

**NORTHERN TERRITORY GOVERNMENT SUBMISSION**  
**TO THE**  
**COMMONWEALTH JOINT STANDING COMMITTEE ON ELECTORAL MATTERS:**  
**INQUIRY INTO REPRESENTATION OF TERRITORIES IN THE HOUSE OF**  
**REPRESENTATIVES.**

**INTRODUCTION**

The Northern Territory welcomes the Inquiry by the Joint Standing Committee on Electoral Matters on the issue of whether the Northern Territory and the Australian Capital Territory should be guaranteed a minimum of two members in the House of Representatives.

The Northern Territory supports amending the *Commonwealth Electoral Act 1918* (the Electoral Act) to provide for a guaranteed minimum Territorial representation of two Members in the House of Representatives. Following publication of the Determination of Electoral Entitlements by the Electoral Commissioner in February 2003, which revealed that Northern Territory representation in the House of Representatives was to be reduced by 50%, the Northern Territory Chief Minister wrote to the Prime Minister urging that consideration be given to amending the Electoral Act so as to provide such a guarantee.

The Northern Territory Government is concerned that downgrading its representation in the Commonwealth Parliament on what is a statistical anomaly is unfair. It is a decision that overlooks the geographic and social singularity of the Northern Territory and the different needs of its communities, as well as being wrong in statistical fact.

**THE CONSTITUTIONAL BACKGROUND**

The constitutional history of the Territory makes Territorians acutely sensitive to their electoral rights. Unlike the “Original States” forming the Federation, the Northern Territory has no constitutionally guaranteed minimum level of representation in the Federal Parliament. Indeed, the combined effects of federation in 1901, followed by the surrender of the Northern Territory by South Australia and its acceptance by the Commonwealth as a Commonwealth territory from 1 January 1911 resulted in complete disenfranchisement of former Northern Territory electors.

It was not until 1922, after a campaign of “No taxation without representation”, which resulted in the gaoling of a number of prominent NT citizens, that the NT was afforded a non-voting member in the House of Representatives. It was to be a further 46 years before the NT MHR was afforded full parliamentary voting rights and entitlements in 1968.

Senate representation for the mainland Territories was not achieved until 1975 and followed several unsuccessful attempts to achieve passage of the relevant legislation

and subsequent constitutional challenges in the High Court to both the Senate and the House of Representatives representation.<sup>1</sup>

A summary history of NT franchise and representation is appended at Appendix "A".

Provision for Northern Territory representation in the Federal Parliament is currently provided for under the *Commonwealth Electoral Act 1918*. The Constitutional head of power upon which those provisions rely is contained at section 122 of the Constitution, which provides:

**S.122** The parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth ... and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit."

Although the section appears clear, it should be noted that the validity of the provisions for Territory Senate representation in the 1975 constitutional challenge was only upheld by a bare majority of 4:3 in the High Court. Notwithstanding that in the subsequent 1977 challenge to the provisions for Territory Senate and the House of Representatives representation, the validity of those provisions were upheld by a 5:2 High Court majority, two of the majority Justices (Gibbs and Stephen JJ) also maintained their opinions expressed in the 1975 case that the *Senate (Representation of Territories) Act* was invalid, but declined to overrule that decision.

However, Gibbs J further noted that:

"Having regard to the very great importance, in preserving the federal balance of the Constitution, which attaches to Part II of Ch I of the Constitution, I consider that if the Parliament were to further distort the federal balance by legislating to provide for the election of more senators for the Territories, that would be a circumstance that might be regarded as sufficient to justify a reconsideration of the question whether *Western Australia v Commonwealth* should continue to be followed."<sup>2</sup>

Stephen J did not hold to the above opinion expressed by Gibbs J, instead concluding that:

"Once the meaning of the section (S. 122) has been authoritatively established and this court has recognised that "representation" may involve the returning of fully fledged senators by Territory electors, the section makes it abundantly clear that the extent of representation is a matter for the Parliament."<sup>3</sup>

It may or may not be significant that Gibbs J confined his opinion about the potential effect of further extension of Territory representation to the election of more senators, cf. members of the House of Representatives. However it is noteworthy that since 1990, the Electoral Act has provided for the number of Territory senators and MHRs to increase beyond the minimum level of representation provided therein where the proportional population of the Territories increases by comparison with the combined population of the States.

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<sup>1</sup> *WA v Commonwealth (Territorial Senators case)* (1975) 134 CLR 201; *Queensland v Commonwealth (2<sup>nd</sup> Territorial Senators case)* (1977) 139 CLR 585.

