

A PROJECT FOR  
**BUILDING TRUST IN GOVERNMENT**

**Executive summary**

A 2012 Lowy Institute survey found that young people have little faith in our democracy: only 39% believe democracy is better than any other form of government.

Can we really say we are surprised? Voting has become a low involvement consumer product focused on catchphrases and effective advertising. Meanwhile, our electoral system rewards election focused behaviour rather than substantive policy detail, making it difficult for the party in office to focus on the business of government.

Over the past seven years, the newDemocracy foundation has initiated a number of discussions on how to rebuild trust in public decision making and in Australian democracy itself. Our work has focused on one simple question:

***How can we improve our democracy so that our governments make decisions  
which are trusted by their citizens?***

There is no single right answer to this question. Our work with Local Councils and the NSW State Government (and the work of the broader research community) has shown that citizens will identify what they trust – and what they distrust – and respond accordingly.

But our work has shown that there is a right way to consider this question so that there is a real outcome. It requires a deliberative process characterised by the random selection of a demographically representative group of citizens, a structure in which these citizens can seek to acquire information and find common ground, and a clear understanding of the path to authority for their deliberations. The latter point is most critical: the exercise is only worth undertaking if all participants know what will happen with the results of their deliberations.

Given the underlying trends in Australia's democracy, including the diminishing voter turnout, the time is right for such a People's Jury to be convened to deliberate on how to improve our democracy. For the process to be worthwhile, it must be commissioned by the Parliament of Australia and have its results tabled in the Parliament.

**Background and Context**

We have all grown up thinking that the contest of ideas - the election contest - is the best way to achieve political compromise. However, the electioneering imperative - the requirement of political parties to win and retain office - now dominates the agenda of modern government. Parties of all

persuasions are beginning to manufacture their differences: ideologies have evaporated and the contest has devolved into populist politics. The compromise is now at the cost of good government. Voting has become just another polling exercise: a low involvement product that one engages with instinctively rather than as the result of a considered comparison.

There are very many advocates for the way we practice democracy today. However, an increasing number are recognizing the need for improvements that respond to our 21<sup>st</sup> century, media driven society. It is worth pausing to consider again the mere 39% of young Australians who believe democracy is better than any other form of government. (<http://www.lowyinstitute.org/news-and-media/news/why-democracy-victim-its-own-success>)

Today, citizens often decry “relentless negativity” and “point scoring”, but politicians are compelled to adopt this behaviour, and there is no obvious alternative. It reflects a structural issue rather than individual personality flaws. Politicians are not bad people, they are simply responding intelligently to their environment. Elections to find “better people” are not the solution.

Instead, the task must be to replace a system that encourages vox pop driven behaviour with a structure that encourages trusted representation and deliberation.

Every contemporary democracy has elections at its core. However, there is a way of addressing the modern inadequacies of the current system, an institution that satisfies political representation and promotes dialogue and consensus: the Jury.

According to Jim Spigelman AC, the recently retired Chief Justice of NSW:

*“We have become accustomed over recent centuries to representatives being chosen by election. However, selection by lot is, notwithstanding what appears to be an element of chance, a fundamentally rational process, with a long and honourable tradition. The jury is a profoundly democratic and egalitarian institution.” [(2005) 79 Australian Law Journal 135.]*

Who should undertake this design review? What better institution than the Jury?

Jim Spigelman again:

*“Selection by lot... has two distinct advantages. First, it operates on the principle that all persons to be selected are fundamentally equal and that, in the relevant circumstances, it is invidious to say that one person is more qualified than another. Secondly, selection by lot prevents corruption of the system.” [Ibid.]*

Confucius defined three requirements for good government: weapons, food and trust. If a ruler can't provide all three, he should give up weapons first, then food. Trust should be guarded to the end. “Without trust,” he said, “we cannot stand”.

Among the various projects undertaken by newDemocracy, the Citizens' Parliament ARC Linkage Project of 2009, run jointly with the ANU, USyd and Curtin University, can be regarded as a pioneering precedent.

