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# Disengagement and Defeat of the Voice to Parliament Referendum

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**Abstract:** This Article looks back on the defeat of the Aboriginal and Torres Strait Islander Voice to Parliament referendum held in October 2023 and considers a number of influences to help explain the failure of the referendum. The continuing disengagement or decline in voter participation in this referendum is of significant concern, especially in the Northern Territory. The stakes were high that this referendum campaign would not create a rift within the Australian community but would become a vehicle for greater understanding and relationship between Australia's Indigenous and non-Indigenous communities. This article highlights the approximately 1.8 million enrolled voters who failed to attend a polling booth at the Voice to Parliament referendum. Could these voters have made a difference in the outcome? If not, could augmenting the current referendum machinery with deliberative democratic processes provide the engagement tools needed to reverse this trend of declining participation?

## INTRODUCTION

The Aboriginal and Torres Strait Islander Voice to Parliament referendum, foreshadowed by Prime Minister Anthony Albanese in his election night winning speech in 2022, has now been run. The October 2023 result has been a resounding defeat<sup>1</sup>, confounding early polling suggesting the Voice to Parliament proposal enjoyed a high level of popular support but suffered a declining trend leading up to the referendum vote.<sup>2</sup> In national terms, the Yes campaign was only able to garner 39.94%

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<sup>1</sup> Geoff Chambers and Rosie Lewis, 'Truth-Telling for PM', *The Australian*, 16 October 2023, p. 1.

<sup>2</sup> Tom McLroy, 'Public support shifting away from the Voice: poll', *Australian Financial Review*, 19 May 2023.

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of the formal vote. No State gained a majority of Yes votes. The double-majority required of section 128 constitutional amendment proposals failed significantly on both fronts. The Voice to Parliament proposal failed to achieve a majority of the national votes including both States and Territories. It also failed to achieve a majority of States with a majority of Yes votes.

Amongst all the States and Territories, only the ACT achieved a majority of Yes votes in the referendum, but Territories only count towards the national vote. No State achieved a majority of Yes votes. Victoria achieved the highest Yes vote at 45.85%, with the lowest Yes vote occurring in Queensland at 31.79%.<sup>3</sup>

**Table 1. Summary of the Voice to Parliament Referendum results, held on 14 October 2023.**

State	Enrolment	Yes Votes	Yes %	No Votes	No %	Ordinary Votes	Informal	Total Votes	Turnout %
NSW	5,586,087	2,058,764	41.04	2,957,880	58.96	5,016,644	57,285	5,073,929	90.83
VIC	4,467,175	1,846,623	45.85	2,180,851	54.15	4,027,474	39,038	4,066,512	91.03
QLD	3,631,607	1,010,416	31.79	2,167,957	68.21	3,178,373	27,266	3,205,639	88.27
WA	1,826,031	582,077	36.73	1,002,740	63.27	1,584,817	13,454	1,598,271	87.53
SA	1,284,140	417,745	35.83	748,318	64.17	1,166,063	11,478	1,177,541	91.70
TAS	406,939	152,171	41.06	218,425	58.94	370,596	3,967	374,563	92.04
ACT	316,814	176,022	61.29	111,192	38.71	287,214	2,237	289,451	91.36
NT	152,991	43,076	39.70	65,429	60.30	108,505	820	109,325	71.46
<b>Total</b>	<b>17,671,784</b>	<b>6,286,894</b>	<b>39.94</b>	<b>9,452,792</b>	<b>60.06</b>	<b>15,739,686</b>	<b>155,545</b>	<b>15,895,231</b>	

<sup>3</sup> Australian Electoral Commission, 'AEC Tally Room 2023 Referendum National Results'. Accessed at: <<https://results.aec.gov.au/29581/Website/ReferendumNationalResults-29581.htm>>.

The 2023 Voice to Parliament referendum result is not alone in experiencing a significant defeat in recent times.<sup>4</sup> The referendum results in the Republic of Ireland suffered a similar sized defeat. On Friday, the 8<sup>th</sup> of March 2024, voters rejected two proposals for amending the 1937 Irish Constitution. Of the two referendum questions, the first proposal altering the wording in the constitution to include families that are not based on marriage was defeated with a 67.7% No vote. The second proposal was a change to the wording around the role of women in the home, which was defeated by an even higher margin of 73.90% voting No. It was the highest ever No vote in an Irish referendum.<sup>5</sup> Ironically, the actual day of the Irish referendum was held on International Women's Day.

The recent South Australian First Nations Voice election process has also experienced difficulties. The turnout for representatives' election to the SA First Nations Voice has been extremely low, with more than 90% of enrolled voters failing to cast a ballot.<sup>6</sup> The issue of voter turnout will be considered later in the context of the Voice to Parliament referendum.

The conclusion of my previous article, '*The Voice Referendum Needs to Enter the Deliberative Zone*', included the notion that ideally, 'the public discourse from now until the referendum vote will be considered, respectful and will enable the public to understand the issues related to the proposed Voice to Parliament and its impact on Parliament and the Executive Government. The race to the referendum finish line has begun'.<sup>7</sup> One question to be addressed in this article is how well this ideal has been reached.

A limitation of this article is that it specifically focuses on the level of 'deliberation' found in the referendum campaign and the implications for future referendum outcomes. I continue to reference the work of Lawrence LeDuc, who has researched the deliberative nature of referendums and elections over many years.<sup>8</sup> This article

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<sup>4</sup> Timothy Lynch, 'Why is the progressive left losing the referendum wars', *The Australian*, 18 March 2024, p. 13.

<sup>5</sup> Rory Carroll, 'Ireland's referendums: what went wrong, and what happens now?', *The Guardian*, 10 March 2024.

