

Australian Capital Territory

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Many federal systems have ‘designed capitals’, new cities built and planned from the outset as federal government areas and not controlled by any of the federated states, and in this respect the Australian Capital Territory (ACT) – including Canberra and surrounds – is similar to Washington DC or Brasilia. Initially directly administered by the federal government, in 1989 the ACT was granted self-governing territory status, despite its population voting against that in a 1978 plebiscite (**ACT Legislative Assembly, no date, a**). Subsequently, the city and environs have grown in population terms but the ACT is the second smallest Australian state or territory by population (with 454,000 people), although an affluent one (with a gross state product (GSP) larger than Tasmania’s). As a ‘government town’ (where over 29 per cent of the workforce are public servants), the city population is relatively wealthy and highly educated, with 37 per cent of residents holding university degrees, compared with 22 per cent nationally.

What does democracy require of the ACT’s political system?

A territory should maintain its own democratic institutions including:

- ◆ An effective territory constitution that provides an anatomy of legitimate public power to: define the limits of ACT governmental powers; make government accountable to the people by providing for checks and balances; and promote long-term structures.
- ◆ Aboriginal and Torres Strait Islander peoples should be afforded full individual civil and human rights. The histories, languages, cultures, rights and needs of Aboriginal and Torres Strait Islander communities and peoples should be addressed.
- ◆ The electoral system for the single house, the Legislative Assembly (LA), should accurately translate parties’ votes into seats in ways that are recognised as legitimate by most citizens. Ideally, the voting system should foster the overall social representativeness of the legislature. Elections and the regulation of political parties should be impartially conducted, with integrity.

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- ◆ The political parties should sustain vigorous and effective electoral competition and citizen participation. They should enable the recruitment, selection and development of political leaders for territory government; formulate viable policy agendas and frame political choices for territory functions; and form governments or, when not in power, hold governments accountable. Political parties should uphold the highest standards of conduct in public life.
- ◆ The LA should normally maintain full public control of government services and ACT operations, ensuring public and parliamentary accountability through conditionally supporting the government, and articulating reasoned opposition, via its proceedings. It should be a critically important focus of ACT's political debate. It should operate in ways that incorporate a plurality of viewpoints and subject a government to effective checks on its power.
- ◆ The ACT government should govern responsively, prioritising the public interest and reflecting ACT public opinion. Its core executive (the chief minister, ministers and key central departments) should provide clear unification of public policies across government, so that the territory operates as an effective whole (spanning both territory and local government functions). Both strategic decision-making within the core executive, and more routine policy-making, should foster careful deliberation to establish an inclusive view of the 'public interest'.
- ◆ The core executive and government should operate fully within the law, and the chief minister and other ministers should be effectively scrutinised by and politically accountable to parliament. Ministers and departments/agencies must also be legally accountable to independent courts for their conduct and policy decisions. In the wider ACT public service officials should act with integrity, in accordance with well-enforced codes of conduct, and within the rule of law.
- ◆ The administration of public services should be controlled by democratically elected officials so far as possible. The rights of all citizens should be carefully protected in policy-making, and 'due process' rules followed, with fair and equal public consultation on public service changes. By uniting what are normally state and local government functions, ACT governance should be holistic. Public services, contracting, regulation and planning/zoning decisions should be completely free from corruption.
- ◆ At the Commonwealth level the ACT government should effectively and transparently represent its citizens' interests to federal government.

The chapter begins with two recent developments. Next a SWOT analysis summarises some strengths of democracy in the ACT, plus some weaknesses. The later sections cover how the LA and ACT government operate, and the ACT's specific constitutional arrangements.

