions, as noted below.
- Although acknowledging the close connection between the Prestons and Cole Harbour, the Commission determined these communities should continue in a riding with a similar makeup as what had been implemented in the 2012 redistribution (the newly named Sackville—Bedford—Preston).
- The Commission prepared a number of boundary scenarios in relation to the Dartmouth neighbourhoods in an attempt to respect, as much as possible, the public feedback received. Areas were added and removed from adjacent ridings to find a resolution. The Commission’s final determination sees some areas in contention (Burnside and much of Windmill Road) remain outside the constituency. However, several neighbourhoods have been added back to Dartmouth—Cole Harbour, as requested. Ultimately, the boundaries established for the electoral district produces a variance of +18.95%, making Dartmouth—Cole Harbour the most populated riding in the province. The Commission has a level of discomfort with this outcome. However, our attempts to lower the riding’s variance by moving population to neighbouring districts, only served to push those ridings into the same elevated variance range.

At the conclusion of our deliberations and based upon the above considerations, the Commission has finalized the boundaries and names of the 11 electoral districts. The legal descriptions and maps for each follow at the end of this report. The population data for the ridings, the deviations from the electoral quota (88,126), as well as the names of the ridings are presented in the following table.

| Riding name | Population | Deviation |
|------------------------------|------------|-----------|
| Acadie—Annapolis | 76,252 | -13.47% |
| Cape Breton—Canso—Antigonish | 75,141 | -14.73% |
| Cumberland—Colchester | 82,014 | -6.94% |
| Dartmouth—Cole Harbour | 104,825 | +18.95% |
| Halifax | 98,885 | +12.21% |
| Halifax West | 99,228 | +12.60% |
| Kings—Hants | 95,063 | +7.87% |
| Pictou—Eastern Shore | 76,210 | -13.52% |
| Sackville—Bedford—Preston | 100,416 | +13.95% |
| South Shore—St. Margarets | 79,130 | -10.21% |
| Sydney—Glace Bay | 82,219 | -6.70% |

Looking Ahead

The above table summarizes the Commission's conclusions and is based on the current population distribution in the province. It is anticipated the past and current trend of significant growth in the areas in and around Halifax will continue in the future. As such, it is highly likely that by the time of the next redistribution, the four most urban ridings will be approaching or exceeding a +25% variance. More rural ridings will likely continue to decrease in relative population, pushing their respective electoral quotas closer to -25%.

Although it will be for the next commission to determine, the argument for a fifth Halifax area riding will only strengthen. Depending on the variation from the electoral quota at that time, it may be required in order to maintain all 11 electoral districts within the permitted range. We say this not to influence future decision-makers but to point out that significant change to the province's rural ridings may be unavoidable; and that historic redistributions may have to give way to novel approaches to providing effective representation to all Nova Scotians. The next commission may need to take a fresh approach to laying out the province's electoral districts.

Acknowledgements

The redistribution process undertaken by the Commission has been difficult. However, notwithstanding the challenges inherent in balancing the required legal principles with the desires of the public, the process has been thoroughly rewarding and enjoyable.

The Commission sincerely thanks those individuals and groups who took the time to consider the Proposal and give constructive feedback. Although not all the views expressed have found their way into this final report, all were given serious consideration. Many were debated, vigorously at times, by the Commission members in reaching our final boundary conclusions.

It was particularly heartening to attend public hearings where, despite there being strong vocal opposition to aspects of the Proposal, those in attendance expressed their views respectfully, and often with typical Nova Scotian grace and good humour. The Commission is grateful for the reception it received from hearing attendees and participants throughout the province.

The Commission also expresses its gratitude to its only employee, Ms. Carol Moulaison. As Commission Secretary, Ms. Moulaison single-handedly fielded an unexpected volume of calls and emails while efficiently organizing the mountain of submissions received. With a smile, she kept the Commission organized and on track and served as our unfailingly professional and friendly liaison with the public.

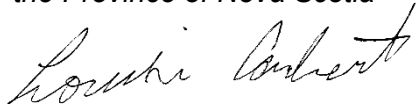
We also wish to thank the staff of Elections Canada for the administrative, technical, and geographical support received. Geography Specialists Kathryn Gallacher and Karen Ennis were invaluable to our work as was the Elections Canada management team who provided essential guidance while diligently respecting the Commission's fundamental independence.

Finally, as Chair, I would like to take the opportunity to express my gratitude to my fellow Commissioners. It has been a pleasure to work with Professors Carbert and Johnson. Their good humour, expertise and diligence made the redistribution process an enjoyable and educational experience. I am grateful for their willingness to participate in this important democratic exercise. Ultimately, it is Nova Scotians who are the beneficiaries of their professionalism and commitment to the redistribution process.

Dated at Halifax, Nova Scotia, this 15th day of November, 2022.



The Honourable Justice Cindy A. Bourgeois
*Chair, Federal Electoral Boundaries Commission
for the Province of Nova Scotia*



Louise Carbert
*Member, Federal Electoral Boundaries Commission
for the Province of Nova Scotia*



David Johnson
*Member, Federal Electoral Boundaries Commission
for the Province of Nova Scotia*

APPENDIX – Maps, Boundaries and Names of Electoral Districts

There shall be in the Province of Nova Scotia eleven (11) electoral districts, named and described as set out below, each of which shall return one member.

In the following descriptions:

(a) any reference to “street,” “avenue,” “road,” “drive,” “connector,” “extension,” “highway,” “river,” “stream,” “brook,” “channel,” “cove,” “arm,” “bay,” “lake,” “harbour,” “transmission line” or “railway” signifies the centre line unless otherwise described;

(b) wherever a word or expression is used to denote a territorial division, such word or expression shall indicate the territorial division as it existed or was bounded on the first day of January 2021;

(c) reference to “counties” for inclusion in an electoral district signifies that all cities, towns, villages and Indian reserves lying within the perimeter of the counties are included unless otherwise described;

(d) all offshore islands are included in the landward district unless otherwise described;

(e) all First Nation territories lying within the perimeter of the electoral district are included unless otherwise described;

(f) the translation of the terms “street,” “avenue” and “boulevard” follows Treasury Board standards, while the translation of all other public thoroughfare designations is based on commonly used terms but has no official recognition; and

(g) all coordinates are in reference to the North American Datum of 1983 (NAD 83).

The population figure of each electoral district is derived from the 2021 decennial census.

Acadie—Annapolis

(Population: 76,252)

(Map 1)

Consists of:

(a) the counties of Annapolis, Digby and Yarmouth; and

(b) that part of the County of Kings lying westerly of a line described as follows: commencing at a point where Turner Brook flows into the Bay of Fundy at approximate latitude 45°08'38"N and longitude 64°50'14"W; thence southeasterly along said brook to Long Point Road; thence generally southerly along said road to Highway 221; thence southwesterly along said highway to the continuation of Long Point Road; thence generally southerly along said road to Highway 1 (Evangeline Trail); thence westerly along said highway to Aylesford Road; thence generally southerly, southeasterly and southerly along said road to the southerly limit of said county.

Cape Breton—Canso—Antigonish

(Population: 75,141)

(Map 1)

Consists of:

(a) the counties of Antigonish, Inverness, Richmond and Victoria;

(b) the Municipality of the District of Guysborough; and

(c) that part of the Cape Breton Regional Municipality lying southerly and westerly of a line described as follows: commencing at a point in the Cabot Strait on the northerly limit of said regional municipality at approximate latitude 46°10'41"N and longitude 59°45'09"W; thence generally southwesterly and westerly along said strait and Morien Bay (passing through the channel at Phalens Bar) to the mouth of Black Brook Morien; thence generally westerly along said brook to Morrison Brook; thence generally westerly along said brook to an unnamed road at latitude 46°06'20"N and longitude 59°55'47"W; thence westerly in a straight line to a point in John Allen Lake at latitude 46°07'01"N and longitude 59°58'42"W; thence westerly in a straight line to the intersection of Broughton Road and an unnamed road at latitude 46°07'06"N and longitude 59°59'42"W; thence generally westerly along said unnamed road and Cowboy Road to a power transmission line at latitude 46°07'29"N and longitude 60°07'19"W; thence generally southwesterly along said transmission line to a transmission line at latitude 46°03'27"N and longitude 60°11'57"W; thence southerly and westerly along said transmission line to a transmission line at latitude 46°02'59"N and longitude 60°12'22"W; thence southwesterly along said transmission line to a transmission line at latitude 45°59'41"N and longitude 60°16'29"W; thence generally northwesterly along said transmission line to Portage Brook; thence generally northeasterly along said brook to Blacketts Lake; thence generally northeasterly along said lake and the Sydney River to Highway 125 (Peacekeepers Way); thence northwesterly and northerly along said highway to a point at latitude 46°11'16"N and longitude 60°18'13"W; thence

northwesterly in a straight line to a point on an unnamed road at approximate latitude 46°11'32"N and longitude 60°18'36"W; thence northwesterly along said unnamed road and Ross Road to Johnstons Brook; thence northeasterly and generally northwesterly along said brook to Mirror Cove; thence northerly and northeasterly along said cove and St. Andrews Channel to the Little Bras d'Or Channel; thence generally northerly along said channel to its mouth in the Cabot Strait; thence northerly in a straight line to a point on the northerly limit of said regional municipality at latitude 46°20'12"N and longitude 60°16'16"W.

Cumberland—Colchester

(Population: 82,014)

(Map 1)

Consists of the counties of Colchester and Cumberland.

Dartmouth—Cole Harbour

(Population: 104,825)

(Map 2)

Consists of that part of the Halifax Regional Municipality described as follows: commencing at a point in the Halifax Harbour at approximate latitude 44°33'43"N and longitude 63°30'00"W; thence generally northwesterly along said harbour (passing to the west of McNabs Island and to the east of Georges Island) to the A. Murray MacKay Bridge (Highway 111); thence northeasterly and generally easterly along said bridge and Highway 111 (Highway of Heroes) to Highway 118; thence northerly along said highway to a point on the highway situated to the west of Lake Charles at approximate latitude 44°42'55"N and longitude 63°33'15"W; thence easterly in a straight line to a point in Lake Charles at latitude 44°42'55"N and longitude 63°32'51"W; thence northeasterly in a straight line to the mouth of Barrys Run at Lake Charles at approximate latitude 44°42'57"N and longitude 63°32'45"W; thence generally easterly along said run to Highway 107 (Forest Hills Extension); thence southeasterly along said highway to Highway 7 (Main Street); thence northeasterly along said highway to a power transmission line (933 Main Street) situated approximately 200 metres east of Riley Road; thence southerly along said transmission line to an unnamed brook flowing southerly from Broom Lake; thence generally southerly along said brook to Cole Harbour at approximate latitude 44°40'25"N and longitude 63°27'47"W; thence generally southeasterly along said harbour to a point in the Atlantic Ocean at latitude 44°35'32"N and longitude 63°21'48"W; thence westerly in a straight line to the point of commencement.

Halifax

(Population: 98,885)

(Map 2)

Consists of:

(a) that part of the Halifax Regional Municipality described as follows: commencing at a point in the Atlantic Ocean on the southerly limit of said regional municipality at approximate latitude 44°25'20"N and longitude 63°42'19"W; thence northeasterly in a straight line to a point in Pennant Bay at approximate latitude 44°27'19"N and longitude 63°41'01"W; thence northeasterly in a straight line to the mouth of an unnamed stream at Pennant Bay at approximate latitude 44°28'02"N and longitude 63°40'19"W; thence northeasterly in a straight line to the mouth of the Pennant River at the northwesternmost extremity of Grand Lake; thence generally northwesterly along said river to the easterly shoreline of Ragged Lake; thence generally northwesterly along said shoreline to the Pennant River at approximate latitude 44°30'30"N and longitude 63°39'27"W; thence generally northerly along said river, The Two Lakes and the Pennant River to an unnamed brook at approximate latitude 44°31'35"N and longitude 63°39'12"W; thence northerly in a straight line to the northwesternmost extremity of Narrow Lake at approximate latitude 44°34'30"N and longitude 63°40'40"W; thence northerly in a straight line to the intersection of Mills Drive and Prospect Road (Highway 333); thence generally northerly along said road to St. Margarets Bay Road (Highway 3); thence generally easterly along said road to Chebucto Road at the Armdale Rotary; thence northeasterly along said road to Philip Street; thence northwesterly along said street to the intersection of Leppert Street and an unnamed service lane; thence northwesterly and northeasterly along said service lane to Mumford Road; thence northwesterly along said road to East Perimeter Road; thence northeasterly and northerly along said road to Bayers Road (Highway 102); thence northeasterly along said road to Connaught Avenue (Highway 111); thence northwesterly and northerly along said avenue to Windsor Street; thence northwesterly along said street to Bedford Highway (Highway 2); thence westerly along said highway to its intersection with the Bedford Highway off-ramp situated north of Main Avenue; thence northwesterly in a straight line to the southernmost shoreline of Fairview Cove at approximate latitude 44°39'49"N and longitude 63°37'51"W; thence northerly in a straight line to a point in Bedford Basin at latitude 44°41'33"N and longitude 63°38'16"W; thence generally southeasterly along said basin, The Narrows and Halifax Harbour (passing to the east of Georges Island and to the west of McNabs Island) to a point in the Atlantic Ocean on the southerly limit of said regional municipality at latitude 44°33'43"N and longitude 63°30'00"W; thence generally southerly and westerly along said limit to the point of commencement; and

(b) Sable Island.

