

newDEMOCRACY

DISCUSSION PAPER 2: DELIVERING NOOSA COUNCIL A DEMOCRATIC PROCESS THE ENVY OF AUSTRALIA

Precis

The Mayor of Noosa has requested The newDemocracy Foundation (NDF) provide a recommendation on how best to empower the local community in a substantive way.

Following an initial positive response from councillors, this paper expands on the initial short form document in order to provide a plan ready to be put into operation.

The core of this document is an empowering process which aims to complement the task of elected representatives by broadening the options available for those in public office which can be limited by the effect of shallow discourse and the ability of issue activists to ‘campaign for a headline’. It suggests creating a discretionary power to devolve decisions of councillors’ choosing to a randomly selected jury of everyday citizens who are given considerable time and access to information to enable them to make an informed and reasoned decision. We also invite councillors to consider the merits of establishing some circumstances/criteria where if the community find a very high degree of consensus, then the decision is binding.

If pursued, this proposal would make Noosa Council a national and international leader in sharing decision-making power with the community.

This paper outlines a structure, a set of principles and an outline of the first 18 months of operations which would constitute the pilot phase in order to assess its practicality. NDF is a research foundation and what is being pursued is new in the scale at which it is being considered: trial before embedding this as “*how we do government*” is entirely appropriate.

The aspiration of NDF in providing this document is to provide a democratic structure which becomes a reference design for how to better deliver on the democratic promise. Democracy is not “*the vote*”: democracy is how we identify the general will of the people, and it is to **that** principle that this paper most closely adheres. Our elected councillors should and will continue to be accountable at the ballot box, but this can be made fairer, more representative and more deliberative by complementing this with a mix of everyday people selected at random contributing to their decisions. Because of this sharing of the decision, we are suggesting this be introduced as the Noosa Community Jury.

About The newDemocracy Foundation

The newDemocracy Foundation (NDF) is a not-for-profit research group, with a particular focus on best practice citizen engagement and innovations in democratic structures. NDF’s experience with

many consultation processes is that they consist of feedback forum events largely attended by interest groups and hyper-interested individuals and singularly fail to engage everyday people, leading to an understandable degree of fatigue and cynicism from elected representatives.

Such processes do not result in citizens feeling they have had a say. In contrast, one of NDF's central messages is that the provision of a jury-style process can enable a more representative section of the community space to deliberate and find a consensus response. By combining the three elements of random selection, the provision of time and access to all information, and independently facilitated forums for dialogue, a much more robust and publicly trusted outcome can be obtained which can assist governments in achieving public acceptance of hard tradeoffs.

The newDemocracy Foundation (nDF) provides design frameworks for public deliberation and overall innovation in democratic models to any elected government with the power to implement a trial. Our research and advocacy is focused on identifying less adversarial and more inclusive public decision making processes. Our services are provided on a cost recovery basis only - consistent with our structure as a not-for-profit research foundation, with services provided pro bono on occasion. We are not a thinktank and hold no policy views. We are dedicated to the enhancement of democracy in the 21st century. Our Research Committee is led by Geoff Gallop and Nick Greiner who enable us to build on the experience of those who understand the challenges of politics while ensuring NDF does not have any partisan alignment.

We also commission independent third party research which occurs in parallel to the process in order to ensure robustness and to capture the potential for improvements to existing democratic processes.

Rationale Underpinning this Discussion Paper

We trust juries of citizens to decide guilt or innocence which can lead to lengthy prison terms, yet segments of the community tend to distrust elected officials deciding how to spend a few thousand dollars for play equipment in a public park. This is not to suggest elected officials are making bad decisions: it is purely a comment on the level of public trust in a lobby-driven environment.

To illustrate, if Council were to announce a given decision about development (either permitting or refusing), many citizens will infer a political, ideological or re-election motivation to the decision. At worst, they will hold to a view that special connections or influence played a part. The same decision - whatever it may be - that was also reviewed by a random selection of local citizens who reached consensus around a recommendation is likely to earn far greater trust.

