

Deliberative mini-publics: institutional design and the quality of democracy

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CERTIFICATE OF ORIGINAL AUTHORSHIP

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This thesis is wholly my own work unless otherwise referenced or acknowledged. In addition, I certify that all information sources and literature used are indicated in the thesis.

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ABSTRACT

Trust in and satisfaction with democracy are on the decline in Australia and around the world. For many scholars and advocates, democratic innovations are a way to reduce this deficit and improve democracy.

However, scholars, advocates and practitioners often assess democratic innovations in terms of how well they achieve the goals of the theory or model of democracy from which they arise – for example, deliberative democracy, direct democracy, and participatory democracy – rather than in terms of the innovation’s contribution to the system of representative democracy.

This thesis goes beyond evaluating adherence to a specific normative democratic model, with the objective of determining whether democratic innovations and, in particular, deliberative mini-publics can improve the quality of democracy and address democratic deficits. This objective is addressed by evaluating the democratic functions of deliberative mini-publics. The democratic functions evaluated in this research are inclusion, collective agenda-setting, collective will-formation, collective decision-making, and accountability, which are operationalised to guide the assessment of deliberative mini-publics.

Using a democratic functions approach supports a better understanding of the strengths and weaknesses of deliberative mini-publics and, as a result, identifies areas for improved design and consideration of how they might be coupled with other democratic innovations or electoral democratic institutions.

In addition to the use of democratic functions, this research uses an institutional lens to consider the institutional design of deliberative mini-publics beyond the usually considered ‘practices’ only. A number of components of institutional theory are considered: institutional modes of constraint: rules, practices, and narratives; institutional entrepreneurs; and institutional work.

The two theoretical lenses – democratic functions and institutionalism – are combined to address the following research questions:

1. What are the strengths and weaknesses of deliberative mini-publics in fulfilling democratic functions?
2. What aspects of the institutional design (institutional modes of constraint) of deliberative mini-publics contribute to these strengths and weaknesses?
3. What role do decision-makers (elected representatives and public servants) and designers of deliberative processes play in enhancing or reducing the ability of deliberative mini-publics to improve the quality of democracy? and
4. How could the institutional design of deliberative mini-publics be improved to strengthen their contribution to democratic functions?

The combination of these lenses provides a richer understanding of how deliberative mini-publics can contribute to the quality of democracy.

For each of the jurisdictional case studies that form part of this thesis, the institutional modes of constraint (rules, practices, and narratives) are used to describe how the deliberative mini-publics conducted in those jurisdictions address the five democratic functions of inclusion, collective agenda-setting, collective will-formation, collective decision-making, and accountability. From this basis, the strengths and weaknesses of each case are assessed.

This thesis considers four jurisdictional case studies: South Australia, Noosa Shire Council, the City of Kingston Council and Goulburn Valley Water. In each jurisdiction, multiple deliberative mini-publics have been conducted. In each case, interviews with decision-makers and process designers support a detailed understanding of the rules, practices, and narratives and how they support or undermine each other. This analysis identifies areas where deliberative mini-publics are strong in fulfilling democratic functions and where they could be strengthened.

Two additional case studies focus on process designers and advocates, the newDemocracy Foundation and democracyCo, from the perspective of institutional entrepreneurship. These cases further improve our understanding of the role of agents, in particular non-government advocates for deliberative processes.

This thesis demonstrates the value of formally applying an institutional lens to the study of participatory democratic institutions such as deliberative mini-publics. My research findings identify that the narratives of decision-makers and change agents can have a significant impact, often unintentionally, on the ability of deliberative mini-publics to fulfil democratic functions, despite the existence of solid practices. Regulatory requirements (rules) can also have a significant impact, even when they do not specify deliberative processes.

After analysing the strengths and weaknesses of deliberative mini-publics in contributing to democratic functions, I make recommendations about changes to the design and implementation of deliberative mini-publics to build on these strengths and reduce the weaknesses. This approach for studying deliberative mini-publics combines institutionalism and democratic functions, opening up a new research area for scholars interested in understanding participatory democratic institutions more broadly. It also guides governments, advocates and practitioners when designing and implementing deliberative mini-publics, opening up new ways of thinking about the various elements of deliberative mini-publics.

Finally, this research suggests a potential additional democratic function of legitimacy to allow explicit consideration of the support particular institutions have – or don't have – with decision-makers and citizens, in terms of delivering the democratic functions and improving democracy.