Halifax West

(Population: 99,228)

(Map 1)

Consists of that part of the Halifax Regional Municipality described as follows: commencing at a point in St. Margarets Bay on the westerly limit of the Halifax Regional Municipality at latitude 44°35'24"N and longitude 63°59'50"W; thence generally northeasterly along said bay, Head Harbour and Head Bay to the mouth of the Northeast River; thence northerly along said river to St. Margarets Bay Road (Highway 3); thence generally southeasterly along said road to Hammonds Plains Road (Highway 213); thence generally northeasterly along said road to Stillwater Lake; thence generally northerly along said lake to the mouth of the East River at approximate latitude 44°43'31"N and longitude 63°50'51"W; thence generally easterly along said river to a point at latitude 44°43'43"N and longitude 63°49'37"W; thence southeasterly in a straight line to a point at latitude 44°43'41"N and longitude 63°49'34"W; thence northeasterly in a straight line to a point at latitude 44°44'26"N and longitude 63°48'37"W; thence southeasterly in a straight line to the intersection of Yankeetown Road and Hammonds Plains Road; thence easterly along Hammonds Plains Road to the northwesterly boundary of Wallace Hills Indian Reserve No. 14A; thence northeasterly and southeasterly along the northwesterly and northeasterly boundaries of said Indian reserve to Hammonds Plains Road; thence generally easterly along said road to Highway 102 (Bicentennial Highway); thence southwesterly, southerly and southeasterly along said highway to Hemlock Ravine; thence northeasterly along said ravine to the Bedford Basin; thence generally easterly along said basin to a point at approximate latitude 44°41'33"N and longitude 63°38'16"W; thence southerly in a straight line to the southernmost shoreline of Fairview Cove at approximate latitude 44°39'49"N and longitude 63°37'51"W; thence southeasterly in a straight line to the Bedford Highway (Highway 2) off-ramp situated north of Main Avenue; thence easterly along said highway to Windsor Street; thence southeasterly along said street to Connaught Avenue (Highway 111); thence southerly and southeasterly along said avenue to Bayers Road (Highway 102); thence southwesterly along said road to East Perimeter Road; thence southerly and southwesterly along said road to Mumford Road; thence southeasterly along said road to an unnamed service lane situated northwesterly of Leppert Street; thence southwesterly and southeasterly along said service lane and Philip Street to Chebucto Road; thence southwesterly along said road to St. Margarets Bay Road at the Armdale Rotary; thence generally westerly along said road to Prospect Road (Highway 333); thence generally southerly along said road to Mills Drive; thence southerly in a straight line to the northwesternmost extremity of Narrow Lake at latitude 44°34'30"N and longitude 63°40'40"W; thence southerly in a straight line to the mouth of an unnamed brook and the Pennant River at approximate latitude 44°31'35"N and longitude 63°39'12"W; thence generally southerly along said river, The Two Lakes and the Pennant River to the easterly shoreline of Ragged Lake at approximate latitude 44°30'30"N and longitude 63°39'27"W; thence generally southeasterly along said shoreline and the Pennant River to the northwesternmost extremity of Grand Lake; thence southwesterly in a straight line to the mouth of an unnamed stream at Pennant Bay at approximate latitude 44°28'02"N and longitude 63°40'19"W; thence southwesterly in a straight line to a point in Pennant Bay at latitude 44°27'19"N and longitude 63°41'01"W; thence southwesterly in a straight line to a point in the Atlantic Ocean on the southerly limit of said regional municipality at latitude 44°25'20"N and longitude 63°42'19"W; thence generally westerly and northerly along the southerly and westerly limits of said regional municipality to the point of commencement.

Kings—Hants

(Population: 95,063)

(Map 1)

Consists of:

(a) the County of Hants; and

(b) that part of the County of Kings lying easterly of a line described as follows: commencing at a point where Turner Brook flows into the Bay of Fundy at approximate latitude 45°08'38"N and longitude 64°50'14"W; thence southeasterly along said brook to Long Point Road; thence generally southerly along said road to Highway 221; thence southwesterly along said highway to the continuation of Long Point Road; thence generally southerly along said road to Highway 1 (Evangeline Trail); thence westerly along said highway to Aylesford Road; thence generally southerly, southeasterly and southerly along said road to the southerly limit of said county.

Pictou—Eastern Shore

(Population: 76,210)

(Map 1)

Consists of:

(a) the County of Pictou;

(b) the Municipality of the District of St. Mary's; and

(c) that part of the Halifax Regional Municipality lying easterly of a line described as follows: commencing at the intersection of the northerly limit of said regional municipality with Highway 102 (Veterans Memorial Highway); thence southerly and southwesterly along said highway to an unnamed brook at approximate latitude 44°50'47"N and longitude 63°34'13"W; thence southerly along said brook to Holland Brook; thence generally southerly along said brook to Soldier Lake; thence generally southerly along said lake to a point at approximate latitude 44°48'18"N and longitude 63°34'15"W; thence easterly in a straight line to a point in Three Mile Lake at latitude 44°48'33"N and longitude 63°29'39"W; thence easterly in a straight line to a point at latitude 44°48'31"N and longitude 63°25'52"W; thence southerly in a straight line to a point at latitude 44°44'03"N and longitude 63°24'22"W; thence easterly in a straight line to the northerly production of Walker Street; thence southerly along said production, Walker Street, Bell Street and Mineville Road to Highway 107; thence generally westerly along said highway and Highway 7 (Main Street) to a power transmission line (933 Main Street) situated approximately 200 metres west of Westphal Way; thence southerly along said transmission line to an unnamed brook flowing southerly from Broom Lake; thence generally southerly along said brook to Cole Harbour at approximate latitude 44°40'25"N and longitude 63°27'47"W; thence generally southeasterly along said harbour to a point in the Atlantic Ocean at latitude 44°35'32"N and longitude 63°21'48"W.

Sackville—Bedford—Preston

(Population: 100,416)

(Map 1)

Consists of that part of the Halifax Regional Municipality described as follows: commencing at the intersection of the northerly limit of said regional municipality with Highway 102 (Veterans Memorial Highway); thence southerly and southwesterly along said highway to an unnamed brook at approximate latitude 44°50'47"N and longitude 63°34'13"W; thence southerly along said brook to Holland Brook; thence generally southerly along said brook to Soldier Lake; thence generally southerly along said lake to a point at approximate latitude 44°48'18"N and longitude 63°34'15"W; thence easterly in a straight line to a point in Three Mile Lake at latitude 44°48'33"N and longitude 63°29'39"W; thence easterly in a straight line to a point at latitude 44°48'31"N and longitude 63°25'52"W; thence southerly in a straight line to a point at latitude 44°44'03"N and longitude 63°24'22"W; thence easterly in a straight line to the northerly production of Walker Street; thence southerly along said production, Walker Street, Bell Street and Mineville Road to Highway 107; thence generally westerly along said highway and Highway 7 (Main Street) to Highway 107 (Forest Hills Extension); thence northwesterly along said highway to Barrys Run at approximate latitude 44°43'01"N and longitude 63°31'51"W; thence generally westerly along said run to Lake Charles; thence westerly in a straight line to a point in Lake Charles at latitude 44°42'55"N and longitude 63°32'51"W; thence westerly in a straight line to a point on Highway 118 at latitude 44°42'55"N and longitude 63°33'15"W; thence southerly along said highway to Highway 111 (Highway of Heroes); thence northwesterly, westerly and southwesterly along said highway and the A. Murray MacKay Bridge to the Halifax Harbour; thence generally northwesterly along said harbour and the Bedford Basin to a point at latitude 44°41'33"N and longitude 63°38'16"W; thence generally westerly to the mouth of the Hemlock Ravine; thence southwesterly along said ravine to Highway 102 (Bicentennial Highway); thence northwesterly, northerly and northeasterly along said highway to Hammonds Plains Road (Highway 213); thence generally westerly along said road to the northeasterly boundary of Wallace Hills Indian Reserve No. 14A; thence northwesterly and southwesterly along the northeasterly and northwesterly boundaries of said Indian reserve to Hammonds Plain Road; thence westerly along said road to Yankeetown Road; thence northwesterly in a straight line to a point at latitude 44°44'26"N and longitude 63°48'37"W; thence southwesterly in a straight line to latitude 44°43'41"N and longitude 63°49'34"W; thence northwesterly in a straight line to a point in the East River at latitude 44°43'43"N and longitude 63°49'37"W; thence generally westerly along said river to the northernmost point of Stillwater Lake; thence northwesterly in a straight line to the mouth of Pockwock River at Wrights Lake; thence northerly in a straight line to the westernmost extremity of Ponhook Cove along its westerly shoreline in Pockwock Lake; thence generally northerly along the westerly shoreline of said lake to the northerly limit of said regional municipality; thence generally northeasterly along said limit to the point of commencement.

South Shore—St. Margarets

(Population: 79,130)

(Map 1)

Consists of:

(a) the counties of Lunenburg and Shelburne;

(b) the Regional Municipality of Queens; and

(c) that part of the Halifax Regional Municipality lying westerly and northerly of a line described as follows: commencing at the intersection of the northerly limit of said regional municipality with the westerly shoreline of Pockwock Lake; thence generally southerly along said shoreline to the westernmost extremity of Ponhook Cove in Pockwock Lake; thence southerly in a straight line to the mouth of the Pockwock River at Wrights Lake; thence southeasterly in a straight line to the mouth of East River at the northernmost extremity of Stillwater Lake; thence generally southerly along said lake to Hammonds Plains Road (Highway 213); thence southwesterly along said road to St. Margarets Bay Road (Highway 3); thence generally northwesterly along said road to the Northeast River; thence southerly along said river to Head Bay; thence generally southwesterly along said bay, Head Harbor and St. Margarets Bay to the westerly limit of said regional municipality at approximate latitude 44°35'24"N and longitude 63°59'50"W.

Sydney—Glace Bay

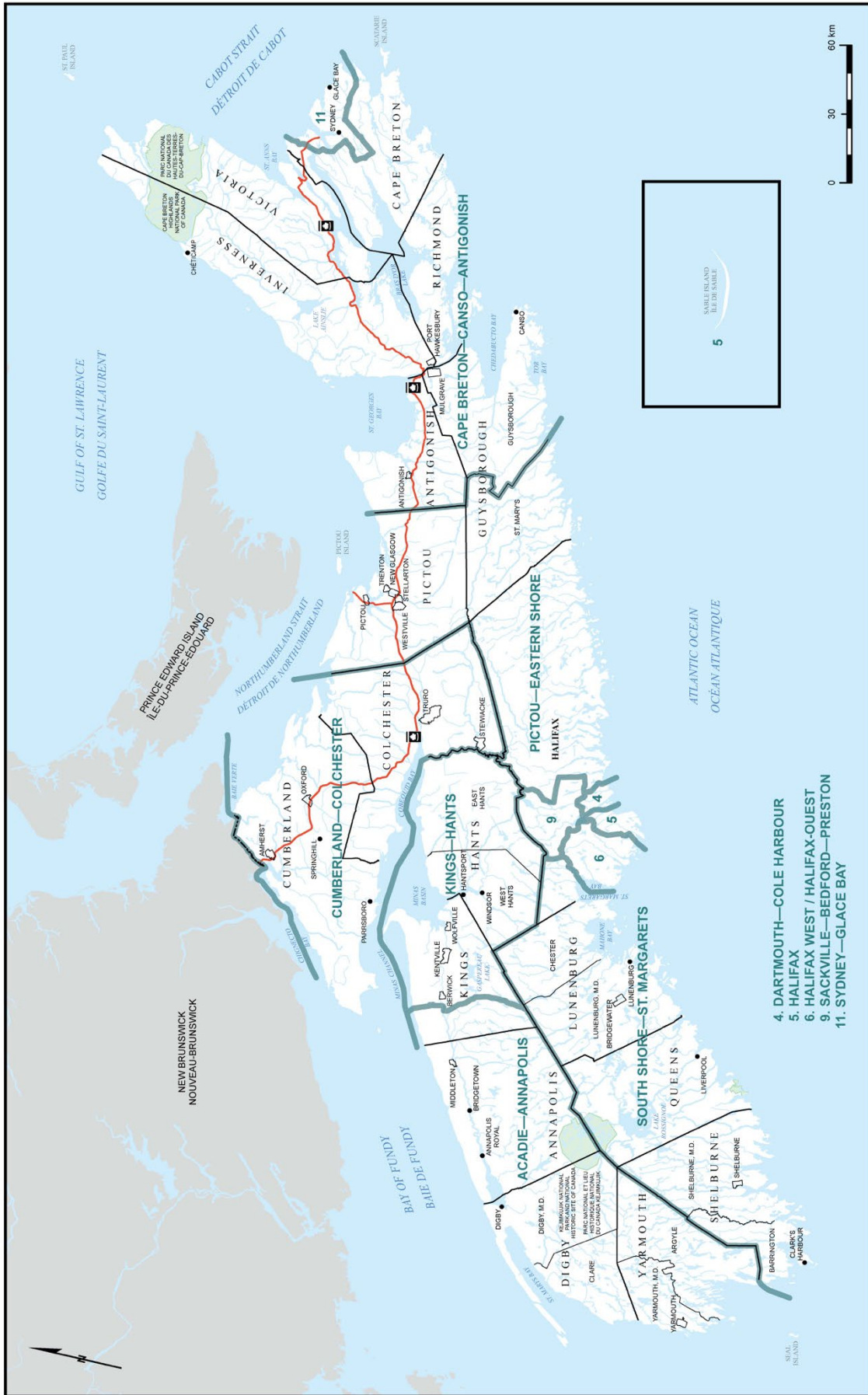
(Population: 82,219)