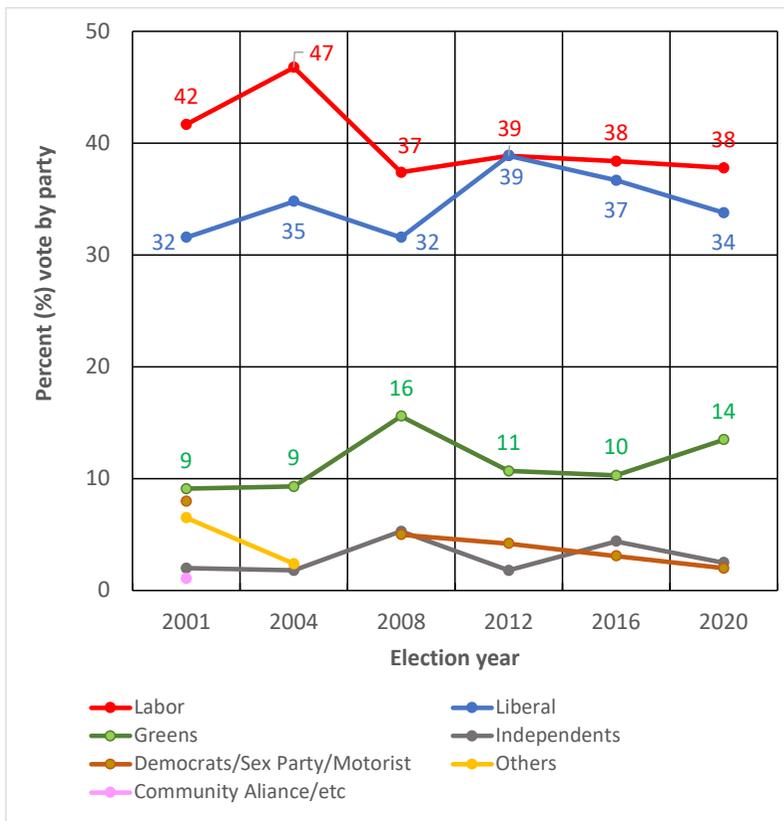
Recent developments

The territory has a distinctive system of government, with the ACT also being the local government throughout its area. Politics in Canberra has generally been left-leaning, and its proportionally elected legislature rarely produces single-party majority governments, recently requiring a series of governing agreements between Labor and the Greens. As elsewhere in Australia, key recent changes have been the evolution of the ACT's fairly stable political scene, and how the territory coped with the COVID-19 pandemic.

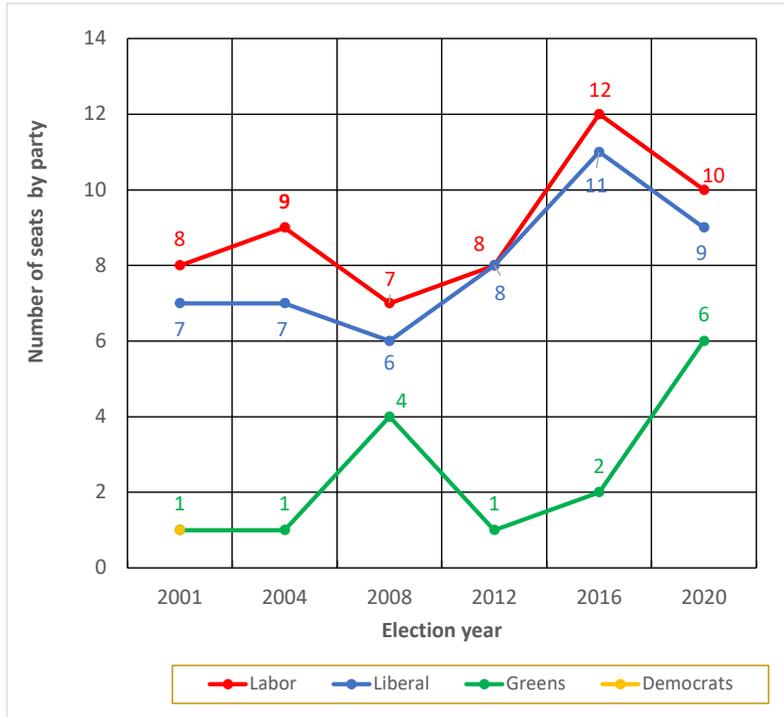
Elections and party competition

The ACT has a unicameral (one chamber) legislature, the Legislative Assembly (LA), with 25 members since 2016 (previously it had only 17 seats). The LA is the key focus of representative politics in the ACT, since the territory runs all the functions normally handled by state and local governments, giving the government significant policy and service delivery breadth. Members of the LA (MLAs) are elected under the Hare-Clark version of the single transferrable vote (STV), which is a proportional representation system ([ACT Legislative Assembly, no date, b](#)). There are five election districts with five seats in each. The formal quota of preferences needed to win a seat is a sixth $[100/(\text{the number of seats} + 1)]$ or 16.7 per cent, which is a relatively high level (see [Chapter 5](#)).

Figure 24.1: First-preference vote shares by party in ACT elections, 2001–2020



Source: Compiled from data in ACT Electoral Commission (2023) 'Past ACT Legislative Assembly elections'.

Figure 24.2: Seats won by parties in ACT elections, 2001–2020

Source: Compiled from data in ACT Electoral Commission (2023) 'Past ACT Legislative Assembly elections'.

Note: Nine seats were needed for a majority from 2001–2012, and 13 seats since 2016.

Labor and the Liberals have been the top two parties, generally accounting for about three-quarters of all first-preference support, and ultimately receiving preferences from those who vote for other parties. Labor has received the most votes in all 21st century elections, except 2012 when Labor received 41 fewer votes than the Liberals, the two parties effectively tying on 38.9 per cent of the vote (Figure 24.1). The Greens have generally gained around 10 per cent of the vote but did a little better in 2008 and 2020. At most elections this century around 15–20 per cent of voters overall have supported a changing mix of smaller parties who have not gained seats. However, in early ACT elections some smaller parties did win representation.

The top two parties and the Greens have thus been the only ones to win seats recently, because of the relatively high quota needed in five seat districts. The proportional STV system requires voters to number at least as many preferences on their ballot paper as there are candidates. A comparison of Figures 24.1 and 24.2 shows that it has been very accurate in awarding proportionate seats between the top two parties, which have been the main beneficiaries of small parties not winning representation. The Greens also gained significantly more seats than their first-preference vote share in 2008 and 2020 (winning nearly a quarter of seats both times).

The three main ACT political parties compete vigorously at election time as well as throughout their terms, especially in promising improved levels of services, and in the Liberal's case lower taxes. One area of more adversarial controversy was the long-running plan for a big capital project to develop a light rail or tram system for Canberra, which Labor and the Greens supported after it was one of the Greens' key conditions for backing a Labor government after the very tight 2012 election. At the 2016 election, the Liberals vehemently opposed completing the first northern stage. Following their defeat, even the Liberals accepted that the project should go ahead (despite some cost inflation), and the first phase successfully opened in 2019. After the

2020 Labor-Green victory local media reported that all parties had come to love light rail, and it attracted considerable federal government subsidies from Liberal-National ministers ([ABC News, 2021a](#)). But within a year the new Liberal ACT leader, Elizabeth Lee, was again promising to scrap the southern extension of the project if her party was elected in 2024 ([ABC News, 2022](#)).