(<http://www.newdemocracy.com.au/achievements/item/137-the-australian-citizens-parliament-2009> )

More recently, in 2012, newDemocracy was commissioned by the bi-partisan NSW Parliament Public Accounts Committee to explore citizens' preferences regarding renewable energy. A randomly selected jury was given time and information to explore the issue in depth. The result was a clear consensus around an informed set of recommendations of the type not usually seen in the media or as part of a party policy platform. These recommendations - later mirrored by the Productivity Commission - received a positive response from the business community and were trusted by citizens. Critically, the recommendations were acknowledged by both parties as sensible approaches that were electorally unappealing but made practical sense.

It is newDemocracy's experience that this jury style process tends to depoliticise recommendations. There is a general reluctance in the media to attack a group of people who look very much like their own readership and audience.

It is worth looking at the five recommendations of the Sydney PAC Jury and asking how many would plausibly be offered by someone seeking elected office without the backing of such a jury process. ([http://newdemocracy.com.au/docs/Sydney%20Citizens%20Policy%20Jury\\_Report%202012\\_FINAL.PDF](http://newdemocracy.com.au/docs/Sydney%20Citizens%20Policy%20Jury_Report%202012_FINAL.PDF))

### **Project Overview**

The project outlined here provides for the random selection of a representative group – a People's Jury - and a structure in which the group can acquire information and find common ground. This People's Jury group must be vested with some authority. The latter point is most critical: the exercise is only worth undertaking if all participants know that their deliberations will be considered.

The question to be put to this group is:

***How can we improve our democracy so that our governments make decisions which are trusted by their citizens?***

The Jury's deliberations would explore improvements to the structure of representative Parliament, rather than questions about the relative merits of state governments or the size of government agencies. It is about the existing structures of the political level of decision making and how we empower representatives in different ways.

Additionally, the process itself would be examined to identify the level of public trust in the process and its recommendations, and whether the deliberations result in any superficial or substantive desire for change.

This proposal makes no attempt to create a particular starting point in terms of political philosophy or committee reports to be read by the panel members to create a technical understanding of the topic. It simply poses an open question to be put to a representative group of Australians.

The neutrality of information provision is a paramount principle. The People's Jury members select their own sources of expert information. Expert groups, interest groups, political parties, community groups and lobbyists will be invited to make their case, but the extent of their role is in the hands of

the randomly selected citizens, rather than organisers, facilitators, Government, or the political party choosing to advocate this process.

Unlike the energy debate, the nature of democracy is not an inherently contentious question. The idea that democratic ideals can be met or even improved through an alternative to the current structure is rarely, if ever, contested.

There is no “right” answer to be identified or delivered. Citizens will identify what they trust – and what they distrust – and respond accordingly. The result of the process will be “uncontrolled”: it is not known what recommendations will be reached, as there is neither a draft report nor a binary referenda proposition (“Should we or shouldn’t we”) which is being considered.

For the process to be worthwhile, the deliberations needs to have some authority. The process must be commissioned by the Parliament of Australia and have its results tabled in the Parliament.

#### 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 innovation in democratic structures. The members of the nDF Board and Research Committee - which includes former State Premiers Geoff Gallop and Nick Greiner – have extensive experience in consultation processes, and realise that too often, consultation is confined to feedback forum events largely attended by interest groups and hyper-interested individuals.

Such processes do not result in communities feeling they have had a say. In contrast, nDF proposes that our democratic system, and the many issues and decisions it faces, would be better served by making jury-style processes part of the decision making cycle. This would enable a more representative section of the community to deliberate and achieve a consensus response. Our work to date has shown that by combining the three elements of random selection, the provision of time and access to information, and independently facilitated deliberative forums for dialogue, a more robust and publicly trusted outcome can be obtained. This can assist Governments in achieving public acceptance for difficult tradeoffs.

The newDemocracy Foundation (nDF) provides design frameworks for public deliberation and overall innovation in democratic models. 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. Pro-bono services are provided on occasion.

We are not a think tank and hold no policy views. We also commission independent third party research to ensure robustness and to capture the potential for improvements to existing democratic processes.

The Foundation offers its services to all elected representatives and Governments.

## Project Methodology

### 1. Random Selection of Participants

We propose an initial sample of at least 340 participants across the country. This statistically sound figure is based on a 99% confidence level and a 7% confidence interval to the population of 16,000,000 voters.

