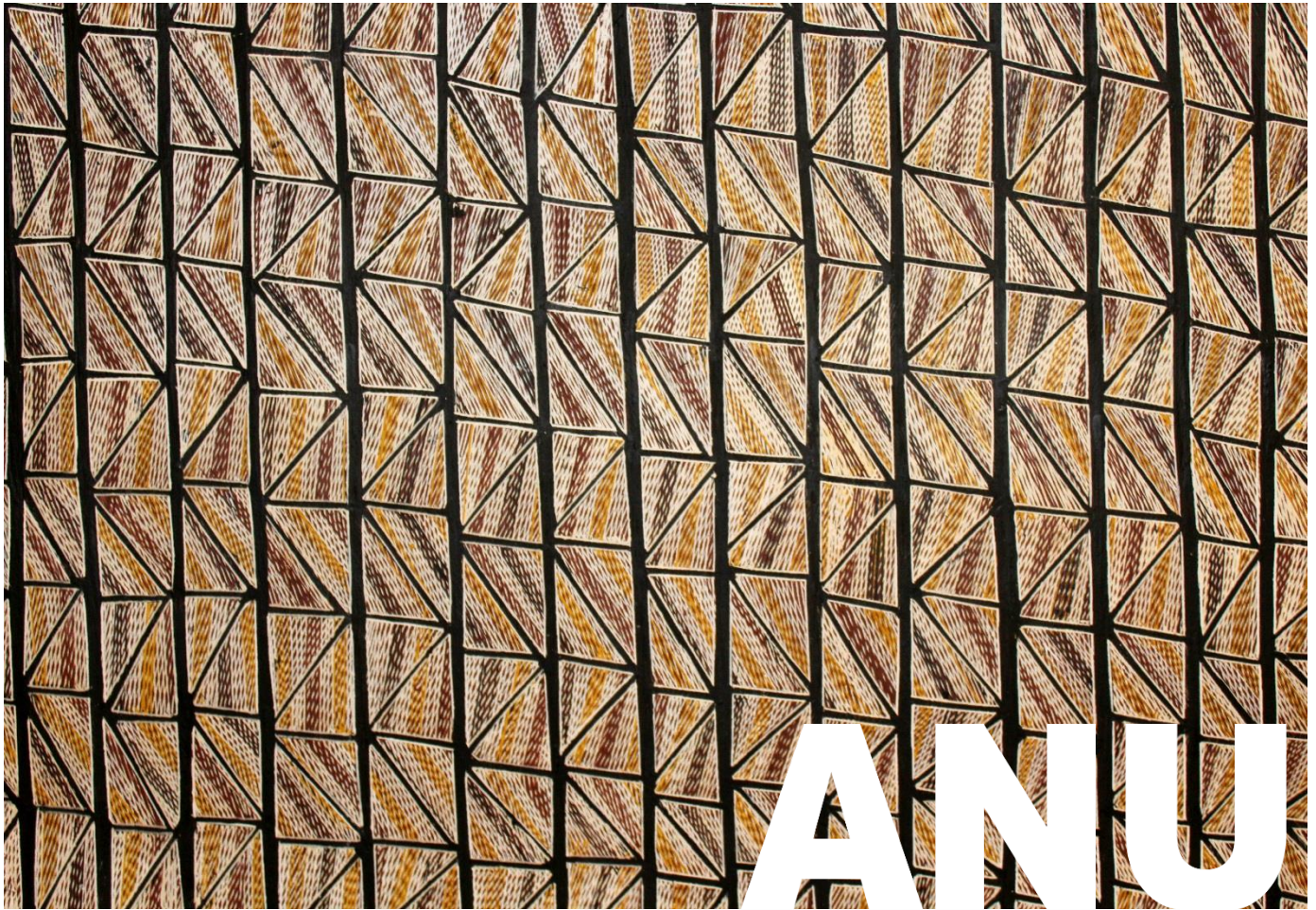




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ELECTORAL ADMINISTRATION AND  
ABORIGINAL VOTING POWER IN THE  
NORTHERN TERRITORY: REALITY AND  
POTENTIAL VIEWED FROM THE 2019  
FEDERAL ELECTION

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Sciences

CAEPR WORKING PAPER 132/2019

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# Electoral administration and Aboriginal voting power in the Northern Territory: Reality and potential viewed from the 2019 Federal election

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Working Paper No.132/2019

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DOI 10.25911/5df209771dd57

ISSN 1442 3871

ISBN 978-1-925286-44-1

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An electronic publication downloaded from [caepr.cass.anu.edu.au](http://caepr.cass.anu.edu.au).

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Suggested citation: Sanders W (2019), *Electoral administration and Aboriginal voting power in the Northern Territory: Reality and potential viewed from the 2019 Federal election*, Working Paper 132/2019, Centre for Aboriginal Economic Policy Research, Australian National University, Canberra. doi: 10.25911/5df209771dd57

## Abstract

Due to population proportion, Aboriginal people have the potential to exercise electoral power in Australia's Northern Territory. Looking back from 2019, this paper explores the contribution of Aboriginal votes to Federal elections in the Northern Territory. It argues that Aboriginal votes have made the Territory stronger for Labor, compared to regional areas of Queensland and Western Australia. It also notes low enrolment and turnout figures in House of Representatives divisions with high proportions of Aboriginal population, which suggests potential Aboriginal electoral power that is as-yet unused.

Turnout and enrolment figures are related to developments in electoral administration since 1983, when enrolment was first made compulsory for Aboriginal Australians over 18, as for others. Whether compulsory enrolment and voting has yet been achieved by electoral administration in remote areas is discussed, as too is the limited use in these areas since 2012 of new digital-age provisions for direct enrolment without claim drawing on information from other government sources.

**Keywords:** voting, enrolment, turnout, Aboriginal Australians, Northern Territory.

## Acknowledgements

Marian Simms and Marian Sawyer encouraged me to contribute a 2000-word essay on the Northern Territory to a workshop of political scientists examining the 2019 Federal election. From that little essay has grown a much larger one, covering issues of electoral administration as well as Aboriginal voting. Thank you Marians for the encouragement to delve again into this important field.

My other great debt is to officers of the Australian Electoral Commission who shared their knowledge with an academic who just phoned up and started asking them about some of the details of their administrative practice. While this detail was all on the public record, their assistance in guiding me to it was invaluable.

Two anonymous referees provided useful comments which helped me tighten both the style of writing and the argument. Francis Markham also encouraged me to push the argument further, when reading various drafts as an interested member of the CAEPR Publications team. Hilary Bek, Annette Kimber and Tracy Deasey helped greatly with final layout and copy editing. Thanks to you all.

## Acronyms

ABS	Australian Bureau of Statistics
AEC	Australian Electoral Commission
ALP	Australian Labor Party
ANU	Australian National University
ATSIEIS	Aboriginal and Torres Strait Islander Electoral Information Service (AEC)
CAEPR	Centre for Aboriginal Economic Policy Research
CLP	Country Liberal Party
DRO	Divisional Returning Officer
FDEU	Federal Direct Enrolment and Update
IEPP	Indigenous Electoral Participation Program
JSCEM	Joint Standing Committee on Electoral Matters
JSCCRATSIP	Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples
MHR	Members of the House of Representatives
NTLA	Northern Territory Legislative Assembly
RAMP	Remote Area Mobile Polling

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## Introduction

It is often said that, as 3% of the Australian population, Aboriginal and Torres Strait Islander people have little if any electoral power.<sup>1</sup> While superficially reasonable, such statements both understate and overstate possibilities. By way of overstatement, they can imply that this 3% of votes could be mobilised and moved together. But diversity of Indigenous political attitudes, and geographic and socioeconomic circumstances, may make this difficult. On the side of understatement, it could be noted that at particular positions and times within electoral systems, even 1% or 2% of votes can be crucial in determining results. Also contributing to understatement is a lack of attention to concentrations of Indigenous voters in some geographic divisions of electoral systems. It is this last form of understatement that informs this paper focusing on Aboriginal voting power in the Northern Territory, both real and potential, as viewed from the 2019 Federal parliamentary election.