<sup>2</sup> 139 CLR at 600-1.

<sup>3</sup> 139 CLR at 604.

Section 40(1) of the Electoral Act provides that subject to subsection (2), the Australian Capital Territory and the Northern Territory shall each be represented in the senate by 2 senators for the Territory directly chosen by the people of the Territory voting as one electorate. Subsection (2) provides that where the number of members of the House of Representatives to be chosen in the Australian Capital Territory or the Northern Territory at a general election is 6 or more, that Territory shall, on and from the day of the general election, be represented in the Senate by one senator for every 2 members of the House of Representatives to be chosen in that Territory.

The Northern Territory is currently represented in the Senate by two senators pursuant to the minimum level of Senate representation provided in S. 40(1).

The number of Territory members of the House of Representatives is determined pursuant to the provisions of S.48 of the Electoral Act. So far as it is relevant to the Territories, that section provides:

**“48 Determination of number of members of House of Representatives to be chosen in States and Territories**

- (1) The Electoral Commissioner shall, as soon as possible after he or she has ascertained, in accordance with section 46, the numbers of the people of the Commonwealth and of the several States and Territories:
  - (a) determine, in accordance with subsection (2), the number of members of the House of Representatives to be chosen in the several States at a general election; and
  - (b) determine, in accordance with subsections (2A) and (2B), the number of members (if any) of the House of Representatives to be chosen in the several Territories at a general election.
- (2) The number of members of the House of Representatives to be chosen in the several States at a general election shall, subject to the Constitution, be determined by the Electoral Commissioner in the following manner:
  - (a) a quota shall be ascertained by dividing the number of people of the Commonwealth, as ascertained in accordance with section 46, by twice the number of the senators for the States;
  - .....
- (2A) The Electoral Commissioner shall divide the number of people of each Territory, as ascertained in accordance with section 46, by the quota ascertained under paragraph (2)(a) and, subject to subsection (2B), shall determine:
  - (a) if the result of the division is less than or equal to 0.5—that no member of the House of Representatives be chosen in the Territory at a general election;
  - (b) if the result of the division is greater than 0.5 and less than or equal to 1.5—that one member of the House of Representatives be chosen in the Territory at a general election; or
  - (c) in any other case—that the number of members of the House of Representatives to be chosen in the Territory at a general election is the number ascertained by the division or, if there is a remainder greater than one-half of the quota, that number increased by one.
- (2B) At least one member of the House of Representatives shall be chosen in the Australian Capital Territory and in the Northern Territory at a general election.
- (2C) If the Electoral Commissioner determines that, at a general election, no member of the House of Representatives is to be chosen in either or both of the following Territories:
  - (a) the Territory of Cocos (Keeling) Islands;
  - (b) the Territory of Christmas Island;the following provisions shall have effect:

- (c) the ascertainment under section 46, and the determinations under this section, in respect of that Territory or those Territories, as the case may be, and in respect of the Northern Territory shall be deemed never to have been made;
- (d) that Territory, or those Territories, as the case may be, shall be taken to be part of the Northern Territory;
- (e) the Electoral Commissioner shall, as soon as possible:
  - (i) ascertain, under section 46, the number of the people of the Northern Territory; and
  - (ii) determine, under this section, the number of members of the House of Representatives to be chosen in the Northern Territory at a general election.

....”

For current purposes, the relevant provision of Section 46 of the Act is as follows:

**“46 Ascertainment of numbers of people of Commonwealth, States and Territories**

- (1) Where a House of Representatives has continued for a period of 12 months after the day of the first meeting of that House, the Electoral Commissioner shall, within one month after the expiration of the period of 12 months, if that House is still continuing, ascertain the numbers of the people of the Commonwealth and of the several States and Territories in accordance with the latest statistics of the Commonwealth.

....”

It is the combined effect of sections 46 and 48 that are directly relevant to the present Inquiry.

## **CALCULATION OF THE NT REPRESENTATION ENTITLEMENT**

The manner in which the Northern Territory’s entitlement to seats in the House of Representatives is calculated is directly responsible for the NT Government’s present dissatisfaction with the removal of one of our two seats.

Prior to the 2001 Federal election the Northern Territory was represented in the Commonwealth Parliament by two Senators and one MHR. However calculation of the Northern Territory’s “representation entitlement” in December 1999, in accordance with section 48(2A) of the Electoral Act as above, resulted in a quotient for the Northern Territory of 1.5239 and accordingly, for the first time, an entitlement for the Northern Territory of two MHRs. This triggered an electoral distribution and, for the purposes of the 2001 Federal election, the Northern Territory was divided into two Federal seats, Solomon and Lingjari.