As with other proportional representation systems, majority governments are rare in the ACT, and either coalition or minority governments have formed after nine of the ten ACT elections. Coalition governments between Labor and the Greens have operated for the whole of this century except 2004–2008, when Labor had a slender overall majority of one ([Figure 24.2](#)). By the end of the current LA term (in 2024), Labor will have been the main party of government for 23 consecutive years. At the same date the Canberra Liberals will have been in opposition for all but six of the ACT's 35 years of self-government, having won just two of the ten ACT elections. As a result of Labor's dominance, the ACT has not benefited from the democratic renewal and publicly visible accountability that can come from regular changes of government. The increasing influence of the ACT Greens within the government as a junior coalition partner in recent years has provided a greater variety of ideas within the government, and helped ensure that the main governing party cannot take the electorate for granted. Policy divergences between Labor and the Greens are often significant and meant that the increased number of Greens MLAs after the 2020 election had policy effects.

As with other jurisdictions it has been difficult to assess the strength of party membership and party democracy, because of the secrecy with which parties conduct many of their internal affairs. However, it is safe to assume that membership numbers have been small, and that this has consequent effects on the quality of internal party democracy. The Labor and Liberal parties have been subject to vigorous contests internally to win pre-selection for candidacy, but normally with trade unions and other consolidated interests being expected to have a substantial effect on the outcomes. The lack of transparency of party organisations has been a problem for ACT democracy (as elsewhere). That said, there has not been evidence of wrongdoing within the main ACT parties.

The small number of MLAs for each party can mean that ACT parties have few options for leadership positions, creating less pressure on leaders from within the party than in some other Australian jurisdictions. The threat of leadership spills has thereby diminished, and until 2016 almost all government MLAs were ministers, often holding a very large number of portfolios. The expanded LA of 25 now allows for a government backbench, and the ministerial load has become better spread than it used to be ([Halligan and Sheehy, no date](#)). Yet in early 2023, the nine government ministers each held several portfolios, including six held by Deputy Chief Minister Yvette Berry. The challenges of having single ministers responsible for multiple portfolio areas are common across Australia's states and territories. Arguably, this can lead to a democratic deficit if certain portfolios receive less attention than they require.

The COVID-19 pandemic

Early in the pandemic period, COVID-19 affected the ACT less than most jurisdictions. The ACT avoided any community transmission of the disease for over a year before the mid-2021 New South Wales delta variant outbreak reached the ACT in August, sparking a snap lockdown. Although the lockdown lasted for more than two months, it did not create large protest events seen in other capital cities. The 'compliant' population of the ACT rapidly became one of the most vaccinated jurisdictions in the world. At the end of March 2022, 98 per cent of the eligible

ACT population (aged 5 and over) had received at least two COVID-19 vaccine doses. While no recent statistically robust data from the ACT has confirmed this, the correlation between compliance with COVID-19 restrictions and trust in government has been observed in other jurisdictions ([Denemark, Harper and Attwell, 2022](#); [Sarracino et al., 2022](#)), and it seems likely that the ACT population was more trusting of government than other Australian jurisdictions. Similarly, across many liberal democracies complaints about government measures being too stringent were more common among groups with the least education who make up a smaller fraction of the population in the ACT than elsewhere in Australia ([Rieger and Wang, 2022](#)).

The ACT government responded quickly to the COVID-19 outbreak in 2020, locking down early when few active cases were in the community and spending A\$23 million to purchase a deployable field hospital to increase the capacity of the ACT health system to care for COVID-infected patients. When the ACT suppressed the early 2020 COVID-19 outbreak, the field hospital was repurposed as a COVID-19 vaccination centre, and later as a COVID-19 testing facility. As the ACT area is small and entirely surrounded by New South Wales, with many Canberra workers living in towns outside its borders, they could not easily close borders like many other states ([ABC News, 2020](#)). About 25,000 people normally commute into the ACT every day and rely on it for crucial health and education services. In addition, although only nine major roads traverse the border, a total of around 70 roads could be used as entrance and exit points. Consequently, the ACT government's ability to act to prevent COVID-19 entering the territory was limited by the actions of the neighbouring New South Wales Government.

Strengths, weaknesses, opportunities and threats (SWOT) analysis

Current strengths	Current weaknesses
ACT has conducted free and fair elections and has strong quality assurance underpinning its electoral process through its independent Electoral Commission.	The ACT Constitution is not under the control of the ACT itself and can be altered at the whim of the Commonwealth Parliament. The ACT does not have proper legislative independence from the Commonwealth.
The ACT government has shown strong commitment to the principle of inclusion of First Nations ACT citizens.	Institutions designed to include First Nations citizens have not been highly representative of the ACT First Nations population. First Nations peoples have not yet established a Treaty with the ACT government. There are significant welfare outcome gaps for ACT First Nations peoples compared with other ACT citizens, in many economic and social policy areas.
The ACT Government handled the COVID-19 pandemic well and has shown a capacity to develop and manage long-run projects like the light rail network (despite cost increases).	The legislature has been limited in its capacity to hold a majority executive to account. Government MLAs are bound to vote with the executive whenever a unanimous cabinet decision has been reached. Debate has usually been brief, and committee inquiries into bills have been relatively infrequent.