(Map 1)

Consists of that part of the Cape Breton Regional Municipality described as follows: commencing at a point in the Cabot Strait on the northerly limit of said regional municipality at approximate latitude 46°10'41"N and longitude 59°45'09"W; thence generally southwesterly and westerly along said strait and Morien Bay (passing through the channel at Phalens Bar) to the mouth of Black Brook Morien; thence generally westerly along said brook to Morrison Brook; thence generally westerly along said brook to an unnamed road at latitude 46°06'20"N and longitude 59°55'47"W; thence westerly in a straight line to a point in John Allen Lake at latitude 46°07'01"N and longitude 59°58'42"W; thence westerly in a straight line to the intersection of Broughton Road and an unnamed road at latitude 46°07'06"N and longitude 59°59'42"W; thence generally westerly along said unnamed road and Cowboy Road to a power transmission line at latitude 46°07'29"N and longitude 60°07'19"W; thence generally southwesterly along said transmission line to a transmission line at latitude 46°03'27"N and longitude 60°11'57"W; thence southerly and westerly along said transmission line to a transmission line at latitude 46°02'59"N and longitude 60°12'22"W; thence southwesterly along said transmission line to a transmission line at latitude 45°59'41"N and longitude 60°16'29"W; thence generally northwesterly along said transmission line to Portage Brook; thence generally northeasterly along said brook to Blacketts Lake; thence generally northeasterly along said lake and the Sydney River to Highway 125 (Peacekeepers Way); thence northwesterly and northerly along said highway to a point at latitude 46°11'16"N and longitude 60°18'13"W; thence northwesterly in a straight line to a point

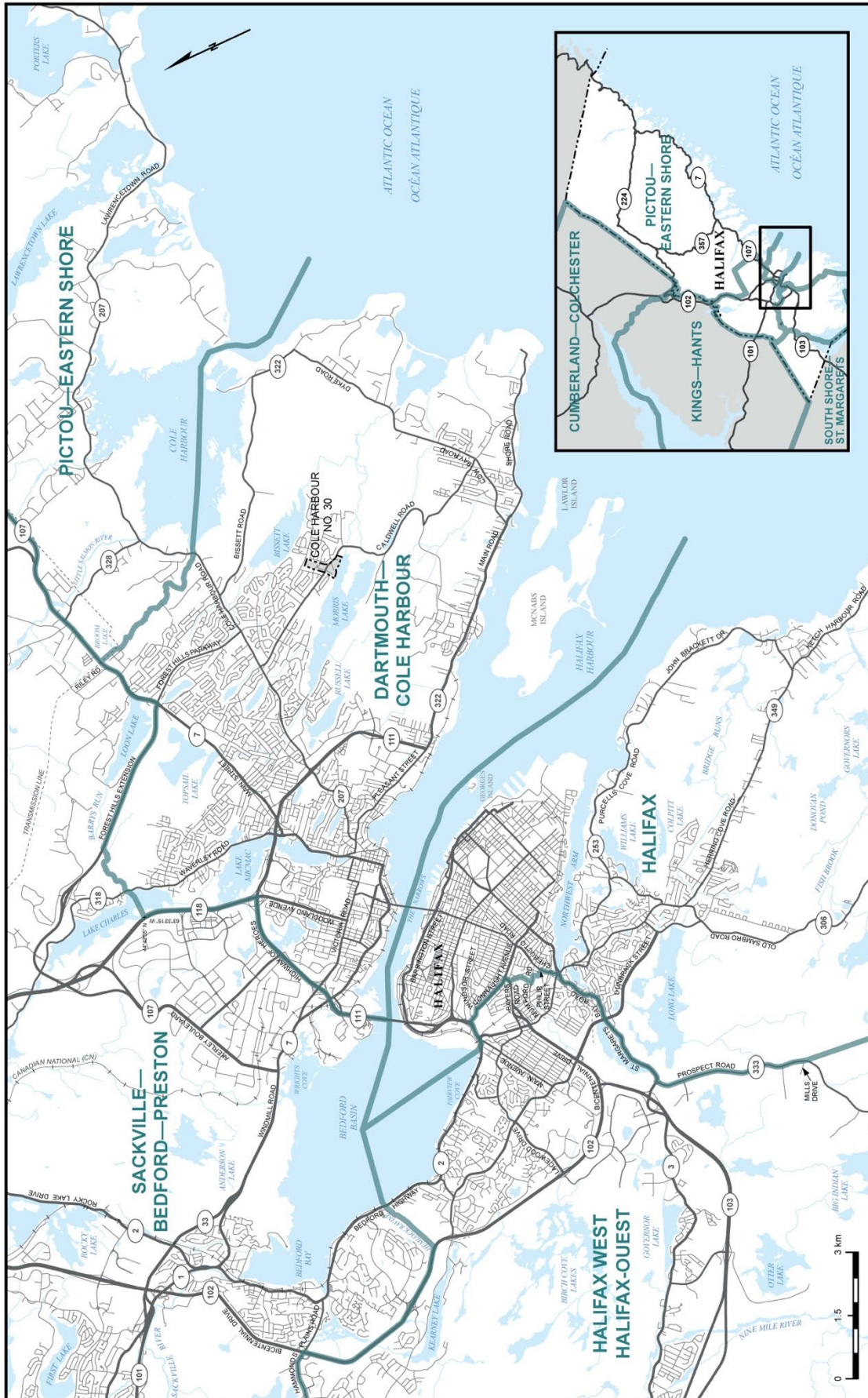
on an unnamed road at approximate latitude 46°11'32"N and longitude 60°18'36"W; thence northwesterly along said unnamed road and Ross Road to Johnstons Brook; thence northeasterly and generally northwesterly along said brook to Mirror Cove; thence northerly and northeasterly along said cove and St. Andrews Channel to the Little Bras d'Or Channel; thence generally northerly along said channel to its mouth in the Cabot Strait; thence northerly in a straight line to a point on the northerly limit of said regional municipality at latitude 46°20'12"N and longitude 60°16'16"W; thence generally easterly along the northerly limit of said regional municipality to the point of commencement.

Nova Scotia



- 4. DARTMOUTH—COLE HARBOUR
- 5. HALIFAX
- 6. HALIFAX WEST / HALIFAX-OUEST
- 9. SACKVILLE—BEDFORD—PRESTON
- 11. SYDNEY—GLACE BAY

Halifax





Addendum to the Report

Disposition of Objections

(April 21, 2023)

Introduction

On March 23, 2023, the Nova Scotia Federal Boundaries Commission (“the Commission”) received from the Chief Electoral Officer the Report of the Standing Committee on Procedure and House Affairs (“PROC”). The PROC report set out three objections to the Commission’s Final Report. Pursuant to s. 23(1) of the *Electoral Boundaries Readjustment Act* (“EBRA”) the Commission has reconsidered its conclusions in light of the PROC report and supporting materials. Please accept the following as the Commission’s disposition of the objections, and where rejected, the reasons for doing so.

Electoral District Name Changes

Having given further consideration to the objection of Minister Fraser, the Commission has resolved to amend its Final Report to reflect the requested name change. The proposed riding of *Pictou—Eastern Shore* will be amended to *Central Nova*. Where *Pictou—Eastern Shore* is referenced elsewhere in this disposition, it should be understood that the name will return to *Central Nova*.

Electoral Boundary Changes

In all other respects, the Commission's Final Report will remain unchanged. After due consideration to the objections and supporting material, the Commission respectfully declines to make the revisions to boundaries as sought by the objectors. We will explain why below.

All three boundary objections raised procedural fairness concerns in how the Commission undertook its mandate. Further, all three spoke to the Commission's failure to engage with particular communities. Ms. Diab questioned the Commission's lack of consultation with residents of the St. Margarets Bay area. Minister Fraser criticized the Commission for failing to directly seek input from African Nova Scotian communities and the Pictou Landing First Nation. Mr. Battiste asserts the Commission failed to consult with the First Nation communities of Eskasoni and Wagmatcook in contravention of its constitutional obligation to do so, and contrary to the *United Nations Declaration on the Rights of Indigenous Persons* ("UNDRIP" or "the Declaration"). Finally, each objector raised concerns in relation to the proposed electoral boundaries in the constituencies they presently represent.

The Commission will first address the procedural fairness concerns. Then we will address the alleged breach of the duty to consult and the impact of the Declaration. Finally, we will examine each of the objections related to the placement of electoral boundaries.

Procedural Fairness Concerns

The Commission's procedural obligations are governed by the *EBRA*. In all respects, the Commission met or exceeded its statutory obligations. There is no validity to the complaints regarding a lack of notice, the number and location of meetings, improperly changing the electoral boundaries shown in the proposal to those in the Final Report and lack of consultation with particular communities or groups (we will discuss the concerns that the Commission did not directly consult with Indigenous persons in the next section).

The *EBRA* sets out a required process for the Commission's work. Based on decennial census data, the Commission is to prepare an initial proposal setting out recommended boundaries to the federal electoral districts (s. 14(2)). The Commission met this obligation.

The *EBRA* then requires the Commission to give Notice of sittings to hear representations about the proposal. The Notice must be published in the *Canada Gazette* and at least one newspaper in the province (s. 19(2)). The Notice must set out the proposed boundaries (s. 19(3)). The Commission is required to hold at least one sitting to hear representations (s. 19(1)). All of these requirements were met.

In addition to publishing the Notice in the form required in the *Canada Gazette*, the Commission published it in three newspapers – *The Chronicle Herald*, the *Cape Breton Post* and *Le Courrier de la Nouvelle-Écosse*. To enhance public awareness, the Commission additionally utilized social media (Facebook, Twitter and YouTube) to advise the public of its work. Further, the Commission Chair provided interviews to print and radio media in which the redistribution process was explained and public representations encouraged. The Commission also maintained a website where the initial proposal, hearing dates and notification of representation requirements were made publicly available.

The Commission also exceeded the statutory requirement to hold one hearing for the presentation and discussion of representations. The Commission held eight in-person hearings at geographically spaced locations. To enhance the public's ability to provide a representation to the Commission, a ninth virtual hearing was held. There is no obligation to conduct a hearing in every constituency or in any particular location. Ms. Diab's assertion the Commission did not sit in *Halifax West* does not give rise to a breach of procedural fairness, nor does Mr. Battiste's complaint the Commission failed to sit in Eskasoni.

With respect, Minister Fraser's assertion the Commission's conduct surrounding the Antigonish hearing gave rise to a breach of procedural fairness, is without merit. The Minister appears to have overlooked that the hearings were not intended to be open to an undefined and potentially limitless audience. The *EBRA* requires interested persons to give notice in writing of their desire to make a representation at a hearing (s. 19(5)). The Commission further requested that those wishing to only observe the hearings also provide notice of their intent to attend. The purpose of the required Notices was to ensure that the venues obtained for the hearings were adequate to accommodate both presenters and observers and the time designated for the hearing was sufficient.