In February 2003, the representation entitlement of the Northern Territory was again recalculated for the purposes of the next Federal election. The ABS population estimates for the States and Territories used for that calculation represented a net increase in the population of the States<sup>4</sup> of 744,437 (4.03%) over the population statistics used for the 1999 calculation. This resulted in an increase in the section 42(2)(a) quota from 128,199.67 to 133,369.375 (+ 5,169.705).

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<sup>4</sup> I.e. “the people of the Commonwealth” within the meaning of s.45 of the *Commonwealth Electoral Act 1918* excludes the people of any territory that is referred to in section 122 of the Constitution.

By comparison, the population of the Northern Territory proper increased over the same period from 192,882 to 197,724 (+4,842). For the purposes of calculating representation entitlement, the populations of Christmas Island and the Cocos (Keeling) Islands are included in the population of the Northern Territory pursuant to section 48(2C) of the Electoral Act. With those population figures included, the net population of the Northern Territory was partly offset by a substantial decline in the population of Christmas Island over the same period from 1,897 to 1,436 (i.e. a net decrease of 461). Thus the total Territory population for the purposes of S.48(2C) was 199,760, a net increase of 4,394).

Application of the S.48(2A) calculation resulted in a quotient for the Northern Territory of 1.4978, thereby reducing the Northern Territory representation entitlement from two MHRs to one. The population of the Northern Territory fell 295 short of the number required to maintain an entitlement of 2 MHRs (i.e. by 0.147%) and it is in this context that the net decline in the Christmas Island population becomes significant.

The Northern Territory notes further, that the statistics used for the purposes of determining the representation entitlements for the States and Territories are close to the published ABS population estimates for the States and Territories at 30 September 2002 (in the Northern Territory's case they are an exact match, 197,724). The figures represent a decline in the Northern Territory's estimated population of 261 between the September 2001 and September 2002 quarters, however the data for all quarters post June 2001 is stated to be preliminary and subject to revision.

It is the small margin of the population that is the basis for the Northern Territory's unhappiness about it being the justification for our loss of a Member of the House of Representatives.

## **THE TERRITORY CASE FOR TWO REPRESENTATIVES SEATS**

There are two elements to the Northern Territory case:

1. The representational implications of the physical geography and social composition of the Northern Territory electorate; and
2. The question of whether the ABS population count figures upon which the Australian Electoral Commission operated are correct and accurate figures.

### **1. The "Community of Interest" Case**

The Northern Territory is the third largest State or Territory in Australia, covering approximately 1,346,000 sq. km<sup>2</sup>. For Commonwealth electoral purposes it includes the Cocos (Keeling) Islands and Christmas Island, resulting in a combined population of approximately 199,760. As a single electorate it is second in physical size only to the seat of Kalgoorlie, but it also extends offshore to approximately 3,600 km west of Darwin. In terms of population it is by far the largest electorate in Australia.

In effect, this physical geography creates distinct communities of interest within the NT electorate. Having these in a single electorate dilutes the democratic rights of a particularly disadvantaged group: Aborigines living on remote communities and outstations. At present they have a significant voting weight in Lingiari. In a Territory-wide electorate their voice would be diminished.

The population of the Northern Territory is widely dispersed, with approximately 54.22% located in the Darwin area and the remainder spread between Alice Springs (13.28%), Katherine (4.45%), Nhulunbuy (1.91%), Tennant Creek (1.51%) and the remaining 24.63% located in small and remote communities. Those figures do not include the resident populations of the Cocos (Keeling) Islands (approx. 600) and Christmas Island (approx. 1,436) that also fall within the electorate responsibilities of Territory MPs.

Indigenous people comprise almost 29% of the Territory population, far exceeding the Indigenous percentage in any other Australian State or Territory. About 81% of Indigenous Territorians live outside of the Darwin Statistical Division, mostly in remote communities.<sup>5</sup> These Aboriginal communities comprise the most economically disadvantaged persons in Australia. They constitute a distinct community of interest that is well-represented in the present seat of Lingiari but would be downgraded if there were a single NT seat in the House of Representatives.

This aspect of the Northern Territory is unique, as is the inclusion for electoral purposes of remote Indian Ocean islands within the Territory. It is difficult to comprehend the challenges faced by an MHR in attempting to adequately represent and meet the needs of a single Northern Territory electorate (for instance there is no direct air service between Darwin and Christmas Island). It is impossible to believe that it can in fact be done adequately or that all electors will have reasonable access to their MHR.