This paper generally uses the term Aboriginal, rather than Indigenous, because it does not address the electoral power of Torres Strait Islanders who are geographically concentrated in the Torres Strait and other parts of Queensland. While some Torres Strait Islanders have migrated to the Northern Territory and, over the generations, become locals, census data suggests that their numbers are small compared to numbers of people in the Territory identifying as Aboriginal.<sup>2</sup> The terms Federal and Commonwealth are used interchangeably to refer to elections for the two-chamber Australian Parliament in Canberra, comprised of the House of Representatives and the Senate. Some reference is also made to the single-chamber sub-national parliament in Darwin, the Northern Territory Legislative Assembly (NTLA), elections for which have been on a fixed-date four-year cycle since August 2012.

The paper begins by focusing on the partisan results of Federal elections in the Northern Territory over several decades; which candidates from which parties won, on the basis of which votes, including Aboriginal votes once enfranchised. The paper observes early that turnout of electors on the Electoral Roll in the Northern Territory appears to be in decline over the last decade. This raises questions about electoral administration, as well as Aboriginal voting. By the end of the paper the focus will have shifted significantly in an administrative direction, including to the application of digital-age Federal Direct Enrolment and Update (FDEU) to Aboriginal people in remote areas.

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<sup>1</sup> During the 2010 Federal election campaign, Noel Pearson began one of his regular opinion pieces in *The Australian* as follows: 'No time confirms the democratic impotence of Aboriginal and Torres Strait Islander peoples in the Australian commonwealth more than federal elections. Australia's 500,000 indigenes, comprising 3 per cent of the national population spread thinly across the nation's electorates, count for nought in our democracy' (Pearson 2010).

A more recent example is in the November 2018 *Final report* of the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples. They quote a submission from the National Congress of Australia's First Peoples as saying that as 'only 3 per cent of the Australian population', Aboriginal and Torres Strait Islander peoples are 'easily sidelined' and 'lack the political capital to push for substantial policy reform' (JSCCRATSIP 2018:12).

<sup>2</sup> Of the 58 248 people identifying as Indigenous in the Northern Territory in the 2016 Census, 744 identified as Torres Strait Islander and 1699 as both Aboriginal and Torres Strait Islander. The vast majority (55 805) identified as Aboriginal and not Torres Strait Islander. See Table I02 Aboriginal and Torres Strait Islanders Peoples Profile, 2016 Census, Australian Bureau of Statistics (ABS).

## Federal elections in the Northern Territory: Background history and statistics 2001–2019

The Northern Territory elects just four representatives to the Australian Commonwealth Parliament, two Senators and two Members of the House of Representatives (MHRs). The two Senators are elected for three year terms, so there is no difference between half-Senate and double-dissolution elections in the Territory, unlike in the States. The two House of Representatives divisions cover Darwin and the satellite city of Palmerston (Solomon), and the regional and remote remainder of the Territory (Lingiari).<sup>3</sup> This electoral geography dates from 2001, before which there was just one division for the House of Representatives called Northern Territory dating back to 1922. Senate representation for the Territory dates from 1975, having been much debated in 1973 and only passed through the joint sitting of the Australian Commonwealth Parliament after the 1974 double-dissolution election.<sup>4</sup> Hence having even four representatives in the Australian Commonwealth Parliament is relatively new for the Northern Territory, and two steps up from having just one representative from 1922 to 1974.<sup>5</sup>

In party terms, the House of Representatives division of the Northern Territory proved a long-cycle swinger during its 80 years from 1922 to 2001. Long periods of dominance by Labor alternated with periods of a decade or more in which a Country Liberal or a conservative independent held the seat. From 1980 these swings between the major parties became more frequent, with three Country Liberal Party (CLP) wins and five Australian Labor Party (ALP) wins over two decades (see Table 1). Labor MHR Warren Snowdon experienced four wins and a loss in the division of the Northern Territory after 1987, and in 2001 he opted for the new division of Lingiari. In 2019 Snowdon was re-elected in Lingiari for a seventh consecutive term, confirming this as a long-term safe Labor seat and Snowdon as an even longer-term political survivor (see Table 2).<sup>6</sup> The division of Solomon, in contrast, has become a short-cycle swinger, changing between CLP and ALP three times in the seven elections since 2001 (see Table 3). In 2019 Luke Gosling retained Solomon for Labor for a second term, following two terms for the CLP's Natasha Griggs, one term for Labor's Damian Hale and two terms for the CLP's David Tollner.

Senate elections in the Northern Territory are, in party terms, a foregone conclusion. Because the Droop quota for election of two Senators is one-third of formal votes cast, the CLP and ALP each safely win one place in the Senate. Table 4 shows that in primary Senate votes, Labor has fallen just below the quota once in recent years (2013). But to be in danger of losing, the major parties would need to fall to around half a quota, with a minor party increasing its vote up towards 20%. The Greens achieved 10.2% of primary Senate votes in the Territory in 2019, but as in past elections this just positioned Green voters as a significant proportion of the almost one-third of voters who do not contribute directly to the election of a Northern Territory Senator. The two-thirds of votes that do elect Territory Senators seem destined for the foreseeable future to be safely shared between Labor and the CLP.

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<sup>3</sup> A redistribution in February 2017 transferred approximately 3000 electors and five outer suburbs within Palmerston Municipality from Solomon to Lingiari. Litchfield Municipality on the rural fringe of Palmerston was also transferred into Lingiari. Hence Solomon no longer covers all of Darwin and Palmerston. Conversely Lingiari has acquired a small number of electors on the edges of the capital city.

<sup>4</sup> See Sloan, Michael *Representation of Commonwealth Territories in the Senate* [https://www.aph.gov.au/About\\_Parliament/Senate/Powers\\_practice\\_n\\_procedures/pops/pop64/c07](https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/pops/pop64/c07)

<sup>5</sup> Also the voting rights of that one MHR were restricted until 1968.

<sup>6</sup> Snowdon is now the only serving MHR whose tenure reaches back to the 1987 election. Arguably, Snowdon has revived the historic pattern of long-term incumbent MHRs in the Territory after a period of changing short-term incumbents from 1980 to 1998.



Apart from these patterns of winning and losing among the two major parties, the other notable feature of Tables 2–4 is in the far right column, giving votes cast as a percentage of enrolments. These turnout figures seem in gradual decline since 2007. Suggestions will be explored later of how digital-age electoral administration may be contributing to these figures.

**Table 1** MHRs for the division of the Northern Territory 1922–2001, by party affiliation

Member	Party	Term
H. G. Nelson	Labor	1922–1934
Adair Blain	Independent	1934–1949
Jock Nelson	Labor	1949–1966
Sam Calder	Country	1966–1974
Sam Calder	Country Liberal	1974–1980
Grant Tambling	Country Liberal	1980–1983
John Reeves	Labor	1983–1984
Paul Everingham	Country Liberal	1984–1987
Warren Snowdon	Labor	1987–1996
Nick Dondas	Country Liberal	1996–1998
Warren Snowdon	Labor	1998–2001

Source: [https://en.wikipedia.org/wiki/Division\\_of\\_Northern\\_Territory](https://en.wikipedia.org/wiki/Division_of_Northern_Territory)

**Table 2** Division of Lingiari electoral statistics 2001–2019

Year	ALP 1stP%/2CP%	CLP 1stP%/2CP%	Votes cast	Informal %	Enrolled	Turnout %
2001	*47.8/55.3	39.2/44.7	45 973	4.9	57 077	80.6
2004	*50.7/57.7	38.4/42.3	45 234	4.9	58 205	77.7
2007	*54.0/61.1	34.7/38.8	49 084	4.9	60 404	81.3
2010	*40.1/53.7	34.3/46.3	46 409	7.5	61 168	75.9
2013	*39.8/50.9	38.2/49.1	49 715	7.4	65 916	75.4
2016	*39.8/58.4	31.7/41.6	46 525	7.9	63 131	73.7
2019	*44.8/55.5	36.9/44.5	51 009	5.1	69 994	72.9