Based on the Notices received, the Commission had no reason to believe the original venue chosen for the Antigonish hearing (the same one chosen by the Commission in 2013) would be inadequate. It was only on the morning of the hearing the Commission became aware from the Minister's constituency office that, in conjunction with local media, it had been promoting the hearing as a meeting open to the general public. This had the effect of encouraging attendance by people who had not given advance notice.

Once the Commission became aware the venue would likely not be suitable to permit the large numbers anticipated to be attending the "public meeting," it quickly sought an alternative venue. Fortunately, a larger location was found. Commission staff contacted all individuals who had complied with the notice requirement and advised of the change of venue. Posters were placed at the original venue advising of the new hearing location, which was a short distance away. As predicted by Minister Fraser's constituency office, a large number of people attended (significantly more than the number of notices received), seemingly in response to the hearing being incorrectly publicized as being a meeting open to the general public. Everyone who attended was welcomed to the hearing and permitted entry. All those who wished to make a representation were permitted to do so, including those who had not complied with the notice requirement contained in the *EBRA*. Media were not prevented from attending and did so. At least one media interview was conducted by the Commission Chair immediately following the hearing.

There is also no validity to the Minister’s assertion the Commission’s initial choice of venue in Antigonish or the resulting change, prevented individuals, groups or municipalities from providing representations in response to the proposal. The Antigonish hearing, held on May 31, 2022, was the second of nine. Ample opportunity existed for representations to be made at the remaining seven hearings. Further, the Commission accepted written representations until June 28, 2022. Anyone who was dissuaded from making a representation on May 31, 2022 due to the venue or change thereof, still had an additional 28 days to submit their views to the Commission. There is no breach of procedural fairness in the manner in which the Commission planned for, or conducted the Antigonish hearing. It is unfortunate that a late change of venue was required, but the fault for that lies with third parties, not the Commission.

After the conclusion of public hearings, the Commission is statutorily tasked with preparing a Final Report. The Commission did so. It is important to note the *EBRA* neither contemplates nor provides for the Commission undertaking a second round of public consultation in regards to changes made from the initial proposal. Doing so would be inconsistent with the tight timelines in the *EBRA* for the Commission to complete its work (s. 20(1)).

The contents of the Final Report clearly reflect the Commission considered the public representations at hearings and received in writing, and that these gave rise to changes from the initial proposal. That is exactly how the redistribution process is intended to work. A Commission is not bound to its initial proposal, nor can it be expected to anticipate what it will receive by way of public representations that may alter its preliminary view. It is not out of the ordinary, suspicious, “cat-fishing” or procedurally unfair that the Commission’s Final Report contained alterations to electoral boundaries not contemplated in the initial proposal. Ms. Diab’s assertion that the Commission changing the boundaries of *Halifax West* from what was set out in the proposal to what appears in the Final Report breached procedural fairness, is without merit.

The Commission responds similarly to Mr. Battiste’s allegation of procedural unfairness because the electoral boundaries of the two ridings in Cape Breton were different in the Final Report than in the initial proposal. Mr. Battiste suggests this change came without notice and was a shock to himself and his constituents. He says he had no reason to expect the boundaries in the proposal would be changed in the Final Report. With respect, this demonstrates a fundamental misunderstanding on his part of the redistribution process. Further, it was certainly in the public domain that changes to the proposed Cape Breton ridings were being suggested and considered by the Commission. The Sydney hearing was held on May 30, 2022. It attracted significant media attention. On May 31, 2022 the *Cape Breton Post* ran an article in which potential changes to the Commission’s proposal were discussed. In the article, Mr. Ian Nathanson wrote:

[T]he three-person Federal Electoral Boundaries Commission of Nova Scotia listened to a couple of potential alternatives presented Monday night at the Cambridge Suites’ Celtic Room.

Separate urban, rural ridings

Vince MacLean, former Sydney mayor, MLA and provincial Liberal leader, suggested to the Commission a different population composition within the two Cape Breton ridings.

“One riding would be totally urban – that would take in North Sydney, Sydney Mines, New Waterford, Dominion, Sydney, Glace Bay, most or all of the county of Cape Breton”, he said.

“The other riding would be Inverness, Richmond and Victoria counties, as well as Eskasoni. Having that would keep the large Mi’kmaq presence in Eskasoni in one riding, the large French presence in Cheticamp and Richmond County in one riding. And you would still have the possibility of taking some in from the mainland. But I would suggest having two ridings from Cape Breton (only)”.

...

At the moment, the public meetings are meant to collect feedback from attending residents. Once these are complete, Bourgeois said “the commission will then look at the proposal, not only on a riding-by-riding perspective, but on a global-provincial perspective. An idea might be great for one particular riding, but a change in one riding can create a cascading effect to adjacent ridings.”

The work of the Commission was also publicized by the CBC, including that the initial proposal was, based on public input, subject to change. A report of Emily Latimer included:

Public consultations until June 28

The first of nine public meetings seeking feedback on possible boundary changes took place in Sydney on Monday evening.

Justice Cindy Bourgeois of the Nova Scotia Court of Appeal chairs the three-member electoral boundaries commission. She said five people presented for the Commission.

“The predominant theme that we heard was that there was a desire to have the two ridings in Cape Breton reflect a rural riding and to reflect an urban riding, which would see our proposed boundaries in Cape Breton shifting somewhat,” said Bourgeois.

...

“A proposal that makes sense for a particular location, of course, will be considered,” said Bourgeois.

Bourgeois said the deadline for written submissions has been extended to June 28.

It is unfortunate Mr. Battiste did not take note of the media reports relating to the Commission’s work and disseminate it to his constituents. His failure to do so does not equate to a breach of procedural fairness by the Commission.

Finally, the Commission will respond to Minister Fraser's assertion it breached its duty of procedural fairness by failing to consult with Black and Indigenous communities. It is acknowledged that Minister Fraser, following the Antigonish hearing, suggested the Commission seek out the views of these communities. The Commission's decision not to do so, does not give rise to a breach of procedural fairness. The *EBRA* contains no requirement, and no legislative authority, to reach out to any particular group or community, beyond providing notice of the proposal and inviting representations. As noted earlier, the Commission undertook other additional measures to "get the word out" about the redistribution process and to increase public engagement. The Commission did receive representations from African Nova Scotians which resulted in the Prestons being removed from the proposed *Pictou—Eastern Shore* riding, and, as described in the Final Report, added to a more urban constituency.

Although Elections Canada and future Commissions may wish to consider additional means of engaging specific socio-economic, ethnic, racial, linguistic, religious, gendered, or cultural communities, there is no such obligation at present. Any such provisions for enhanced formal consultations between Commissions and such communities, including First Nations, would require a formal amendment, by Parliament, to the *EBRA*, with such an amendment providing for consistency and clarity with respect to the application of such enhanced consultations by Commissions across the country.

For the reasons above, the Commission refutes the allegations of procedural fairness of the objectors.

Duty to Consult and Application of UNDRIP

Given the importance of the issue, the Commission will address in some detail the assertion that the constitutional rights of Indigenous people and *UNDRIP* were infringed by the Commission's failure to consult and obtain their views regarding the boundaries of the federal electoral districts.

Mr. Battiste's threat to undertake legal action, endorsed by the PROC majority, in the event the Commission does not alter the proposed boundaries to his liking, has also been noted. In these circumstances, the Commission feels compelled to provide a response which examines the accurate state of the law.

The Commission has reviewed the concerns expressed by Indigenous leaders. We acknowledge the recognition of aboriginal and treaty rights has been a hard-fought battle for Indigenous peoples and that strong opposition to improper Crown conduct is entirely warranted.

To adequately respond to Mr. Battiste's and Minister Fraser's assertion the Commission breached the constitutionally protected duty to consult with Indigenous people, it is necessary to consider direction from the Supreme Court of Canada in relation to the nature and scope of aboriginal rights and when the duty to consult is triggered.

Any discussion of aboriginal rights must start with s. 35(1) of the *Constitution Act*, 1982. It provides:

s. 35(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

The Commission agrees, without reservation, the aboriginal and treaty rights of Indigenous persons are constitutionally protected. It is that protection which lies at the heart of the Crown's duty to consult with Indigenous persons. The nature of that duty will be discussed later, for now it is helpful to examine the nature of an aboriginal right.

The nature and scope of what constitutes an aboriginal right is governed by what is known as the *Van der Peet* test (*R. v. Van der Peet*, [1996] 2 S.C.R. 507). Recently the Supreme Court of Canada in *R. v. Desautel*, 2021 SCC 17, recognized the continuing application of the test. Justice Rowe wrote:

51 The analysis under **Van der Peet** was restated by this Court in *Lax Kw'alaams Indian Band v. Canada (Attorney General)*, 2011 SCC 56, [2011] 3 S.C.R. 535, at para. 46:

- (a) Characterize the right claimed in light of the pleadings and evidence (**Van der Peet**, at para. 53; *Gladstone*, at para. 24; *Mitchell* at paras. 14-19).
- (b) Determine whether the claimant has proven that a relevant pre-contact practice, tradition or custom existed and was integral to the distinctive culture of the pre-contact society (**Van der Peet**, at para. 46; *Mitchell*, at para. 12; *Sappier*, at paras. 40-45).
- (c) Determine whether the claimed modern right is "demonstrably connected to, and reasonably regarded as a continuation of, the pre-contact practice" (*Lax Kw'alaams*, at para. 46).

The Supreme Court of Canada has emphatically stated that where Crown action does or may adversely impact upon an aboriginal right, a duty to consult arises. In *Haida Nation v. British Columbia (Minister of Forests)*, [2004] 3 S.C.R. 511, the Supreme Court confirmed the Crown's duty to consult and its scope. Subsequent cases have affirmed the principles in *Haida* remain relevant. In that decision Chief Justice McLachlin wrote:

35 But, when precisely does a duty to consult arise? The foundation of the duty in the Crown's honour and the goal of reconciliation suggest that the duty arises when the Crown has knowledge, real or constructive, of the potential existence of the Aboriginal right or title and contemplates conduct that might adversely affect it: see *Halfway River First Nation v. British Columbia (Ministry of Forests)*, [1997] 4 C.N.L.R. 45 (B.C.S.C.), at p. 71, *per* Dorgan J.

36 This leaves the practical argument. It is said that before claims are resolved, the Crown cannot know that the rights exist, and hence can have no duty to consult or accommodate. This difficulty should not be denied or minimized. As I stated (dissenting) in *Marshall, supra*, at para. 112, one cannot "meaningfully discuss accommodation or justification of a right unless one has some idea of the core of that right and its modern scope". However, it will frequently be possible to reach an idea of the asserted rights and of their strength sufficient to trigger an obligation to consult and accommodate, short of final judicial determination or settlement. To facilitate this determination, claimants should outline their claims

with clarity, focussing on the scope and nature of the Aboriginal rights they assert and on the alleged infringements. This is what happened here, where the chambers judge made a preliminary evidence-based assessment of the strength of the Haida claims to the lands and resources of Haida Gwaii, particularly Block 6.

37 There is a distinction between knowledge sufficient to trigger a duty to consult and, if appropriate, accommodate, and the content or scope of the duty in a particular case. Knowledge of a credible but unproven claim suffices to trigger a duty to consult and accommodate. The content of the duty, however, varies with the circumstances, as discussed more fully below. A dubious or peripheral claim may attract a mere duty of notice, while a stronger claim may attract more stringent duties. The law is capable of differentiating between tenuous claims, claims possessing a strong *prima facie* case, and established claims. Parties can assess these matters, and if they cannot agree, tribunals and courts can assist. Difficulties associated with the absence of proof and definition of claims are addressed by assigning appropriate content to the duty, not by denying the existence of a duty.

Chief Justice McLachlin went on to explain the duty to consult does not extend to third parties but rests entirely with the Crown:

52 The Court of Appeal found that Weyerhaeuser, the forestry contractor holding T.F.L. 39, owed the Haida people a duty to consult and accommodate. With respect, I cannot agree.

53 It is suggested (*per* Lambert J.A.) that a third party's obligation to consult Aboriginal peoples may arise from the ability of the third party to rely on justification as a defence against infringement. However, the duty to consult and accommodate, as discussed above, flows from the Crown's assumption of sovereignty over lands and resources formerly held by the Aboriginal group. This theory provides no support for an obligation on third parties to consult or accommodate. The Crown alone remains legally responsible for the consequences of its actions and interactions with third parties, that affect Aboriginal interests. The Crown may delegate procedural aspects of consultation to industry proponents seeking a particular development; this is not infrequently done in environmental assessments. Similarly, the terms of T.F.L. 39 mandated Weyerhaeuser to specify measures that it would take to identify and consult with "aboriginal people claiming an aboriginal interest in or to the area" (Tree Farm Licence No. 39, Haida Tree Farm Licence, para. 2.09(g)(ii)). However, the ultimate legal responsibility for consultation and accommodation rests with the Crown. The honour of the Crown cannot be delegated.

