

Submission to the Inquiry into Victoria's Upper House electoral system

The newDemocracy Foundation commends the Victorian parliament's Electoral Matters Committee for seeking to engage the public in the proposed re-design of the Victorian Upper House electoral system.

newDemocracy is a not-for-profit foundation that advocates for innovative ways to modernise democracies. We are experts in how to deliver best-practice citizen engagement. We put everyday people at the heart of decision-making using deliberative democratic methods (see appendix 1). Our expertise in Citizens' Assemblies and Citizens' Juries supports parliaments and institutions to engage effectively with the public on complex public policy questions. The reforms being proposed to improve transparency for voters in the Upper House is one such complex question.

The six example structures outlined in the discussion paper are a strong starting point for a wider discussion. However, this paper and this committee process are insufficient tools to secure long-term reform. For the necessary changes to occur, Victorians must have confidence that the voices of campaigners and lobbyists most likely to dominate inquiries like these aren't privileged above their own when parliament puts forward its final recommendations.

Reforms like these therefore require an engagement process that is *more representative* of the people, and *more trusted* by the people.

We draw your attention to the two paramount challenges highlighted by the discussion paper:

- 1) Parliament will have to agree with any recommended changes before they can be implemented.
- 2) Most proposed changes to the electoral structure of the Upper House would also have to be voted on in a referendum.

These factors, in combination, make any proposal for changes to the Upper House very difficult to achieve. After all, referenda in Australia are more likely to fail than to succeed. The parliament's electoral reform agenda thus hinges upon the parliament and members of the public working together if the final outcome has any chance of passing the ultimate pub test.

While this inquiry is an important step in the reform agenda, newDemocracy recommends an additional mechanism for engagement that offers a random group of everyday Victorians the space and time to carefully consider the options and work together to find common ground on a final set of recommendations. A Citizens' Assembly will help build trust and confidence in the new design of the Upper House, and in turn, pave the ground for the electoral success of these reforms in whatever shape Victorians determine it should take.

Recommendation 1: Put the proposals for reform through the rigour of a Citizens' Assembly

The Parliament and this Committee face a poacher and gamekeeper dilemma where you are in charge of making changes to the system that gives you your power.

There is no "right" answer into the conduct of our elections or the structure of our parliamentary bodies. Any change to an electoral system, no matter how well intentioned, will benefit one party over another in some small way. What is fair and what principles are prioritised is an open question.

Making these decisions is also a thankless task. You're tasked with adjusting and monitoring the foundational system that gives legitimacy to our public institutions, where any mistake amounts to negligence of the most important elements of governance.

This inquiry is an opportunity for the Victorian Parliament to innovate using a deliberative democratic method that has been proven effective internationally and locally.

Deliberative democratic practices, also known as Citizens' Assemblies or Citizens' Juries, are designed to bring people together to carefully consider difficult questions and make group recommendations that find a path through problems like these.

2016 Democracy in Geelong Citizens' jury

After the Geelong City council was dismissed in 2016, a group of approximately 100 citizens selected through a civic lottery, convened over several months to consider how they wanted to be democratically represented.

newDemocracy worked alongside Local Government Victoria and Local Government Minister Natalie Hutchins to operate the Democracy in Geelong Citizens' Jury. The Government committed to consult the community about its local governance model before the next council election. This inadvertently created one of the single great opportunities to explore how citizens would design a local system of representation if given the chance.

The jurors were briefed in detail on the background and current thinking, and asked to discuss possible approaches and/or solutions relating to the question:

How do we want to be democratically represented by a future Council?

In a groundbreaking process, the jurors found common ground around a key set of recommendations to design their own local council electoral system. The Victorian Legislative Council, with the support of independents, then passed the City of Greater Geelong Amendment Bill 2017 on June 8, bringing about the new Mayoral and Councillor structure as recommended by the Citizens' Jury.

2017 Ireland Citizens' Assembly

We also invite the Committee to learn from the example of the Irish Parliament.