The executive has been clear about the nature and content of the agreements that hold the Labor-Green coalition together and the nature of decision-making within the executive.	It has been a long time since the last non-Labor government. The generally progressive ideology of the ACT population has meant that alternations of power are rare.
The executive has generally been transparent, responsive and effective, but has at times had its integrity questioned.	The recently established ACT Integrity Commission is in its infancy and still has work to do to demonstrate its effectiveness in undertaking anti-corruption inquiries.
People in the ACT appear to have had strong trust in government – for example, as evidenced by high COVID-19 vaccination take-up – but direct data on this has been lacking.	The ACT Government has a small tax base, and it has faced challenges in the past in responding to emergencies, like bushfires.
The ACT public service (ACTPS) has been professional, relatively effective and officials have generally performed with integrity.	There has long been room for the ACTPS to be more transparently outcomes-focused, particularly in its service delivery.
The LA has done a good job of equalising gender make-up and representing women’s issues. It has generally represented minority groups within the ACT population well.	Canberra has a small media, so the resources to provide public oversight of ACT democratic practice have been slender. As in other small jurisdictions, should a main local news provider collapse financially or cut back its services, then public engagement with democracy and oversight of ACT democracy could be strongly affected.
Future opportunities	Future threats
As the larger 25-member LA matures, the LA’s committee system may become more active and effective, which would help the legislature to play a larger role in holding the executive to account.	The ACT budget position has had its difficulties, with debt forecast to increase over the coming years, and with significant budget deficits forecast throughout the forward estimate years. The ACT has limited avenues to raise revenue given the small size of its economy, and lack of major industries beyond government employment.
There are opportunities for the ACT Integrity Commission to become a valued part of the ACT democratic system.	Failures to improve transparency, oversight, integrity and accountability mechanisms might damage the ACT’s public trust.
The move towards remote working means that the ACT stands to gain in population from ‘tree changers’ seeking to escape larger cities, such as Sydney and Melbourne.	The ACT’s quality of democracy may continue to be eroded by future Commonwealth Government incursions into ACT policy. This could have a negative effect on public satisfaction with ACT democracy.
Given high levels of trust in ACT government, and of citizens’ understanding of government operations, there are opportunities to further experiment with public engagement mechanisms and to be a world leader of democratic practice.	If First Nations outcomes in the ACT are not improved, this quite disaffected group within the ACT will incur further disadvantages.
	An underfunded health system may come under increasing pressure as the population ages, with potential negative consequences for public perceptions of ACT government and democracy.

The remainder of the chapter explores the role of the executive and LA, and some constitutional and rights issues that are salient in the ACT.

The executive and Legislative Assembly

In many respects the LA has been well placed to maintain a strong check on executive power, as the central institution within the ACT's democracy. Despite being a unicameral assembly, the Hare-Clark electoral system means that there are few majority governments in the ACT, allowing the LA to consistently perform its review function. But executive control has also been strong. Cabinet has provided a well-articulated mechanism for policy deliberation, because an incentive towards unanimity in decision-making was contained in the Labor-Green parliamentary agreement. This has meant that ministers have needed to ensure they have persuaded colleagues on initiatives and decisions – helping a strongly executive-led government to stay reasonably responsive.

The LA has a somewhat effective committee system (**Halligan and Sheehy, no date**), with cross-party membership of standing committees and a history of frequent opposition to party committee chairs (**ACT Legislative Assembly, 2023**). Historically, however, relatively few bills have been referred to committees for inquiry (below 10 per cent in 2012–2017 and 11 per cent in 2018). Under the committee rules for the current term, bills have been referred to the relevant standing committee by default, but in most cases the committees have resolved not to undertake an inquiry into them. Of 48 bills introduced from November 2020–December 2021, 12 resulted in inquiries (including one by a select committee). At 25 per cent, this is a greater proportion than in recent years, but it is unclear whether this change has made a practical difference to the oversight of bills. It remains the case that for most bills, formal legislative oversight has been confined to relatively brief debate in the chamber, with the LA typically debating bills for 40–50 minutes each. (Note: the average length of debate fell between 40–50 minutes for each of the years 2012–2018, more recent data are not available.)

A reasonable number of private members' bills are introduced to the LA. According to the 2020–2021 Business of the Assembly Report, the first 13-months of the current legislative term saw nine introduced (**ACT Legislative Assembly, 2022**), of which two passed, while over the same period 31 of 38 government bills passed.

Executive control relies on a strong working relationship between the two governing parties, Labor and Greens, with three Greens counted among the current nine ministers. The formal agreement between the two parties provides for guaranteed support on votes of supply (budget) and confidence, as well as establishing the key legislative priorities of the government (**Labor-Greens, 2022**). It also guarantees that all Labor and Greens MLAs will vote in support of the Labor-Green government whenever cabinet decisions are unanimous. This has been a significant limitation on the capacity of the LA to maintain a check on executive power.