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CONTENTS

CERTIFICATE OF ORIGINAL AUTHORSHIP	2
ABSTRACT.....	3
ACKNOWLEDGEMENTS	5
<u>CONTENTS</u>	<u>6</u>
LIST OF TABLES	14
LIST OF FIGURES.....	15
GLOSSARY	16
<u>CHAPTER 1 INTRODUCTION.....</u>	<u>17</u>
1.1 FOCUS OF THIS RESEARCH	18
1.2 RESEARCH QUESTIONS	21
1. 3. RESEARCH DESIGN	22
1.3.1 CASE STUDIES.....	22
1.3.2 ANALYTICAL APPROACH	22
1.3.3 RESEARCH METHODS	23
1.4. OVERVIEW OF THIS THESIS.....	23
Chapter 2, Democracy Literature Review.....	23
Chapter 3, Institutional Literature Review	24
Chapter 4, Research Design.....	24
Chapter 5, South Australian Case Study	24
Chapter 6, Noosa Shire Council Case Study.....	24
Chapter 7, the City of Kingston Council Case Study	25
Chapter 8, Goulburn Valley Water Case Study.....	25
Chapter 9, Institutional Entrepreneurs Case Studies	26
Chapter 10, Discussion.....	26
Chapter 11. Conclusion.....	27
1.5. SIGNIFICANCE OF THIS RESEARCH	27
<u>CHAPTER 2 DEMOCRACY LITERATURE REVIEW</u>	<u>28</u>
2.1 INTRODUCTION	28
2.2 ORIGINS AND DEFINITIONS OF DEMOCRACY	28
2.3 REPRESENTATIVE DEMOCRACY	29
2.4 THE DEMOCRATIC DEFICIT	31
2.4.1 SUPPLY-SIDE ASPECTS OF THE DEMOCRATIC DEFICIT.....	31
2.4.2 DEMAND-SIDE ASPECTS OF THE DEMOCRATIC DEFICIT	32
2.4.3 AUSTRALIAN PERSPECTIVES ON THE DEMOCRATIC DEFICIT.....	32
2.5 NON-ELECTORAL PARTICIPATION.....	33
2.6 DEMOCRATIC INNOVATIONS.....	37
2.7 DELIBERATIVE MINI-PUBLICS.....	38
2.7.1 THE IMPORTANCE OF DESIGN.....	38
2.8 EVALUATING PARTICIPATORY DEMOCRATIC INSTITUTIONS	44
2.8.1 DEMOCRATIC GOODS	44

2.8.2 DEMOCRATIC FUNCTIONS.....	45
2.9 EVALUATING DELIBERATIVE MINI-PUBLICS.....	47
2.9.1 DEMOCRATIC GOODS	47
2.9.2 DEMOCRATIC FUNCTIONS.....	48
2.9.3 MY APPROACH TO EVALUATING DELIBERATIVE MINI-PUBLICS	50
2.10 CONCLUSION	51

CHAPTER 3 INSTITUTIONALISM LITERATURE REVIEW 53

3.1 INTRODUCTION	53
3.2 WHAT ARE INSTITUTIONS?	53
3.3 WHY ARE INSTITUTIONS IMPORTANT?.....	56
3.4 INSTITUTIONAL STABILITY OR FLUX	57
3.4.1 EVOLUTIONARY CHANGE	58
3.4.2 INCREMENTAL CHANGE.....	59
3.4.3 THIRD-WAVE INSTITUTIONALISM AND CHANGE	60
3.5 INSTITUTIONAL CHANGE, DESIGN, AND FORMATION	61
3.6 THE ROLE OF ACTORS	63
3.6.1 INSTITUTIONAL ENTREPRENEURS	64
Framing the vision	65
Mobilising allies, discourses and resources.....	65
Sustaining the vision	65
3.6.2 INSTITUTIONAL WORK.....	66
3.7 BRINGING INSTITUTIONAL CHANGE AND ACTORS TOGETHER.....	68
3.8 INSTITUTIONALISM AND PARTICIPATORY DEMOCRATIC INSTITUTIONS	69
3.9 CONCLUSION	70