<sup>6</sup> Brad Crouch, 'Poor voter turnout in historic Voice election', *The Advertiser*, 30 March 2024, p. 9.

<sup>7</sup> Andrew Cole, 'The Voice Referendum Needs to Enter the Deliberative Zone', *Australasian Parliamentary Review*, Autumn/Winter 2023 Vol 38 No 1, pp. 34-51.

<sup>8</sup> L. LeDuc, 'Referendums and elections: How do campaigns differ?', in David M. Farrell and Rüdiger Schmitt-Beck (eds), *Do Political Campaigns Matter?: Campaign Effects in Elections and Referendums*, London: Routledge, 2002, pp. 145-162.

does not attempt to analyse the merits or otherwise of the referendum proposal itself, other than to draw out any deliberative democratic influences during the referendum campaign. I will then proceed to examine the level of participation or turnout in the 2023 referendum vote as a measure of engagement in the referendum process. A further question to be answered in this article is: How do we respond to the declining trend in voter participation in referendums and elections in general in Australia?

## **EXTENT OF DELIBERATION FOUND IN THE 2023 REFERENDUM**

This article aims to reflect on the conduct of the 2023 Voice to Parliament through the lens of a number of influences on the quality of the deliberative democratic quality found during a referendum campaign. This work contrasts what LeDuc characterises as the interaction of ‘voice’ and ‘vote’. As a reminder of the contrast between the two, by ‘voice’, LeDuc means the general conception of deliberation that allows for a process to consider various positions and discuss issues that enable the voting public to make an informed decision. By ‘vote’, he means the physical act of casting a ballot at the end of the referendum campaign.<sup>9</sup> The most significant influences LeDuc describes are the motive for initiating a referendum, the role of the government of the day, the clarity of the referendum question and the ‘complexity of the proposals.’<sup>10</sup>

### *Motive*

When considering the element of ‘*motive*’, the focus is on whether the justification for submitting a referendum proposal to a national vote has contributed to increasing the level of deliberative democratic quality or not. The emergence of the Voice to Parliament referendum can be traced back to decades of pressure for the constitutional recognition of Aboriginal and Torres Strait Islander people and, most importantly, the election night speech in May 2022, where the Labor Party gained power at the Federal election, given by Anthony Albanese. In his speech, Albanese

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<sup>9</sup> L. LeDuc, ‘Referendums and deliberative democracy’, *Electoral Studies*, 38, 2015, p.139.

<sup>10</sup> L. LeDuc, ‘Referendums and Deliberative Democracy’, Conference Paper at the International Political Science Association World Congress, Fukuoka, Japan, 9-13 July 2006, p. 2. Accessed at: <[http://paperroom.ipsa.org/papers/paper\\_5268.pdf](http://paperroom.ipsa.org/papers/paper_5268.pdf)>.

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committed to the Uluru Statement from the Heart in full, a statement that included the goal of a First Nations voice to be enshrined in the Commonwealth Constitution.<sup>11</sup>

The initiation of the Voice to Parliament referendum can be ‘bookended’ by the Prime Minister’s comments after the defeat of the referendum in December 2023, where he distanced himself from any sense of responsibility for the defeat by claiming that the defeat was not a “loss for him”.<sup>12</sup> The significance of this declaration is that it indicates that the motive of the Prime Minister was to attempt to use the referendum proposal, which was extremely popular at the time, to create a policy problem for the Leader of the Opposition. This gamble did not pay off, as the voting public did not approve the referendum proposal. The level of overconfidence in the Labor Government has been characterised as one of the major reasons for the referendum defeat.<sup>13</sup>

Although initiating the Voice to Parliament referendum may have been motivated by ostensibly political reasons, that did not necessarily mean that good deliberation could not have taken place. That the unfolding referendum campaign became a contest of fixed positions meant that the quality of deliberation was low. The consequence of this partisan campaigning continues to be felt in the handling of other major policy areas, such as religious freedom reforms.<sup>14</sup>

### *The Role of the Government*

In Australia, governments initiate constitutional referendums, and the role the government of the day plays during any referendum campaign greatly influences the level of deliberation experienced during a particular referendum process. The Albanese Labor Government prosecuted the case for the Voice to Parliament referendum in conjunction with a well-funded independent Yes campaign. With a high level of

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<sup>11</sup> The Uluru Dialogue, ‘The Statement’. Accessed at: <<https://ulurustatement.org/the-statement/view-the-statement/>>.

<sup>12</sup> Paige Taylor and Jess Malcolm, ‘Voice ‘not my loss’, Albanese declares’, *The Australian*, 26 December 2023, p. 1.

<sup>13</sup> Greg Craven, ‘Eight Reasons why the Yes case failed’, *The Australian*, 16 October 2023. Accessed at: <<https://www.theaustralian.com.au/commentary/eight-reasons-why-the-yes-case-failed/news-story/2f46117e59bdc170a1f242dbc85d9775>>.

<sup>14</sup> Rosie Lewis and Joe Kelly, ‘Conviction PM’ has a caveat’, *The Australian*, 20 March 2024, p. 1.

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confidence in the popular support for the proposal<sup>15</sup>, the Albanese Labor Government did not see the need to engage the Liberal National Party Coalition in any sense of bipartisanship. It prosecuted the referendum case as a winner-takes-all campaign.<sup>16</sup>

Greg Craven, a member of the Albanese Government's Constitutional Expert Group, considered the Labor Government Ministry's lack of effectiveness in advancing a rational argument for change to an audience of undecided and sceptical voters as another reason for failure. The Government's messaging was countered by a combination of key Opposition spokespersons and minor party disagreement, such as that by Senator Lidia Thorpe.<sup>17</sup>

The fixed positions that the Albanese Labor Government took, the Yes23 campaign organisation, the Liberal National Party Opposition and other dissenting parliamentary MPs all combined to make the referendum campaign more akin to a combative general election than a referendum. The resulting low level of deliberative democratic quality is not a surprise.