Of the 25 current MLAs 14 are women, a clear indication that parties and voters in the ACT have had less trouble supporting female politicians than many other Australian parliaments. In addition, Andrew Barr, Chief Minister since 2014 (to date of writing) was the first head of an Australian state or territory government to openly identify as LGBTI+. The LA has typically reflected the ACT's ethnic and cultural diversity relatively well – however, Canberra has long been less ethnically diverse than larger Australian cities, such as Sydney and Melbourne.

Transparency and accountability

The ACT has a mixed record in terms of accountability and transparency. It was among the first jurisdictions to adopt the practice of publishing all ministers' appointment diaries, which has been recognised as good democratic practice (see [ACT Government, 2024](#)). However, the ACT government was recently subject to a range of Auditor-General's investigations particularly over the sale of, and acquisition of, land for questionable prices. (Large tracts of land across the new city are publicly owned and released periodically at commercial prices to developers, when the ACT government has finalised plans for areas and installed the infrastructure needed.) These inquiries typically stopped well short of accusing the executive of impropriety, but they also consistently identified questionable practices particularly in land sales and fuelled public demand for an Integrity Commission.

Several ACT government land purchases and sales came under scrutiny and criticism from the ACT Auditor-General, after appearing to have resulted in the ACT government losing out financially either with land sold under its value or purchased over value. For instance, one land swap arrangement in the Canberra suburb of Dickson, involved the Construction, Forestry, Mining and Energy Union-linked Tradies Club selling two blocks of land to the ACT government, while the government sold the Tradies Club a nearby carpark, at an apparent net cost to the government of around A\$2.5 million ([ACT Auditor-General, 2018](#)). Criticism of a lack of transparency arose during another land purchase as part of the Government's City to the Lake project ([ABC News, 2016](#)). These deals raised questions over the probity of ACT land development processes but were thoroughly investigated by an independent auditor and have since also been investigated by the new ACT Integrity Commission.

The ACT was the last Australian state/territory to establish an Integrity Commission, which commenced operations in July 2019. Over the next two years it completed and published no investigatory reports, attracting media criticism ([CityNews, 2021](#)) – finally finishing its first Special Report in March 2022, and two others later that year. The ACT Integrity Commission was additionally constrained by having no jurisdiction over ACT policing functions, which are provided by the Australian Federal Police. Overall, it has not yet become clear that the ACT has an effective accountability agency, although the new Commission may yet become an effective instrument for investigating and preventing corrupt practices and may improve perceptions of ACT government accountability. Appearances are that as staffing levels in the Commission have grown, activity has also increased.

Another factor in assessing the transparency and accountability of ACT government has been the relatively small local news media. The lack of news media resources is a serious problem for most small jurisdictions. Local ABC radio programs have covered ACT politics, and the *Canberra Times* has provided detailed coverage of city developments. Yet, journalists' jobs have been cut back, leaving media capacity to hold ACT governments to account stretched.

Responsive government

Given its wide range of state and local government functions, the geographical closeness of ACT government to its population, and the ideologies of its long-time governing coalition parties, executive decisions have generally appeared to be responsive to community attitudes. There are challenges in providing evidence, however, because the ACT has not been included in many attitudinal surveys conducted in larger jurisdictions. The Barr

government (in power since 2014) has at times been criticised for apparent arrogance or failure to listen to the community, particularly on new urban development issues that affect nearby residents and formerly open spaces. This criticism led to a range of measures aimed to improve connection between government and citizens, including the ‘YourSay’ online feedback portal ([YourSay, 2023](#)). A citizens’ jury was used to inform the territory’s compulsory third-party injury vehicle insurance scheme, but such juries have not been used widely. The ACT has a strong history of utilising a range of other citizen engagement mechanisms, such as deliberative forums, co-design and other traditional means of gathering citizens’ opinions. As with other jurisdictions, the use of more citizen-led processes has been patchy, and more likely in situations where there has not been a strong political desire that a policy be determined or implemented a particular way.

Criticism of the ACT government somewhat abated following some of these moves, but this had less to do with these measures, and was more about general improvement in perceptions of the government’s performance, particularly during the COVID-19 pandemic. At the time of writing (late 2023), the Labor-Greens government can claim to be the most progressive government in Australia, reflecting the ‘natural’ bias in the ACT’s population. It has been a national leader in renewable energy policy, with the ACT producing 100 per cent of its energy needs from renewable sources. It has also been a leader in equality for minorities, legalising cannabis and a range of other progressive policies.

The Labor-Green parliamentary agreement for 2020–2024 included a number of measurable outputs and outcomes, such as the provision of A\$15,000 interest free loans for installing household and business rooftop solar power systems and other zero emissions technologies, and the delivery of at least 250MW of new ‘large-scale’ battery storage distributed across the ACT area (to guard against power losses) ([Labor-Greens, 2022](#)). Other portfolio level documents have outlined vaguer strategic priorities such as the *Economic Development Priorities 2022–25* ([ACT Government, 2022](#)) and the *Canberra Health Services Strategic Plan 2020–23* ([ACT Government, 2020](#)). Similarly, while the Labor-Green coalition agreement contained measurable indicators, there was little opportunity for citizens to observe updates on the progress towards goals. Budget papers have provided measures of success on strategic indicators for each portfolio – for example, on health ([ACT Treasury, 2021](#)). But these were published in a format difficult for the general public to read and were not so clearly outcomes-focused as in other states (such as New South Wales). The ACTPS has not had the same strong focus on outcomes measures recognised as best practice elsewhere, for example, in state administration in New South Wales and South Australia. An output-focus in reporting has remained, so that the quantity of government activity (for example, number of forms processed, or patients receiving treatment) has been recorded more readily than the effectiveness of those activities in achieving ACT government goals.