The Northern Territory needs strong representation in the Federal Parliament.

At present, the people of the Northern Territory are not on an equal footing with other Australians in terms of representation. Our constitutional status as a Territory precludes this. That situation will continue, even with a guarantee of two MHRs in the House of Representatives. Notwithstanding constitutional arrangements, the people of the Northern Territory have at least a moral claim to a level of representation that gives some measure of efficacy to our effective participation in a democratic Commonwealth and which enables our elected representatives to adequately and appropriately service the needs of their constituents.

The loss of one of only two current seats in the House of Representatives is a significant and substantial setback for the Northern Territory both in terms of adequate and appropriate representation and in the effect that it has on the capacity of the Territory to fulfil its aspirations and make a contribution to the Commonwealth Parliament.

## **2. The Under-Enumeration of the Northern Territory Population**

The Northern Territory is currently on the threshold of an exciting period in its developmental history. Major projects such as completion of the Darwin to Adelaide Railway later this year, the East Arm Port, Timor Sea gas and related developments are expected to herald a period of unparalleled growth. An imminent population growth rate increase will justify the second Member in the near future. So any miscalculation of the current population to justify a reduction in representation is vexatious and will only have a short-term impact before it has to be corrected.

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<sup>5</sup> These figures rely on ABS Census statistics, which in the Northern Territory's view substantially under enumerate the Northern Territory's Indigenous population.

The Northern Territory has long expressed concern at the manner and methods used by the ABS in the collection, interpretation and adjustment of Census data for the Northern Territory. Particular concerns have been raised in respect of the 2001 Census data and derivative statistics. In particular, it is the Northern Territory's view that notwithstanding the ABS adjustment of 7,500 for undercount:

- There has been a significant under-enumeration of the Territory's remote Indigenous population at Census, a point for which there is extensive evidence;
- The substantial negative revisions incorporated in the final Census ERPs for the Territory, which were released on 18 February 2003 were out of scale with those applied to other jurisdictions; and
- The imputation adjustments applied to non-contact dwellings both within and outside of Darwin, of which the Territory has the highest proportion, reduced the size of the Territory's population by 1,582 people and were based on an underlying assumption for which there is no reasonable supporting evidence.
- Alone of the States/Territories, there is no Post Enumeration Survey in the Northern Territory. This particularly affects the Indigenous remote communities count but also affects the figures for the Darwin metropolitan area. That is because there is such a large proportion of single person shared households in Darwin.

A more detailed outline of concerns surrounding the ABS Census data, as it applies to the Northern Territory, has been extracted from a paper prepared by NT Treasury officials and is contained at Appendix "B" below.

In short, the Northern Territory considers that the volatility of the quarterly estimate renders it unfit for the purpose of calculating representation entitlements in which via very small margins may have a significant effect. In this case, the Northern Territory's representation in the House of Representatives has been reduced by half on the basis of an estimated population shortfall of 295, which is well within the standard error margins of the estimates. Indeed there is substantial evidence that at one community alone, Wadeye, an under-count of far greater magnitude than the 295 population shortfall occurred.

Notwithstanding the Northern Territory's concerns about the data used by the Electoral Commissioner for the purposes of calculating the Territory's representation entitlement, we also note with concern the provisions of section 48(3) of the Electoral Act, which substantially limits the avenues and basis upon which a decision of the Commissioner may be reviewed or challenged.

The Northern Territory is working cooperatively with the ABS to ensure that future modelling and collection methods used to estimate our population are the most accurate available. This includes the commissioning of high level independent research into the methodology used to estimate the Territory population. Another element of these negotiations is the introduction of a Post-Enumeration Survey after the next census in 2006. However this is a longer-term strategy that will not resolve the immediate issue of Territory representation in the House of Representatives.

## OPTIONS FOR PROVIDING AN APPROPRIATE LEVEL OF REPRESENTATION

Pursuant to section 24 of the Constitution, the Original States each have a guaranteed minimum level of representation in the House of Representatives of five members. It is by virtue of that provision, for example, that Tasmania has five MHRs, notwithstanding a notional entitlement based on population of four.

As noted previously, no such constitutional guarantee applies to the Territories. The level of representation of the Territories, if any, falls to be determined by the Commonwealth Parliament in the exercise of its discretion under section 122 of the Constitution "... to allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit." The exercise of that discretion is currently reflected in the *Commonwealth Electoral Act 1918*.