\*Elected

Source: Australian Electoral Commission [https://www.aec.gov.au/Elections/Federal\\_Elections/](https://www.aec.gov.au/Elections/Federal_Elections/)

**Table 3** Division of Solomon electoral statistics 2001–2019

Year	ALP 1stP%/2CP%	CLP 1stP%/2CP%	Votes cast	Informal %	Enrolled	Turnout %
2001	38.4/49.9	*41.8/50.1	49 624	4.4	53 945	92.0
2004	38.5/47.2	*48.8/52.8	49 912	4.0	54 725	91.2
2007	*41.9/50.2	46.8/49.8	53 065	2.9	57 641	92.1
2010	36.1/48.3	*46.4/51.8	53 672	5.1	59 891	89.6
2013	35.4/48.6	*44.7/51.4	56 413	5.3	63 163	89.3
2016	*40.9/56.0	34.5/44.0	58 665	7.0	69 998	83.8
2019	*40.0/56.1	38.1/43.9	57 602	4.4	69 332	83.1

\*Elected

Source: Australian Electoral Commission [https://www.aec.gov.au/Elections/Federal\\_Elections/](https://www.aec.gov.au/Elections/Federal_Elections/)**Table 4** Northern Territory Senate electoral statistics 2001–2019

Year	ALP 1stP%	CLP 1stP%	Green 1stP%	Party4 1stP%	Votes cast	Informal %	Enrolled	Turnout %
2001	*43.7	*39.2	4.3	7.3	93 062		111 022	83.8
2004	*41.4	*45.4	7.6	4.7	95 323	3.1	112 930	84.4
2007	*46.9	*40.0	8.8	2.1	102 563	1.9	118 045	86.9
2010	*34.4	*40.6	13.6	5.1	100 395	3.7	121 059	82.9
2013	*32.8	*41.3	8.7	7.1	106 316	2.7	129 079	82.4
2016	*37.4	*36.4	10.8	6.6	105 539	3.3	133 129	79.3
2019	*37.5	*36.7	10.2	6.2	108 494	3.7	139 326	77.9

\*Elected

Party 4: United Australia Party 2019, Rise Up Australia Party 2016, Palmer United Party 2013, Australian Sex Party 2010, Citizens Electoral Council 2007, Australian Democrats 2004 &amp; 2001.

Source: Australian Electoral Commission [https://www.aec.gov.au/Elections/Federal\\_Elections/](https://www.aec.gov.au/Elections/Federal_Elections/)

## The 2019 campaign experience, links with NTLA elections and comparisons

During the 2019 Federal election campaign, the Northern Territory achieved prominence in the national media just once, when Prime Minister Scott Morrison and Opposition Leader Bill Shorten both visited on Tuesday 23 April.

The positive role of Morrison's visit was to support the CLP's two aspiring women candidates for the House of Representatives and their new No.1 woman Senate candidate, who was replacing retiring Senator and Indigenous Affairs Minister of the previous six years, Nigel Scullion. In negative campaign mode, Morrison criticised the Gunner Labor government in the NTLA which had been elected in a landslide in August 2016 but

by the end of 2018 was suffering defections over management of its large debt and budget deficit. Morrison called Gunner's government the 'worst in the country' and argued that 'if you can't manage money, you can't run a country'. The not-so-hidden implication was that poor money management was a problem for Labor which also extended to Shorten and his Federal team.

Shorten's task during his Territory visit was the more staid one of supporting two incumbent MHRs and a Senator seeking re-election. His rhetoric was about 'Territorians', 'looking to the future' and 'taking opportunities', as 'Territorians do'. One unfortunate event in the aftermath of Shorten's visit was the disendorsement of Labor's second Senate candidate, Wayne Kurnoth, over 'questionable social media posts'.<sup>7</sup>

Links between Commonwealth parliamentary elections and sub-national parliamentary elections in a jurisdiction are often argued, but almost always inconclusive. When Labor retained its two Northern Territory House of Representatives seats in 2019, this was interpreted by local Labor faithful as a vote of confidence in the Gunner government and as evidence that Morrison's criticisms of it had misfired.<sup>8</sup> While this probably over-interprets the result, there is some evidence in Tables 2–4 that NTLA elections and Federal parliamentary elections in the Territory can interact.

In the Commonwealth parliamentary election of July 2016, support for the CLP was at historic lows. Two-term MHR for Solomon, Natasha Griggs, lost her seat comprehensively with just 34.5% of first preference votes and 44.0% of the two candidate preferred count (see Table 3). In Lingiari in 2016, second-time CLP candidate Tina MacFarlane received 6.5% less primary votes than in 2013 (see Table 2). These 2016 Federal election results probably reflected the disarray of the CLP government in the NTLA, which had suffered both a change of Chief Minister and several defections since its convincing election win in August 2012 (Smee & Walsh 2016). A month after Griggs' loss in the 2016 Federal election, the CLP under Adam Giles lost the August 2016 NTLA election to Labor under Gunner in a similarly comprehensive fashion.

An earlier example which suggests less interaction between Federal and NTLA elections is Rudd's win in November 2007, in which Labor gained historic high levels of voter support across the Northern Territory (see Tables 2–4). Nine months later, in August 2008, a Labor government in the NTLA just retained office for a third term by the barest margin.

The next election for the NTLA is due in August 2020. While it will, of necessity, be a test of the Gunner Labor government criticised by Morrison during the 2019 Federal election campaign, any links between the elections in May 2019 and August 2020 will be tenuous.

From a larger geographic perspective, one obvious question arising from the 2019 Federal election is: why was the Northern Territory strong for Labor when regional areas of Queensland to the east and Western Australia to the west were so much more problematic? The political economies of these outlying regions based on resource extraction industries appear similar, but there is something different occurring in the Territory, electorally, compared to Queensland and Western Australia.

With its much smaller capital city in the north rather than the south, one difference is that the Northern Territory has a larger proportion of public administrators and other white collar professionals building careers in the jurisdiction but ultimately destined to leave. Gerritsen (2010:32–33) has called this 'the politics of the expatriates' and notes as a corollary that the 'Real Territorians' are the Aboriginal people for whom the Northern Territory is a long-term home. This points to a second big difference from Queensland and Western Australia, the Indigenous proportion of the population in the Northern Territory.

<sup>7</sup> <https://www.sbs.com.au/news/labor-candidate-sacked-over-stupid-memes>

<sup>8</sup> <https://www.abc.net.au/news/2019-05-20/election-results-give-nt-labor-optimism-for-re-election-in-2020/11131530>

Data from the 2016 Census from the Australian Bureau of Statistics (ABS) is given in Table 5, organised by divisions of the House of Representatives, to show the very different Indigenous proportions of population not only between Lingiari and Solomon within the Northern Territory, but also in the surrounding outback House of Representatives divisions of Kennedy, Maranoa and Leichardt (Queensland), Durack and O'Connor (Western Australia) and Grey (South Australia). With its population identifying as Aboriginal and/or Torres Strait Islander at a rate of between 41.7% and 46.6% in the 2016 Census, Lingiari stands out as the division of the House of Representatives with the highest Indigenous proportion of population by a significant margin. This is the one House of Representatives division where Indigenous Australians are a high enough proportion of the population to have clear electoral power. But what do we know about Indigenous voting and how it might contribute to Labor's strength in the Northern Territory?

