



Committee Secretary
Joint Standing Committee on Electoral Matters

Dear Secretary

Inquiry into the 2022 federal election

Thank you for the opportunity to make a submission to your inquiry into the 2022 federal election. The Northern Territory Electoral Commission has addressed some of the terms of references below.

(a) reforms to political donation laws, particularly the applicability of 'real-time' disclosure and a reduction of the disclosure threshold to a fixed \$1,000

Sweeping reforms were made to financial disclosure requirements for candidates, parties, associated entities and third party campaigners in Northern Territory elections in 2019, which came into effect 1 January 2020. They were in place for the NT Legislative Assembly general election (2020 Territory Election) in August that year. The NTEC's report on the 2020 Territory Election made a number of further recommendations to modernise financial disclosure provisions. Details of these recommendations are contained in Part 2 (page 183) of that [report](#).

The disclosure threshold in the NT for the reporting of donations received is \$200 for candidates and \$1,500 for political parties, associated entities and third party campaigners (with all donations by the same person to be aggregated). The disclosure threshold for donors is \$1,500 or more to the same candidate or political party.

The NT does not have the requirement (or capacity) for 'real-time' disclosure but has multiple disclosure periods for general election years and throughout a by-election period so that voters have access to timely information on donors prior to casting their vote.

The NT's financial disclosure obligations include the requirement of political parties to lodge an annual return, as does the AEC's. This is an administrative burden for parties, as they have to lodge separate returns to both commissions. It may be more practicable that annual returns for parties registered at both federal and state/territory level be required by the AEC and these returns should meet the requirements of other jurisdictions. This would mean that parties would only be required to submit one annual return that meets the requirements of the AEC and state and territory electoral commissions.

(b) potential reforms to funding of elections, particularly regarding electoral expenditure caps and public funding of parties and candidates;

The abovementioned legislative reforms in 2019 included the introduction of electoral expenditure caps to NT elections. The cap for endorsed and unendorsed candidates is 40,000 monetary units, which is currently \$41,600. Political parties are able to pool the cap if they have multiple candidates running at a general election.

Any electoral expenditure by an associated entity is to be aggregated with the electoral expenditure by the registered party with which the entity is associated. There were no expenditure caps placed on third party campaigners.

One of the recommendations in the NTEC’s 2020 Territory Election report was that third party campaigners should also be subjected to a cap, with the NTEC recommending this capped value to be \$60,000.

(c) the potential for 'truth in political advertising' laws to enhance the integrity and transparency of the electoral system;

The NTEC believes electoral commissions should not be determining whether statements made in political advertising are true. Electoral commissions do not have the knowledge to make such determinations and to impose this role potentially impacts their independence during an election. Parties and candidates have the right to pursue legal remedies if they consider statements made by opponents to be defamatory.

The role of electoral commissions is to provide factual information to address disinformation regarding the electoral process. It is not the role of electoral commissions to be an arbiter of truth in political communication nor censor political debate. Ultimately, it is the voter who makes their own determination on whether the content in political advertising are truthful at the ballot box.

(d) encouraging increased electoral participation and lifting enfranchisement of First Nations People;

Voter turnout (based on number of ballot papers counted compared to enrolment numbers) has long been lower in the Northern Territory compared to other Australian jurisdictions. Below is the voter turnout for the past 4 Legislative Assembly elections in the NT:

General election	2008	2012	2016	2020
Turnout	75.7%	76.9%	74.0%	74.9%

While actual participation rates, that factor in those voters who made a vote that was not counted (rejected declaration and postal votes), or attempted but failed to vote by post, among other reasons, are higher than the official turnout rates (e.g. 78.0% for 2020), the large number of eligible but unenrolled electors in the NT means voter participation is actually much worse.

Voter turnout and voter participation is even lower when looking at the remote areas of the Northern Territory. Of the 25 Legislative Assembly divisions in the NT, 7 are considered remote divisions, although 2 are now more hybrid remote and urban divisions (another consequence of under-enrolment in remote areas). The average voter turnout across these 7 divisions for the past 4 Territory elections are as follows:

General election	2008	2012	2016	2020
Turnout	62.5%	62.0%	59.1%	62.1%

Participation in local government elections (compulsory in the NT) is even lower.

The NTEC has introduced a number of initiatives in recent years to try improve voter turnout and participation, in particular for Aboriginal voters in remote areas:

- provisional voting for unenrolled voters (further details provided below)
- election information sent direct to voters via emails and SMS messages where these contact details have been provided in enrolment details – this has a limited reach in some remote areas as access to mobile phone coverage and internet is not always available
- in-language advertising (in 8 Aboriginal languages) broadcast via Facebook in geo-targeted posts and advertisements, Aboriginal radio stations and Aboriginal TV stations

- early voting services across multiple days offered in a number of remote communities at local government council delivery centres provided by trained council staff (trialled at the 2021 Local Government Elections).

Legislative changes to the NT's *Electoral Act 2004* passed in 2019 allow for provisional voting for unenrolled voters (or voters enrolled interstate) who present at a voting centre and who are eligible to be enrolled. They can cast a declaration vote, and have their enrolment assessed and processed during the scrutiny/count period (13 days for NT elections). If they are found to be eligible to be enrolled, they are enrolled, and then their vote is admitted to the count.

Previously, anyone who cast a declaration vote, because they could not be found on the roll, and are later confirmed to be unenrolled in the NT at the close of roll for that election, have their enrolment updated, but their vote is still rejected and they have to wait for the next election for their vote to count.

These amendments were first implemented at the 2020 Territory Election and resulted in 1,741 of 2,150 (81.0%) declaration votes issued being accepted and admitted to the count (and therefore the same number of enrolments were added to the NT roll). In total 1,024 (58.8%) of the admitted declarations votes were from the 7 remote divisions. In 2016 only 453 or 16.1% of declaration votes were admitted to the count, and in 2012 only 221 or 12.8% of declaration votes were admitted.

In 2021 amendments were made to the *Local Government Act 2019* to allow for the same provisions for council elections and were in place for the 2021 Local Government (general) elections where 1,197 of 1,339 (89.4%) declaration votes issued were admitted to the count, again, with the same number of enrolments added to the NT roll.

The main motivation for the legislative changes was to address the inadequate enrolment of Aboriginal people in remote areas of the NT. They are not captured in the AEC's FDEU program as it requires mail delivery to a residence, and does not include post boxes or community mail bags (although a trial to include these is currently being undertaken by the AEC).

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Iain Loganathan', with a long horizontal flourish extending to the right.

Iain Loganathan
Northern Territory Electoral Commissioner
30 September 2022