We will demonstrate to Council and your community that it is possible to create a complementary jury of citizens to whom Council decides to pass *some* decisions that will lead to greater public trust and understanding of the complex tradeoffs involved.

Principles for Operating a Jury Process

The following seven principles are key to our work and are central to what is found in the operations schedule later in this document. Given the length of time for the process and the likely need for flexibility in some of the small details, we list the principles here in order to provide consistency with what will be delivered operationally.

- a. Participants should be randomly selected rather than self selected, to avoid the otherwise very high likelihood of a process being skewed by special interest groups.
- b. All parties (community groups, business groups, individual citizens etc.) have a right to submit their view and request to appear before this randomly-selected panel.
- c. The jury style selection should be conducted by an agency at arm's length to government, whether this is a Foundation, a University or the Electoral Commission.
- d. The jury should receive a reasonable per diem payment for their time.
- e. The jury be given a pre-agreed level of authority for its participation, in order to encourage those without a direct interest to give up a substantial amount of their time.
- f. Participants have the right to determine the length of time they need to complete their recommendations. Deliberation requires time to consume information.
- g. Participants have access to information and expertise within an agreed budget and be allowed to hear from a diverse array of expertise of their choosing.

What Constitutes a Decision?

In order to shift the public mindset from adversarial, either/or contests and to convey a message of broad-based support for the recommendations made, NDF suggests that wherever a vote is required as part of a panel's final decision, an 80% supermajority should be required.

Councillors are asked to consider making any unanimous decision of the jury binding.

Minority voices will be explicitly included in any report – noting the dissenting view in detail, not simply that a vote was 22-2 (for example).

What Are We Here For?

A common, even universal, initial question we receive at NDF is from councillors who ask why they should establish an empowered process given they have been elected to make decisions.

In the first instance, for any issue where councillors have a clear view of the right decision for the community and is confident of the community's acceptance, then that decision should be taken and there is no role for this style of process. However, there can be circumstances where it makes sense to share the decision with the community.

Our starting point for discussion is that councillors may wish to explore issues which fail the ‘*vox pop test*’ – something that most citizens would respond to one way if asked on the street, but where their decision would change if they had access to the same information which councillors consider in depth, or if faced with the decision as a tradeoff where limited funds can be applied. Issues of complexity which are subject to heavy campaigning are ideal for juries.

Following discussion with councillors, we suggest that the initial topics to be referred to the jury process are:

- 1. Toward Zero Waste – how green should/can we be and how do we pay for it?**
- 2. A Local Free Electric Bus Service – is it worthwhile and are we prepared to pay for it?**
- 3. Business Signage – does it need to be regulated? And if so how should we do it?**
- 4. Tree regulation – should tree owners need to ask council for permission to cut or remove?**

In the pilot phase, the complementary role of the randomly-selected jury will handle any issue referred to them by councillors. At the conclusion of the pilot phase NDF will consult with Council to set appropriate criteria for future referrals.

What Does a Community Jury Decide?

It is of central importance that the limit of the group’s decision-making authority is pre-agreed by councillors and clearly conveyed. This must be expressed simply, broadly and openly so as not to be interpreted as directing a particular decision.

In state governments, we have had Premiers commit at the outset to tabling jury findings in parliament (sight unseen). In local government our minimum threshold for being involved is that councillors agree to accept the citizens’ solution in full or reject it outright (i.e. no cherrypicking). Today we are involved in discussions with councillors who are exploring the merits of fully devolving certain sets of decisions as being both “good politics and good policy”.

Outline of Key Features for a Proposed Trial

We advise that the process most suited to Council’s situation is to assemble a single standing jury of citizens who can be passed items of Council business selected by Councillors for their exploration and recommendation.

- a. NDF to issue 3000 invitations at random within the community, inviting participation. RSVPs are matched against these addresses to ensure non-transferability.
- b. From positive responses a further random draw is then conducted with a stratification applied to ensure a demographic match to Census profile by age bracket, gender, suburb

and ratepayer status. (Please note we also use surrogate indicators to ensure a spread of income and educational background.)