In other words, we can be 99% sure that the descriptive match to the community would be repeated on any random sample. The confidence interval figure is large as we work on consensus, generally unanimous but occasionally with a noted minority report. With a simple majority, a confidence interval of +/-1% would change a 51-49 decision. With a consensus process where 95% of participants agree with the recommendations, +/-7% still represents a compelling supermajority. (Statistical tools and definitions are available here: <http://www.surveysystem.com/sscalc.htm>.)

Random selection is the key tool used to secure a descriptively representative sample of the community. Stratification will be used to ensure a mix (matched to Census data) by age, gender and location (by State and regional/metro). Representation by income and ethnic identity is achieved naturally by the randomisation element. A stratification by one other variable can be achieved if this is determined as critical to public trust.

Invitations to participate in the People's Jury will be extended to a randomly selected sample of 100,000 citizens taken from the electoral roll. The invitation will outline the remit, the authority, and the requested time commitment. They will be invited to register electronically with nDF to indicate that they are available for the final selection and can attend on all dates. A further stratified random draw will be conducted among those who register. 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.

This final sample (which incorporates a number of reserves) will be sent a comprehensive schedule and explanatory kit of pre-reading, with a request of the citizen to provide a final acceptance allowing nDF to finalise the panels.

NDF's experience suggests that a response rates between 5% and 38% can be expected in this type of process, which involves considerable commitment of time.

A security code on each invitation deters registration by those outside the sample, and the response list is checked against the original invitation list.

Just as with other juries, per diems and/or reimbursement of transport costs are recommended to avoid excluding financially constrained participants.

### 2. Structure for Deliberation

It is proposed that a total of 12 **People's Juries on Democratic Reform** (PJs) be assembled, involving metropolitan and regional participants in each State. This includes two Juries each in Queensland, NSW, Victoria, and Western Australia, and one each in South Australia, Tasmania, the Northern

Territory and the Australian Capital Territory). Each jury would comprise 30 to 35 randomly selected citizens.

Each of these 12 juries will take part in six face-to-face meetings over approximately four months. The fluid participant count allows the statistical profile match to Census to be maintained even if there is a shortfall in a single category (a stratified random selection). There is negligible statistical impact on representation within that range.

At the conclusion of each process, a further stratified random draw will be conducted among participants to select around 150 participants to attend a five day process in Canberra. This will allow groups to compare findings, and could align with an expert process involving industry and interest groups.

The stratified draw will select 12 to 15 people from each location while preserving an approximate demographic match across the 150 participants. (The confidence level now shifts slightly to 11% - still well within acceptable bands given the supermajority decision being sought.)

The final 150 participants will identify commonalities and consensus across different groups to formulate a national set of recommendations. The recommendations of each metropolitan and regional group will also be preserved and made publicly available.

The jury will be complemented by an exponentially scalable online process. This encourages self-selected advocacy groups to discuss and share, with a view to making submissions for consideration by the People's Jury. The online platform serves a dual role as a gathering place for finished ideas, and as a forum space in which disparate groups can work.

### 3. Establishing the Authority of the People's Juries

It is vital that the limits of the Juries' decision-making authority are pre-agreed and clearly conveyed. These must be expressed simply, broadly and openly so as not to be interpreted as directing a particular decision.

The proposed brief for the Juries is to reach agreement on:

**How can we improve our democracy so that our governments make decisions which are trusted by their citizens?**

The Juries are asked to provide specific, measurable and actionable reform recommendations.

In terms of authority, it is proposed that:

**The Government commits to table the recommendations in both Houses of Parliament.**

#### Preparation and Information Process

Good decisions are based on solid information and sound judgement. The judgement of random samples achieves very high levels of public trust, because they are demonstrably non-partisan. It is therefore imperative that the provision of information to the People's Jury is done in a way that does not erode that trust.

Information selection in any technical area can be very time consuming. The structure includes a public call for submissions, and the Jury is empowered to ask to hear more from the author of any submission. Given the topic, a diversity of submissions is likely. It is anticipated that most entities with an incumbent interest will offer an expert view, as will a range of academics domestically and internationally.

The Juries will also work independently to identify subject matter experts whom they wish to learn from and question. This independence in expert selection underpins the transparency of the exercise and counters a widely-held community view that “you can find an expert to say anything”.

Prior to the first meetings of the People’s Juries, a set of background documents will be circulated to the jurors (a private electronic forum is effective and efficient). This is the baseline content for deliberation.