CHAPTER 4 RESEARCH DESIGN..... 72

4.1 INTRODUCTION	72
4.2 RESEARCH PHILOSOPHY.....	72
4.3 CASE STUDY METHODOLOGY.....	73
4.3.1 JURISDICTIONAL CASE STUDIES	74
4.3.2 INSTITUTIONAL ENTREPRENEURS' CASE STUDIES	77
4.4 DATA COLLECTION AND ANALYSIS.....	78
4.4.1 DATA COLLECTION	79
4.4.2 ANALYTICAL FRAMEWORK.....	82
4.4.3 ANALYTICAL STEPS FOR JURISDICTIONAL CASE STUDIES	82
4.4.4 OPERATIONALISING DEMOCRATIC FUNCTIONS FOR DELIBERATIVE MINI-PUBLICS	83
4.4.5 ANALYTICAL FRAMEWORK FOR INSTITUTIONAL ENTREPRENEURS	85
4.5 RESEARCH DESIGN TO ANSWER RESEARCH QUESTIONS.....	85
4.6 ETHICAL ISSUES	86
4.7 METHODOLOGICAL LIMITATIONS	87
4.8 CONCLUSION	89

CHAPTER 5 SOUTH AUSTRALIAN CASE STUDY 90

5.1. INTRODUCTION	90
5.2 CONTEXT OF THIS CASE	90

5.2.1 OVERARCHING NARRATIVES.....	93
The newDemocracy Foundation’s response to these narratives	95
5.3 OVERVIEW OF THE CASE	96
5.4 ANALYSIS.....	100
5.4.1 INCLUSION.....	102
a. Who is invited to participate?.....	102
b. How are barriers to participation identified and addressed?.....	103
c. How do the selection criteria reflect the characteristics of the affected community?	104
d. To what extent does the mini-public reflect the intended diversity, i.e. does it achieve the demographic goals?	106
5.4.2 COLLECTIVE AGENDA-SETTING	108
a. Who chooses the topic or issue for the DMP?	108
b. Who determines the remit for the DMP?	108
c. Is the remit too broad or too narrow?.....	110
d. Can the deliberative mini-public amend or interpret its remit?	110
5.4.3 COLLECTIVE WILL-FORMATION	110
a. Does the design of the deliberative process align with deliberative principles?	110
b. Is the implementation of the deliberative process robust?	111
c. How is the will of people outside of the mini-public incorporated?.....	111
d. Does the deliberative mini-public reach consensus?.....	112
e. Does the deliberative mini-public provide reasons for its recommendations?	113
5.4.4 COLLECTIVE DECISION-MAKING	113
a. Did decision-makers commit upfront regarding the deliberative mini-public’s recommendations?	113
b. To what extent did decision-makers meet their upfront commitment?.....	114
c. Is a decision made, and by whom?.....	114
d. To what extent do the decision-makers adopt the deliberative mini-public’s recommendations?	115
5.4.5 ACCOUNTABILITY	120
a. Did decision-makers give a commitment upfront regarding accountability?	120
b. To what extent did decision-makers meet their upfront commitment?.....	120
c. Do decision-makers make public their decisions and reasons?	120
d. Do decision-makers publicly report on the implementation of their decisions?	120
e. Does the deliberative mini-public have a role in monitoring the implementation of the decisions?.....	121
5.4.6 INSTITUTIONAL MODES OF CONSTRAINT.....	126
5.5 CONCLUSION	129
<u>CHAPTER 6 NOOSA SHIRE COUNCIL CASE STUDY</u>	<u>130</u>
6.1 INTRODUCTION	130
6.2 CONTEXT: AMALGAMATION AND DE-AMALGAMATION	130
6.3 CASE OVERVIEW.....	132
6.3.1 OVERARCHING NARRATIVES.....	134
Council’s initial narratives.....	134
newDemocracy Foundation’s narratives.....	135
Council’s evolving narratives	137
Institutionalisation narratives – pilot phase or pilot project?.....	139
6.4 ANALYSIS.....	140
6.4.1 INCLUSION.....	141
a. Who is invited to participate?	141

b.	How are barriers to participation identified and addressed?.....	141
c.	How do the selection criteria reflect the characteristics of the affected community?	142
d.	To what extent does the mini-public reflect the intended diversity, i.e. does it achieve the demographic goals?	142
6.4.2	COLLECTIVE AGENDA-SETTING	142
a.	Who chooses the topic or issue for the DMP?	142
b.	Who sets the remit?	143
c.	Is the remit too broad or too narrow?.....	143
d.	Can the deliberative mini-public amend or interpret its remit?.....	143
6.4.3	COLLECTIVE WILL-FORMATION	144
a.	Does the design of the deliberative process align with deliberative principles?	144
b.	Is the implementation of the deliberative process robust?	144
c.	How is the will of people outside of the mini-public incorporated?	144
d.	Does the deliberative mini-public reach consensus?	144
e.	Does the deliberative mini-public provide reasons for its recommendations?	145
6.4.4	COLLECTIVE DECISION-MAKING	145
a.	Did decision-makers commit upfront regarding the deliberative mini-public's recommendations?	145
b.	To what extent did decision-makers meet their upfront commitment?	146
c.	Was a decision made, and by whom?	147
d.	To what extent do the decision-makers adopt the deliberative mini-public's recommendations?	147
6.4.5	ACCOUNTABILITY	150
a.	Did decision-makers give a commitment upfront regarding accountability?	150
b.	To what extent did decision-makers meet their upfront commitment?.....	150
c.	Do decision-makers make public their decisions and reasons?	150
d.	Do decision-makers publicly report on the implementation of their decisions?.....	150
e.	Does the deliberative mini-public have a role in monitoring the implementation of the decisions?	151
6.4.6	INSTITUTIONAL MODES OF CONSTRAINT.....	154
6.5	CONCLUSION	157