### *Clarity*

The third influence on good deliberation that LeDuc provides is that of clarity, where the more precise the referendum question, the greater the likelihood that voters will understand the purpose of the referendum and will not be subject to different interpretations or deliberate misinterpretations.

With a deliberate strategy of not being precise in the wording of the referendum question, the Prime Minister found himself being criticised over the ambiguity in the referendum proposal over such issues as what the definition of the executive government was and what government agencies would be in the scope of the proposed Voice body, as well as how 'representations' would be made by the Voice and what

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<sup>15</sup> Essential Research, 'Support for Voice to Parliament, August 2022 to May 2023.' Accessed at: <<https://essentialreport.com.au/questions/support-for-voice-to-parliament-5>>.

<sup>16</sup> Andrew McMillan, 'Good Oil on what went wrong: the PM's referendum mistakes', *The Australian*, 09 March 2024, p. 1.

<sup>17</sup> Greg Craven, 'Campaign of hubris broke Indigenous hearts', *The Australian*, 16 October 2023, p. 15.

role, if any, would the High Court play in resolving any disputes.<sup>18</sup> The wording of the referendum was deliberately designed not to be precise but made to be presented as a 'modest and gracious request for reconciliation by Aboriginal and Torres Strait Islander peoples'.<sup>19</sup>

The wording was unclear, causing confusion and lowering the level of deliberation, especially when combined with the election campaign style in which the referendum was conducted.

### *Complexity*

More than just clarity, complexity's impact can influence the deliberation level found in a referendum campaign. LeDuc highlights that as the problems or the issues embedded within a referendum question increase, the greater likelihood that people will find it challenging to engage in reasoned debate. The more complex issues are built into a referendum question, the greater the potential for failure.

The issue of complexity was a significant issue in the Voice to Parliament referendum proposal, as the institutional mechanism of the Voice body raised many questions as to its design, election, and representation, the nature of advice and whether it was justiciable, to what part of the Executive Government could the Voice body make representations and when, to name a few.

As detailed in the official Referendum Booklet, the arguments put forward by both the Yes campaign and the No campaign covered a significant range of complex issues that made understanding the implications of the referendum proposal difficult.<sup>20</sup> The timing of the referendum was also questioned, especially in the context of an economic 'cost of living crisis' with a sustained period of interest rate rises by the Reserve Bank of Australia that had a serious financial impact on many home mortgage holders.<sup>21</sup>

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<sup>18</sup> Chris Kenny, 'Voice's wording does not 'clarify' whether advice must be 'taken into account': Stoker', *Sky News Online*, 28 September 2023.

<sup>19</sup> Josh Butler, 'Anthony Albanese calls leftwing opponents of voice to parliament 'radicals'', *The Guardian*, 27 January 2023.

<sup>20</sup> Australian Electoral Commission, *2023 Referendum Booklet*. Accessed at: <<https://www.aec.gov.au/referendums/files/pamphlet/referendum-booklet.pdf>>.

<sup>21</sup> Andrew McMillan, 'Good oil on what went wrong: The PM's referendum mistakes', *The Weekend Australian*, 9 March 2024.

The complexity of the Voice to Parliament referendum made good deliberation difficult during the campaign. Given the economic cost-of-living crises being experienced by the Australian electorate, the timing of the referendum was also questioned.<sup>22</sup> The analysis of the Voice to Parliament referendum's failure will continue for some time.<sup>23</sup>

## **PARTICIPATION AND ENGAGEMENT**

LeDuc's work contrasts the nature of elections and referendums and highlights that they are different electoral processes with different goals. Elections are contests between political opponents fighting to control a democratically elected government. Referendums are policy questions that are put to the voting public to decide. While the Voice to Parliament referendum campaign saw a political intrusion into the referendum process, one element of LeDuc's analysis is worth considering at a more detailed level: voter participation as a measure of engagement or disengagement in the current Australian context. LeDuc states that a 'truly deliberative direct democratic process requires both the engagement and participation of its citizenry'.<sup>24</sup>

The Australian experience must be considered in light of 'compulsory voting', or the compulsory attendance at polling stations, that was introduced at the Federal level in 1924. The following graph demonstrates the change in voting turnout since Federation, with the high turnout rising to above 90% after the 1925 Federal election.<sup>25</sup>

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<sup>22</sup> David Penberthy, 'Even the best-explained version of the Voice would have failed', *The Advertiser*, 14 October 2023.