The generally positive assessment of the responsiveness of ACT government comes with a caveat, that there are significant marginalised and disaffected groups within its population. Indigenous people’s outcomes have trailed behind those of non-Indigenous residents (see shortly). And social and economic disadvantage throughout the ACT population has long been more prevalent than many casual observers of the apparently affluent ACT realise. In 2020, about 38,000 of the ACT’s 431,800 residents (8.8 per cent) lived in poverty, meaning the ACT has been far from immune to the inequality challenges faced by most other jurisdictions ([ACTCOSS, 2020](#)).

Public services administration

Since 2011, the ACTPS has been organised into eight directorates covering health and hospitals, community services, education, environment and sustainable development, justice, and community safety (but not policing), transport and city services, and the Chief Minister, Treasury and Economic Development Directorate (CMTEDD). There are also a range of public sector bodies outside of the public service itself, such as the Electoral Commission, Integrity Commission, and Auditor-General among many others. Following the 2011 Hawke Review into the ACTPS, CMTEDD has led a coordinated whole-of-government approach to policy-making and implementation (Halligan, 2015). Past debate in the ACT context often revolved around the challenges of ministers holding multiple portfolios, but the increase in the number of ministers has helped here, at least somewhat. Structurally and culturally, the ACTPS has a similar relationship with its ministers as most other Australian jurisdictions – that is, one of considerable political control, particularly on policy matters.

The ACTPS delivers an amalgam of services that other jurisdictions deliver at state level (for example, education, health, etc.) and municipal services (waste collection and management, maintenance of paths and street trees, etc.) typically performed by local governments throughout Australia. As a result, services have been provided with a greater uniformity than in most states, since the ACT does not have a range of local governments pushing different approaches in different parts of the territory. This has been both positive and negative in democratic terms. The territory does not suffer from the sharp geographical inequalities in service provision that can be an issue in large states. However, the relatively large, multi-member electorates have meant a somewhat greater disconnect between MLAs and micro-local issues in specific areas than normally applies in the wider local government model (Halligan, 2015).

Like other Public Services, ACTPS has made active efforts to preserve the integrity of public administration and to enforce compliance with its codes of conduct. In 2016, responsibility for investigating alleged misconduct within the ACTPS passed to the Public Service Standards Commissioner. The *2020–21 State of the Service Report* noted 98 misconduct proceedings, a 27 per cent increase in reports from the previous year (CMTEDD, 2021). The cause of this trend was unclear, although issues in handling the pandemic may have played a part. Most misconduct was not suspected illegality but lack of courtesy and respect, a failure to perform duties, and bullying and harassment. In 2021, 11 possible instances of fraud involving ACT officials were referred to the ACT Integrity Commission (Canberra Times, 2022). Examples of proven illegal conduct are rare, and the ACTPS has generally been considered to be an effective and ethical service, which operates within the law.

The ACT constitution and rights

A key feature of the ACT system of government, as in the Northern Territory, has been that it has limited power and independence, with self-government conferred by an Act of the Commonwealth Parliament (the *Australian Capital Territory (Self-Government) Act 1988*). The Commonwealth has retained the power to amend the terms of ACT self-government, as well as to overrule specific Acts brought about by the ACT LA. This Commonwealth power has been used infrequently, usually to prevent the ACT from acting in ways that diverge strongly

from the ideological approaches of the Commonwealth government of the day. In 2006 the Liberal-National government under John Howard overturned the ACT's laws allowing same-sex marriage. Similarly, Liberal-National Commonwealth ministers repeatedly refused to allow the ACT (or the Northern Territory) to enact laws on voluntary assisted dying, including an October 2021 instance, where the Attorney-General Michaelia Cash denied a request by both the ACT and Northern Territory governments on this issue ([ABC News, 2021b](#)). Given its demographic characteristics and voters' behaviours, arguably the ACT has suffered significant democratic limitations.

Another constitutional weakness of the ACT has been that (unlike the states) ACT government could (in theory) be effectively amended or abolished by the Commonwealth parliament. Yet there has been and remains no way for the ACT alone to change the document that acts as its constitution. There may have been little risk of the Commonwealth parliament acting maliciously or unfairly to alter the ACT's fundamental governing arrangements. Yet the fact that the status quo is not constitutionally entrenched and that the ACT can make no constitutional changes are both significant democratic limitations. Recent developments have somewhat diminished the Commonwealth's position relative to the ACT. Before 2011 Commonwealth ministers alone could exercise the power to overrule territory legislation, but that provision was changed so that the right was retained only by the federal parliament as a whole ([Halligan, 2019](#)). In 2013, the ACT also gained the ability to determine the size of its Legislative Assembly.