It is recommended that an online discussion forum (for the use of the Jury and visible to the public) form part of the process. nDF currently works with BangTheTable, who donate in-kind services to nDF.

### Operations

Each location will require a skilled facilitator, preferably one recognised by the International Association of Public Participation (IAP2).

nDF can operate the jury selection process to ensure the highest public confidence in the rigour and independence of the randomisation of invitations, and the sometimes thorny question of why a particular individual was not selected. Experience shows that the public accepts our “rejection” far more easily than it does rejections by government. Alternatively, the AEC or various States’ Sheriff’s Offices (who manage jury rolls) also have the capacity to operate this process.

Meetings would ideally take place within government or university facilities available at negligible cost. Parliament buildings are preferred, as they convey a sense of authority to participants.

nDF utilises an integrated print and distribution service capable of producing invitations on a very fast turnaround. The Electoral Commissioner is free to stipulate processes for handling data to ensure no part of the roll is retained.

### Media Role

The media plays a critical role in supplying information about the exercise. We have noted in other processes that trust is generated when community members should have the chance to see and identify with the people involved, and realise that *“People like me made the decisions”*.

Given current community sentiment that much of what they see in the news is staged, it is imperative to introduce the Jury members as early as possible in the deliberative process: ideally just after the first meeting, and well before the direction of their recommendations is known. If the community trusts the participants, it will trust the recommendations. If you meet the participants for the first time when you are reading their recommendations, the opportunity to build trust has been lost.

### What Constitutes a Decision?

In order to shift the public mindset from adversarial, two-party, either/or contests and convey a sense of broad-based support for the recommendations, nDF recommends requiring an 80% supermajority for a final decision from the jury. In practice, People's Juries tend to reach consensus (or group consent) positions with minority voices included in any report; they rarely need to go to a vote. Decisions are frequently unanimous.

### Costing Outline

Total project cost is approximately \$1.2 million.

Key cost areas are outlined below.

- a. Printing and postage (100,000 invitations to print plus \$0.55 per piece to post) estimated at **\$84,000**.
- b. Catering estimated at **\$150,000** (12 groups x 6 days x 40pax @ \$40ph and 5 days x 150pax @\$50 in Canberra).
- c. Independent facilitators estimated at **\$360,000**.
- d. Participant per diems estimated at **\$220,000** (\$400 x 420 – being 12 groups x 35 people and 150 x \$300 for Federal meeting).
- e. The budget should allow for a reasonable level of expenses (travel and accommodation) and executive time for oversight and management: estimated at **\$100,000**.
- f. Assumed meeting venues can be provided by Government without charge.
- g. Travel and accommodation for Canberra meeting participants estimated at **\$150,000** (150 pax x \$1,000pp)

The Foundation would be happy to operate the process at the request of Government, subject to two requirements.

- i. Government to fund a research project to capture what is learned through the innovation process, to the value of **\$50,000**. As part of our ATO compliance, the research topic will be set by the Research Committee of The newDemocracy Foundation.
- ii. Government to make a matching contribution of **\$50,000** to the newDemocracy Fund, which contributes to the operation of the Research Committee and to the future of improving democracy in Australia.



Key Issues to be managed:

- Government's agreement as to remit and authority.
- Interface with subject matter experts and contributors to ensure accessibility and availability for participation.
- Interest group buy-in and focus on breadth of submissions, and communication of the opportunity to make a submission.
- Allocation of responsibilities for the communications task, including media liaison (this is also an education campaign for the broader community for a new concept and needs to be approached as such).