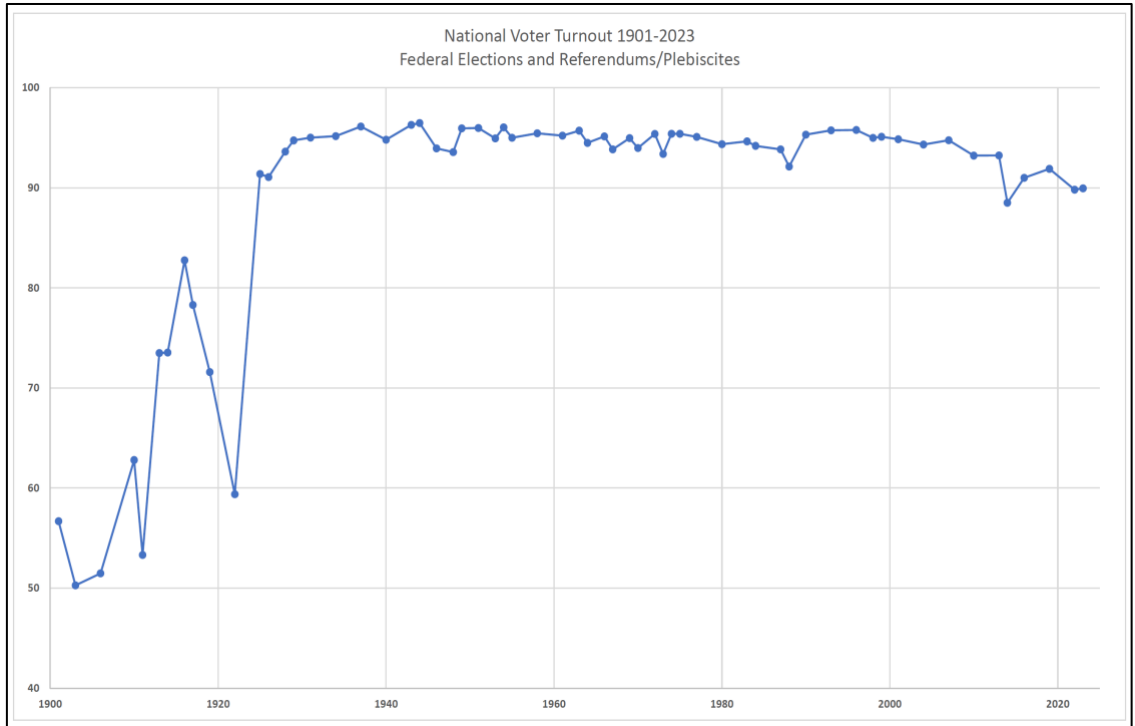
<sup>23</sup> Sarah Ison, 'Yes campaign crash: Gooda's anger at PM's voice strategy, and aftermath', *The Australian*, 23 February 2024, p. 1.

<sup>24</sup> LeDuc, 'Referendums and deliberative democracy', p. 145.

<sup>25</sup> Australian Electoral Commission, Voter Turnout – previous events. Accessed at: <[https://www.aec.gov.au/Elections/federal\\_elections/voter-turnout.htm](https://www.aec.gov.au/Elections/federal_elections/voter-turnout.htm)>.



**Figure 11. National Voter Turnout from 1901 to 2023, including both Federal elections and referendums.**



**Table 2. National Summary Results in the 2023 Voice to Parliament Referendum.**

The following table shows the voting results of the 2023 referendum at the State and Territory levels.<sup>26</sup>

State	Enrolment	Yes		No		Ordinary Votes	Informal	Total Votes	Turnout%
		Votes	Yes %	Votes	No %				
NSW	5,586,087	2,058,764	41.04	2,957,880	58.96	5,016,644	57,285	5,073,929	90.83
VIC	4,467,175	1,846,623	45.85	2,180,851	54.15	4,027,474	39,038	4,066,512	91.03
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ACT	316,814	176,022	61.29	111,192	38.71	287,214	2,237	289,451	91.36
NT	152,991	43,076	39.70	65,429	60.30	108,505	820	109,325	71.46
<b>TOTAL</b>	<b>17,671,784</b>	<b>6,286,894</b>	<b>39.94</b>	<b>9,452,792</b>	<b>60.06</b>	<b>15,739,686</b>	<b>155,545</b>	<b>15,895,231</b>	

In examining the voting results, the Yes result is compared to the total enrolment figures for each Federal Division. While a narrow focus on the formal voting pattern in each Division provides a contrast between the Yes and No votes, a focus including total enrolment figures for each Division draws attention to those eligible voters that were 'missing in action'.

The statistical data highlights that voter turnout varies between the States and Territories and shows that voter turnout has been declining over time. This is a worrying trend, especially the declining voter turnout in the Northern Territory.

First, if we look at the Yes voting pattern for Federal Divisions that returned a Yes result of greater than 50% of the formal Yes/No votes, we can see that only 34 of 151 Divisions voted 'Yes'. Also calculated for each of the Divisions is a Yes vote to formal enrolment percentage. When this enrolment figure is compared to the number of Yes votes, only two Divisions in the 2023 referendum have a calculated Yes-to-Enrolment figure of over 50%. Interestingly, these two Divisions are Canberra, in the ACT, and Grayndler, Anthony Albanese's own House of Representative seat in southern Sydney.

<sup>26</sup> Australian Electoral Commission, 2023 Referendum Tally Room National Results. Accessed at: <<https://results.aec.gov.au/29581/Website/ReferendumNationalResults-29581.htm>>.