Aboriginal and Torres Strait Islander peoples

At the 2021 Census the ACT had the second smallest per capita First Nations population (2.2 per cent) of any state or territory ([ABS, 2023a](#)). The ACT government has made efforts to include First Nations peoples in government, but like other Australian jurisdictions, much work remains to be done to achieve equality of outcomes for First Nations and non-Indigenous peoples. The government has not yet established a treaty with the traditional owners of ACT lands, though as part of the governing coalition's parliamentary agreement after the 2020 election, it committed to commencing Treaty discussions ([Labor-Greens, 2022](#)). Relatedly, the parliamentary agreement included a commitment to repealing the 2001 Namadgi Agreement, which gave a 99 year Special Aboriginal Lease over the famous Namadgi National Park south of Canberra only on the exclusionary condition that all existing native title claims were dropped and that no new applications were submitted ([Wensing, 2021](#)).

In 2008, the ACT created a seven-member body, the Aboriginal and Torres Strait Islander Elected Body to act as an elected voice for Indigenous people to the ACT LA ([ATSIEB, 2023](#)). While there has been evidence of good levels of engagement between ATSIEB and the ACT Government and LA, an independent 2015 review of the ACT Aboriginal and Torres Strait Islander Elected Body (ATSIEB) legislation found that there was a need for more engagement between the Body and the First Nations community ([Janke, 2015](#)). The turnout for ATSIEB elections has been persistently low, with only 269 votes cast in 2021 despite an estimated 4,567 enrolled First Nations voters in the ACT ([ACT Electoral Commission, 2021](#); [Australian Electoral Commission, 2023](#)).

In terms of outcomes, the ACT government has shown strong commitment to efforts to close the socioeconomic gaps between First Nations and non-Indigenous Australians. The ACT Aboriginal and Torres Strait Islander Agreement 2019–2028 intends to achieve this through self-determination, and Indigenous-led solutions to current causes of the gap in outcomes ([ACT](#)

Community Services, 2019). However, in several respects the ACT cannot yet be considered successful. Data for December 2021 showed that 26 per cent of prisoners in ACT were First Nations peoples, a vast overrepresentation given that First Nations peoples are 2 per cent of the ACT population (**ABS, 2023b**). There was also a steady increase in the proportion of First Nations prisoners over the past decade, up from 13.4 per cent in 2011. Similarly, a quarter of children in care within the ACT in 2021 came from Aboriginal and Torres Strait Islander households, a rate more than 12 times that of other households (**Family Matters, 2023**, Figure 2).

Conclusion

The ACT has been home to a thriving democracy, though not one without its challenges and areas for improvement. The institutional structure of the ACT government and its politics are well designed, and though there are some limitations in the constitutional independence of the ACT, the three branches of government and the public service and various independent and statutory bodies have been well placed to fulfil key functions of ACT democracy. In terms of possible reforms, the legislative branch could begin to play a greater role in keeping the executive in check, and there are signs that this may be beginning to happen. And more remains to be done to ensure that the accountability and integrity mechanisms of the ACT are operating to the level required of a mature democracy.

The long-running stranglehold on power of Labor-led governments contains a risk – for if power does not alternate, conditions that support poor political and government practices (termed ‘scleriosis’ by some commentators) could develop. This risk may be heightened if the already small ACT media landscape suffers from the collapse of any of its main contributors. The view of Canberra as a quiet, quaint and organised city, with high median incomes and education levels can also easily obscure weaknesses and failings in the ACT’s democratic practice, such as rising social inequality in the city.

The educated, trusting and fairly progressive population has largely been reflected in the membership of the LA and in the government and its direction. Canberrans are knowledgeable about politics and value democracy. These traits will surely safeguard ACT democracy for many decades to come, but some of the ACT’s young institutions of self-government need to mature, and opportunities to experiment and innovate will need to be taken further, if the ACT is to become the shining beacon of democratic practice to which its politicians and citizens aspire.

References

- ABC News (2016) ‘ACT auditor-general criticises lack of transparency in Government land acquisitions’, webpage, 30 September. <https://perma.cc/3DTW-JCF4>
- ABC News (2020) ‘Closing ACT border is so difficult, and provides so few benefits, authorities say it’s not worthwhile’, ABC Webpage, 15 August. <https://perma.cc/V3QD-3QTA>
- ABC News (2021a) ‘End of the line: How Canberra’s political parties learned to love the ACT’s light rail network’, webpage, 24 February. <https://perma.cc/B5HE-X6TY>