**Table 5** Place-of-enumeration populations of House of Representatives divisions in 2016 Census

	Total Population	Aboriginal and/or Torres Strait Islander (ATSI)	ATSI/Total %	Indigenous Status Not- Stated (ISNS)	ATSI/ (Total – ISNS) %
Lingiari	114 545	47 811	41.7	11 943	46.6
Solomon	114 120	9 752	8.5	11 214	9.5
<b>Northern Territory</b>	<b>228 836</b>	<b>58 248</b>	<b>25.5</b>	<b>23 157</b>	<b>28.3</b>
Durack WA	181 764	30 305	16.7	20 229	18.8
O'Connor WA	156 323	9 198	5.9	14 098	6.5
Leichardt Qld	175 449	29 086	16.6	15 683	18.2
Kennedy Qld	155 394	21 471	13.8	13 944	15.2
Maranoa Qld	149 266	8 898	6.0	12 234	6.5
Grey SA	143 526	10 403	7.2	10 113	7.8
<b>Australia</b>	<b>23 401 892</b>	<b>649 171</b>	<b>2.8</b>	<b>1 411 491</b>	<b>3.0</b>

Source: General Community Profiles 2016 Census Table G07, ABS.

<https://www.abs.gov.au/websitedbs/D3310114.nsf/Home/Census?OpenDocument&ref=topBar>

## What wins Aboriginal votes: Party preference, Aboriginal candidates, an Aboriginal party?

Studies of Aboriginal voting in Australia are rare but some foundational work was done at the time of the 1984 election for the Australian Commonwealth Parliament, the first in which voting *and* enrolment were compulsory for 'aboriginal natives' as for other Australians over 18. Loveday and Jaensch conducted a 'street survey' of Aboriginal political knowledge and voting intentions in north Australia in 1984, plus they analysed election results in polling places known to have predominantly Aboriginal populations. One of their findings was that the 'major parties, Labor and the CLP, were relatively widely recognised' and that there was also quite good awareness of candidates for the 1984 House of Representatives election in the Northern Territory, who included former CLP Chief Minister Paul Everingham standing against incumbent Labor MHR John Reeves (Loveday & Jaensch 1985:101–103).<sup>9</sup> In voting intention, Loveday and Jaensch found a large majority supporting Labor (79%), but also noted some geographic variation (Nguiu/Wurrumiyanga 49%) and some change since 1983 (Loveday & Jaensch 1985: 96–97). This prompted discussion about whether Aboriginal votes could be won

<sup>9</sup> I was one of seven observers/interviewers who Loveday and Jaensch drew on for this study.

away from Labor in significant numbers, particularly by Aboriginal candidates standing for existing parties, as independents or by the formation of an Aboriginal party (Loveday & Jaensch 1985:109–114). Loveday and Jaensch hypothesised that, as new voters, Aboriginal voters in north Australia may not be deeply loyal to Labor by family or industrial history, but rather may be more instrumental and contemporary in their party preference, and hence potentially able to be won away. They foresaw more potential for an Aboriginal party to win such votes than Aboriginal candidates standings as independents or for other existing parties.

Here it is worth examining Warren Snowdon's long career as a non-Indigenous Labor MHR in Lingiari, the division with the highest Aboriginal proportion of population in Australia. In 2019 Snowdon faced a high profile Warlpiri woman candidate for the CLP, Alice Springs Town Council member Jacinta Price. While Price increased primary votes for the CLP by over 5% from 2016 (to 36.9%), this was not at Snowdon's expense as he similarly increased his primary votes from the previous election (to 44.8% see Table 2).<sup>10</sup> Whereas in May 2019 there were six candidates in the Lingiari election, in July 2016 there had been nine, including Yolgnu independent Yingiya Mark Guyula who attracted 4.3% of votes and would a month later go on to be elected to the NTLA for the division of Nhulunbuy (see Sanders forthcoming). Competition from Guyula probably contributed to Snowdon's low primary vote in the 2016 election (39.8%), but this had little or no negative effect on Labor's two candidate preferred vote which was strong (58.4% see Table 2).

During his long tenure in Lingiari, Snowdon has faced high-profile competing Aboriginal candidates on a number of occasions. In 2007, these were Adam Giles (CLP 34.7%) and Maurie Ryan (independent 2.6%). In 2010, they were Leo Abbott (CLP 34.3%), Barb Shaw (Greens 12.6%) and Ken Lechleitner (independent 4.5%). In 2013 for a second time, they were Barb Shaw (Greens 7.8%) and Ken Lechleitner (Australian First Nations Peoples Party 2.9%). Of these three elections, it was in 2013 that Snowdon and Labor were pushed closest to losing Lingiari, and this was due to a strong vote for first-time non-Indigenous CLP candidate Tina MacFarlane (38.2%), rather than significant competition for Snowdon from the two second-time Aboriginal candidates Shaw and Lechleitner. Rather than building their vote by standing as candidates for a second election, Shaw and Lechleitner attracted a lesser proportion of votes in their second attempts. Lechleitner attracted more votes in 2010 as an independent than when he stood for the Australian First Nations Peoples Party in 2013.

Another take on patterns of support for Labor and Snowdon within Lingiari is contained in Table 6, which breaks down primary votes won by the six candidates in 2019 by five different polling booth types/locations. In the polling booths on the edge of Darwin, in Katherine and in Alice Springs, the CLP's Jacinta Price won over 40% of primary votes and clearly outpolled Snowdon for Labor. However in the small towns and discrete Aboriginal communities serviced by Remote Area Mobile Polling (RAMP) teams, Snowdon's support levels rose dramatically and the CLP's fell commensurately. Almost 17 000 votes from these predominantly Aboriginal polling booths turned Lingiari from a potential win for the CLP and Jacinta Price to a repeat safe win for Labor and Snowdon. These geographic patterns of voting within Lingiari in 2019 reflect a phenomenon referred to in analyses of elections for the NTLA as the 'regional/outback divide', whereby the CLP wins more votes in regional towns and Labor more in the outback (Sanders 2005). These are strong major-party patterns of voting across parliamentary elections at two levels of government, rather than being greatly affected by the Aboriginality of particular candidates.

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<sup>10</sup> This similar percentage increase was achieved by Price despite the CLP still being in disarray after its 2016 NTLA election loss. Snowdon, by contrast, could call on a relatively stable and well-organised branch of the ALP across the Territory, including in remote areas.

**Table 6** Primary votes for six candidates in Lingiari election 2019, by polling booth location/type

Polling booth location/type	ALP 1st%	CLP 1st%	Green 1st%	UAP 1st%	RUAP 1st%	Independent 1st%	Votes Cast	Informal %
Darwin edge	29.4	49.1	7.3	3.8	3.1	7.2	12 125	5.2
Katherine	32.2	43.7	6.8	3.6	3.0	10.7	4135	4.7
Alice Springs	37.1	44.7	12.7	2.0	1.2	2.5	11 933	3.5
Small towns	52.9	28.8	9.6	3.0	3.6	2.1	2984	5.1
RAMP teams	71.9	17.3	4.0	1.5	3.8	1.6	13 816	6.8
<b>All Votes</b>	<b>44.8</b>	<b>36.9</b>	<b>8.2</b>	<b>2.8</b>	<b>2.9</b>	<b>4.4</b>	<b>51 009</b>	<b>5.1</b>

Source: <https://tallyroom.aec.gov.au/HouseDivisionPage-24310-306.htm>

Small towns: Nhulunbuy, Jabiru and Tennant Creek

Note: Some 6000 votes are only included in the 'All Votes' count but not in the five categories of polling booth locations/types. These include Absent, Provisional, Declaration Pre-Poll and Postal Votes, plus 417 votes from Christmas Island.