- c. **24 citizens** will be selected at random by NDF to form the Noosa Community Jury.
- d. Citizens will be asked to make themselves available for a monthly meeting, with a term of service **no longer than one year**.
- e. Council would refer one issue initially for the citizens to explore and to make a clear recommendation.
- f. Council would assist NDF in notifying parties known to have a subject matter interest (community groups, business groups, individual citizens etc) of the opportunity to make a submission which is considered by the jury of citizens, not Councillors.
- g. Citizens will have independent, professional facilitators provided to assist their meetings. (NDF can assist.)
- h. Councillors pre-agree what authority they are prepared to give to the group.

Costing Outline

Key cost areas are outlined below.

- a. Dataset, printing and postage (3,000 invitations to print plus \$0.55 per piece to post) estimated at \$4,000.
- b. Catering during evening meetings of \$8,700 (12 days x 30pax @ \$20ph = \$7,200) and (1day x 30 pax @\$50 = \$1500).
- c. Independent facilitators for a total cost of \$45,000 - \$55,000 (very much subject to local variations – our preference is to use a respected existing provider to Council).
- d. Participant per diems of \$19,200 (\$800 x 24 for 12 mths)
- e. Provision should be made within the budget for a reasonable level of travel/ accommodation expenses for NDF representatives: estimated at \$4,000 (one year). Actual/hard cost recovery only.
- f. It is assumed council venues (including basic AV requirements) can be used at no cost.
- g. it is requested that use of a 'HaveYourSay' web platform can be provided by Council.

Process design and selection administration will be provided by the Foundation on the cost recovery basis included in point 'e' above. We are not a consultancy and do not bill for our time.

As a research institute the Foundation requests:

- i. funding support of \$20,000 for an independent research project to capture what is learned through the innovation process. As part of our ATO compliance, the topic of research will be set by the Research Committee of The newDemocracy Foundation. If Council are able to identify a local

university willing to undertake the research component then we are open to Council handling this directly.

ii. that a single annual contribution of \$25,000 is made to the newDemocracy Fund which contributes to the operation of the Research Committee and to the future of improving democracy in Australia.

We are happy to work with Council in an approach to State Government with regard to joint funding for this innovation in local government.

Next Step

We have interpreted the brief as being to push the boundaries and provide a structure envied by every other ratepayer and resident around the country and hope our paper is received in that spirit of aspiration toward the possible, even and especially when it goes beyond what has previously been considered possible.

We are ready to implement the program which follows once we receive written confirmation from NSC to proceed.

We seek the explicit permission of NSC to discuss the process with the State Government and ECQ.

Part 2 - Operations

A. Methodology

It is proposed that a **Noosa Community Jury** (NCJ) of 24 participants will be convened as a standing group with a *maximum* term of twelve months.

After an initial all day induction meeting, monthly in-person meetings will be held for three hours on a Thursday evening.

New participants will be added on a block basis, so if the group is referred an issue with insufficient time it may choose to end its term at that point with the next jury then being drawn. The key here is to prevent 'institutionalising' a feeling of formal authority through the explicit limitation of a short term: they are solely being sought for their judgment as citizens.

The newDemocracy Foundation will seek the permission of the Electoral Commission Queensland (ECQ) to use the electoral roll to contact community members. Should ECQ not be supportive Council's GIS system (database of all physical addresses) will be used.

The participant count is slightly fluid to allow for the statistical profile match to the Census to be maintained even if there is a shortfall in a single category. There is negligible statistical impact (in confidence level and confidence interval) on representation within that range. It is notable that recent research from Princeton on the 'wisdom of crowds' highlights the greater capacity of small groups rather than large in complex situations (read more: <http://rspb.royalsocietypublishing.org/content/281/1784/20133305>). It should be noted that NDF's process involves considerable small group activity (tables of 4-6 people) who then reconvene and share views as a larger group.