**Table 3. Federal Division Results in the 2023 Referendum with a Majority of Yes Vote.**

State	Division Name	Party	Formal Yes Votes	Yes %	Total Votes	Total Enrolment	YES Vote to Enrolment %
ACT	Bean	ALP	49,487	55.90%	88,526	111,159	44.52%
NSW	Bradfield	LP	42,274	51.65%	81,850	109,572	38.58%
QLD	Brisbane	GRN	46,118	57.03%	80,873	127,063	36.30%
ACT	Canberra	ALP	53,971	70.63%	76,409	101,799	53.02%
VIC	Chisholm	ALP	38,202	50.34%	75,884	110,970	34.43%
TAS	Clark	IND	31,867	58.48%	54,490	74,366	42.85%
VIC	Cooper	ALP	51,753	65.92%	78,508	111,841	46.27%
NSW	Cunningham	ALP	47,599	51.64%	92,182	118,357	40.22%
WA	Curtin	IND	44,732	51.43%	86,980	121,506	36.81%
ACT	Fenner	ALP	46,771	57.26%	81,687	103,856	45.03%
TAS	Franklin	ALP	31,522	50.79%	62,063	81,864	38.51%
VIC	Fraser	ALP	42,293	56.71%	74,576	113,489	37.27%
VIC	Gellibrand	ALP	43,414	53.32%	81,418	113,775	38.16%
VIC	Goldstein	IND	45,626	56.43%	80,850	111,802	40.81%
NSW	Grayndler	ALP	61,733	74.40%	82,973	111,385	55.42%
QLD	Griffith	GRN	46,172	57.08%	80,887	123,514	37.38%
VIC	Higgins	ALP	44,694	61.15%	73,085	110,036	40.62%
VIC	Isaacs	ALP	41,868	50.88%	82,280	113,627	36.85%
VIC	Jagajaga	ALP	46,571	54.69%	85,148	114,687	40.61%
NSW	Kingsford Smith	ALP	46,221	54.85%	84,273	115,814	39.91%
VIC	Kooyong	IND	48,046	60.23%	79,769	114,138	42.09%
NSW	Mackellar	IND	43,454	50.48%	86,089	112,551	38.61%
VIC	Macnamara	ALP	44,633	66.17%	67,456	113,597	39.29%
VIC	Maribyrnong	ALP	38,917	51.38%	75,738	111,154	35.01%
VIC	Melbourne	GVIC	52,933	78.30%	67,599	116,172	45.56%
NSW	Newcastle	ALP	50,627	53.70%	94,271	123,663	40.94%
NSW	North Sydney	IND	48,651	59.80%	81,352	113,165	42.99%
WA	Perth	ALP	45,392	53.85%	84,301	123,816	36.66%
NSW	Reid	ALP	41,765	50.76%	82,286	116,651	35.80%
QLD	Ryan	GRN	42,279	53.35%	79,255	113,005	37.41%
NSW	Sydney	ALP	55,522	70.69%	78,546	122,228	45.42%
NSW	Warringah	IND	46,687	58.97%	79,176	106,766	43.73%
NSW	Wentworth	IND	44,976	62.09%	72,439	104,435	43.07%
VIC	Wills	ALP	48,552	65.25%	74,413	111,159	43.68%
<b>National Vote</b>			<b>5,017,444</b>	<b>40.09%</b>	<b>12,650,010</b>	<b>17,671,784</b>	<b>28.39%</b>

The data above highlights the fragile nature of the Yes vote. If the success of the referendum were a majority of Yes votes compared to actual enrolment, then the 2023 referendum result would have been a bigger defeat than it actually was.

This data also highlights a challenge for the Australian Electoral Commission, which is required to follow up with registered eligible voters who do not attend a polling booth on an election day. These non-voters may be subject to a small fine for not voting.

If we now move to the issue of the long-term decline in voter participation, the following table details the disengagement in voter participation over the last thirty years. The table details the average decline of 6.9% across all States and Territories, including a long-term decline in voter participation of 17.33% for the Northern Territory. The turnout rate for the Northern Territory experienced a high point of 90.33% in 1998 and is now sitting at a turnout rate of 71.47%

**Table 4. Voter turnout figures for States and Territories from 1993 to 2023, including the 1999 and 2023 referendums.<sup>27</sup>**

State/Territory	NSW	VIC	QLD	WA	SA	TAS	ACT	NT
1993	95.99	96.25	95.17	95.63	94.91	96.30	96.74	88.79
1996	96.37	96.11	94.62	94.95	95.89	96.58	96.67	89.10
1998	94.85	95.61	94.24	94.66	95.67	96.12	95.65	90.33
1999 *	95.23	95.32	94.63	94.73	96.01	96.31	95.31	84.96
2001	94.74	95.14	94.72	94.57	95.55	96.14	94.97	86.11
2004	94.70	94.87	93.74	92.79	94.79	95.65	94.95	84.25
2007	94.99	95.17	94.41	93.26	95.42	95.76	95.85	86.53
2010	93.33	93.49	92.73	92.84	93.83	95.07	94.63	82.67
2013	93.30	93.40	93.55	92.07	93.46	94.73	94.64	82.22
2016	91.49	91.14	91.17	88.38	91.81	93.59	92.16	79.01
2019	92.16	92.62	91.22	90.05	93.07	94.34	93.15	77.94
2022	90.70	90.59	88.16	87.99	91.07	92.43	92.07	73.08
2023 *	90.83	91.03	88.27	87.53	91.70	92.04	91.36	71.46
<b>Overall Decline</b>	5.16	5.22	6.90	8.10	3.21	4.26	5.38	17.33

When looking at the national voting statistics at the Federal Division level, the average turnout rate for all Divisions is 89.90%. Out of 151 Divisions in the House of Representatives, sixty-four have turnout rates lower than the average. To highlight the spread of Divisions across jurisdictions, the following table details the Divisions with the lowest turnout rates.