There appear to be two options by which the level of representation of the Territory of two MHRs may be maintained.

The first is to amend the method of calculation of the Territory representation entitlement as currently set out in the Electoral Act at section 48(2C)(b) and (c) such that:

- in the case of S.48(2C)(b), if the result of the division of the population of the Territory is greater than 0.5 and less than or equal to 1 – that one member of the House of Representatives be chosen in the Territory at a general election; and
- in the case of S.48(2C)(c), in any other case – that the members of the House of representatives to be chosen in the Territory at a general election is the number ascertained by the division or, if there is a remainder, that number be increased by one.

Such amendment stops short of guaranteeing the Territory a minimum of two MHRs. Nevertheless, based on current population statistics and likely future population statistics, it would have that effect. It would also have the immediate effect of increasing the representation entitlement in the House of Representatives of the Australian Capital Territory from two members to three, as has been reportedly advocated by the Member for the Northern Territory seat of Lingiari.

It should be noted that a similar method of calculation of the representation entitlement for States was included in the Electoral Act by amendment in 1964. That provision was subsequently struck down as invalid in a 1977 decision of the High Court<sup>6</sup>, which was unanimous on that point.

The reasons upon which the Court reached its conclusion of invalidity were that the method of calculation offended the nexus and the proportionality requirements of S.24 of the Constitution. As that case reaffirms, however, the nexus and proportionality requirements of S.24 apply only to State representation and have no application to representation of the Territories provided for by the Parliament pursuant to S.122 of the Constitution.

The second option, which is currently reflected in the Private Member's Bill introduced by the Member for the Northern Territory Seat of Solomon is to amend S.48(2B) of the Electoral Act so as to provide for a minimum level of representation of at least two

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<sup>6</sup> *Attorney General (NSW); Ex Rel McKellar v Commonwealth* (1977) 139 CLR 527.



members in the House of Representatives for each of the Northern Territory and the Australian Capital Territory.

Both of the above options may have the potential to provide an opportunity for re-opening the earlier decisions of the High Court in the Territorial Senators cases and McKellar's case to review. We offer no view on the likely prospects of such review either as to occurrence or outcome, but consider that the matter of adequate representation in the Federal Parliament of the people of the Northern Territory is of such fundamental importance as to outweigh any such speculative considerations.

## **CONCLUSION**

The Northern Territory Government supports attempts to retain the electoral rights of Territorians. The NT contains distinct communities of interest. Even if just for reasons of transportation and communications difficulties, these communities of interest cannot be adequately represented by one Member of the House of Representatives. The Aboriginal community of interest has a strong moral case for secure representation. The total number of persons upon which the decision was made to reduce the Territory's representation in the Commonwealth Parliament is smaller than a range of statistical anomalies could identify. It is our argument that the population of the Northern Territory is under-enumerated, especially the Indigenous population. The democratic rights of Territorians have been lessened because of dubious and contestable statistical methodologies.

## **Brief History of Northern Territory Franchise**

### **1863 – 1911**

As a territory of South Australia:-

#### **1863 – 1888\***

- Territory voters participated in elections for the SA House of Assembly district of Flinders (2 members)

#### **1888\* - 1911**

- Territory constituted as an electorate in its own right returning 2 members to the House of Assembly.
- Territory also included in the Northern District constituency of the SA Legislative Council.
- 1901 – (South Australia became a State within the Commonwealth) Territory franchise extended to both houses in the Commonwealth Parliament (House of Representatives seat of Grey and for South Australian Senators) and also in respect of Federal referenda.

\* Sources are inconsistent, some say 1888, others say 1884.

### **1911 –**

As a territory of the Commonwealth:

- On transfer to Commonwealth, all NT franchises were lost.
  - 1917 – Territory voters allowed to participate on Conscription referendum.
  - 1922 – Northern Territory Representation Act passed – provided a non voting member in the House of Representatives. Also not able to be counted for determining quorums, or act as Speaker or Chairman of Committees.
  - 1932 – Territory Member was conceded the right to move or rise in support of a motion for adjournment (Speaker's Ruling).
  - 1936 – Territory Member granted the right to vote on motions for the disallowance of Territory Ordinances.
  - 1959 – Territory Member given the right to vote on any question relating solely to the Northern Territory or on any motion for the disallowance of regulations made under a Northern Territory Ordinance.
  - 1968 – Northern Territory Representation Act amended to remove all limitations on the Territory MHR and conferred full status.
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- 1968 – Territory Senators Bill proposing 2 senators for each Territory introduced, the Bill was opposed and lapsed. Similar legislation was introduced in 1970 with the same result. Reintroduced twice in 1973 and defeated on both occasions. **Reintroduced in 1974 and passed.** Challenged in the High Court in 1975 on constitutional grounds and survived.
- 1975 – Two Territory Senators elected to the Senate.
- 1977 – Second constitutional challenge to Territory Senate representation, and also to Territory representation in the House of Representatives. Provision for Territory representation upheld by the High Court.
- 1977 – Constitutional Referendum – Constitution amended to accord the people of the Territories a vote in referenda to amend the constitution (but not so as to diminish the requirement for a majority of electors in a majority of states to approve the proposed amendment).
- 1999 – Recalculation of representation entitlement resulted in creation of a second Territory seat in the House of Representatives. Two Territory MHR's elected in 2001.
- 2003 - Recalculation of representation entitlement. Northern Territory loses its second House of Representatives seat entitlement.

