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# newDEMOCRACY

## *Submission to the Western Australia Local Government Act Review*

*February 28<sup>th</sup> 2019*

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### ***Executive Summary***

We are offering comment on aspects relating to five Discussion Paper topics: Community Engagement, Elections, Interventions, Financial Management, and Rates, Fees and Charges.

We suggest that the Local Government Act Review is an opportunity to **create an environment where councils are free to innovate in how they share difficult decisions with their community**, and that having a competitive and freely evolving environment for processes and structures for ‘sharing’ is fundamental to achieving a transformative change in public trust and legitimacy.

Our proposal suggests *permitting*, not mandating, that councils embrace some radical changes in how democracy is envisaged. If one embraces it and is successful, then others will follow. Changes deployed will be the result of local community choices, aiding their likelihood of success.

### **To achieve this, we offer three recommendations:**

1. Deregulate council election formats to permit innovation, allowing for flexibility in the method of representation;
2. Embrace and extend beyond Local Government Victoria’s experience in the City of Greater Geelong in 2016 and mandate similar methods in subsequent Council interventions for direct citizen involvement in requesting, selecting and approving local democratic models;
3. Create a mandatory role for randomly selected everyday people (juries) in major zoning and planning approvals, financial management and rates, fees and charges decisions once every government term – but without specifying explicit formats and issues (innovation with flexibility).

We are in a global environment where all trends on trust in democracy are negative. As you cannot be immune from this, our submission to you draws on successful local and global examples which have bucked that trend. The principles embedded here are the same ones that informed the design of the City of Greater Geraldton’s Participatory Budgeting Community Panel for its 10 Year Capital Works Plan and the Irish Constitutional Convention (and subsequent Citizens’ Assembly) which delivered arguably the most politically surprising (even courageous!) decisions ever seen: allowing a Right-

aligned government to change the Constitution to enable marriage equality and abortion in a highly religious country as a result of a deep sharing of the decision with randomly-selected citizens.

WA has the opportunity to allow individual councils to experiment within a set of understandable and accepted democratic principles – just as our Federal system allows individual states to demonstrate innovation that is then adopted by others. This experimentation should focus on flexibility that enables individual councils to find what works best for them. **One clear success story will pave the way for others to follow.**

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### **1. Why we recommend this**

Currently, turnout for WA's non-compulsory local government elections rests at around 34% of the eligible population. This results in situations where elected officials may have received the vote of only 8% of all eligible voters. This combination of a FPP voting system and the growing atmosphere of distrust in government undermines the legitimacy of public decisions. This in turn fuels apathy or disaffection with politics broadly.

**This creates an environment where local government overwhelmingly hears from the same opinion-based expressions of active interests on any given topic. This makes it difficult for elected leaders to lead, something which can be addressed by adding a complementary mechanism.**

In order for WA's local governments to fix these issues and hear from a more **diverse and representative range of voices** they should allow for innovation and flexibility to match to what a local population wants. They should rethink ways in which communities can give legitimacy and trust to their elected officials by changing the way they are involved in making public decisions – shifting the focus from public opinion towards considered public judgment. No one size fits all model will work for the state, so our recommendation is to simply focus on principles and give the focus to communities, not elected councils, to select how the model is applied locally.

**newDemocracy's experience suggests that WA should make wider use of random selection and deliberative democracy processes that substantively include everyday people in making trusted public decisions.** These processes increase inclusion by involving a broad cross-section of the community (broader than what is currently involved in non-compulsory elections) and delivers a more complete form of public legitimacy.

**These processes enable individual communities to consider for themselves what role they would like to play in making public decisions.** It ensures there is a considered public judgment on long terms decisions that gives local councils the power to act. Where councils experience governance issues they tend to be recurring (e.g. City of Perth); sharing this task of rebuilding a democratic model with a jury of citizens has been proven to break that cycle.

## ***2. Why will experimentation with deliberative processes and random selection work at the local level?***

Governments around the world are increasingly looking to deliberative processes to resolve a growing decline in trust in government. They are doing this because these processes offer a way of rethinking the way in which members of a community or political constituency can be involved or give their authority to a public decision. It gives them the tools to resolve their own distrust themselves.

They solve specific issues around:

- The expectation gap between raw 'wishlist' public opinion and the considered trade-off decisions needing to be frequently made by local governments.
- The unrepresentative range of active voices heard from on issue specific conversations.
- The perverse incentives for short-term decision making in election systems.
- Broad public disengagement at the local government level.

Western Australia has the opportunity to empower representative mixes of everyday people with the authority to design their own democratic institutions. **Western Australia would be at the forefront of global democratic innovation, a pioneer in rebuilding and modernising democratic institutions by building on the shoulders of the Irish success.** Previous state projects (lead by Alannah MacTiernan MP) remain internationally significant: this is a chance to build on that experience and expertise.