DRAFT TIMELINE

<p>Initial working meeting</p>	<p>Elected representatives, parliamentary staff and nDF preparatory planning session.</p> <p>Key topics:</p> <ul style="list-style-type: none"> <li>➤ Agree academic oversight representatives and research partner.</li> <li>➤ Identify required background materials and foreseeable expert/ contributor program for inclusion.</li> <li>➤ Identify communication targets (interest group involvement).</li> <li>➤ Revise/ amend/ review this program.</li> <li>➤ Final budget approval by each party.</li> <li>➤ Finalise date specifics – check for major event clashes.</li> <li>➤ Finalise venues.</li> <li>➤ Finalise logistics responsibilities: catering and AV.</li> </ul>
<p>Timing early 2014</p>	<p>Printed invitation sent to a random sample of 100,000 citizens drawn from the electoral roll, plus 8000 from student data sets.</p> <p>Agree <i>RSVP deadline + 4 weeks</i>.</p> <p>Deadline for recruitment and briefing of independent, skilled facilitators in each location.</p> <p>Selection of online platform services (including moderators).</p> <p>Call for submissions.</p>
<p>Q1 2014</p>	<p>First round selection to secure representatives.</p> <ul style="list-style-type: none"> <li>➤ Seeking approximately 30-35 citizens each for 12 groups.</li> <li>➤ Explanation of commitment required: attendance at all elements of process, including potential online discussion presence.</li> <li>➤ Stratified random sample to deliver descriptive match to community (nDF to provide technology/ expertise).</li> </ul>
<p>End Q1 2014</p>	<p>Finalisation of Panels. Provision of welcome kit of materials. Potential to open up online discussion environment for participants.</p>
<p>TBC</p>	<p>Media briefing to explain process.</p>
<p>Meeting 1 <i>(Full day required)</i>  <i>[Simultaneously in 12 locations.]</i></p>	<p><b>Opening day: The First Deliberation– The Learning Phase</b></p> <ul style="list-style-type: none"> <li>➤ Introduction of participants to themselves and the organisers.</li> <li>➤ Introduction of the topic upon which the participants will deliberate: understanding remit and authority. Explanation of influence and context: what will be done with the results the Juries produce.</li> <li>➤ Introduction of the process, and its precedents; understanding the inevitability of bias and importance of constructive, critical thinking/doing.</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Agreement on Jury guidelines for participation.</li> <li>➤ Panel sessions with 2 to 3 expert speakers driven by each group's online discussions prior to meeting. Includes open Q&amp;A.</li> <li>➤ Group to identify speakers sought for future assemblies.</li> <li>➤ Ensure familiarity with and acceptability of online tools</li> </ul>
<p>Meeting 2</p> <p>(Approx 3 week gap)</p> <p>(Full day required)</p>	<p><b>The Second Deliberation – Understanding</b></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>It is envisaged that three expert speakers will appear in-person or via Skype.</p> <p>Ongoing online discourse among the participants is encouraged during the “away” period.</p> <p>Discussion within each group as to whether they would like to meet for additional evening sessions midweek – each group can set its schedule.</p>
<p>Meeting 3</p> <p>(Further 3-4 week gap)</p> <p>(Full day required)</p>	<p><b>The Third Deliberation – Focus</b></p> <p>The Jury will be asked to agree a structure for their report/ presentation.</p> <p>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 further speakers, and a technical session on constitutional change (legalities etc) via video link, are likely at this meeting.</p>
<p>Review</p>	<p><i>Convenors’ Review: do participants need more time or assistance to come to a full understanding of their choices? Potential to extend meeting schedule at this point while still meeting final date requirement.</i></p>
<p>Meeting 4</p> <p>(Full day required)</p>	<p><b>The Fourth Deliberation – Reflect. Discuss. Deliberate.</b></p> <p>There is no fixed output from the session: the goal is to provide a face-to-face forum for the representatives 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 has form but may still have rough edges.</p>
<p>Meeting 5</p>	<p><b>The Fifth Deliberation – Shared Goals</b></p> <p>Consensus session which may incorporate new information to reinforce 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> <p>Random selection within each of the groups occurs live to identify the 12 to 15 representatives to act on behalf of the group in Canberra (150 total).</p>

Meeting 6 (Buffer)	<b>Scheduled for spare – may only be required by some groups.</b>
Federal meeting (5 days)	<p><b>The Final Deliberation – A National View</b></p> <p>Participants will now have acquired a solid grounding in the topic courtesy of background readings, expert appearances (and Q&amp;A) via video link, their own independent research and detailed discourse and deliberations.</p> <p>They now go through an extension of the process with access to experts in person – the focus being to identify where the groups’ recommendations and beliefs can be harmonised into a unified report.</p> <p>The priority is delivery of a prioritised list of reform recommendations by the Jury to the Treasurer. The Treasurer has a discussion with the Jury after reviewing the report (and the initial consensus views out of each State).</p> <p>(The agenda for the five days is crafted in detail once the output of the 12 regional meetings is known – only then will the degree of convergence/ divergence be known.)</p>