**EXTRACTS FROM NT TREASURY BRIEF ON CONCERNS RELATING TO ABS CENSUS AND POPULATION ESTIMATES**

1. The Territory believes that there has been under-enumeration of remote Indigenous population at Census. ABS disputes this and claims that in 2001 the population was either counted somewhere or accommodated in the 7,500 adjustment for undercount.

It is extraordinarily difficult to produce evidence to conclusively prove Census under enumeration at a State or Territory level - not even the ABS has developed an appropriate check of its remote Census estimates. When Queensland recently mounted a persuasive case that the 2001 Census missed 4000 Indigenous people and with significant under enumeration for five communities, ABS refused to alter the State total and merely reallocated population from elsewhere in the State to fix the worst two estimates.

There has been some independent assessment of the accuracy of the Census. As the academic researcher John Taylor notes this suggests that: *the manner of ABS enumeration in remote Aboriginal communities can serve to undercount the population and that the adjustment factor applied to compensate for this may be inadequate.*<sup>7</sup> This view is shared by Professor Tony Barnes who stated that: *Indirect indicators are that undercounting in remote communities may be substantial; Survey methods typically miss Indigenous children and young adult males.*<sup>8</sup> Tony Barnes, a past Director of the ABS National Centre for Aboriginal and Torres Strait Islander Statistics oversaw the Bureau's Indigenous Enumeration Strategy for the 1996 Census.

There has been only one rigorous independent check of the Census enumeration of remote Indigenous population. This estimated a Census undercount of 17 percent in Aurukun. This reflected a significant under enumeration of *the young, the more mobile and the more socially marginal.*<sup>9</sup>

We have some evidence for the Territory for 2001:

- At a global level the 2001 NT Grants Commission service population estimates for all remote communities were 4% above the Census counts (including overseas visitors), in contrast to 1996 where there was no difference. Given the substantial number of visitors to these regions this suggests that the 2001 Census adjustment for undercounting was inadequate. The extent of this will be quantified when a comparison is made to the usual resident counts from the Census.
- The ABS has acknowledged that in Wadeye (Port Keats) there were community problems which severely disrupted the Census. The Census count was 1,382 which produced a resident population estimate of some 1,560. This compares to Housing records at some 2,000 and NT Grants Commission estimates of 2,452. The Census appears to have missed a significant number of people in Wadeye and there was no accommodation for this in the overall adjustment for the undercounting of the Territory's population. The Wadeye example illuminates the challenges of the Census and well as the limitations of the ABS effort: *The census was disgusting – people were coming back with their forms weeks later, and the census people would not collect them. We rang the 1300 Canberra number they said "Don't worry it's past the date". I myself saw about 15 forms lying around people's houses when I did home visits, so*

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<sup>7</sup> Taylor, J. *Data issues for regional planning in Aboriginal communities*, seminar presented at the ANU's North Australia Research Unit in Darwin on 8 May 2003.

<sup>8</sup> Barnes, T. *Northern Territory's population – observation on issues affecting counting, estimating and composition*, presentation to the Commonwealth Grants Commission on 8 April 2003 in Darwin.

<sup>9</sup> Martin, D and Taylor, J. *Ethnographic perspectives on the enumeration of Aboriginal people in remote Australia*, *Journal of the Australian Population Association*, 13 (1), 1996.