Random selection is a key tool used to identify participants as a means of securing a descriptively representative sample of the community. NDF will use land titles database address records (not simply name/ biller records) to ensure tenants are reached. Stratification will be used to ensure a mix (matched to Census data) by age, gender, ratepayer status and general location (CBD or hinterland). This is not claimed as being purely statistically representative, but it delivers a much more representative sample than any other community process. Diversity is essential and the NDF process has been demonstrated to deliver that diversity.

ABS data (Report 3235.0, 30 August 2013, Table 6) is used to determine age bracket breakdown.

Invitations to participate in the NCJ will be extended to a randomly selected sample of **3,000** general addresses taken from Council's GIS system (capturing both residential owners and tenants, as well as business addresses, which through normal sampling will emerge in approximately the same proportion as they exist in the community).

Recipients of the invitation will be invited to register electronically with nDF to indicate that they are available for the final selection over the coming 12 months. Based on those available, a further stratified random draw is then conducted which seeks to randomly match to the stratification detail set out above.

NDF will explore with the Queensland Government the capacity to use existing government databases to greatly reduce the cost of this exercise, but no firm assurances can be provided at this time. As one example, the Sheriff's Office have the capacity to randomly select juries and if so directed could rapidly issue named notices on a randomised basis.

Just as in juries payment of per diems is strongly advised so as to avoid excluding participants who may find this a hardship.

Invitations should come from the Mayor on behalf of the entire Council, while using the newDemocracy name to note the independence of a selection process which is outside the control of Council.

From the positive responses, a sample is drawn electronically based on the pre-agreed stratification goals referred to above. The aim is to achieve a group descriptively representative of the community even if one subset of the community responds disproportionately to the initial invitation. The key measure of success is partly subjective: do Councillors (and the media) see a group that sounds like and looks like those they see walking through the streets of Noosa?

The sample drawn is contacted by email seeking a confirmation in writing from the participant, and NDF also contacts each participant several times by phone prior to the first meeting to build a personal commitment to participating: once underway we cannot backfill for non-attendees so those selected need to feel sufficiently engaged to attend on the first day regardless of other circumstances.

The sample (which incorporates a number of reserves) will be provided a comprehensive schedule, code of conduct and explanatory kit of pre-reading (generally an online private forum with a library of documents and submissions), with a request of the recipient to provide a final acceptance allowing NDF to finalise the panel.

B. Preparation and Information Process

The Community Jury is provided with information from two sources: Council and community. It is effectively complemented by a range of traditional engagement techniques (surveys, websites, forums, interviews, existing Advisory Committees etc.) to build on the passion and knowledge found in the actively engaged community. This encourages self-selected groups to discuss and share with a view to making a submission to be considered by the jury of their peers. An online platform thus serves a dual role as a gathering place for finished ideas, and as a forum space for disparate groups to work within.

Information and judgement are required in equal parts to reach decisions. NDF advocates these processes because the judgement of random samples (or mini-publics) has been shown to achieve very high levels of public trust because they are non-partisan. It is thus imperative that the method of provision of information to the jury does not erode that trust.

Council must commit to “open the books” and respond to all information requests of the jury. For each of the initially identified topics Council should provide their internal calculations as a starting point and make staff available to answer the Jury’s queries.

Information selection can be a very time-consuming process. A portion of this work comes from the self-interested willingness of advocacy groups and interested third parties to engage via submissions of their own independent work. A public call for submissions is thus factored into the design, and the operation of the jury allows it to ask to hear more from the author of any submission, or to request information from an expert of their own choosing.

C. Remit and Authority - What is the Power of a Community Jury?

The authority of the panel is a combination of that which is formalised by law and that which exists through commitments made by the Mayor and Council. In the pilot phase the authority flows from Council’s commitment, but it is in the intent of NDF to encourage a review of the Local Government Act to allow for a more formalised/recognised role for the Noosa Community Jury.