The conclusion from Snowdon's long tenure in Lingiari seems to be that the Aboriginality of candidates has made little difference to recent Commonwealth parliamentary elections in the Northern Territory. In this one House of Representatives division in which there is such a significant Aboriginal population presence, Labor will no doubt think hard about an Aboriginal replacement candidate when Snowdon retires.<sup>11</sup> But in the meantime Aboriginal voters have not moved away from Labor in large numbers to support Aboriginal candidates, either as independents or for other parties, including in 2013 for the Australian First Nations Peoples Party. In retrospect, Loveday and Jaensch in 1984 probably overstated the potential of an Aboriginal party to draw votes away from Labor.<sup>12</sup> Loyalties of voters to the major parties seem to have prevailed over the years in the regional towns and remote Aboriginal communities of Lingiari, keeping this division Labor for seven Federal elections irrespective of the Aboriginality of competing candidates.

## Enrolment and turnout: Is Australian Electoral Commission administration maintaining Aboriginal voting as 'de facto voluntary' in remote areas in the digital age?

A more recent study of Aboriginal voting behaviour in remote Australia, by Lisa Hill and Kate Alport, was based on focus groups with Anangu women in the House of Representatives division of Grey in remote South Australia before the 2007 Federal election. Drawing more on international literature, they focused on low voter turnout among Aboriginal people in remote regions, rather than for which parties or candidates Aboriginal people voted. They argued that accepted reasons for not voting in remote areas and a lack of enforcement meant that the 'voting regime' in remote Aboriginal communities was 'de facto voluntary' rather than compulsory (Hill & Alport 2010:246). Within this frame, Hill and Alport explained low voter turnout by a combination of low feelings of 'political efficacy' among remote Aboriginal voters and the 'low salience' of 'first order' elections for

<sup>11</sup> It is possible after three decades that Snowdon's following is quite personal and that Labor will be far more vulnerable when he does retire. Snowdon's departure could be a good test of the party loyalty of Aboriginal Labor voters.

<sup>12</sup> Sanders has argued that the 2012 NTLA elections showed the prescience of Loveday and Jaensch's idea that Aboriginal votes could be won away from Labor. These votes were mainly won by the CLP which in 2012 recruited some high-profile Aboriginal candidates in the NTLA's seven 'bush' seats. Labor also contributed to its loss of Aboriginal votes in bush seats in the 2012 NTLA election by the imposition of local government reforms in remote areas over the previous four years. Two Aboriginal candidates for the new Australian First Nations Peoples Party attracted vote percentages in the teens in 2012, but had little or no effect on the final election result (see Sanders 2012).

Commonwealth and State parliaments. To demonstrate the latter, they quoted turnout figures in their field site of Indulkana that were higher for Anangu Pitjantjatjara Yankunytjatjara Council elections (853 in 2002, 595 in 2005), than for South Australian parliamentary elections (719 in 2002, 409 in 2006) or for Commonwealth parliamentary elections (240 in 2001, 245 in 2004) (Hill & Alport 2010:255). To demonstrate low feelings of 'political efficacy', they noted that the Anangu women they talked with 'want to be involved in politics, ... especially voting', but want electoral officials to visit 'before an election is called' and to have 'the opportunity to speak with government representatives', either 'personally or through a town meeting' and 'in their own language' (Hill & Alport 2010:248). The lack of these sorts of opportunities in 2007 and before was seen as contributing to low feelings of political efficacy among the women and a 'major psychological source of voting abstention' (Hill & Alport 2010:249).

Hill and Alport's suggestions for stimulating turnout among remote Aboriginal electors were twofold, and in different time scales. In the short term they emphasised electoral education. In the longer term they suggested reserved Indigenous seats. On electoral education, they noted the abolition in 1996 of the Australian Electoral Commission's (AEC) Aboriginal and Torres Strait Islander Electoral Information Service (ATSIEIS) but also, at their time of writing in 2010, the establishment within the AEC of a new Indigenous-specific commitment focusing on electoral participation (Hill & Alport 2010:249). On reserved seats, they noted past Australian scepticism, both in official and academic inquiries, but suggested that this could be argued against and overcome (Hill & Alport 2010:257). Two years later, with another collaborator, Hill published an article on how reserved Indigenous seats in the Australian Commonwealth parliament might play out, electorally and politically (Evans & Hill 2012).

Another perspective on Indigenous electoral participation in remote areas can be discerned in Norm Kelly's 2012 discussion of 'professionalism and partisanship' in Australian 'electoral management'. Kelly (2012:66–68) noted low voter turnout as a particular problem of the Northern Territory compared to other Australian jurisdictions, and related this to proportion of potential voters who are Indigenous. He used Table 7 to demonstrate that turnout against enrolment had for a quarter century been *lower* in NTLA elections than in Federal elections in the Territory, contrary to Hill and Alport's idea that more local elections were more 'salient' and would attract higher turnout. Kelly's explanation of lower turnout focused on the shorter election period of just 18 days for NTLA elections, which meant that administrative processes had to 'meet tight deadlines'. A change to fixed-date elections for the NTLA from 2012 was seen as alleviating this problem only slightly, as the election period was only extended to 19 days.

Kelly's argument in relation to Federal elections in the Northern Territory was that turnout had fallen in the 2000s compared to the 1990s by an average of some 4.5% and he related this to the abolition of the AEC's ATSIEIS in 1996.<sup>13</sup> Kelly interviewed past Electoral Commissioners, one of whom believed that the abolition of ATSIEIS could be seen 'affecting the roll' over the next ten years (Kelly 2012:70). Kelly also noted the Rudd Labor Government's 2009 budget commitment of \$13 million to a new Indigenous Electoral Participation Program (IEPP), which was intended to increase both enrolment and turnout levels among eligible Indigenous electors. Kelly judged this a 'well-intentioned response to the declining participation rates', but also one that could be judged partisan because of its 'electoral benefits for Labor' (Kelly 2012:71). Ultimately Kelly's argument was to remove all such budgetary decisions in electoral management from serving politicians to independent professional electoral administrators, in order to avoid any suggestion of partisanship in electoral management. However, as one of Kelly's former Electoral Commissioner interviewees reflected: 'No matter how independent you are, everybody is dependent on somebody for money' (Kelly 2012:70).

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<sup>13</sup> Kelly inserts an extra E for Education into the name and acronym of this program. While I believe this is incorrect, it is also understandable as the word Education was certainly in the name of Indigenous-specific programs of the Australian Electoral Office in the 1970s and early 1980s.

**Table 7** Northern Territory voter turnout, 1983–2010

Year	Federal House of Representatives (%)	NT Legislative Assembly (%)
1983	81.4	81.6
1984	85.5	–
1987	79.9	71.2
1990	89.4	81.6
1993	88.8	–
1994	–	80.7
1996	89.1	–
1997	–	79.0
1998	90.3	–
2001	86.1	80.6
2004	84.3	–
2005	–	80.1
2007	86.5	–
2008	–	75.7
2010	82.7	–

Source: Kelly 2012:67.

In 2013 the three-year-old IEPP was ‘redesigned’ and a formal evaluation of it was conducted in conjunction with the August Commonwealth parliamentary election (AEC 2014a:3). The major ‘conclusion’ was that the redesigned IEPP had ‘helped to increase participation and reduce informality at the 2013 Federal Election’. A secondary conclusion ‘highlighted variations in the services delivered to Indigenous electors’ and suggested that ‘ongoing work’ was needed on ‘the IEPP objective of a well-managed national program delivered in a consistent manner by State and Territory offices’ (AEC 2014a:44). Twenty-five recommendations made in the evaluation report were to be ‘a central focus of the 2014–15 IEPP Program Planning cycle’, to enable it ‘to build on its strengths and continue to improve Indigenous electoral participation’ (AEC 2014a:44).

A parallel AEC evaluation report was undertaken on a ‘new model’ of Remote Area Mobile Polling trialed in the Northern Territory at the 2013 Federal election in which an AEC technical officer worked alongside two staff members of the Department of Human Services/Centrelink for logistic support and community liaison. This took as its background a drop in turnout in Lingiari between the 2007 and 2010 elections of over 5% (see Table 2, right column). The evaluation found that the ‘revised model was able to stop this downward trend’, but not reverse it (AEC 2014b:23).