CHAPTER 7 CITY OF KINGSTON COUNCIL CASE STUDY **159**

7.1.	INTRODUCTION	159
7.2	VICTORIAN LOCAL GOVERNMENT	159
7.3	OVERVIEW OF THE CITY OF KINGSTON COUNCIL	160
7.3.1	OVERARCHING NARRATIVES.....	161
7.4	ANALYSIS.....	164
7.4.1	INCLUSION.....	164
a.	Who is invited to participate?	164
b.	How are barriers to participation identified and addressed?	165
c.	How does the selection criteria reflect the characteristics of the affected community?	166
d.	To what extent does the mini-public reflect the intended diversity, i.e., does it achieve the demographic goals?	167
7.4.2	COLLECTIVE AGENDA-SETTING	168
a.	Who chooses the topic of issue for the DMP?	168
b.	Who sets the remit?.....	169
c.	Is the remit too broad or too narrow?	169
d.	Can the deliberative mini-public amend or interpret its remit?.....	169
7.4.3	COLLECTIVE WILL-FORMATION	170

a. Does the design of the deliberative process align with deliberative principles?	170
b. Is the implementation of the deliberative process robust?	171
c. How is the will of people external to the deliberative mini-public incorporated into the will-formation process?	171
d. Do the deliberative mini-publics reach a consensus?	171
e. Does the mini-public provide reasons for its recommendations?	172
7.4.4 COLLECTIVE DECISION-MAKING	173
a. Did decision-makers commit upfront regarding how they would respond to the deliberative mini-public's recommendations?	173
b. To what extent did the decision-makers meet their upfront commitment?	173
c. Is a decision made, and by whom?.....	174
d. To what extent do the decision-makers adopt the deliberative mini-public's recommendations?	175
7.4.5 ACCOUNTABILITY	175
a. Did decision-makers give a commitment upfront regarding accountability for their decisions?	175
b. To what extent did decision-makers meet their upfront commitment?	175
c. Do decision-makers make public their decisions and reasons?	175
d. Do decision-makers publicly report on the implementation of their decisions?	176
e. Does the deliberative mini-public have a role in monitoring the implementation of the decisions?.....	176
7.4.6 INSTITUTIONAL MODES OF CONSTRAINT.....	180
7.5 CONCLUSION	183

CHAPTER 8 GOULBURN VALLEY WATER CASE STUDY..... 184

8.1. INTRODUCTION	184
8.2 CONTEXT: VICTORIAN WATER AUTHORITIES.....	184
8.2.1 OVERVIEW OF GOULBURN VALLEY WATER	186
8.3 ANALYSIS.....	190
8.3.1 INCLUSION.....	190
a. Who is invited to participate?	190
b. How are barriers to participation identified and addressed?.....	191
c. How does the selection criteria reflect the characteristics of the affected community?.....	191
d. To what extent does the mini-public reflect the intended diversity, i.e., does it achieve the demographic goals?	192
8.3.2 COLLECTIVE AGENDA-SETTING	195
a. Who chooses the topic or issue for the mini-public?.....	195
b. Who sets the remit?	196
c. Is the remit too broad or too narrow?	196
d. Can the deliberative mini-public amend or interpret their remit?.....	196
8.3.3 COLLECTIVE WILL-FORMATION	196
a. Does the design of the deliberative process align with deliberative principles?	196
b. Is the implementation of the deliberative process robust?	197
c. How is the will of people outside of the mini-public incorporated?.....	198
d. Does the deliberative mini-public reach consensus?.....	198
e. Does the deliberative mini-public provide reasons for its recommendations?	199
8.3.4 COLLECTIVE DECISION-MAKING	199
a. Did decision-makers give a commitment upfront regarding the [deliberative] mini-public's recommendations?.....	199
b. To what extent did decision-makers meet their upfront commitment?.....	199