- ABC News (2021b) 'Request to allow for voluntary assisted dying laws in ACT and NT denied by Attorney-General Michaelia Cash', ABC webpage, 8 October. <https://perma.cc/6ZHX-EFPY>
- ABC News (2022) 'Canberra Liberals promise to dump light rail to Woden if elected in 2024', webpage, 4 December. <https://perma.cc/4E3F-ACA7>
- ACT Auditor-General (2018) 'Tender for the sale of block 30 (formerly block 20) section 34 Dickson', ACTAG Report No. 3. <https://perma.cc/4VH6-KPNT>
- ACT Community Services (2019) *ACT Aboriginal And Torres Strait Islander Agreement 2019–2028*, web document. <https://perma.cc/YA77-STSX>
- ACTCOSS (ACT Council of Social Service) (2020) 'Factsheet: Poverty and inequality in the ACT', Factsheet, 15 October. <https://perma.cc/E5DF-G6AR>
- ACT Electoral Commission (2021) 'ACT Aboriginal and Torres Strait Islander Elected Body – 2021 Election Report', Web document, July. <https://perma.cc/7RUE-T8QP>
- ACT Electoral Commission (2023) 'Past ACT Legislative Assembly elections', Agency webpage. <https://perma.cc/YZP7-HTQZ>
- ACT Government (2020) 'Canberra health services strategic plan 2020–2023', PDF report.
- ACT Government (2022) 'ACT's economic development priorities 2022–25', Web document. <https://perma.cc/5DN9-38CH>
- ACT Government (2024) 'Ministerial diaries disclosure', ACT Open Information webpage. <https://perma.cc/5KYG-GYMX>
- ACT Legislative Assembly (no date, a) 'The road to self-government', webpage factsheet. <https://perma.cc/Y73C-N2R8>
- ACT Legislative Assembly (no date, b) 'How members are elected', webpage factsheet. <https://perma.cc/839D-CSNG>
- ACT Legislative Assembly (2022) '2020–21 Business of the Assembly Report', January. <https://perma.cc/52CW-GSXX>
- ACT Legislative Assembly (2023) 'Committees', webpage. <https://perma.cc/2MV2-RM2M>
- ACT Treasury (2021) 'Budget 2021–22, Budget Statements C – ACT Health Directorate, Canberra Health Services, ACT Local Hospital Network', Web document. <https://perma.cc/3KCC-3G7W>
- ATSIEB ACT Aboriginal and Torres Strait Islander Elected Body (ATSIEB) (2023) Institution website. <https://perma.cc/44DK-FGYM>
- Australian Bureau of Statistics (ABS) (2023a) 'Estimates of Aboriginal and Torres Strait Islander Australians', webpage. <https://perma.cc/8EHU-XPKS>
- Australian Bureau of Statistics (ABS) (2023b) 'Aboriginal and Torres Strait Islander prisoners', webpage. <https://perma.cc/LYJ6-3MXQ>
- Australian Electoral Commission (2023) 'Indigenous enrolment rate', webpage, 6 February. <https://perma.cc/7UT3-T8LS>
- CMTEDD (Chief Minister, Treasury and Economic Development Directorate) (2021) 'State of the Service 2021-22 Annual Report' <https://perma.cc/S46R-ZPDP>
- Canberra Times (2022) 'ACT public servants caught committing fraud with 11 referrals to integrity commission in 2020–21', *Canberra Times*, 2 January. \$ <https://perma.cc/47T6-JVWH>
- CityNews (2021) 'Two years on and not a peep from the ACT anti-corruption commission', Webpage, 22 September. <https://perma.cc/X9WE-Y74J>

- Denemark, David; Harper, Tael; and Attwell, Katie (2022) 'Vaccine hesitancy and trust in government: A cross-national analysis', *Australian Journal of Political Science*, vol. 57, no. 2, pp.145–63. \$ <https://www.tandfonline.com/doi/full/10.1080/10361146.2022.2037511>
- Family Matters (2023) *The Family Matters Report 2023 – Measuring Trends To Turn The Tide On The Over-Representation Of Aboriginal And Torres Strait Islander Children In Out-Of-Home Care In Australia*. <https://perma.cc/8DPH-UQXC>
- Halligan, John (2015) 'Governance in a hybrid system: Designing and institutionalising the Australian Capital Territory', *Policy Studies*, vol. 36, no. 1, pp.4–17. <https://doi.org/10.1080/01442872.2014.981054> (paywall)
- Halligan, John (2019) "'Established as a body politic"...: Thirty years of self-government in the ACT – Chief Minister's Governance Lecture for 2019', Canberra: Institute for Governance and Policy Analysis, University of Canberra, ACT Government, Archives webpage. <https://perma.cc/XK9H-UEXY>
- Halligan, John and Sheehy, Benedict (no date) *Review of the Performance of the Three Branches of Government in the Australian Capital Territory against Latimer House Principles*, Report to the ACT Government. <https://perma.cc/VBF7-XMYJ>
- Janke, Terri (2015) *Review of the Aboriginal and Torres Strait Islander Elected Body Act 2008*, Consultant's Report to the ACT Government. Not online. <https://perma.cc/9K5R-4B8Q>
- Labor-Greens (2022) *Parliamentary and Governing Agreement – 10th Legislative Assembly for the Australian Capital Territory*, Joint webpage document, Australian Labor Party and the Greens. <https://perma.cc/4WU3-6EYC>
- Rieger, Marc Oliver and Wang, Mei (2022) 'Trust in government actions during the COVID-19 Crisis', *Social Indicators Research*, vol. 159, pp. 967–89. <https://doi.org/10.1007/s11205-021-02772-x>
- Sarracino, Francesco; Greyling, Talita; O'Connor, Kelsey; Peroni, Chiara; and Rossouw, Stephanié (2022) 'Trust predicts compliance with Covid-19 containment policies: Evidence from ten countries using big data', *IZA Discussion Paper No. 15171*. <https://perma.cc/2S9M-M5NN>
- Wensing, Ed (2021) 'Unfinished business – Truth-telling about Aboriginal land rights and native title in the ACT', Discussion Paper, March on the webpage of The Australia Institute (Canberra). <https://perma.cc/RN3Q-LDUZ>
- YourSay (2023) ACT Government web program – 'List of ACT engagement projects'. [Updates] <https://perma.cc/N2NK-WFC3>