Whichever path is taken should be up to the individual council and its community. All that is needed are **clear guidelines and supervision** for each council that opts to take on a new democratic idea but also the room and regulatory flexibility for communities to uncover what democratic systems work best for them. newDemocracy can advise the Review on how to achieve this standard. We have experience designing and delivering similar projects here in Australia but also overseas for the Madrid City Council and the world's first permanent role for everyday citizens in decision making in the German Speaking Region of Belgium.

newDemocracy has contributed to Australia's prominent role in researching and developing these innovative processes by operating a number of different types of what are often called 'citizens' juries'. This influence has grown internationally through membership of the Democracy R&D international network and a contract with the United Nations Democracy Fund (UNDEF) to deliver a handbook on '*Democracy Beyond Elections*'.

## ***3. Where is this Most Applicable?***

This experience in democratic innovation both domestically and internationally has demonstrated to us what does and does not work. From this evidence, we recommend that WA make the following changes to the Local Government Act:

## **A. Intervention**

**Recommendation: Create a role for randomly-selected citizens to be directly involved in redesigning their democratic institutions.**

Intervention in Council procedures happens in only the most extreme situations. These situations can contribute to the decline in a community's trust in their democratic institutions. For this reason, they should be directly involved in redesigning institutions that rebuild trust and legitimacy.

We recommend WA take the lead from Local Government Victoria's experience in the City of Greater Geelong in 2016 and mandate similar methods in subsequent Council interventions.

In April 2016 the Victorian Government acted on the recommendation of an independent Commission of Inquiry and dismissed the Greater Geelong City Council. 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.

Over four months a randomly selected group of 100 people from the City of Greater Geelong convened to deliberate on the remit – *"How do we want to be democratically represented by a future council?"* Drawing from international and domestic advice and their own choices of expert speakers, the Jury delivered a final report with 13 recommendations, 2 'practical' and 11 'aspirational'. The Victorian Government agreed to adopt 12 of the 13 recommendations.

The two practical recommendations were:

1. *"The jury recommends that the mayor is elected by the council from among the councillors. They should serve a 2-year term."* This recommendation was a departure from the previous directly elected Mayoral-system that had led to a culture of 'celebrity' Mayors who faced deep opposition from other councillors: the counter-intuitive citizen solution was borne from an agreed need to find a mayor councillors could best work with.
2. *"The citizens jury agreed as a 'super majority' on a four-ward structure, comprising of 11 councillors in total. We suggest these wards be divided into rough geographical areas, dependent on the electoral population of the areas."* This recommendation was also a departure from the previous system of single member wards that was preferred by those elected (as it made them mini-Mayors) but did not create a culture of cooperation.

The Victorian Legislative Council, **with the support of crossbench/ 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.

## **B. Elections**

**Recommendation: WA should deregulate council election formats to permit innovation.**

The current method where elections are held every two years can be considered costly and contributing to voter fatigue. There are a breadth of electoral formats that can be used in order to select a group of representatives, yet councils today are bound to a single option. Councils should be

**given the ability to make a local decision, but they should do this with the direct, considered involvement of the community** – let local citizens design their democratic model.

An example of this kind of process is Byron Shire Council’s decision to empower citizens and active stakeholders to design their own ‘Byron Model’ of local democracy.

Byron Shire Council has committed to a 2-year trial of the recommendations the participants make in answering their remit: *“How do we want to make democratic decisions in Byron Shire that can be widely supported?”*

This project is centred around randomly-selected members of the community in a process that gave them a diversity of information, access to speakers of their choosing and the time to find common ground on a question that went to the heart of democracy in their local community. It opens up all aspects of public decision making from Councillors through to council staff and community engagement.

This innovative approach to designing local democracies is fundamentally inclusive and smart but also agile in its responsiveness to local contexts.

*WA is a large and diverse state. Could political representation and public decision-making differ around the state? Is it OK if one jurisdiction wants to trial online voting, while another trials the use of multi-member ward systems, while yet another decides to appoint some of its councillors by lot, like a jury?*

We want to make the case that the scenario above is good for democracy and good for local government.

### ***C. Integrated planning and reporting, Financial management and Rates, fees and charges***

**Recommendation: The Review should mandate the use of at least one citizens’ jury-type process on long-term strategic, financial or infrastructure decisions per government term.**

Public decisions that include integrated planning and reporting, financial management, and rates, fees and charges are types decisions that often have low levels of public contribution at the beginning but more significant and vocal input at the end of a decision process.

Decisions like these require processes that are **more representative** in the share of the public who do ultimately contribute to decisions, and processes that are **more trusted** when they reach their final outcome.