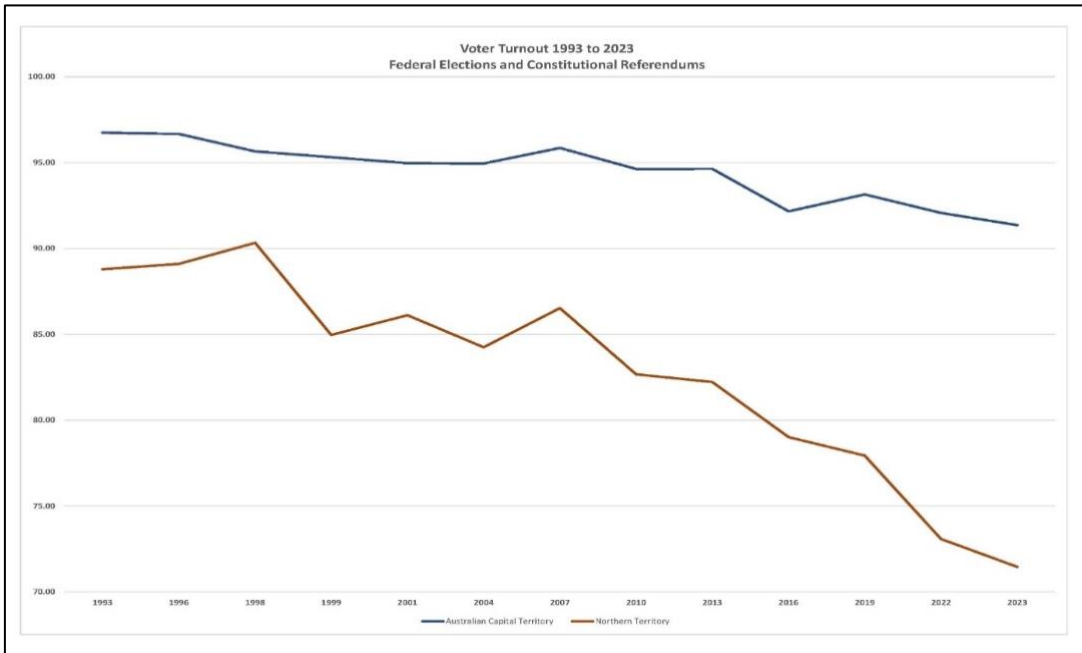
<sup>27</sup> Australian Electoral Commission, Tally Room Archive. The archive page details data for all Federal elections from 2001, the 2023 referendum, and all By-elections since 2005. Accessed at: <<https://results.aec.gov.au/>>.

**Table 5. The ten Divisions with the Lowest Turnout Rates at the 2023 Referendum.**

<b>Division</b>	<b>State</b>	<b>Formal Votes</b>	<b>Informal Votes</b>	<b>Total Votes</b>	<b>Informal Percent</b>	<b>Total Enrolment</b>	<b>Turnout%</b>
Moncrieff	QLD	104005	1139	105144	1.08%	124154	84.69%
Burt	WA	98112	863	98975	0.87%	117372	84.33%
Kennedy	QLD	101787	669	102456	0.65%	121512	84.32%
Calwell	VIC	96379	1505	97884	1.54%	116563	83.98%
Blaxland	NSW	90124	2376	92500	2.57%	110298	83.86%
Rankin	QLD	93123	1050	94173	1.11%	112395	83.79%
Leichhardt	QLD	99223	827	100050	0.83%	122282	81.82%
Durack	WA	100215	718	100933	0.71%	124228	81.25%
Solomon	NT	57346	435	57781	0.75%	72936	79.22%
Lingiari	NT	51159	385	51544	0.75%	80055	64.39%

**Figure 12. Voter turnout figures for the ACT and NT, 1993 to 2023.**

The data for the ACT and the Northern Territory can be seen in the following graph.



The most significant decrease in voter participation is evidenced in the Northern Territory. Participation dropped from a high point of 90.33% in 1998 to the current level of 71.46%, which was experienced in the 2023 referendum.

The decline in voter turnout was identified by the most recent Federal Joint Standing Committee of Electoral Matters (JSCEM) Report released in November 2023 when reviewing the conduct of the 2022 Federal election.<sup>28</sup>

We now turn to the Northern Territory Division data to drill down at a more granular level. Is the decline in voter participation consistent across the Divisions within the Territory, or is there a particular Division experiencing a higher level of disengagement?

<sup>28</sup> Joint Standing Committee on Electoral Matters, Conduct of the 2022 federal election and other matters, *Final Report*, Parliament of Australia, Canberra, November 2023, pp. 25-58. Chapter 2 of the Final Report considered issues surrounding Aboriginal and Torres Strait Islander participation in elections.

The Federal Division of Solomon is based around Darwin, the capital of the Northern Territory, including the areas of Darwin, Eaton, and Palmerston. The table below shows the decline in voter turnout in this Division since 2007.

**Table 6. Trend in Voter Turnout in the Federal Division of Solomon.**

Year	DivisionNm	Enrolment	Turnout	Turnout Percentage
2007	Solomon	57,641	53,065	92.06
2010	Solomon	59,891	53,672	89.62
2013	Solomon	63,163	56,413	89.31
2016	Solomon	69,998	58,665	83.81
2019	Solomon	69,336	57,602	83.08
2022	Solomon	71,843	57,136	79.53
2023	Solomon	72,936	57,781	79.22

The Federal Division of Lingiari is the residual geographical area outside of the general Darwin metropolitan area, including Eaton and Palmerston. This area includes all of the remote indigenous communities of the Northern Territory.

**Table 7. Trend in Voter Turnout in the Federal Division of Lingiari.**

Year	DivisionNm	Enrolment	Turnout	Turnout Percentage
2007	Lingiari	60,404	49,084	81.26
2010	Lingiari	61,168	46,409	75.87
2013	Lingiari	65,916	49,715	75.42
2016	Lingiari	63,131	46,525	73.70
2019	Lingiari	70,023	51,009	72.85
2022	Lingiari	74,008	49,459	66.83
2023	Lingiari	80,055	51,544	64.39

The specific case of the Division of Lingiari was noted in the JSCEM Final Report on the 2022 Federal election, where:

*Lingiari particularly stands out: voter participation was the lowest in Australia, at a record low of 66.83 per cent. For the 2019 federal election, this figure was 72.85 per cent.<sup>8</sup> According to the Northern and Central land councils, Lingiari consistently has the lowest turnout*

*of enrolled voters, and has the highest number of unenrolled voters in Australia.*<sup>29</sup>

The continuing decline in voter participation in the Division of Lingiari, which contains Australia's most remote communities, should be of significant concern to the Australian Electoral Commission and the Federal Government. Time and effort must be expended to reverse this concerning trend. Is it acceptable that 35.61%

While it is observed that many remote polling booths voted significantly for the Voice to Parliament referendum, such as Jabiru in the Northern Territory (Lingiari, 58.41% voted Yes) and Fitzroy Crossing in Western Australia (Durack, 71.11% voted Yes)<sup>30</sup>, these mask the broader picture of significant disengagement within remote communities in Australia. The number of actual votes received in these small remote communities is low relative to the Division enrolment figures. For example, 214 votes were cast in Jabiru, while the Division enrolment for Lingiari was 80,055. The number of votes cast in Fitzroy Crossing was 315, while the enrolment figure in Durak was 124,228.