At this juncture, we return to Mr. Battiste's objection in which he writes:

The Mi'kmaw First Nations' inherent and treaty rights are proven constitutionally protected rights. They are an Aboriginal people of Canada. The courts have acknowledged that the Mi'kmaw people have proven aboriginal and treaty rights

that must be respected and reconciled with other constitutional rights (Simon v. The Queen, [1985] 2 S.C.R. 387; R. v. Denny (1990), 55 CCC (3d) 322; R v. Marshall, supra)

The Commission does not take issue with the general principles set out above, however, a review of the authorities relied upon by Mr. Battiste demonstrate their questionable relevance to the matter at hand.

In *Simon*, the Supreme Court of Canada found that Article 4 of *The Treaty of 1752* provided members of the Shubenacadie-Indian Brook band a right to hunt. This resulted in Mr. Simon being acquitted of charges laid against him under the provincial *Lands and Forests Act* for hunting without a license. The relevant provision of the Treaty provided:

4. It is agreed that the said Tribe of Indians shall not be hindered from, but have free liberty of Hunting & Fishing as usual: and that if they shall think a Truckhouse needful at the River Chibenaccadie or any other place of their resort, they shall have the same built and proper Merchandize lodged therein, to be Exchanged for what the Indians shall have to dispose of, and that in the mean time the said Indians shall have free liberty to bring for Sale to Halifax or any other Settlement within this Province, Skins, feathers, fowl, fish or any other thing they shall have to sell, where they shall have liberty to dispose thereof to the best Advantage.

The Court in *Simon* did not address whether Mr. Simon had any type of treaty right in relation to the federal electoral district in which he resided. The decision did not establish a duty to consult was triggered if the boundaries of his electoral district were subject to change. The decision, although important to establishing the treaty right of Mi'kmaw persons to hunt, does not have relevance here.

Denny is a decision of the Nova Scotia Court of Appeal. There, Mr. Denny, Mr. Paul and Mr. Sylliboy had been convicted of fishing for salmon without a license, unlawful possession of salmon and fishing by means of snaring contrary to the federal *Fisheries Act*. The Court found that as Mi'kmaw persons, their rights to fish was a protected aboriginal right under s. 35(1) of the *Constitution Act*. Their convictions were set aside and acquittals entered.

The Court in *Denny* did not find, nor consider whether an aboriginal right existed in relation to the federal electoral district in which the appellants resided. Further the decision did not address nor confirm the existence of a duty to consult should those boundaries be altered.

In *Marshall* ([1999] 3 S.C.R. 456) Justice Binnie commenced the majority reasons as follows:

1 On an August morning six years ago the appellant and a companion, both Mi'kmaq Indians, slipped their small outboard motorboat into the coastal waters of Pomquet Harbour, Antigonish County, Nova Scotia to fish for eels. They landed 463 pounds, which they sold for \$787.10, and for which the appellant was arrested and prosecuted.

2 On an earlier August morning, some 235 years previously, the Reverend John Seycombe of Chester, Nova Scotia, a missionary and sometime dining companion of the Governor, noted with satisfaction in his diary, "Two Indian [women] brought seal skins and eels to sell". That transaction was apparently completed without arrest or other incident. The thread of continuity between these events, it seems, is that the Mi'kmaq people have sustained themselves in part by harvesting and trading fish (including eels) since Europeans first visited the coasts of what is now Nova Scotia in the 16th century. The appellant says that they are entitled to continue to do so now by virtue of a treaty right agreed to by the British Crown in 1760. As noted by my colleague, Justice McLachlin, the appellant is guilty as charged unless his activities were protected by an existing aboriginal or treaty right. No reliance was placed on any aboriginal right; the appellant chooses to rest his case entirely on the Mi'kmaq treaties of 1760-61.

In determining Mr. Marshall was entitled to be acquitted, the Supreme Court found the provisions of the Mi'kmaq Treaties of 1760-61 provided him a treaty right to fish for trading purposes, and if the charges were enforced, it would be an infringement of his treaty right to trade for sustenance. The decision is silent as to any potential treaty rights in relation to the federal constituency in which Mr. Marshall resided. That decision, although important for confirming the existence of treaty rights for Mi'kmaq persons in relation to the fishery, it has no relevance to the work undertaken by the Commission.

In *Mikisew*, the Supreme Court of Canada found that a duty to consult was triggered when Crown action interfered with established treaty rights. Justice Binnie summarizes the dispute in the introductory paragraphs of his reasons:

1 The fundamental objective of the modern law of aboriginal and treaty rights is the reconciliation of aboriginal peoples and non-aboriginal peoples and their respective claims, interests and ambitions. The management of these relationships takes place in the shadow of a long history of grievances and misunderstanding. The multitude of smaller grievances created by the indifference of some government officials to aboriginal people's concerns, and the lack of respect inherent in that indifference has been as destructive of the process of reconciliation as some of the larger and more explosive controversies. And so it is in this case.

2 Treaty 8 is one of the most important of the post-Confederation treaties. Made in 1899, the First Nations who lived in the area surrendered to the Crown 840,000 square kilometres of what is now northern Alberta, northeastern British Columbia, northwestern Saskatchewan and the southern portion of the Northwest Territories. Some idea of the size of this surrender is given by the fact that it dwarfs France (543,998 square kilometres), exceeds the size of Manitoba (650,087 square kilometres), Saskatchewan (651,900 square kilometres) and Alberta (661,185 square kilometres) and approaches the size of British Columbia (948,596 square kilometres). In exchange for this surrender, the First Nations were promised reserves and some other benefits including, most importantly to them, the following rights of hunting, trapping, and fishing:

And Her Majesty the Queen hereby agrees with the said Indians that they shall have right to pursue their usual vocations of hunting, trapping and fishing throughout the tract surrendered as before described, subject to such regulations as may from time to time be made by the Government of the country, acting under the authority of Her Majesty, and saving and excepting such tracts as may be required or taken up from time to time for settlement, mining, lumbering, trading or other purposes.

(Report of Commissioners for Treaty No. 8 (1899), at p. 12)

3 In fact, for various reasons (including lack of interest on the part of First Nations), sufficient land was not set aside for reserves for the Mikisew Cree First Nation (the "Mikisew") until the 1986 Treaty Land Entitlement Agreement, 87 years after Treaty 8 was made. Less than 15 years later, the federal government approved a 118-kilometre winter road that, as originally conceived, ran through the new Mikisew First Nation Reserve at Peace Point. The government did not think it necessary to engage in consultation directly with the Mikisew before making this decision. After the Mikisew protested, the winter road alignment was changed to track the boundary of the Peace Point reserve instead of running through it, again without consultation with the Mikisew. The modified road alignment traversed the traplines of approximately 14 Mikisew families who reside in the area near the proposed road, and others who may trap in that area although they do not live there, and the hunting grounds of as many as 100 Mikisew people whose hunt (mainly of moose), the Mikisew say, would be adversely affected. The fact the proposed winter road directly affects only about 14 Mikisew trappers and perhaps 100 hunters may not seem very dramatic (unless you happen to be one of the trappers or hunters in question) but, in the context of a remote northern community of relatively few families, it is significant. Beyond that, however, the principle of consultation in advance of interference with existing treaty rights is a matter of broad general importance to the relations between aboriginal and non-aboriginal peoples. It goes to the heart of the relationship and concerns not only the Mikisew but other First Nations and non-aboriginal governments as well.

4 In this case, the relationship was not properly managed. Adequate consultation in advance of the Minister's approval did not take place. The government's approach did not advance the process of reconciliation but undermined it. The duty of consultation which flows from the honour of the Crown, and its obligation to respect the existing treaty rights of aboriginal peoples (now entrenched in s. 35 of the *Constitution Act, 1982*), was breached. The Mikisew appeal should be allowed, the Minister's approval quashed, and the matter returned to the Minister for further consultation and consideration.

Mikisew does not establish the Mi'kmaq people (or the Mikisew) have a treaty right in relation to the federal electoral district in which they reside, or that a duty to consult is triggered should changes to the boundaries thereof be contemplated. It does stand for the principle that the

government, before it infringes on a right contained in a treaty, must consult with the Indigenous peoples to which it relates. However, the wording of the particular treaty is important to the determination of whether such a right exists.

The Commission is satisfied a proper application of the legal principles articulated by the Supreme Court of Canada demonstrate that a duty to consult Indigenous communities does not arise in the present circumstances (other than providing Notice as set out in the *EBRA* and considering any representations received). An explanation follows.

Firstly, the duty to consult is an obligation held by the Crown, not third parties independent of government. Mr. Battiste and Mr. Fraser base their respective assertions of a failure to meet the duty to consult on the view that in carrying out its mandate, the Commission is “the Crown” or an agent thereof. That premise is incorrect.

Parliament has explicitly chosen to keep Commissions at arms length. In defining a Commission’s status, the *EBRA* provides:

12. A commission is not an agent of His Majesty and the members of a commission as such are not part of the federal public administration.

Clearly the Commission is independent of the Crown. It is not part of the federal administration, nor does it act as an agent. As the above legal principles demonstrate, the duty to consult is the duty of the Crown, and the Crown alone. The Commission, as an independent third party, holds no such duty.

Although the Commission’s status is sufficient to dispose of Mr. Battiste’s and Minister Fraser’s assertions regarding its duty to consult, it is equally clear that even if such a duty existed, it would not be triggered in this instance. The duty to consult arises in specific circumstances – when Crown action does or has the potential of adversely impacting on a pre-contact aboriginal right or one established by treaty. The proponent of such a right has the obligation to demonstrate its existence. With respect, neither objector has done so.

Although it is not entirely clear, it would seem that the “right” being asserted is to enhance the effective representation of Indigenous persons and increase the potential of electing a Mi’kmaq representative to Parliament, and any potential adverse impact to that right would trigger a duty to consult. With respect, there is no evidence presented in either objection that establishes a claimed right relating to the constitution of federal electoral boundaries existed prior to European contact, or that other aspects of the *Van der Peet* test are met in these circumstances. A right to effective representation in a settler-imposed system of government cannot be seen to be a right held by the Mi’kmaq people prior to European arrival. We will, however, be discussing effective representation of Mi’kmaq people when addressing Mr. Battiste’s boundary objection.

Mr. Battiste also alleges the duty to consult is triggered in relation to proposed changes to federal electoral boundaries by virtue of treaty. The case authorities demonstrate the existence of enforceable Peace and Friendship Treaties between the Crown and the Mi’kmaq people. Particular terms of those treaties have been used to establish rights to hunt and fish. The Commission is unaware of any treaty between the Crown and the Mi’kmaq people that relates to their representation in the Parliament of Canada. Beside a blanket assertion that such a treaty

right exists, Mr. Battiste has not demonstrated which treaty provision he relies on in alleging there is a duty to consult regarding changes to federal electoral boundaries.

As a final consideration, the Commission will address Mr. Battiste's claim that Canada's adoption of the *United Nations Declaration on the Rights of Indigenous Peoples* required the Commission to not only consult with Indigenous peoples but obtain their prior consent to changing the boundaries of electoral districts. Mr. Battiste specifically relies on Article 32(2) of the Declaration which provides:

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

The Commission also takes note of Article 38, which states:

States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

As Mr. Battiste correctly states in his objection, Canada has passed the *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14 ("UNDRIPA"). It is an important commitment of the Federal government to recognize the rights of Indigenous persons and take meaningful action to remove systemic discrimination and facilitate reconciliation. We note two provisions of particular significance:

5. The Government of Canada, must in consultation and cooperation with Indigenous peoples, take all measures necessary to ensure that the laws of Canada are consistent with the Declaration.

6. (1) The Minister must, in consultation with Indigenous peoples and with other federal ministers, prepare and implement an action plan to achieve the objectives of the Declaration.

Section 6(4) of UNDRIPA provides the Minister must complete an action plan "as soon as practicable, but no later than two years after the day on which this section comes into force". Once completed, the action plan must be tabled in Parliament (s. 6(5)) after which it is made public (s. 6(6)).

According to the Justice Canada website, an action plan has yet to be completed to implement the Declaration. The website reports the Federal government is presently "working in consultation with Indigenous peoples to develop the action plan and take measures to ensure that federal laws are consistent with the Declaration." The first phase of the consultation process is complete and a draft action plan is available for review. It is clear that much more consultation will be taking place with Indigenous peoples and other stakeholders before a finalized action plan is available.