*how many more were there I didn't see? Most houses around here have 20 people a night staying there. Everyone stays in a different house every night. They move round and around. Many are too shamed to admit how many people.*

*"The census reckons there are only about 1300-1400 here. We have just audited our files - all files checked for double names, deaths, all current residents. And we have 1980 current files in clinic. There are also 150 not on files, especially the young men. And there are another 150 in outstations. But we may have about 50 files doubled up with Palumpa and Peppiminarti. Altogether that's around 2250 people in this census area. The Council also says they have 2300 on their files. That corresponds with our figures.*

*"The white fellas were given a stack at their work; there was no interaction, no collection. We were responsible to get them in. The Aboriginal people had them dropped off at home. But they had no interpreters with them; the volunteers who interpreted from the community were not adequate. People here may look literate, but they are not, they have no numeracy, totally a-numeric, that includes all those who went to school. And the census people only visited one outstation (Kuy)." 21 May 2003.<sup>10</sup>*

- The attached table indicates a systematic bias in the ABS Census counts for Wadeye in which the young tend to have been missed – consistent with the claims of Barnes and Taylor.
  - The Katherine West Health Board had 3,123 clients on its books in 2001 who are all residents in this health zone. The Board has derived this high quality estimate after extensive checking with the Health Insurance Commission, education, pastoral, clinic and births and deaths records to remove duplicates and non-residents. This client total is some 9% above the Census based resident population estimate (ERP) of 2,868 for this health zone.<sup>11</sup> If as the ABS claim the ERPs already have been adjusted up by 8% then the total undercount appears to have been closer to the 17% documented for Aurukun. Again, this under enumeration has not influenced the ABS global adjustment for under enumeration in the Territory.
  - The audited records of the Elcho Island clinic service had 2,500 clients in 2003 in its database which when compared to a Census count of 1,728 suggests there may have been a significant problem with the Census enumeration for this remote region of the Territory.
  - The Census also appears to have missed many visitors in the town camps of Alice Springs<sup>12</sup> and consequently in the town camps in other Territory other towns.
2. The Territory has the highest incidence (6.1%) of "not stated" responses to Indigenous question of any jurisdiction.<sup>13</sup> The ABS allocated these responses to Indigenous or non-Indigenous in proportion to the distribution of stated responses to this question within each community.

It is not credible that the Indigenous characteristics of the "not stated" respondents are the same as the community average. Rather it is more likely that there is an overrepresentation of the lower sociodemographic segment including the Indigenous. There does not appear to

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<sup>10</sup> Interview with non Indigenous professional resident in Wadeye.

<sup>11</sup> Guttridge, S. Hock, L. Murtagh, D. Paice, J. Zhao, Y. *Population estimates for Indigenous health zones in the Northern Territory - final draft*, NT Government, 2003

<sup>12</sup> Sanders, W. *Adapting to circumstances – the 2001 Census in the Alice Springs town camps, Making Sense of the Census: Observations of the 2001 Enumeration in remote aboriginal Australia*, CAEPR Research Monograph 22, 2002.

<sup>13</sup> ABS 4705.0, Table 2.

be any justification for this allocation and this technique is likely to underestimate the true Indigenous count.

3. The ABS allocates insufficient resources to accurately enumerate the remote Indigenous population (about 0.4% of Australia's population). ABS disputes this and defends its record on the basis that it spends ten times (\$26/head) more on remote enumeration than the Australian average (\$2.60/head).

It is clear from a recently published paper that the enumeration of the Indigenous population in the Alice Springs town camps in the 2001 Census *probably allowed a lot of visitors who might not have been counted elsewhere, to slip through the census net.*<sup>14</sup> While some of this was due to an inappropriate procedure adopted by the NT ABS office to adopt a "usual residents" enumeration strategy in 2001, some was due to the difficulty in recruiting sufficient collectors. The latter reflects on the inadequate amount of time and resources applied to the task.

If the ABS had devoted more resources to the task it might have been able to recruit a local field supervisor who had links to the local community and who could have recruited sufficient collectors.

4. There is no accurate adjustment for remote Indigenous Census under/over count. Informally the ABS has accepted this and is working on something for 2006.

In a presentation to the Commonwealth Grants Commission, Professor Tony Barnes stated that there is no basis for supposing that the current adjustment of about 6% is appropriate and that *alternative methods of checking completeness of remote community counts are needed.*<sup>15</sup>

It appears that in 1996 the adjustment of 6.5% was based on the Indigenous undercount estimate for Australia derived from the post-enumeration survey. In 2001, the ABS applied a new method and according to written advice from Patrick Corr, the ABS Director for Demography, the method is so complex that it is difficult to say by precisely how much the remote Indigenous population has been adjusted for undercount. Apparently in 2001, the ABS did not apply the 6.1% national Indigenous undercount rate to the Territory's remote population.

