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Inquiry into civic participation in NSW

Additional material

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April 2025

Thank you for having us appear before the inquiry into proposals to increase voter engagement, participation and confidence, and for the opportunity to provide further information to supplement our submission and the evidence we gave at the hearing.

Legitimacy of results under different voting systems

The argument was advanced in this and earlier hearings that winning with less than 50% of the vote or winning on a low primary vote may not represent the will of the majority, or otherwise not be a true, free or accurate result.

In any electoral system that allows more than two candidates, it is inevitable that some candidates will win with less than 50% of the primary vote.

In fact, most MPs, both at the federal level under full preferential voting and in NSW under optional preferential voting, do not win a majority of the primary vote.

However, if there are concerns about MPs winning with less than 50% of the vote, this is a powerful argument for full preferential voting. Between full preferential voting, optional preferential voting and first past the post voting, *only* full preferential voting guarantees that the ultimate winner is preferred by a majority of voters.

Full preferential voting removes any doubt about whether a candidate who wins with a low primary vote is preferred by the electorate. The full distribution of preferences confirms that between the last two candidates remaining, the majority prefer the ultimate winner.

Optional preferential voting cannot guarantee this, and under first past the past it is not certain at all. Under these systems, one candidate can defeat another even if in a two-person race most voters would have chosen the unsuccessful candidate.

For example, at the 2023 NSW general election, only two in three successful MPs were actually voted for by a majority of voters in their seats. For the remaining 28 electorates, valid votes for the successful MP were less than the share of valid votes that either exhausted or went to the second-last candidate.[1]

By contrast, under full preferential voting every single successful MP is voted for by a majority of voters in their seats (among those who cast a valid vote).

All voting systems have wins from low primary votes

At the federal election, independent candidate Kylea Tink won 25% of the primary vote (24,477 votes). She won the seat because of the 97,118 voters in North Sydney who cast a valid vote, 51,392 (or 53%) preferred her to incumbent MP Trent Zimmerman.[2]

Sam Birrell, the Nationals candidate in Nicholls, was in the same boat – winning 26% of the primary vote but 54% of the vote once all preferences were distributed.[3]

Optional preferential voting also sees seats won from low primary votes. In the NSW state seat of Murrumbidgee in 1984, National Adrian Cruickshank started in third place on 25% of the primary vote but leapfrogged an independent and the Labor candidate to finish with 52% on preferences.[4]

Worst of all is first past the post voting, where there is no guarantee that the winning candidate is preferred by most voters. In the 2023 UK general election, 554 of 650 seats were won by MPs who won less than 50% of the vote.[5]

In Australia, it is the Coalition that has historically benefited from preferential voting. At the federal level, since the formation of the Liberal Party the Coalition has won 128 seats from second or third place on preferences, compared to 97 seats for Labor and 23 for independent/other candidates.

Full preferential voting made the Coalition feasible across Australia – because it allowed Liberal and Country/National candidates to run against each other without

[1] Authors' calculations from data in Raue (2025) *NSW 2023,* https://www.tallyroom.com.au/data

[2] ABC News (2022) *North Sydney,* https://www.abc.net.au/news/elections/federal/2022/guide/nsyd

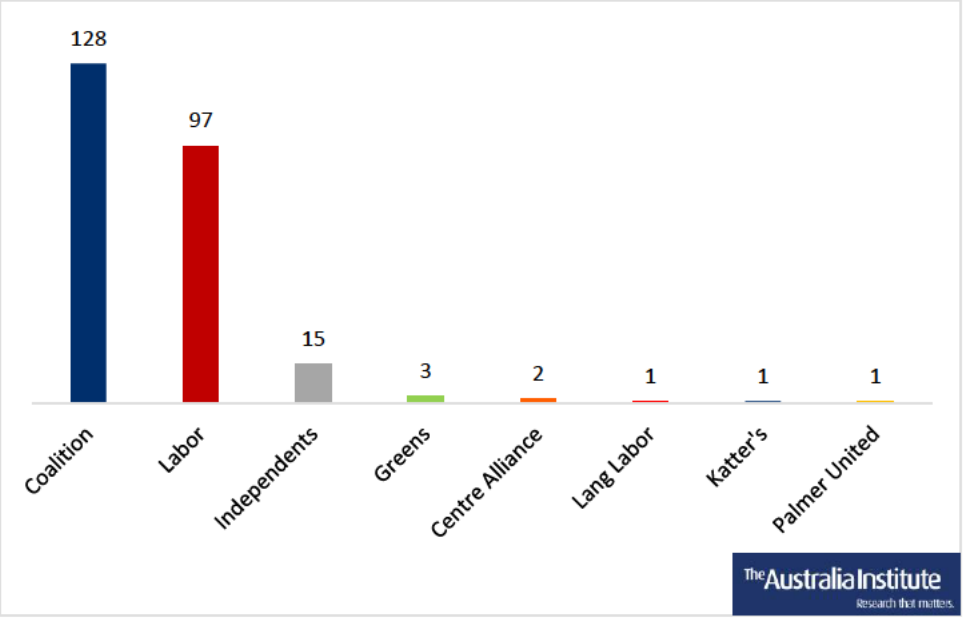
[3] ABC News (2022) *Nicholls,* https://www.abc.net.au/news/elections/federal/2022/guide/nich

[4] NSW Parliament (2007) *Murrumbidgee – 1984,* https://www.parliament.nsw.gov.au/electionresults18562007/1984/Murrumbidgee.htm

[5] Authors' calculations from House of Commons Library (2024) *Detailed results by constituency,* https://commonslibrary.parliament.uk/research-briefings/cbp-10009/

sabotaging the Coalition's overall prospects. One of the great losses from optional preferential voting in New South Wales is that Liberal and National candidates have become reluctant to run against one another, limiting the choices for regional conservative voters. Cases like Adrian Cruickshank's are getting less common as the Coalition parties fear voters will stop after numbering one candidate.