In the draft action plan, the federal government proposes how, in future, it will implement *UNDRIPA* to ensure that “the laws of Canada are consistent with the Declaration”:

The Government of Canada will take the following measures in consultation and cooperation with Indigenous peoples:

...

2. Identify and prioritize existing federal statutes for review and possible amendment, including:

- A non-derogation clause in the *Interpretation Act*. (**Justice Canada**)
- Exploring the development of an interpretative provision for inclusion in the *Interpretation Act* or other laws that provides for the use of the Declaration in the interpretation of federal enactments (**Justice Canada**)
- Any other specific pieces of legislation either already under review or which Indigenous peoples and relevant department have jointly identified as a priority for review. (**All departments**)

In concluding Mr. Battiste is mistaken in asserting the Commission had an obligation to consult with, and obtain the prior consent of Mi'kmaq people to the electoral boundary changes in accordance with Article 32(2) of the Declaration or *UNDRIPA* more generally, the following observations are made:

Article 32(2) and the entire Declaration applies to the actions of “States” *vis a vis* Indigenous persons. As explained earlier, the Commission is not the Crown/State, nor an agent thereof;

Even the most liberal reading of Article 32(2) fails to support the premise that alterations to federal electoral boundaries would fall within the scope of the provision. It does not apply to the exercise being undertaken by the Commission;

Although *UNDRIPA* has received Royal Assent, it is far from implementation. The Action Plan for implementing the Declaration is still a work in progress;

The federal government anticipates engaging in future with Indigenous peoples to identify specific pieces of legislation which require amendment to implement the Declaration. In short, the *EBRA* has not been amended (nor is it certain it will be) to place an obligation on the Commission to comply with the Declaration generally, or Article 32(2) in particular; and

Given the concerns raised by Mr. Battiste and the Indigenous leaders supporting his objection, the Commission encourages them to raise these with the Minister responsible for the implementation of *UNDRIPA*. The *EBRA*, as a result, may be identified as a piece of legislation to be reviewed in the finalized Action Plan.

For the above reasons, the Commission views the objections relating to the duty to consult with Indigenous people as being without merit.

Objections regarding particular proposed boundaries

Before addressing the three objections, it is helpful to revisit the principles governing the Commission's establishment of electoral boundaries. Section 15 of the *EBRA* states:

15 (1) In preparing its report, each commission for a province shall, subject to subsection (2), be governed by the following rules:

(a) the division of the province into electoral districts and the description of the boundaries thereof shall proceed on the basis that the population of each electoral district in the province as a result thereof **shall, as close as reasonably possible, correspond to the electoral quota for the province**, that is to say, the quotient obtained by dividing the population of the province as ascertained by the census by the number of members of the House of Commons to be assigned to the province as calculated by the Chief Electoral Officer under subsection 14(1); and

(b) the commission shall consider the following in determining reasonable electoral district boundaries:

(i) the community of interest or community of identity in or the historical pattern of an electoral district in the province, and

(ii) a manageable geographic size for districts in sparsely populated, rural or northern regions of the province.

(2) The commission may depart from the application of the rule set out in paragraph (1)(a) in any case where the commission considers it necessary or desirable to depart therefrom

(a) in order to respect the community of interest or community of identity in or the historical pattern of an electoral district in the province, or

(b) in order to maintain a manageable geographic size for districts in sparsely populated, rural or northern regions of the province, but, in departing from the application of the rule set out in paragraph (1)(a), the commission shall make every effort to ensure that, **except in circumstances viewed by the commission as being extraordinary, the population of each electoral district in the province remains within twenty-five per cent more or twenty-five per cent less of the electoral quota** for the province

The Supreme Court of Canada in the *Carter* decision has affirmed that variations from the electoral quota (88,126 in this case) must be justified.

Minister Fraser, the member for *Central Nova*

Minister Fraser objects to the entirety of the County of Antigonish being removed from the proposed *Pictou—Eastern Shore* riding (to be amended to *Central Nova* as requested) and added to *Cape Breton—Canso—Antigonish*. His objection addresses how the Commission has dealt with both of these ridings in the Final Report.

The Commission has taken note of the concerns raised in the PROC report and the supporting materials. In short, Minister Fraser asks for the boundaries of *Central Nova* to remain unchanged. To help focus the discussion to follow, the Commission notes that currently the riding's variation from the electoral quota is significant, -16.95%.

As explained in the Final Report, the Commission considered having the two Cape Breton ridings remain entirely on the Island in order to avoid an encroachment into Antigonish County:

The Commission also explored whether it was feasible to divide Cape Breton Island into two electoral districts without the necessity of having one of the ridings extend into the mainland. Again, the Commission undertook population calculations, which quickly demonstrated that placing two ridings entirely within Cape Breton was not possible, as both would fall well below the permissible - 25% variance. This meant that one of the electoral districts in Cape Breton would also need to serve areas of the mainland (as has been the case since the 2003 representation order).

In considering how far to extend into the mainland, the Commission was mindful of public feedback expressing that Antigonish County should not straddle two constituencies as it presently does. This supported extending the boundary of the proposed *Cape Breton—Canso—Antigonish* to encompass all of Antigonish County. Even with this extension, *Cape Breton—Canso—Antigonish* is still the least populated riding in the province, sitting at a -14.73% variance from the electoral quota (75,141). The Commission considered extending the riding even further into the mainland in order to come closer to the electoral quota, but determined not to in light of the already large geographic region it encompassed.

Mr. Fraser expressed concern regarding the size of *Cape Breton—Canso—Antigonish* and that it was too large for a member to effectively represent. The Commission, as required, considered this factor and concluded effective representation would not be impaired by the size or geographical nature of the riding. This view appears to coincide with that of the area's former long-time MP. In an article by Emily Latimer of the CBC (posted May 31, 2022), Mr. Cuzner's views on the proposed addition of Antigonish County to a Cape Breton riding were reported as follows:

Rodger Cuzner, a former Liberal MP for Cape Breton-Canso, says boundary changes are always controversial. "It's always a challenge, there's no doubt about that".

"When I first got going, it was Bras d'Or-Cape Breton. Before that, it was Cape Breton-East Richmond," Cuzner said.

But he doesn't think adding Antigonish County to the riding is a bad thing.

“I think the folks are pretty much the same. You know, it’s about fishing and farming and family and fiddles,” he said. “We’re not that different”.

Cuzner said one challenge future MPs might face is meeting with new community groups in a geographically vast riding. But he said it’s no more difficult than visiting constituents in densely populated urban cities.

“Some of the downtown ridings in the greater Toronto area might only be three blocks by three blocks, but they go up 40 and 50 and 60 storeys,” he said.

“So we spend a lot of windshield time where they spend a lot of elevator time.”

The Commission also looked to how the riding compared to others in terms of size. The new district of *Cape Breton—Canso—Antigonish* has a geographic area of 13,456 square km. Compared to other nonmetropolitan ridings across Canada, it does not stand out as particularly large, even leaving aside the exceptionally remote districts of Northern Ontario, Quebec and British Columbia, which are enormously larger. Among the current (2013 Representation Order) federal electoral districts in Atlantic Canada, we find for example *Miramichi—Grand Lake* whose area exceeds 17,000 square km, *Long Range Mountains* whose area exceeds 40,000 square km, and so forth. Looking beyond Atlantic Canada, we find many districts of similar or larger geographic area. Two such examples that are not nearly the largest in their respective provinces are *Nipissing—Timiskaming* whose area exceeds 15,000 square km and *Kamloops—Thompson—Cariboo*, whose area exceeds 38,000 square km.

Minister Fraser raises further concern with respect to the Commission’s lack of consideration of the community of interest and deep ties between Pictou and Antigonish County. The Commission acknowledged in its Final Report, and does so again, that there are connections between those areas. We have not overlooked this factor. However, it is also clear there are strong historic and present ties between Antigonish County and Cape Breton.

The Commission is not taking a novel approach by joining Antigonish County to Cape Breton. The riding of *Cape Breton Highlands—Canso* was created in 1966 and witnessed its first general election in 1968. It brought together parts of the then existing ridings of *Antigonish—Guysborough*, *Inverness—Richmond*, and *Cape Breton North and Victoria*. It was comprised of the complete Counties of Antigonish and Inverness, and parts of Guysborough, Victoria, and Richmond Counties.

In 1987 *Cape Breton Highlands—Canso* was reconfigured slightly to consist of the entire County of Antigonish and parts of Inverness, Victoria, Richmond, and Guysborough Counties. This remained until 1997 - a 30-year history of Antigonish County being joined politically not only to the Canso Strait area, but more rural parts of Cape Breton.

With respect to shared community of interest, the Commission notes and agrees with the view expressed in the PROC Report dissent:

There are particularly strong current and historical ties between Antigonish and the Cape Breton counties of Guysborough, Inverness, and Richmond, that together is known as the Strait Area. The communities of the Strait Area share:

A common chamber of commerce, the Strait Area Chamber of Commerce.

Health Services, including a regional hospital at Antigonish, and until recently a common healthcare delivery structure under the Guysborough Antigonish Strait Health Authority.

A common school district, the Strait Regional School Board.

A community of faith, the Roman Catholic Diocese of Antigonish.

A strong connection to St. Francis Xavier University.

The radio station XFM/CJFX was the original station serving listeners in Antigonish, Guysborough County, Inverness County, and Richmond County.

The Commission believes *Cape Breton—Canso—Antigonish* will receive effective federal parliamentary representation. Antigonish County and rural Cape Breton have similar interests in such issues as health care, regional economic development, the administration of specific federal public services - employment insurance, CPP, OAS, federal policies and programs respecting fisheries, forestry, agriculture, tourism, the role of ACOA, and immigration promotion, to name just a few key ones.

The following editorial from the *Port Hawkesbury Reporter* (published December 2, 2022) references many of the considerations that informed the Commission's decision regarding *Cape Breton—Canso—Antigonish*. Although lengthy, the Commission includes it here as it is helpful in demonstrating that the factors we weighed also accord with those expressed by a non-partisan observer, with knowledge of the local area:

New federal boundaries try to correct mistakes of the past

The Federal Electoral Boundaries Commission of Nova Scotia is calling for the formation of the new riding of Cape Breton-Canso-Antigonish.

According to a report submitted by the Commission two weeks ago, the new federal electoral district would take in Antigonish town and county, the Municipality of the District of Guysborough, as well as Inverness, Richmond and Victoria counties.

Also included in this proposal are rural parts of the Cape Breton Regional Municipality putting the population of the new configuration at 75,141.

According to a press release issued on Nov. 17, the Commission said its aim was to bring the populations of most of the 11 electoral districts in Nova Scotia “within a closer range” which resulted in “significant adjustments to the existing boundaries”.

Cindy A. Bourgeois, the chair of the three-member commission, said they received advice from many citizens and organizations across the province, and the Commission is satisfied that it balanced its statutory obligations with the views of the people of Nova Scotia in striving for effective representative.

The Commission said the report was tabled in the House of Commons on Nov. 17, then sent to the Speaker of the House of Commons through the Chief Electoral Officer of Canada. They said the report will be reviewed by the House of Commons Standing Committee on Procedure and House Affairs.

As it is mandated to do every 10 years, the Commission started its review in February, using the 2021 Census population counts.

Bourgeois said the commission had to distribute 969,383 people among 11 ridings in Nova Scotia, which comes out to an average of 88,126 people in each riding.

Among the consideration for the Commission was voting parity, history, existing boundaries, and they looked at the current Cape Breton-Canso riding which has a population around 71,000 while Sydney-Victoria has a total of 72,000 Bourgeois noted.

With parts of the Strait area, like Antigonish town and county, experiencing population growth, while outmigration trends have subsided in other parts of the region, Bourgeois said those trends had to be put in context against population growth in other parts of Nova Scotia.

Aside from the numbers, Bourgeois said there are also First Nation communities to consider in both Cape Breton ridings.

The Commission announced in April that it was starting the public consultation phase.

On May 31, Antigonish Town Hall hosted one of nine in-person public hearing across the province held by the Commission.

At the time, the Commission was proposing the formation of a new riding to be called Cape Breton-Antigonish, with a population of 84,999 that took in the counties of Antigonish and Richmond, the Municipality of the District of Guysborough, Inverness County, south of the Cape-Breton Highlands National Park, as well as communities within Cape Breton Regional Municipality that are in the Cape Breton-Canso riding.