That Aboriginal electoral participation and mobile polling in remote areas were discussed and evaluated in tandem in 2013 was appropriate and also a repetition of history. It was this combination that sparked Loveday and Jaensch’s study of the 1984 Federal parliamentary election in north Australia. Three years later, they conducted another ‘street survey’ and observed the 1987 Federal election while reviewing the AEC’s then Aboriginal Electoral Information Service (Loveday, Randall, Sanders & Jaensch 1987). Writing about that review a year later, Loveday (1988:345) reported that the 1987 survey had again suggested reasonable levels of political knowledge, but also the continuing need for a program of assistance for Indigenous people to address the complexity of voting. Loveday dwelt on the issue of enrolment and compulsory voting in a way that is still worth quoting:



Enrolment is another source of difficulty. All citizens are eligible to vote from age eighteen and in order to vote a citizen must be enrolled. Enrolment has been compulsory for all non-Aboriginal citizens for many years. When first enfranchised in 1962, Aborigines were not required to enrol, but if enrolled they were required to vote. In 1983, enrolment was made compulsory for them too. Levels of enrolment vary from area to area and indicative figures, obtained in the 1987 survey, suggest that enrolment is likely to vary from about sixty-six per cent to a little over eighty per cent of those eligible (Loveday 1988:346).

After further discussion of 'difficulties', Loveday concluded as follows:

The Aborigines themselves and the Electoral Commission therefore need help in both the enrolment and the voting phases of the work entailed by the electoral legislation. In the long run the hope is that the training given to Aboriginal Electoral Assistants will result in building up the knowledge of elections in Aboriginal communities to the point where the special program will no longer be needed. That day is a long way off (Loveday 1988:346).

Together with mobile polling in remote areas, the IEPP since 2010 has become a renewed focus within the AEC for addressing enrolment and voting difficulties among Aboriginal and Torres Strait Islander citizens. The new IEPP is a digital-age refraction of the old ATSIEIS abolished in 1996. It has focused on promotional materials in digital formats that can be used not only by AEC staff but also by 'partners',<sup>14</sup> such as Indigenous community organisations and remote-area local governments with high proportions of Indigenous people among their elected members and constituents. The AEC has also developed a focus on Indigenous people in its larger attempts to improve enrolment against population estimates, as advised by the ABS.

During 2019, the AEC produced Tables 8 and 9 as part of its work on enrolment. In the 151 divisions of the House of Representatives grouped in Table 8, the two outlying divisions with an 'enrolment rate' compared to estimates of eligible population in the range 75–80% are Lingiari and Durack. These are also the two divisions with the highest proportions of Indigenous people in their populations (see Table 5). Table 9 involves a more speculative statistical exercise in which data from the Department of Human Services/Centrelink has been used to estimate numbers of Indigenous-identifying people on the Electoral Roll. It suggests that the percentage of Indigenous Australians enrolled in Western Australia and Northern Territory may still be down around two-thirds. This level of Indigenous enrolment is as low or lower than Loveday and Jaensch estimated from their surveys back in 1984 and 1987 – and may suggest the cost of losing the ATSIEIS in 1996. But the good news in the bottom line of Table 9 is that the AEC believes Indigenous enrolment had improved in 2018, from when it made similar estimates in 2017.<sup>15</sup> By contrast, Labor MHR for Lingiari Warren Snowdon put a negative interpretation on these 2018 Indigenous enrolment figures and used them to criticise the AEC for lessening staff in the Northern Territory in 2017.<sup>16</sup>

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<sup>14</sup> <https://www.aec.gov.au/Indigenous/>

<sup>15</sup> This change from 2017 to 2018 is no longer discernible on the AEC website as the 2017 estimates have disappeared and 2019 estimates added. Estimates for 30 June 2019 show the Northern Territory Indigenous enrolment rate rising to 68.2% and the Australian Indigenous enrolment rate rising to 76.6%. See [https://www.aec.gov.au/Enrolling\\_to\\_vote/Enrolment\\_stats/performance/indigenous-enrolment-rate.htm](https://www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/performance/indigenous-enrolment-rate.htm) viewed 14 November 2019.

<sup>16</sup> [www.warrensnowdon.com/2019/03/14/government-cuts-leave-indigenous-enrolment-rates-lagging/](http://www.warrensnowdon.com/2019/03/14/government-cuts-leave-indigenous-enrolment-rates-lagging/)

**Table 8** Enrolment in 151 House of Representatives divisions compared to estimates of eligible population, March 2019

	>98%	>95% <98%	>90% <95%	>85% <90%	>80% <85%	>75% <80%
No of HoR divisions	54	52	41	1	1	2

Source: [https://www.aec.gov.au/Enrolling\\_to\\_vote/Enrolment\\_stats/rate-div/index.htm](https://www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/rate-div/index.htm)

**Table 9** Estimates of Indigenous enrolment by State and Territory, June 2018

	Estimated Indigenous voting age population	Estimated Indigenous enrolled	Estimated Indigenous unenrolled	Enrolment rate (%)
New South Wales	164 845	143 891	20 954	87.3
Victoria	36 358	27 775	8763	76.0
Queensland	135 642	98 357	37 285	72.5
Western Australia	64 545	41 182	23 363	63.8
South Australia	26 522	18 622	7900	70.2
Tasmania	18 004	15 150	2854	84.1
ACT	5000	3971	1029	79.4
Northern Territory	50 563	34 130	16 433	67.5
<b>Australia 2018</b>	<b>501 659</b>	<b>383 078</b>	<b>118 581</b>	<b>76.4</b>
Australia 2017	488 148	364 631	123 517	74.7

Source: [https://www.aec.gov.au/Enrolling\\_to\\_vote/Enrolment\\_stats/performance/indigenous-enrolment-rate.htm](https://www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/performance/indigenous-enrolment-rate.htm)

Behind this recent AEC work on enrolment is a digital-age development in electoral administration, introduced by the Gillard Labor government in 2012 through S103B of the Commonwealth Electoral Act entitled 'Enrolling unenrolled person without claim or notice from the person'. Known administratively as Federal Direct Enrolment and Update (FDEU), this allows the AEC to use information from other government sources to automatically enrol persons who they believe are eligible by age and other criteria, and are resident at an address in the 'relevant Subdivision'. This is a major change from the previous 100 years of electoral administration in which potential electors needed to lodge a claim for enrolment at a particular address. Recognising this major change, S103B (6) requires that, if FDEU is used, the AEC 'must give the person notice in writing' of 'the person's full name and address as entered on the Roll for the person'.

The AEC has been conservative in its use of these new enrolment possibilities over the last seven years. The sources of government information used to identify potential enrollees are currently limited to Centrelink/the Department of Human Services, the Australian Taxation Office and the National Exchange of Vehicle and Driver Information Service. Also the AEC has chosen not to use FDEU in 'mail exclusion areas', where mail delivery is to a single community address rather than individualised street addresses. The AEC rationale for this approach relates to the requirement under S103B (6) to give notice to FDEU enrollees, which it argues may not always be timely or direct enough in mail exclusion areas.

Lingiari has many mail exclusion areas in remote Aboriginal communities, so effectively FDEU is not being used in much of this House of Representatives division. This raises questions about how electoral administration for remote areas may be diverging from the AEC's developing digital-age administration in urban and regional areas. What other methods are being used both to encourage and to update enrolment in these remote areas, now that the AEC is becoming a more centralised, digital-age organisation?