In either case, it is of central importance that the limit of the group’s decision-making authority is pre-agreed and clearly conveyed. This must be expressed simply, broadly and openly so as not to be interpreted as directing a particular decision.

It is proposed that the remit of the Noosa Community Jury is to reach agreement on:

Tell Council whether the proposed service is wanted by residents. If it is, how should it be paid for?

In terms of authority, it is proposed that for each referred issue the Mayor and Councillors will notify the Jury in advance **which** of the following apply:

Mayor and Councillors will respond in writing and in person to all recommendations made by the Jury

The Mayor and Councillors commit to undertake recommendations on an all-or-nothing basis.

Whether a decision reached unanimously by the Community Jury on that issue will be treated as binding.

Council may return a given decision to the Community Jury once with a request that they consider additional information.

This needs to pass the test of being the single best offer to participate that a citizen can ever expect to receive and this is central to the very high positive response rates we get for jury invitations of this type.

In order to shift the public mindset from adversarial, two-party, either/or contests and convey a message of broad-based support for the recommendations, nDF recommends an 80% supermajority be required for any recommendation to be deemed agreed by the Community Jury.

D. Operations

A skilled independent facilitator will be required for the process and should ideally be recognised by the International Association of Public Participation (IAP2).

NDF will operate the jury selection process to ensure there is the highest public confidence in the rigour and independence of the randomisation of invitations (and by extension as to why a given individual was not selected). As we have experienced in other processes, the public will accept our 'rejection' far more easily than if this is required to come from government, as principal. Council support in driving local awareness of the process (through local news) is imperative.

Meetings would ideally take place within government or university facilities available at negligible cost. Council buildings are preferred and convey the right message (regarding authority) to participants.

NDF recommends an integrated print and distribution service capable of very fast turnaround production for invitations while ensuring no data is actually provided to the Foundation.

E. Media Role

The role of the media in supplying information about the exercise is crucial. We have noted in other processes that the community should have the chance to see and identify with the people involved: an evoked response of *"people like me made the decision"* will see the recommendation earn widespread trust.

For this to be achieved in a communications environment where the community believes much of what it sees in the news is "staged", it is imperative we introduce the jury members who will be deliberating as early as possible in the deliberative process (ideally just after the first meeting) and well before any direction (of their recommendations) is known. If the community trust the participants, they will trust the recommendations. For this to occur you cannot be seeing the participants for the first time when you read of their recommendations or the benefit is largely lost. Uniquely (when compared with other deliberative processes) the Council's decisive commitment early will deliver this media response.

DRAFT TIMELINE FOR 2014-15 COMMUNITY JURY:

NOOSA SHIRE COUNCIL

EMPOWERING THE COMMUNITY

SHARING DECISIONS WITH AN INFORMED, REPRESENTATIVE MIX OF THE PEOPLE

<p>Late July 2014 "Kickoff"</p>	<p>NSC and nDF preparatory planning session. Key topics:</p> <ul style="list-style-type: none"> ➤ Identify required background materials and expert/ contributor program for inclusion. ➤ Identify communication targets for submissions and contributions (interest group involvement). Include media. ➤ Revise/ amend/ review program dates and goals. ➤ Agree media and communications protocols – how we work together. ➤ Final budget approval by each party. ➤ Finalise date specifics – check for major event clashes. ➤ Finalise venues. ➤ Agree Academic Oversight Representatives & Research Partner.
<p>November 2014</p>	<p>Printed invitation sent to a random sample of 3000 citizens (Sample source/ extract secured as .xls by week 1 Nov, sent by Fri 14th Nov)</p> <p>Agree <i>RSVP deadline + 3 weeks</i>. (approx. ~Dec 5th)</p> <p><u>Deadline</u> for recruitment and briefing of independent, skilled lead facilitator.</p> <p><u>Commence</u> Call for submissions and stakeholder briefings (Dec 12th).</p>
<p>December 2014</p>	<p>First round selection to secure representatives. (<u>Complete</u> by Dec 12th)</p> <ul style="list-style-type: none"> ➤ Seeking approx. 26 citizens. (24 +2 reserves in younger age bracket) ➤ Explanation of commitment required: attendance at all elements of process, including potential online discussion presence. ➤ Stratified random sample to deliver descriptive match to community (NDF to provide technology/ expertise and to call each selected participant). <p><i>N.B. List of attendees will not be provided to Council.</i></p>
<p>End December 2014</p>	<p>Finalisation of Panels. Provision of background materials (electronically). Active third party content available as well as Council material.</p>
<p>Monthly from inception</p>	<p>Mayoral media briefing to explain process.</p>