The new proposal is a change from that configuration, but it's clear the intent of the Commission was to reunite the urban centres of the CBRM, as well as the rural counties of Cape Breton and eastern mainland Nova Scotia.

Although geographically vast, the potential riding of Cape Breton-Canso-Antigonish includes rural communities with similar economies (fishing, forestry, and farming), historical connections (they were included in the former federal riding of Cape Breton Highlands-Canso), and a reasonable population over 75,000.

Population-wise, this might be fewer than other ridings in Nova Scotia, but this proposal makes sense.

In this new riding, the First Nations of We'koqma'q, Potlotek, Paqntkek [sic], would be joined with Eskasoni and Wagmatcook to form a formidable-coalition with similar goals and perspectives that can effectively push for priorities attentive to the needs of Unama'ki.

Because the communities are so similar, this riding includes municipalities and provincial constituencies that have been working and lobbying together toward common goals for decades.

And, this removes urban parts of the CBRM from the current riding of Cape Breton-Canso. Rejoining the Glace Bay area with Sydney and New Waterford makes sense, even if the new riding of Sydney-Glace Bay is much smaller geographically.

Whether intentional or not, this was the correction of mistakes made decades ago when Inverness, Richmond, Guysborough, and Antigonish counties were unceremoniously ripped from their own federal riding and dispersed to a riding containing Pictou County in the mainland then a second riding containing the Glace Bay area in Cape Breton.

Although officials in both Antigonish town and County expressed a desire to remain with Pictou County in the riding of Central Nova, it's possible rejoining those communities with those which they have so much in common, will smooth any apprehension.

In Cape Breton, no-one was happy with Cape Breton-Canso where the regions within the CBRM has a disproportionate share of the vote, and communities in Inverness and Richmond were awkwardly tacked on to round out the population. The current riding dilutes the democratic clout of the rural areas.

In the new scenario, power was returned to the Strait area voters, and their future choices for representation will be a better reflection of the needs of local communities.

Minister Fraser's final concern relates to the extension of the proposed *Pictou—Eastern Shore* into the Halifax suburbs. The Commission notes the present *Central Nova* already includes the Halifax Regional Municipality communities of Petpeswick, Musquodoboit Harbour and Jeddore. There is no suggestion or reason to believe Minister Fraser has been impeded in effectively representing these HRM constituents.

In the Final Report, the Commission has extended the boundary of the riding further towards urban HRM, but given the population patterns demonstrated in the 2021 decennial census, this will increasingly become a reality for more rural constituencies. Even with including the proposed new areas into the constituency, the *Pictou—Eastern Shore* riding has a variance of -13.52% (76,210), and is the second least populated of the 11 ridings. Maintaining the current

boundary of *Central Nova* would serve to move the riding even further from the electoral quota. The Commission declines to do so.

In summary, in establishing the boundaries of the proposed ridings of *Cape Breton—Canso—Antigonish* and *Pictou—Eastern Shore*, the Commission remained mindful of the electoral quota and the variation therefrom. This was in addition to the other considerations contained in s. 15 of the *EBRA*. Although Minister Fraser and others would have balanced those factors differently, the Commission continues to view its determination as warranted, and not detracting from the effective representation of those constituencies.

Mr. Battiste, the member for *Sydney—Victoria*

Mr. Battiste's objection is in regard to the proposed ridings of *Sydney—Glace Bay* and *Cape Breton—Canso—Antigonish*. The PROC report sets out his position as follows:

Mr. Battiste recommends maintaining the existing electoral boundaries of *Sydney—Victoria* and *Cape Breton—Canso* to ensure effective representation.

Mr. Battiste's concerns center on the Commission's placement of the First Nations communities of Eskasoni and Wagmatcook in a different riding than Membertou. He says this will create adverse effects for these two communities which have significant ties to Membertou and Sydney. Mr. Battiste further fears the boundary readjustment would reduce the weight of the Mi'kmaw language. In his written materials in support of his objection, Mr. Battiste also expresses concern about the proposed changes making it unlikely a Mi'kmaw person would be elected to Parliament.

The Commission acknowledges and accepts the criticism that the Final Report did not reference consideration being given to issues specific to Mi'kmaq communities. It should have, as it was a part of the Commission's debates and considerations as alluded to in the Final Report. Setting the boundary between *Sydney—Glace Bay* and *Cape Breton—Canso—Antigonish* was a back and forth discussion amongst the Commission members, with the placement of Eskasoni, in particular being a significant part of the conversation. As set out earlier, in an interview with the *Port Hawkesbury Reporter*, the Commission chair noted that concerns regarding First Nations communities had been considered in reaching the final boundaries of the two Cape Breton ridings. The Commission should have done a better job setting out and explaining those considerations in the Final Report.

As a starting point in responding to Mr. Battiste's objection, it is helpful to consider what the 2021 decennial census tells us about the current status of the ridings he asks to remain unchanged. *Sydney—Victoria* has a variation from the electoral quota of -17.89%. *Cape Breton—Canso* has a variation of -19.0%. Both are significant departures from the electoral quota, and will only grow over the next decade as the population growth in HRM greatly surpasses that of Cape Breton. The Final Report serves to decrease the variation, but both the proposed ridings of *Sydney—Glace Bay* and *Cape Breton—Canso—Antigonish* are still markedly below the electoral quota at -6.7% and -14.73% respectively. The Commission, however, feels those variations from the electoral quota are justified.

There are 13 First Nation communities in Nova Scotia, five of which are located in Cape Breton (Unama'ki). The 2021 decennial census shows that Indigenous persons make up 5.4% of the province's population.

As we have already explained, having Cape Breton in a single riding, and thus the five Unama'ki communities share the same member of Parliament, is impossible. Cape Breton has to have two federal ridings, each of which will contain at least one Indigenous community. Presently Membertou, Eskasoni and Wagmatcook are located in *Sydney—Victoria*, with We'koqma'q (Waycobah) and Potlotek falling in *Cape Breton—Canso*, which is also the federal constituency for Paqtnek, a First Nations community in Antigonish county. Currently, the percentage of Indigenous persons in *Sydney—Victoria* is 10%, much higher than the provincial percentage, and it elected the first Mi'kmaw representative to serve in Parliament.

Mr. Battiste's assertion is the changes contained in the Final Report will decrease the strength of Mi'kmaq voices. In criticizing the Commission's removal of Eskasoni and Wagmatcook from *Sydney—Victoria*, he wrote:

There is no consideration given as to how the Mi'kmaq communities, made a substantive minority with greatly reduced electoral power within the new boundary, could be effectively represented by a member of Parliament in the vast geographical and nearly unilingually anglophone proposed riding of Cape Breton—Canso—Antigonish.

The Commission has already addressed the concern regarding the geographical size of *Cape Breton—Canso—Antigonish* in disposing of Minister Fraser's objection. What will be addressed is Mr. Battiste's suggestion the changes made would make Mi'kmaq communities "a greatly reduced electoral power" within *Cape Breton—Canso—Antigonish*. An initial observation is in order. Because the Mi'kmaq population of Cape Breton is divided into two federal ridings, the accumulated power of their votes will necessarily be split. There will be Indigenous voters in both ridings, and they will be part of the minority demographic in both.

With respect, Mr. Battiste's assertion that Mi'kmaw persons will have "reduced electoral power" in *Cape Breton—Canso—Antigonish* is simply incorrect. Based on the 2021 decennial census data (which forms the basis of the Commission's work), Indigenous persons make up 12.4% of that riding - over double that of the provincial percentage. This constituency has the highest percentage of Indigenous persons in all of the 11 federal ridings, yet is the smallest by population. The Commission has **increased**, not reduced, the electoral power of the five Mi'kmaq communities in this riding. It has **improved**, not undermined, the potential to elect a Mi'kmaw member of Parliament. Mr. Battiste's concern in this regard is unfounded.

We turn now to the rationale behind Membertou being separated from Eskasoni and Wagmatcook. In considering the creation of one more urban and one more rural riding to represent Cape Breton, the Commission was of the view that Membertou, unlike the other four Unama'ki communities, stood out as belonging in a more urban constituency. Although First Nations communities will always share fundamental commonalities, it seemed Membertou would have concerns more compatible with Sydney and region than do the others.

Membertou has forged a distinct and remarkably successful economy. Its website proudly proclaims it to be “an urban and progressive Mi’kmaq community” located only 3 km from Sydney’s downtown and business core. It has an annual budget in excess of 112 million dollars and has 600 employees. In describing the plan which led to its economic turn-around, the website describes:

The principles were successfully in place and Membertou strategically increased its profile with major private sector companies by launching the Membertou Corporate Office in downtown Halifax. Membertou also became the first Indigenous organization in the world to receive ISO 9001 certification. This assisted in leading to the formation of a number of partnerships with private industry sectors in Engineering, Mining, Energy, Construction, GIS, IT, Business Management, Consulting Services, Insurance, Commercial Fisheries and Real Estate.

Membertou’s distinct economic character and geographic proximity to Sydney’s urban area led the Commission to include it in the new *Sydney—Glace Bay* riding. Although that riding has a lower percentage of Indigenous voters, the Commission is of the view Membertou holds the economic and political influence to make itself heard. The Commission is satisfied this progressive and economically vibrant urban community will not be adversely affected by being the only Indigenous community in *Sydney—Glace Bay*. The five Indigenous communities in *Cape Breton—Canso—Antigonish* share the commonality of being more rural in nature, and together create a strong base for having their concerns addressed, and being effectively represented by a shared member of Parliament.

The Commission has considered Mr. Battiste’s concern that the “language weight of the Mi’kmaq would be reduced within the proposed riding of *Cape Breton—Canso—Antigonish*.” We acknowledge that protecting and preserving Indigenous languages is a significant consideration. We do however, disagree with Mr. Battiste’s characterization of *Cape Breton—Canso—Antigonish* as a “nearly unilingually anglophone riding.” To the contrary, this proposed riding has a rich linguistic tapestry of not only English, but French, Gaelic and Mi’kmaq. Eskasoni’s website acknowledges this linguistic diversity, and notes the community’s “close ties to Cape Breton Gaelic and French traditions.”

Eskasoni, the largest Indigenous community in the province is also home to the greatest number of Mi’kmaq speakers. However, it is not alone in its use of their ancestral language. Its use and preservation is also a priority in Wagmatcook, which describes itself on its website as “a bilingual community with Mi’kmaq and English used interchangeably by the Chief and Council and most of the community’s public institutions.” Children in that community are fortunate to have the opportunity to complete their primary and secondary education in both languages. It was important for the Commission not to divide these two linguistically enriched communities.

Mr. Battiste’s claim that the proportions of Mi’kmaq language speakers are diluted by the boundaries in the Commission’s Final Report is not supported by census data. According to the 2021 decennial census, the absolute numbers and proportions of speakers are higher in *Cape Breton—Canso—Antigonish* district than in either of the two districts in the initial proposal, and higher than in either of the current (2013 Representation Order) districts. This additional

measure of enhanced electoral representation holds true no matter which of the three measures of language proficiency is used – home language, knowledge of language, or mother tongue.

As a final point, the Commission notes Mr. Battiste’s eloquent comments regarding the connection between Eskasoni and Sydney:

Sydney is where the Eskasoni community shops and where many from Eskasoni find economic opportunities, it is where their children are able to participate in sports and social activities, it is where they access the government and non-government services necessary for daily life, it has the hospital where their children are born, where they receive care and where they share their loved ones’ final moments.

What is important to realize, however, is that none of those things will be impacted by the changes to the federal electoral boundaries. Residents of Eskasoni will not be prevented from shopping, working, playing, obtaining government services or health care in Sydney. All of that will remain the same. The sole difference will be residents of Eskasoni will be represented by a different member of Parliament than those in Sydney.

Notwithstanding the considerations outlined above which support the inclusion of Eskasoni and Wagmatcook in *Cape Breton—Canso—Antigonish*, the Commission has, in light of Mr. Battiste’s objection, revisited whether one or both communities should be added back into the proposed *Sydney—Glace Bay*. We returned to the maps and census data to determine what impact this would have on the variation of the electoral quota. Removing Eskasoni and Wagmatcook from *Cape Breton—Canso—Antigonish* pushes the variance for that riding to -24.59%, just short of the permissible limit. Leaving Wagmatcook in *Cape Breton—Canso—Antigonish*, with Eskasoni moving to *Sydney—Glace Bay* made only a slight improvement, with the variance decreasing minimally to -23.22%.

In the Commission’s view, the present circumstances do not support the creation of a district whose population departs so greatly from the provincial quota, particularly when doing so would harm the effective representation of Indigenous people in the Cape Breton ridings. As such, the Commission declines to make the alteration as requested by Mr. Battiste.