Figure 1: Seats won from behind on primary votes, by winning party (1946 to 2022)



Source: Browne, Predavec and Black (2025) *Full preferential voting means you can't waste your vote,* https://australiainstitute.org.au/post/full-preferential-voting-means-you-cant-waste-your-vote/

"More choice" under optional preferential voting is a mirage

The argument is sometimes advanced that optional preferential voting offers voters more choice than full preferential voting because a voter can choose between continuing preferencing and stopping preferencing early.

The Australia Institute's submission already explains why this is only theoretically true. NSW voters stop numbering well before their true preferences are exhausted. After all, NSW voters go on to vote in federal elections where every box must be numbered, and they do not preference randomly as they would if they truly had no preferences.

Even in theory, optional preferential voting only offers more choice in one limited circumstance: when the voter has no preference for who to number *last.*

In every other circumstance, both full preferential and optional preferential voting force the voter to choose between candidates they weight equally.

Consider the conservative voter who wants to be represented by a Coalition MP, but does not care whether the Liberal or the National wins. Full preferential *and* optional preferential voting (and first past the post voting) force the voter to choose between candidates in order to cast a valid vote.

The same is true for an "anyone but X" voter who does not care who represents them as long as it is not Mr X. If they want to cast a valid vote against Mr X, they *must* choose between the other candidates.

With these examples, it becomes clear that the additional freedom of choice that optional preferential voting offers is extremely limited: only when the voter has no preference between candidates for *last place*. This needs to be weighted against the *de facto* loss of choice under optional preferential voting because voters who do not realise the power of their preferences stop numbering well before their true preferences have been exhausted.

What could be done to address the lower participation rate among Indigenous Australians?

The Australia Institute has not looked specifically at the participation rate among Indigenous Australians in NSW. However, we did consider the issue for our submission to the federal Joint Standing Committee on Electoral Matters.

We recommended improving electoral education and doing more to engage with remote communities, including with better election-based services:

- Remote enrolment programs
- Electoral education
- Addressing the gaps caused by relying on remote mobile polling teams to collect votes.[6]

I have also spoken with a colleague who worked in Aboriginal policy research. The running theory in most of the studies that look at the issue is that low participation rates among Indigenous people are about the (lack of) "salience" of elections. In other words, fewer Indigenous people vote because politicians do not talk about or pursue the issues that matter to them. At the Voice referendum, rates of participation went up. This was partly because of the AEC's engagement and enrolment efforts, but also because many Indigenous people believed in the Voice.

[6] Browne and Shields (2022) *Fortifying Australian democracy: submission to the inquiry into the 2022 election*, pp. 30–35, https://australiainstitute.org.au/report/fortifying-australian-democracy/

So while education, enrolment, and mobile polling all play a role, the more fundamental answer is genuine political engagement with the issues that matter to Indigenous people, including housing, infrastructure, health and justice.

What is your view on lowering the voting age?

In principle, we support extending the franchise to those aged 16 and older. Young people have a stake in the decisions that are made for them and in their name, and have the greatest incentive of any group of voters to consider the long term. Decisions made by governments today, particularly in response to global warming, will affect a 16-year-old today for decades to come.

Australia Institute research finds that "if you don't vote, you don't count". Examples include the increase in pension spending after compulsory voting was introduced in Australia; large and sudden increases in public health expenditure when women received the vote in the United States; and improved public services in African-American communities after the *Voting Rights Act 1965*.[7] Allowing those 16 and 17 years of age to vote could lead to similar valuable outcomes for young people.

If voting rights are extended to those aged 16 and 17, it would make sense to have no fine, or only a nominal fine, for those who fail to vote.[8]

Opponents of lowering the voting age have sometimes argued that a 16-year-old lacks the electoral literacy to be able to exercise their vote. Many 16-year-olds would have a better understanding, having more recently undergone civics education. Meanwhile, some adults do not have a good understanding of Australian politics or the electoral system, but that would not justify excluding their votes.

Australia has lowered the voting age before: in 1972 both major parties campaigned on a promise to lower the voting age from 21 to 18, or to at least explore the prospect. Other countries have since lowered their voting age to 16, and this has led to greater democratic buy-in more broadly.[9]

[7] Shields & Campbell (2016) *#democracysausage*, pp. 11–12, https://australiainstitute.org.au/report/democracysausage/

[8] See also Browne (2022) *Expanding voting rights in the ACT*, p. 2, https://australiainstitute.org.au/report/expanding-voting-rights-in-the-act/

[9] Fell (2024) 'What impact did lowering the voting age have for Scottish elections?', *The Scotsman*, https://www.scotsman.com/news/politics/what-impact-did-lowering-the-voting-age-have-for-scottish-elections-what-will-keir-starmers-election-move-mean-4649171