<p>Day 1</p> <p>Saturday Jan 17th</p> <p>(9:30-4:30pm)</p>	<p>Opening day: The First Deliberation– The Learning Phase</p> <ul style="list-style-type: none"> ➤ Introduction of the topic upon which they will deliberate: understanding remit and authority. Explanation of influence and context: what will be done with the results the Jury produces. ➤ Introduction of the process, and its precedents; understanding the inevitability of bias & importance of constructive, critical thinking/doing. ➤ Agreement on Jury guidelines for participation. ➤ Presentation by Council Staff for relevant subject area. Includes open Q&A. Likely to be Council Financial staff providing initial educational briefing sessions ➤ Group to identify speakers sought for future assemblies. <p>Welcome from Mayor & Councillors strongly recommended if possible.</p>
<p>Day 2</p> <p>Thursday Feb 12th</p> <p>(6:00pm-9:00pm)</p>	<p>The Second Deliberation – Understanding</p> <p>Jury will still be exploring content from background materials and ‘learning what they don’t know’ to generate further requests for information and expertise.</p> <p>Subject to scheduling a speed dialogue session with Councillors should be included at this meeting.</p> <p>Ongoing online discourse among the panellists is encouraged during the “away” period.</p>
<p>Day 3</p> <p>Thursday Mar 12th</p> <p>(6:00pm-9:00pm)</p>	<p>The Third Deliberation – Focus</p> <p>The Jury will be asked to agree a structure for their report/ presentation to the Council. No templates or pre-written content is provided – it is important they start from a blank sheet of paper rather than endorsing a Draft document produced by Government.</p> <p>Two or three further speakers, and potentially a technical session, are likely at this meeting. A ‘key stakeholder’ panel discussion may be scheduled to maximise knowledge/ perspective sharing opportunity.</p>
<p>Day 4</p> <p>Thursday Apr 16th</p> <p>(6:00pm-9:00pm)</p>	<p>The Fourth Deliberation – Reflect. Discuss. Deliberate.</p> <p>The goal is to provide a face-to-face forum for the jurors to reconvene to discuss their views in small groups. The facilitator should encourage groups to move toward commencing the prioritisation task and end the day with a “long list” of priorities and possible funding structures. The draft report (list of recommendations) has form but may still have “rough edges”.</p> <p>A councillor roundtable session (rotating among the jurors in small table groups) may be utilised to ‘sanity test’ recommendations prior to report completion.</p>
<p>Day 5</p>	<p>The Fifth Deliberation – Shared Goals</p>

Thursday May 14 th <i>(6:00pm-9:00pm)</i>	<p>Consensus session which may incorporate new information to reinforce or support the recommendations. A read-through session to finalise the draft report.</p> <p>Recommendation(s) must be Specific, Measurable, Actionable, Realistic and with a Time horizon.</p>
Thursday June 11 th <i>(6:00pm-9:00pm)</i>	<p>Shared Decisions – Discourse with the Lord Mayor and Councillors</p> <p>Delivery of a prioritised list of recommendations by the Jury to the Mayor and Council. The Mayor should have a discussion with the Jury having had a chance to review the report.</p>
Thursday July 16 th <i>(6:00pm-9:00pm)</i>	Likely move to second topic.
August 2015	NDF to redraw 24 new jurors to refresh Community Jury.