The Central Land Council made a submission to the JSCEM Inquiry into the 2022 Federal Election, highlighting the issues surrounding participation in remote communities and the impact that funding cuts in electoral participation programs have caused. In advocating for the reinstatement of these programs and for additional funding, the Central Land Council stated that:

*Policy initiatives from the late 1970s until the 1990s that promoted education and electoral participation of Aboriginal people increased enrolment and voting, but these have since been cut and defunded and laws have been enacted that create further barriers to*

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<sup>29</sup> Joint Standing Committee on Electoral Matters, Conduct of the 2022 federal election and other matters, *Final Report*, Para 2.11, p. 27

<sup>30</sup> Mike Berry, M., 'The Voice Referendum', *Journal of Australian Political Economy*, No. 92, 2024, pp. 244.



*enrolment. Decreasing electoral engagement in the seat of Lingiari is a direct result of these laws and policies.<sup>31</sup>*

*With a referendum on an Indigenous Voice to Parliament imminent, the need for increased enrolment and participation of Indigenous people in the Federal electoral process is particularly urgent. The CLC stands ready to work with government and communities to ensure Indigenous voices are heard and votes are counted.<sup>32</sup>*

In the Final Report of the 2022 Inquiry, when considering what recommendations to make regarding Aboriginal and Torres Strait Islander participation, the Joint Standing Committee on Electoral Matters agreed that the Australian Electoral Commission should be encouraged to build higher participation rates within the Aboriginal and Torres Strait communities through local workforce collaboration and improved voter education.<sup>33</sup>

An interesting exercise is to see what would happen to the referendum result if ALL the missing votes were cast for the Yes vote. What would the outcome be? Would the result have changed? As detailed by the analysis of the Voice to Parliament referendum by the ANU Centre for Social Research and Methods:

*Furthermore, a higher proportion of people who didn't end up voting said that they would have voted yes when asked in August, implying that low turnout suppressed the yes vote.<sup>34</sup>*

The starting position of this what-if analysis is the State and Territory summary results.

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<sup>31</sup> Central Land Council, Submission to the Joint Standing Committee on Electoral Matters (submission 478), *Inquiry into the 2022 federal election*, October 2022, p. 12.

<sup>32</sup> Central Land Council, Submission to the Joint Standing Committee on Electoral Matters (submission 478), p. 13.

<sup>33</sup> Joint Standing Committee on Electoral Matters, Conduct of the 2022 federal election and other matters, *Final Report*, Recommendation 4, Para 2.187, p. 58.

<sup>34</sup> Nicholas Biddle, Matthew Gray, Ian McAllister, and Matt Qvortrup, 'Detailed analysis of the 2023 Voice to Parliament Referendum and related social and political attitudes', The ANU Centre for Social Research and Methods, Australian National University, 28 November 2023, p. iii. Accessed at <[https://csrcm.cass.anu.edu.au/sites/default/files/docs/2023/11/Detailed\\_analysis\\_of\\_the\\_2023\\_Voice\\_to\\_Parliament\\_Referendum\\_and\\_related\\_social\\_and\\_political\\_attitudes.pdf](https://csrcm.cass.anu.edu.au/sites/default/files/docs/2023/11/Detailed_analysis_of_the_2023_Voice_to_Parliament_Referendum_and_related_social_and_political_attitudes.pdf)>.

**Table 8. Summary 2023 referendum results by State and Territory.**

State	Enrolment	Yes Votes	Yes %	No Votes	No %	Ordinary Votes	Informal	Total Votes	Turnout %
NSW	5,586,087	2,058,764	41.04	2,957,880	58.96	5,016,644	57,285	5,073,929	90.83
VIC	4,467,175	1,846,623	45.85	2,180,851	54.15	4,027,474	39,038	4,066,512	91.03
QLD	3,631,607	1,010,416	31.79	2,167,957	68.21	3,178,373	27,266	3,205,639	88.27
WA	1,826,031	582,077	36.73	1,002,740	63.27	1,584,817	13,454	1,598,271	87.53
SA	1,284,140	417,745	35.83	748,318	64.17	1,166,063	11,478	1,177,541	91.70
TAS	406,939	152,171	41.06	218,425	58.94	370,596	3,967	374,563	92.04
ACT	316,814	176,022	61.29	111,192	38.71	287,214	2,237	289,451	91.36
NT	152,991	43,076	39.70	65,429	60.30	108,505	820	109,325	71.46
<b>Total</b>	<b>17,671,784</b>	<b>6,286,894</b>	<b>39.94</b>	<b>9,452,792</b>	<b>60.06</b>	<b>15,739,686</b>	<b>155,545</b>	<b>15,895,231</b>	

Subtracting the total number of votes from the enrolment figures for each State and Territory can reveal the number of missing eligible voters.

**Table 9. The Number of Missing Votes per State/Territory.**

State	Enrolment	Total Votes	Difference
NSW	5,586,087	5,073,929	512,158
VIC	4,467,175	4,066,512	400,663
QLD	3,631,607	3,205,639	425,968
WA	1,826,031	1,598,271	227,760
SA	1,284,140	1,177,541	106,599
TAS	406,939	374,563	32,376
ACT	316,814	289,451	27,363
NT	152,991	109,325	43,666
<b>National</b>	<b>17,671,784</b>	<b>15,895,231</b>	<b>1,776,553</b>

While the Australian Electoral Commission does not have enrolment figures based on individual polling places but only at the Division level, the following table details what the result could have been if every missing eligible voter voted Yes.