The ABS did conduct a post enumeration survey which covered those who lived in non-sparsely settled areas and represented 76% of the Territory's population. From this survey the ABS estimated a 2001 Census undercount rate of 4.0% for this non-sparsely settled population. The ABS then assumed 4.0% was appropriate for the whole Territory – including the largely Indigenous sparsely settled areas. It allocated the resultant 7,500 adjustment across the whole Territory using the patterns found in the post enumeration survey. This approach and the underlying assumption is manifestly inappropriate unless the under enumeration of the remote Indigenous population was 4% or less. This is highly unlikely given that the only rigorous independent check of remote Indigenous Census found a 17% undercount.<sup>16</sup>

5. At a population seminar in Darwin on 6 May 2003 the ABS admitted that resident population estimates are not fit for all purposes. Such population estimates are neither sufficiently consistently accurate, nor are they the most appropriate tool for assessing service delivery needs particularly in remote Indigenous communities.

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<sup>14</sup> Sanders, W. Adapting to circumstances – the 2001 Census in the Alice Springs town camps, *Making Sense of the Census: Observations of the 2001 Enumeration in remote aboriginal Australia*, CAEPR Research Monograph 22, 2002.

<sup>15</sup> Barnes, T. *Northern Territory's population – observation on issues affecting counting, estimating and composition*, presentation to the Commonwealth Grants Commission on 8 April 2003 in Darwin.

<sup>16</sup> Martin and Taylor 1996.

6. The final Census ERPs for the Territory incorporated substantial negative revisions were released on 18 February 2003. The revisions, which reduced the Territory's measured population by 2,251 or 1.1%, were completely unexpected and were out of scale with those applied to other jurisdictions and will cost the Territory a further \$20-25M per annum in lost Commonwealth funding as well as a Federal seat. The substantive reason for the revision was the ABS decision to impute "non-contact" as smaller than those households that complete their census forms. The Territory has the highest proportion of non-contact dwellings at 3% and the imputation adjustment reduced the size of the Territory's population by a significant 1,582 people or 0.8% of the population at June 2001. The average household size for those in Darwin houses and flats was adjusted by a substantial -0.7 and -0.6 persons respectively, with the adjustment outside Darwin even higher at -0.7 and -1.2.

The imputation adjustment is based on the assumption that where the ABS had informal estimates of the household size from neighbours that this is a reasonable basis for estimating the size of the 78% of non-contact households for which they have no size information. There is no evidence that this is a reasonable assumption and the ABS has refused to review this methodology.

While it is credible to postulate that smaller households may be more difficult to contact and therefore are likely to be over-represented in non-contact households, it is very difficult to accept the assumption that neighbours will usually know the true household size of adjacent dwellings or that such information is a good proxy for those households for which no size information is available. We do not believe the ABS based this assumption on any hard evidence. It is difficult to believe that non-contact households in the Territory are so significantly smaller than Territory households who completed their census forms.

**Population issues with Wadeye**

**ABS analysis of NTG/DFACS claims about population at Wadeye:**

<b>Statistical statement in profile of Commonwealth Agencies Heads Forum</b>	<b>Comparable ABS data (from the 2001 Census unless otherwise stated)</b>
Wadeye's population is about 2215 in town and 45 on outstations	Population of Wadeye: 1048 Population of outstations: 444 CHINS pop. (1999) Wadeye: 2200
Approx. 100 people aged over 50 years (4%)	Aged over 50 yrs: 124 or 8% of pop.
Approx. 500 aged 25-50 years (22%)	Aged 25-50 yrs: 429 or 29% of pop.
Approx. 1500 aged less than 25 years (66%)	Aged less than 25yrs: 939 or 63% of pop.
Approx. 700 school-aged children	Children aged 5-15 yrs:438 Children aged 5-17yrs: 520
Approx. 50% of school-aged are enrolled	Enrolment figures not available; however in the 5-17yr age group 57.5% stated they were attending school.
Wadeye's pop. is growing at about 3% p.a.	15.6% growth 1996-2001, av.3.1% p.a.

**Census data for “Local Government” areas in the Port Keats region (from ABS 2018.7 – 2001 Census of Population and Housing):**

	1996	2001
Kardu Numida (Port Keats/Wadeye)	1288	1048
Wadeye outstations		444 <sup>17</sup>
Nganmariyanga (Palumpa)	281	389
Peppimenarti	185	210
Naiyu Nambiyu (Daly River)	349	371
Regional total (with outstations)	2103	2019 (2436)

<sup>17</sup> From the ABS analysis above.