While not direct reproductions of AEC tables like Tables 8 and 9, Tables 10 and 11 are based on enrolment information from the AEC website. Table 10 presents a time series of enrolment numbers and rates against estimates of eligible population at 30 June each year from 2010 to 2019, both for the whole of Australia and for the Northern Territory. Two things are notable in Table 10 relating to the new digital age of electoral administration since 2012. First, FDEU has increased enrolment rates across Australia steadily and significantly against estimates of eligible population from 90.6% in 2012 to 97.1% in 2019. Second, in the Northern Territory this increase in enrolment rates started from a much lower base (78.9% in 2012) and increased more slowly (to 84.3% in 2019) and erratically.<sup>17</sup> Note the peaks in enrolment rates in the Northern Territory in the election years of 2013 and 2016 before declines the following year or two. This indicates reliance on an old claims-based system of electoral administration in which potential electors enrol when they know an election is coming up. At the national level this rise and dip effect has almost disappeared with FDEU, with no dip at all after 2013 and just the slightest dip after 2016. FDEU is clearly changing patterns of enrolment against estimates of eligible population across Australia, but less so in the Northern Territory than nationally.

**Table 10** Enrolment numbers and rates compared to estimates of eligible population, Australia and the Northern Territory, 30 June 2010–2019

	<b>Australia</b>	<b>Estimated rate (%)</b>	<b>Northern Territory</b>	<b>Estimated rate (%)</b>
2010	13 901 840	89.7	118 401	74.5
2011	14 141 503	90.9	121 919	78.4
2012	14 227 165	90.6	122 715	78.9
2013	14 504 561	91.4	126 934	81.1
2014	14 858 784	92.3	130 857	80.8
2015	15 195 017	93.2	129 133	79.3
2016	15 787 514	95.2	137 360	83.5
2017	15 882 788	95.1	137 773	83.1
2018	16 136 122	96.3	138 581	83.9
2019	16 472 999	97.1	140 064	84.3

Source: [https://www.aec.gov.au/Enrolling\\_to\\_vote/Enrolment\\_stats/national/index.htm](https://www.aec.gov.au/Enrolling_to_vote/Enrolment_stats/national/index.htm)

<sup>17</sup> While a 5.4% increase over seven years in the Northern Territory may not seem all that different from a 6.5% increase nationally, because the Northern Territory is starting from a much lower base it should logically increase more. Another way to think of this is that nationally FDEU has addressed about two-thirds of estimated under enrolment since 2012 (6.5% out of 9.4%), whereas in the Northern Territory it has only addressed about one-quarter (5.4% out of 21.1%).

The Northern Territory Electoral Commissioner responsible for NTLA elections has recently expressed concerns about what is happening to enrolment and turnout in remote areas now that the AEC is moving to a more digital-age approach elsewhere. A year out from the 2020 NTLA election he argued that 25 000 people were missing from the Electoral Roll in the Northern Territory, 16 000 of whom were Aboriginal. While ‘voter apathy’ was his first target of criticism, a second was the AEC’s FDEU system which ‘works well in urban areas but doesn’t operate in rural and remote areas’.<sup>18</sup>

These debates about the application of FDEU in Lingiari reflect a history of deeper concerns about electoral administration in remote Aboriginal communities. Table 11 adds to these debates by grouping the 151 House of Representatives divisions by turnout against the Electoral Roll in the Federal election of May 2019 – votes cast compared to numbers enrolled. Like in Table 8, the vast majority of House of Representatives divisions are in the left columns of Table 11, with turnout against enrolment over 90%. Just three divisions are in the right columns with a significantly lower proportion of votes cast against numbers enrolled. Lingiari is the clear outlier, two categories or 10% lower than the next two divisions, which are Solomon in Darwin and Durack in the Kimberley and Pilbara regions of Western Australia.

**Table 11** Votes cast compared to enrolment in 151 House of Representatives divisions, May 2019

	>95%	>90% <95%	>85% <90%	>80% <85%	>75% <80%	>70% <75%
No of HoR divisions	1	126	21	2	0	1

Source: <https://results.aec.gov.au/24310/Website/HouseTurnoutByDivision-24310-NAT.htm>

Clearly low voter turnout against enrolment is highly related to Indigenous proportion of division population, with Lingiari being the outlier division on this measure (Table 11) as well as one of four outliers on measures of enrolment compared to estimates of eligible population (Table 8). Multiplying together two participation measures of around 70%, it is possible to suggest that perhaps only half of eligible Aboriginal citizens in Lingiari may be utilising their right to vote.<sup>19</sup> The ‘difficulties’ for Aboriginal people arising from electoral legislation seem as present in 2019 as when Loveday wrote about them in 1988.<sup>20</sup> Let us hope that the new generation of AEC commitment to Indigenous electoral participation lasts for many years to come and tussles deeply with the particular challenges of remote areas.

## Concluding analysis: From Aboriginal voting right to adaptive electoral administration

To conclude this analysis, let us recall that enrolment to vote for Aboriginal Australians was *de jure* voluntary until 1983. Amendments made to the Commonwealth Electoral Act in that year focused on public funding of elections and on the establishment of the AEC as a more independent statutory organisation than the previous Australian Electoral Office. While some attention was paid in those amendments to extending the voting franchise to itinerants, it is notable that the extension of the compulsory franchise to Aboriginal Australians was not a matter of debate.<sup>21</sup> This is all the more notable as, two decades earlier, when providing for voluntary

<sup>18</sup> [https://ntec.nt.gov.au/\\_\\_data/assets/pdf\\_file/0004/747013/22082019-One-Year-till-2020-Election.pdf](https://ntec.nt.gov.au/__data/assets/pdf_file/0004/747013/22082019-One-Year-till-2020-Election.pdf)

<sup>19</sup> The Northern Territory correspondent for *The Australian* newspaper wrote two articles on these issue after the Commonwealth and NTLA elections in 2016 (see Aikman 2016a, 2016b).

<sup>20</sup> One difficulty that Loveday detailed in 1988 was Aboriginal people possibly being enrolled twice under different names or spellings of one name. This potential for unintentional over-enrolment could help explain low voter turnout against the roll. However it would also mean that under-enrolment against estimates of eligible population is even lower.

<sup>21</sup> In his second reading speech, Minister Beazley simply said in passing that the amendments sought to ‘extend the right, and in the case of Aboriginals the obligation, to enrol and to vote’ (Commonwealth Parliamentary Debates, House of Representatives, 3 November 1983: 2216).

enrolment for Aboriginal people, the Commonwealth Parliament had created offences of 'undue influence' and 'bribery' for inducing such enrolment.<sup>22</sup> Back then, the image was of Aboriginal individuals being informed and making up their own minds whether to enrol, against the background of historical exclusion. By 1983, this framing had faded in favour of a simpler compulsory equality approach, with little or no recognition of different historical paths.

These 1983 legislative provisions imposed a new obligation on the AEC to facilitate Aboriginal enrolment and voting. However there is also evidence that the AEC has balked at a punitive approach to compulsory Aboriginal voting in the years since. A decade ago Hill and Alport inventively labelled the voting regime for Aboriginal people in remote areas '*de facto* voluntary', due to generous acceptance of reasons for not voting and a reticence around punitive enforcement. A decade on, I argue that not much has changed, although in my view this approach is as much the result of administrative practicalities and incapacities in the AEC as a deliberate choice.<sup>23</sup>

This becomes evident if we think about what happens after a Federal election in dealing with electors on the Roll who 'appear to have failed to vote'. Under S245 of the Commonwealth Electoral Act, Divisional Returning Officers (DROs) are obliged to send a 'penalty notice' to the 'latest known address' of these electors, asking them to provide a 'valid and sufficient reason' for failing to vote, pay a \$20 penalty or, alternatively, to give 'particulars of the circumstances' of their voting.<sup>24</sup> If no response is received within the 'prescribed time' a second similar penalty notice must be sent which also notes that a response to the 'previous notice' was 'not received'. Results of S245 penalty notices to 453 600 apparent non-voters after the 2007 Federal election are categorised into groups in Table 12. While 13.0% paid their \$20 penalty and 41.1% offered a valid and sufficient reason for failing to vote, it is also notable that 25.8% simply did not respond and another 10.5% had their notices returned undelivered. For the AEC, there is not much they can do about this non-responding one-third of apparent non-voters, particularly when their addresses on the Electoral Roll are in 'mail exclusion areas'.