There are a number of examples of this practice both here in Australia and internationally. One of the earliest examples come from the City of Geraldton’s 10-year Capital Works Plan Community Panel. The Community Panel, consisting of a 28 randomly-selected members of the community met over four full Saturdays to determine a priority list of projects for inclusion in the City’s ten year capital works plan, as well as a set of criteria (used to determine that ranking), that could be applied by the City for assessing all future capital works.

Melbourne’s largest water corporation, Yarra Valley Water, made use of a citizens’ jury in its 5-year pricing submission to the Essential Services Commission. The unedited report from the randomly selected participants was submitted to the Commission for consideration alongside Yarra Valley

Water's own submission: it resulted in the independent ESC fast-tracking the YVW submission given the clear evidence of deep customer involvement.

In 2016, Eurobodalla Shire Council, under its obligations of the Integrated Planning and Reporting Framework, was required to prepare a Delivery Program, detailing the principal activities it would undertake to achieve the objectives established in the Community Strategic Plan, within the resources available under its Resourcing Strategy. The Council decided to make use of a Citizens' Jury to answer the remit: *Is Council spending our money on the right things? If not, what should change?* This process directly involved a broad cross-section of the community making a significant long-term public decision. The exact same process was undertaken by the City of Greater Bendigo in the same year.

**This practice should be utilised in the long-term strategic planning done at the local government level as a contributor to prudent financial management.** It provides direct involvement in decisions while hearing from a representative cross-section of the community – not just the most active voices.

The ACT Government's Environment Planning and Sustainable Development Directorate, last year, implemented a Collaboration Hub on housing choices in the territory. The Hub was a randomly selected group of everyday people who deliberated on the remit: *"Canberra is changing – and there are many different ways our housing needs can be met. What do we need to do?"* The government agreed to all of the recommendations from the Hub's unedited report.

Direct involvement in complex planning exercises was not beyond the skillset of everyday people and fundamentally improves the community's trust in decisions on a topic that experiences widespread cynicism.

WA should also use regular major deliberative projects for **financial planning** at the beginning of each Local Government term.

These processes have been used throughout Australia to include the community in long-term financial planning that gets beyond public opinion and involves public judgment at the beginning of the decision.

The City of Melbourne's People's Panel (2014) is an example of the ability of everyday people to take a complex budgetary challenge and provide clear and considered recommendations back to Local Government. For the first time, the City of Melbourne produced a 10 Year Financial Plan and gave unparalleled access to a descriptively representative random sample of citizens to attempt to reach a considered set of recommendations to inform the Lord Mayor and Councillors. The City's scope of operations is immense – in the region of \$400m annually – and this was the largest city with the largest budget opening up their budget to a deliberative process giving citizens this level of access and authority.

Substantial, considered public involvement in **rates, fees and charges** decisions that gets beyond the most active voices is difficult.

Success has been found in the use of Citizens' Juries in regular mandated processes that directly channel considered public judgement to independent pricing commissions.

Transparent deliberative process that explain and sets rates, fees and charges for the local community are more widely trusted and received better quality community engagement than the current approach.

#### ***D. Community engagement***

**Recommendation: Embed a charter of meaningful, actionable, testable principles for the community's role.**

WA should shift the focus of community engagement away from *largely* a submissions-based 'hearing' of community concerns and complement it with direct community involvement in public decision-making. This would include people in decision-making throughout a project in co-design processes by applying deliberative principles in a **simple charter** capturing **principles** in the areas of:

- ❖ Representation – are we hearing from a representative mix of voices?
- ❖ Authority – have we clearly and specifically stated what will happen to the community's input, and when that will occur?
- ❖ Ask a genuine question – rather than 'selling an answer', are we clearly sharing the problem and being open to a range of solutions?
- ❖ Time – are we giving the community enough time to read widely and hear the views of others before including their views into a final decision?
- ❖ Diversity of information – are citizens presented with and given the chance to request information from a range of sources on a topic (just a government or advocated position)?

#### ***4. Conclusion & Recommendations***

Western Australia has the chance to be a global leader in the field of democratic innovation by allowing local councils to experiment within a set of understandable and accepted democratic principles – just as in our Federal system allows individual states to demonstrate innovation that is adopted by others. **One clear success story will pave the way for others to follow.**

Our proposal to you is that Western Australia:

1. Deregulate council election formats to permit innovation, allowing for flexibility in the method of representation;
2. 'Embrace and extend' beyond Local Government Victoria's experience in the City of Greater Geelong in 2016 and mandate similar methods in subsequent Council interventions for direct citizen involvement in requesting, selecting and approving local democratic models;
3. Create a mandatory role for randomly selected everyday people in major zoning and planning approvals, financial management and rates, fees and charges decisions once every government term – but without specifying explicit formats and issues (innovation with flexibility).

We would welcome the opportunity to appear before the Review to further explore these ideas and answer any questions which will assist you in your deliberations.

[REDACTED]