

# The Sydney Morning Herald

---

## Tasmanian Aborigines win battle to vote

Debra Jopson  
*Sydney Morning Herald*  
19 October 2002

More than 100 Tasmanians who were rejected as voters in elections for Australia's peak indigenous body on the grounds they were "not Aboriginal persons" had their Aboriginality confirmed yesterday and will be allowed to vote.

In a landmark decision on the vexed question of identity that gave greater weight to oral history than to written records, the Administrative Appeals Tribunal upheld the appeals of 130 people who were excluded from the indigenous electors' roll for the Aboriginal and Torres Strait Islander Commission (ATSIC) elections.

The federal Minister for Aboriginal Affairs, Philip Ruddock, set up an independent indigenous advisory committee to decide who could vote after prominent members of Tasmania's Aboriginal community, including barrister Michael Mansell, claimed that whites were participating in ATSIC elections.

This committee relied heavily on documentary evidence such as birth, death and marriage records, the tribunal said.

"However, evidence of Aboriginal descent can come from oral history and tradition and from evidence associated with self-identification and community recognition," it said in an explanatory note.

"The tribunal found archival evidence to be helpful when it demonstrated positive lines of descent, but did not consider that it could outweigh strong oral histories and traditions if the archival evidence required inference and speculation.

"The tribunal noted that births, deaths and marriage registers did not record race except by accident."

In its fortnight of sittings, the tribunal heard from 66 witnesses.

In their decision, the tribunal president, Justice Garry Downes and his deputies, Stephen Estcourt QC and Don Muller said: "The credible family evidence we listened to day after day could not all be wrong. Indeed, it could not even mostly be wrong. In the end, we decided that very little of it was wrong."

The committee had not gone "as far as it might" in deciding whether a person was on the balance of probabilities "descended from at least one full-blood Aborigine".

The decision comes as a sizeable proportion of the nation's 259,750 Aboriginal adults exercise their non-compulsory vote today to elect 376 representatives to 34 regional councils. Delayed elections for the 12 positions on Tasmania's regional council will now be held November 12.

The new ATSIC board and its chairman and deputy will eventually be drawn from these councillors.

There have been a record 1164 nominations on the mainland, including all sitting board members except young Queensland firebrand, Murrandoo Yanner.

Following calls for more female candidates to help improve ATSIC's image following serious allegations against several male leaders, including the chairman, Geoff Clark, the number of women standing has risen from 30 per cent three years ago to 32.6 per cent today. In Mr Clark's home state, Victoria, there has been a 50 per cent rise.

Tomasina Mam, a former ATSIC board member from Brisbane standing today in Wollongong for the Sydney regional council, said yesterday that concerns about Aboriginality had spilled over into NSW.

When she doorknocked, a number of voters expressed concern that their Aboriginality would be questioned today by polling officials.