[Ms. Metlege Diab, the member for Halifax West](#)

As set out in the PROC report, Ms. Diab objects to the configuration of *Halifax West* in the Commission’s Final Report and seeks to have the boundaries as set out in the Proposal adopted. She expressed concern with the Commission’s division of the St. Margarets Bay community, and the effective representation of new Canadians.

As discussed in the Final Report, the urban Halifax Regional Municipality has, and continues to, experience significant growth. This creates a challenge in maintaining the electoral quota in the four urban constituencies, but also the remaining seven which are more rural in nature. Although considered, the Commission ultimately decided against creating a fifth urban riding. This resulted in a difficult exercise of distributing the urban population while respecting, as much as feasible, community of interests and other factors. The outcome is not particularly “perfect” for any of the more urban ridings, but the Commission is of the view that the citizens in each will be effectively represented.

As noted above, Ms. Diab's objection to the placement of boundaries is two-fold. First, she has expressed concern regarding the placement of the boundary between *Halifax West* and *South Shore—St. Margarets*. The PROC report notes:

Next, Ms. Diab stated that the proposed ridings of Halifax West and South Shore-St. Margarets do not respect St. Margarets Bay's community of interest or identity, or the historical patterns of previous electoral boundaries. With respect to the latter, Ms. Diab stated that the community of St. Margarets Bay was founded in 1780 and that, from Hubbards to Peggy's Cove, it has been in the same federal riding since 1867.

In the current distribution, there are significant areas of the Halifax Regional Municipality included within the *South Shore—St. Margarets* riding. This includes, amongst others, Allen Heights, Tantallon, Peggys Cove, Bayside and Lower Prospect. The Commission received a number of representations which highlighted the changing nature of this area. The PROC minority report responds to Ms. Diab's concern, and it accords with our view and rationale:

MP Diab's assertion that the communities of St. Margaret's Bay have always been in the same federal riding is factually incorrect. Except for one decade between Confederation and 2004, communities of St. Margaret's Bay were divided federally, with the boundary separating the communities being the Lunenburg County line, which divided the eastern and western shores of St. Margaret's Bay. Accordingly, the new boundary is closer to the historical pattern of the South Shore-St. Margaret's riding than the current boundary of that proposed by MP Diab.

Additionally, the new boundaries also better reflect the communities of interest found within Halifax West and South Shore-St. Margarets. The communities of St. Margaret's Bay now lend themselves closer to the bedroom urban communities of Halifax rather than the rural fishing and forestry counties of Queen's, Shelburne, and Lunenburg.

During the public hearing in Bridgewater, several presenters expressed this view, including former MP Gerald Keddy, who noted how "much of Halifax County has become a bedroom community for Halifax" and that the residents of St. Margaret's Bay have become "urbanites" lending themselves now to a close connection with Halifax. Furthermore, as presenter George Ernst pointed out, the residents of the HRM "are not dependent on resource-based industries [like the communities along the South Shore], but instead often make their living working in service, government and other industries scattered through Halifax and surrounding industrial parks."

Ms. Diab's second concern relates to the diversity of the present *Halifax West* constituency. The PROC report describes her objection in this regard as follows:

First, she stated that Halifax West has a well-established community of interest of diverse Canadians, which the Commission did not take into consideration in its Report. For decades, Halifax West has had a community of new immigrants and minority racial, cultural, ethnic, religious and linguistic groups. According to

Ms. Diab, the current electoral boundaries provide for the effective representation of these various groups; however, this effectiveness would be diluted if these communities were to be divided into separate ridings. Indeed, Ms. Diab stated that, in her view, the Commission's proposal for Halifax West in the Report decimates this community hub for new Canadians.

The Commission agrees that *Halifax West* has traditionally had a concentration of new immigrants and a diverse population. It was the arrival of new Canadians to the current *Halifax West* riding that contributed to this district's population exceeding the electoral quota by more than the permissible +25%. Given this growth, it is not possible to maintain all of the population increase attributable to immigration to this district. In recent years, all of the Halifax ridings have experienced growth and increasing diversity. It is not only the residents of *Halifax West* who would benefit from a member of Parliament informed with respect to the issues impacting on minority racial, cultural, ethnic, religious and linguistic groups, the same is true for the others. Indeed, all citizens of the province, regardless of constituency, should have a member who is attuned to the increasing diversity of our communities and able to address the issues that arise accordingly.

Ms. Diab requests the boundaries of *Halifax West* to be returned to those in the initial Proposal. She says failing to do so will decimate the riding as a "hub for new Canadians." The Commission respectfully disagrees.

Estimates based on the 2021 decennial census demonstrate *Halifax West*, as constituted in the Final Report, remains the most diverse constituency in the province across the Statistics Canada data fields addressing Immigration, Immigration (less than five years), Non-Christian and Visible Minority populations; and the second-most diverse to Halifax on the measure of Non-Canadian Citizens. *Halifax West's* diversity has not been decimated, rather, it has been maintained.

The Commission acknowledges the population percentages across the above fields are lower in the Final Report as compared to the current *Halifax West* riding (2013 Representation Order), however, the differences are not significant:

Immigrants – Final (17.33%) Current (19.01%)

Immigrants (< 5 years) – Final (1.80%) Current (2.02%)

Non-Canadian Citizens – Final (13.16%) Current (13.94%)

Non-Christian – Final (9.34%) Current (9.26%)

Visible minority – Final (23.15%) Current (24.83%)

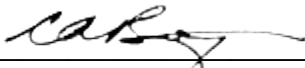
It is worthy to note that the Immigrant Services of Nova Scotia (ISANS) has three offices in Halifax. Should the Commission abide by Ms. Diab's request to return to the Proposal boundaries, only one of those offices fall within *Halifax West*. However, in the Final Report, all three offices fall within the *Halifax West* riding, thus facilitating the ability of residents to readily obtain the services they may need.

The Commission is satisfied the boundaries of *Halifax West* as set out in the Final Report respect the electoral quota and balances the other factors contained in s. 15 of the *EBRA*. We are confident that our newly proposed *Halifax West* will remain a federal electoral district with a well-established community of interest of diverse Canadians. We are further confident the residents of this constituency will be effectively represented by their future elected members of Parliament. As such, we decline to make the changes as requested by Ms. Diab.

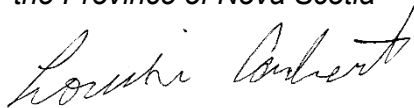
Conclusion

The Commission has accepted one of the four objections received from the Standing Committee and amends its report to correspond with the resulting change. The revised maps and description of the modified riding are contained in the following pages.

Dated at Halifax, Nova Scotia, this 21st day of April, 2023.



The Honourable Justice Cindy A. Bourgeois
*Chair, Federal Electoral Boundaries Commission
for the Province of Nova Scotia*



Louise Carbert
*Member, Federal Electoral Boundaries Commission
for the Province of Nova Scotia*



David Johnson
*Member, Federal Electoral Boundaries Commission
for the Province of Nova Scotia*

APPENDIX – Modified Maps and Boundary Description

Central Nova

(Population: 76,210)
(Maps 1 and 2)

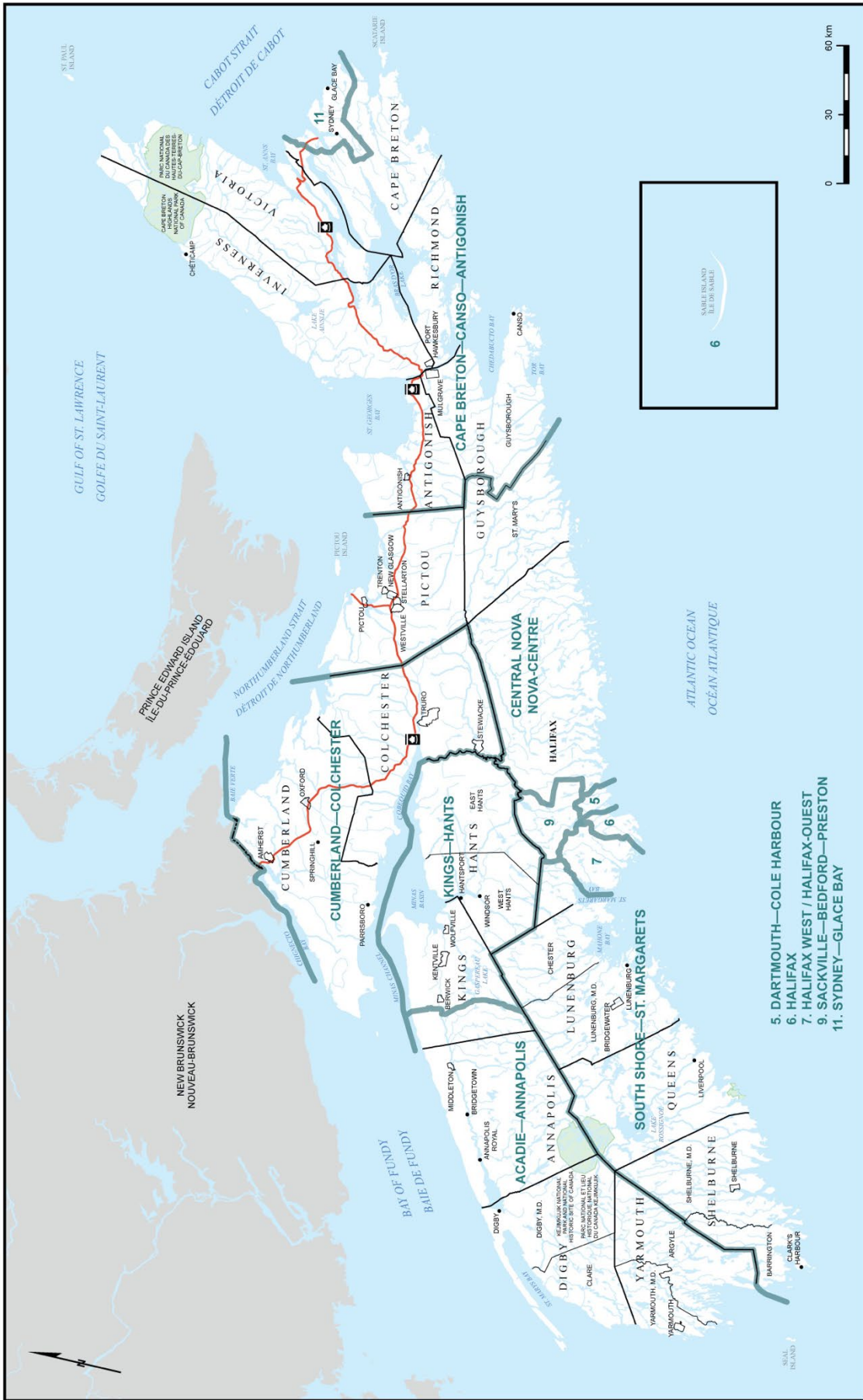
Consists of:

(a) the County of Pictou;

(b) the Municipality of the District of St. Mary's; and

(c) that part of the Halifax Regional Municipality lying easterly of a line described as follows: commencing at the intersection of the northerly limit of said regional municipality with Highway 102 (Veterans Memorial Highway); thence southerly and southwesterly along said highway to an unnamed brook at approximate latitude 44°50'47"N and longitude 63°34'13"W; thence southerly along said brook to Holland Brook; thence generally southerly along said brook to Soldier Lake; thence generally southerly along said lake to a point at approximate latitude 44°48'18"N and longitude 63°34'15"W; thence easterly in a straight line to a point in Three Mile Lake at latitude 44°48'33"N and longitude 63°29'39"W; thence easterly in a straight line to a point at latitude 44°48'31"N and longitude 63°25'52"W; thence southerly in a straight line to a point at latitude 44°44'03"N and longitude 63°24'22"W; thence easterly in a straight line to the northerly production of Walker Street; thence southerly along said production, Walker Street, Bell Street and Mineville Road to Highway 107; thence generally westerly along said highway and Highway 7 (Main Street) to a power transmission line (933 Main Street) situated approximately 200 metres west of Westphal Way; thence southerly along said transmission line to an unnamed brook flowing southerly from Broom Lake; thence generally southerly along said brook to Cole Harbour at approximate latitude 44°40'25"N and longitude 63°27'47"W; thence generally southeasterly along said harbour to a point in the Atlantic Ocean at latitude 44°35'32"N and longitude 63°21'48"W.

Nova Scotia



- 5. DARTMOUTH—COLE HARBOUR
- 6. HALIFAX
- 7. HALIFAX WEST / HALIFAX-OUEST
- 9. SACKVILLE—BEDFORD—PRESTON
- 11. SYDNEY—GLACE BAY

Halifax