Ireland's Citizens' Assembly gave a blended group of everyday people picked through a civic lottery (66) and members of the Parliament (33) the opportunity to learn and deliberate together on a vexed public decision before making considered common ground recommendations back to Parliament.

These citizens made recommendations on abortion law reform, marriage equality, fixed term parliaments and their aging population. By working with members of parliament, citizens and MPs had a two-way trust-building exercise: citizens had more time with MPs and learned the nuance required in the decisions at hand while MPs were able to witness first-hand the ability of everyday people to think critically and find common ground.

These two examples highlight that by providing a mechanism whereby a randomly selected cohort of Victorians are given the opportunity to think, assess and discuss they can find common ground on complex policy issues, that require the trust of citizens, for successful passage through the parliament and / or referendum.

Recommendation: This submission makes *no recommendation on the six proposed options* put forward in the discussion paper. The Committee should open the question of inquiry into Victoria's Upper House Electoral System to a jury of everyday citizens blended with a small group of MPs, giving them the time and access to information to make considered recommendations to Parliament on the rules they would like to see apply for future elections.

As an OECD-recognised global leader in deliberative forums, we can design, operate and oversee any trials the committee wishes to pursue on a 'turnkey' basis.

We would welcome the chance to appear before the Committee to discuss this in greater depth.

Regards,

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Appendix 1 – About deliberative democracy

Across the globe, public authorities are increasingly using representative deliberative processes to involve citizens more directly in solving some of the most pressing policy challenges. These processes give significant amounts of time and information to a group of randomly selected everyday people and facilitate their deliberation on an issue that leads to finding common ground on a set of recommendations.

Australia has been a pioneering, global leader in the development of this practice. OECD research¹ documents more than 48 examples of deliberative engagement practice here in Australia matched only by Germany (with the issues resolved often subject to regular lobbying). This suggests a national capacity to learn from experience and institutionalise these processes. The Victorian Government recently included mandatory deliberative engagement practice for local councils in its [Local Government Act 2020](#) (s55, g). The Western Australian Government's Local Government Act Review Panel also recommended in its [final report](#) the “mandate [of] deliberative community engagement in the preparation of both Community Strategies and Council Plans.” (s37, d, iv).

[Evidence collected by the OECD](#)² and existing research in the field of deliberative democracy points to five key reasons why representative deliberative processes can help lead to better public decisions and enhance trust:

1. **Better policy outcomes because deliberation results in considered public judgements rather than off-the-cuff public opinions.** In a deliberation, citizens read, think and consider diverse, contested viewpoints – a function highly suited to considering lobbied positions. Deliberative processes create the spaces for learning, deliberation and the development of informed, common-ground recommendations, which are of greater use to policy and decision-makers than divergent contest alternatives. Consider that if a group of citizens were tasked with answering “*What do all MPs need to know about Industry X and its regulation?*” then what emerges would be more trusted than existing formats.
2. **Greater legitimacy to make hard choices.** These processes help policymakers to better understand public priorities, and the values and reasons behind them, and to identify where consensus is and is not feasible. Evidence suggests that they are particularly useful in situations where there is a need to overcome political deadlock or make difficult trade-off decisions.
3. **Enhance public trust in government and democratic institutions by giving citizens an effective role in public decision-making.** People are more likely to trust a decision that has been influenced by the considered judgement of ‘people like me’ than one made solely by elected MPs.
4. **Make governance more inclusive by opening the door to a more diverse group of people.** Deliberative processes, with their use of democratic lotteries and stratified sampling, bring

¹ OECD (2020), *Innovative Citizen Participation and New Democratic Institutions: Catching the Deliberative Wave*, OECD Publishing, Paris, <https://doi.org/10.1787/339306da-en>.

² Ibid.

in people proportionally to their presence in society, making the group visibly representative in terms of age, gender, disability, education, and job type.

5. **Help counteract polarisation and disinformation.** Empirical research has shown that echo chambers that focus on culture, identity reaffirmation, and polarisation do not survive in deliberative conditions, even in groups of like-minded people.