More recent data on the results of S245 penalty notices than the 2007 Federal election has proven elusive. So too has data on the results of S245 penalty notices broken down by divisions of the House of Representatives. My surmise is that in Lingiari the distribution of responses (and non-responses) to S245 penalty notices would be very different from the national pattern revealed in Table 12. As in Tables 8 and 11, Lingiari is likely an outlier division, with higher levels of non-response to penalty notices and return of penalty notices undelivered, due to extensive mail exclusion areas. As Hill and Alport noted in South Australia's outback division of Grey over a decade ago, there is also likely greater use and acceptance as a 'valid and sufficient reason' for not voting of electors in remote areas being several kilometres from a polling booth. I am also informed that return of the two S245 penalty notices from a mail exclusion area is not regarded as sufficient reason to remove people from the Electoral Roll, as is often the case in mail deliverable areas.<sup>25</sup>

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<sup>22</sup> For a brief summary of these 1962 provisions in the Act see McCorquodale 1987:8.

<sup>23</sup> Administrative practicalities and the secrecy of casting a ballot have also led to common assumptions that informal voting is permissible and hence that compulsory voting in Australia is more generally an illusion (see Pringle 2012).

<sup>24</sup> S245(4) identifies some limited circumstances in which DROs are not required to send penalty notices, if for example they are satisfied that the elector is dead or was absent from Australia on polling day.

<sup>25</sup> Under S105 of the Commonwealth Electoral Act, the Electoral Commissioner has powers to make alterations to the Roll, including removal. However non-response to penalty notices alone is not a reason for removal. Other confirmatory information is needed. Possibilities for double enrolment of Aboriginal people in remote areas were discussed by Loveday in the 1980s, as noted in footnote 20, and could still have some relevance today.

**Table 12** Results of S245 Notices to Electors who ‘appear to have failed to vote’, 2007 Federal election

	Number	Percent
Apparent non-voters sent notices	453 600	
Incorrectly sent due to processing or procedural error	18 400	4.1
Provided valid and sufficient reason for failing to vote	186 400	41.1
Claimed to have voted	19 600	4.3
Warning letters issues	5350	1.2
Notices returned undelivered	47 700	10.5
No response	117 000	25.8
Paid \$20 penalty	59 000	13.0
Prosecution due to non-payment of \$20 penalty	64	0.01

Source: AEC 2009:7.

Table 12 suggests that in 2007 there were on average about 3 000 apparent non-voters per division of the House of Representatives (453 600/151). Comparing enrolment figures and votes cast in Tables 2-4, it is evident that in the Northern Territory in 2019 there were of the order of 31 000 apparent non-voters, 19 000 in Lingiari and 12 000 in Solomon. This disproportionate number of S245 penalty notices sent to apparent non-voters in the Northern Territory compared with other parts of Australia could be usefully analysed by the AEC and the parliamentary body which monitors its work, the Joint Standing Committee on Electoral Matters. Another useful analytic exercise would be to look back over several Federal elections to see whether the disproportionate numbers of apparent non-voters in the Northern Territory are the same individuals repeatedly or whether non-voters change between elections. While the latter may suggest opportunistic voting and non-voting, which the AEC could possibly alleviate through service improvements, the former may suggest deeper causes of non-voting among categories of individuals that might be able to be discerned.

Current electoral administration seems a continuation of what Hill and Alport (2010) inventively labelled over a decade ago as a ‘*de facto* voluntary voting regime’ in remote areas. This sustained administrative regime over many Federal elections may help explain persistent low turnout in these areas, compared to a more rigorously enforced compulsory voting regime elsewhere. While figures in the far right columns of Tables 2–4 suggest declining turnout since 2007, I suggest that the longer-term reality since 1984 has been *persistent and variable low turnout* reflecting this administrative regime. Efforts by the AEC to improve Indigenous enrolment in recent years may ironically even contribute to decreasing turnout figures further, if new enrollees encounter restricted opportunities to vote and instead simply swell the ranks of apparent non-voters.<sup>26</sup> Enrolment rises, turnout falls, and not much actually changes.

To finish I will engage in some inventive labelling of my own and call existing AEC practice in remote areas ‘adaptive electoral administration’. I note that this adaptive electoral administration in remote areas is not all that different in the digital age of the early 21st Century from when I first encountered it in the Northern Territory in the 1980s. The exercise of discretion by public service officers through the creation of defensible categories of practice, like ‘mail exclusion areas’, is an under-recognised professional skill which facilitates the work of public administration in hugely varied social contexts. The work of Australian electoral administration in facilitating Aboriginal enrolment and voting in remote areas is complex and nuanced, and calls for large amounts of

<sup>26</sup> An AEC study of voter turnout after the 2016 election noted that FDEU may also be having this effect. Turnout among those whose ‘most recent enrolment transaction was via FDEU’ was 83.1% in the 2016 election, ‘compared with 94.2 per cent for all other electors’ (AEC 2017:18)

professional administrative finesse. That the enrolment and voting regime for Aboriginal people in these areas is still somewhat less than compulsory after 35 years, should neither surprise us nor be unduly problematised. While low enrolment and turnout lessen the current reality of Aboriginal voting power, existing administrative practice could also possibly be thought of as due recognition that Aboriginal Australians have come to participation in elections via a very different historical path from other Australians. Arguably it is better that Aboriginal Australians choose to enrol and vote, rather than be compelled to do so by laws and administration that take little account of their particular historical and contemporary circumstances.<sup>27</sup>

Aboriginal voting power in remote areas of the Northern Territory is real, by virtue of population proportion, and probably explains the different results in the Territory in 2019 compared to remote areas of Queensland and Western Australia. Enrolment and turnout figures suggest that such Aboriginal voting power may still have considerable unused potential. But it may be better that Aboriginal Territorians realise that potential willingly themselves, in conjunction with adaptive electoral administration, rather than being treated punitively for not adhering to compulsory enrolment and voting. Equally the AEC needs to be open to legitimate criticism of its existing practices in facilitating Aboriginal enrolment and voting, and to be willing always to further adapt its approaches.

One other possibility that needs to be foreshadowed is that the Northern Territory could yet lose its second House of Representatives division and return to the pre-2001 situation of having a single MHR for the whole Northern Territory as a single division. This almost happened in 2003 as the Northern Territory's Estimated Residential Population fell back just below 1.5 quotas (Joint Standing Committee on Electoral Matters (JSCEM) 2003:xxii, 18). However in that instance debate over margins of error in these official figures from the ABS allowed a legislative approach to be developed through which the Northern Territory has retained its second House of Representatives division over the next six Federal elections.<sup>28</sup> If at some time in the future, due to changing population relativities, the Northern Territory does fall back to having just one division for the House of Representatives, the proportion of the population in that division who identify as Aboriginal would probably be around one-quarter or a little more (see Table 5). This would suggest a lesser level of Aboriginal voting power than in the current division of Lingiari, but it would still be a significant concentration of Aboriginal electors and higher than in any of the surrounding remote-area House of Representatives divisions in Queensland, Western Australia or South Australia. The Northern Territory is destined by demography to be the centre of Aboriginal voting power in Australian Federal elections, both in potential and in reality, for many years to come.

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<sup>27</sup> Back in the 1980s Tasmanian Aboriginal activist Michael Mansell refused to enrol arguing that this would be a recognition of settler sovereignty. As recently as 2012 Mansell has repeated on radio that he does not enrol or vote and that he prefers to push for the recognition of Indigenous sovereignty (see <https://soundcloud.com/brisbane-blacks/michael-mansell-why-i-dont>). In a more recent major publication, Mansell (2016) seems to avoid explicitly advocating general Indigenous non-enrolment.

<sup>28</sup> This is set out in the *Commonwealth Electoral Amendment (Representation in the House of Representatives) Act 2004*.

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