**Table 10. Project Yes Votes if all missing votes were Yes Votes.**

State	Enrolment	New YES	Yes %	No Votes	No %	New Ordinary	New Informal	New Total Votes	Turnout %
NSW	5,586,087	2,570,922	46.50	2,957,880	53.50	5,528,802	57,285	5,586,087	100%
VIC	4,467,175	2,247,286	50.75	2,180,851	49.25	4,428,137	39,038	4,467,175	100%
QLD	3,631,607	1,436,384	39.85	2,167,957	60.15	3,604,341	27,266	3,631,607	100%
WA	1,826,031	809,837	44.68	1,002,740	55.32	1,812,577	13,454	1,826,031	100%
SA	1,284,140	524,344	41.20	748,318	58.80	1,272,662	11,478	1,284,140	100%
TAS	406,939	184,547	45.80	218,425	54.20	402,972	3,967	406,939	100%
ACT	316,814	203,385	64.65	111,192	35.35	314,577	2,237	316,814	100%
NT	152,991	86,742	57.00	65,429	43.00	152,171	820	152,991	100%
<b>Total</b>	<b>17,671,784</b>	<b>8,063,447</b>	<b>46.03</b>	<b>9,452,792</b>	<b>53.97</b>	<b>17,516,239</b>	<b>155,545</b>	<b>17,671,784</b>	

The projected 'what-if' result would not have changed the result significantly from the actual result other than lifting the Yes vote in Victoria to over 50%.

If participation has not affected the result, and one of the main concerns regarding the referendum process was the level of voter engagement, then the referendum process could well profit from the incorporation of additional deliberative democratic processes into the machinery of constitutional referendums.

The analysis above highlights that even if every missing eligible voter had cast a vote for the Yes campaign, the result would not have been significantly altered.

## CONCLUSION

This article has not attempted to provide an analysis of the merits or otherwise of the referendum proposal to establish a First Nations Voice to Parliament. The objective of this article has been to consider the level of deliberation encountered during the referendum campaign, using the filter of LeDuc's reference framework, and to consider the implications of participation levels in voting as a measure of disengagement in the referendum process, especially that of indigenous voters in remote communities.

In making its submission to the JSCEM 2022 Inquiry, the Northern Land Council submitted that there was a critical imperative to improve indigenous electoral participation, namely:

*With the Prime Minister committing to hold a referendum on the Voice to Parliament within the current term of government, the need to address Aboriginal disadvantage in electoral participation – in terms of both enrolment and voting – has taken on a new urgency. It*

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*is imperative that all eligible Aboriginal people have the opportunity to have their say.*<sup>35</sup>

This imperative is critical for Aboriginal and Torres Strait Islanders and all Australians to have their voices heard at elections, whether referendums or general elections. The ongoing decline in voter turnout must be reversed.

What is the answer to reengage with the missing eligible voters?

The proposition of this article is to augment the legislative machinery of referendums with deliberative democratic assemblies in each State and Territory, providing a broader depth of information and debate available to the general public. This would match the voting pattern required by Section 128 of the Commonwealth Constitution, which requires majorities nationally and in a majority of States.

My proposal is incremental and can be implemented without needing a specific constitutional referendum through legislative amendment and funding support to the Australian Electoral Commission. As detailed in my previous article, it simply proposes to establish a series of deliberative assemblies to consider any proposed constitutional amendment after the Commonwealth Parliament has submitted it for a national ballot.<sup>36</sup> These deliberative assemblies would be conducted in the capital city of each State and Territory. Each deliberative assembly would comprise at least one hundred eligible electors, selected to be broadly representative via a statistical method and convened over a series of weekends.

According to LeDuc's analysis, an opportunity exists to deepen the 'voice' of deliberation, with elements such as deliberative assemblies that could create a catalyst for broader discussion and public opinion formation regarding any proposed constitutional change. Deliberative assemblies, as proposed here, would be consistent with maintaining the legitimacy of the parliamentary process to initiate constitutional referendums and recognising the authority of the final national and State-by-State vote in determining any outcome. It is time for the Commonwealth Parliament to

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<sup>35</sup> Northern Land Council, Submission to the Joint Standing Committee on Electoral Matters (submission 423), Inquiry into the 2022 federal election, October 2022, p. 2.

<sup>36</sup> Andrew Cole, 'Deliberative assemblies to enhance the constitutional referendum process', *Australasian Parliamentary Review*, Spring/Summer 2022, Vol 37 No 2, pp. 92-101.

acknowledge that changes must be made to the conduct of constitutional referendums. Words matter and voters need to be engaged, especially for proposed amendments to Australia's formal written constitution.

The Federal Government also needs to acknowledge and commit to addressing the concerns raised by groups such as the Northern and Central Land Councils regarding the participation of remote and regional communities in the election process. This response needs to be national in scope, taking note of the range of Federal Divisions with the lowest turnout rates at the 2023 Voice to Parliament Referendum, as detailed in Table 5.

The final word on referendum campaigns rests with LeDuc:

*If the overtly partisan motives that drive many referendum campaigns can be limited or controlled, if better question wording and availability of information can lead to greater clarity, and if citizens can be more fully engaged over a longer period leading to higher and more inclusive rates of participation, there is every reason to believe that direct democracy can become more deliberative in practice.<sup>37</sup>*

If that can be achieved, is that not the best outcome?

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<sup>37</sup> LeDuc, 'Referendums and deliberative democracy', p. 147.