c. Is a decision made, and by whom?.....	199
d. To what extent do the decision-makers adopt the [deliberative] mini-public’s recommendations?	199
8.3.5 ACCOUNTABILITY	200
a. Did decision-makers give a commitment upfront regarding accountability?	200
b. To what extent did decision-makers meet their upfront commitment?.....	200
c. Do decision-makers make public their decisions and reasons?.....	200
d. Do decision-makers publicly report on the implementation of their decisions?.....	200
e. Does the deliberative mini-public have a role in monitoring the implementation of the decisions?.....	201
8.3.6 INSTITUTIONAL MODES OF CONSTRAINT	205
8.4 CONCLUSION	208

CHAPTER 9 INSTITUTIONAL ENTREPRENEURS CASE STUDIES 210

9.1 INTRODUCTION	210
9.2 INSTITUTIONAL ENTREPRENEURS	210
9.3 ORGANISATIONAL CASES	211
THE NEWDEMOCRACY FOUNDATION - A PRAGMATIC REVOLUTIONARY	211
DEMOCRACYCO: IMPROVING DEMOCRACY FROM THE INSIDE AND OUT	212
9.4 ENABLING CONDITIONS FOR INSTITUTIONAL ENTREPRENEURS	213
9.4.1 ENABLING CONDITIONS AND THE ORGANISATIONAL CASES	213
Field characteristics: stability of the field	213
Field characteristics: nature of the institutions.....	214
9.4.2 ACTOR’S SOCIAL STATUS AND THE ORGANISATIONAL CASES.....	214
The newDemocracy Foundation.....	215
democracyCo	216
9.5 IMPLEMENTING DIVERGENT CHANGE	216
9.5.1 CREATING A VISION FOR DIVERGENT CHANGE AND THE ORGANISATIONAL CASES	217
The newDemocracy Foundation’s vision	217
DemocracyCo’s vision	219
9.5.2 MOBILIZING ALLIES AND RESOURCES AND THE ORGANISATIONAL CASES.....	220
The newDemocracy Foundation.....	220
DemocracyCo.....	227
9.6 CONTRIBUTING TO IMPROVING THE QUALITY OF DEMOCRACY	230
THE NEWDEMOCRACY FOUNDATION	231
DEMOCRACYCO	233
9.7 CONCLUSION	233

CHAPTER 10 DISCUSSION CHAPTER 234

10.1 INCLUSION	234
a. Who is invited to participate?.....	234
b. How are barriers to participation identified and addressed?.....	235
c. How do the selection criteria reflect the characteristics of the affected community?.....	236
d. To what extent does the mini-public reflect the intended diversity, i.e., does it achieve the demographic?	236
10.2 COLLECTIVE AGENDA-SETTING	237
a. Who determines the topic or issue for the DMP to address?	237
b. Who sets the remit?	238

c. Is the remit too broad or too narrow?.....	238
d. Can the deliberative mini-public amend or interpret its remit?	239
10.3 COLLECTIVE WILL-FORMATION.....	239
a. Does the design of the deliberative process align with deliberative principles?	239
b. Is the implementation of the deliberative process robust?	240
c. How is the will of people outside of the mini-public incorporated?	240
d. Does the deliberative mini-public reach consensus?	241
e. Does the deliberative mini-public provide reasons for its recommendations?	241
10.4 COLLECTIVE DECISION-MAKING.....	242
a. Did decision-makers commit upfront regarding how they would respond to the deliberative mini-public's recommendations?	242
b. To what extent did decision-makers meet their upfront commitment?	243
c. Is a decision made, and by whom?	243
d. To what extent do the decision-makers adopt the deliberative mini-public's recommendations?.....	243
10.5 ACCOUNTABILITY	244
a. Did decision-makers give a commitment upfront regarding accountability?	244
b. To what extent did decision-makers meet their upfront commitment?	245
c. Do decision-makers make public their decisions and reasons?	245
d. Do decision-makers publicly report on the implementation of their decisions?.....	245
e. Does the deliberative mini-public have a role in monitoring the implementation of the decisions?	246
10.6 LEGITIMACY.....	246
10.7 INSTITUTIONAL MODES OF CONSTRAINT	249
Narratives.....	249
Practices.....	249
Rules-in-use	249
Rules.....	249
10.8 CONCLUSION	250
<u>CHAPTER 11 CONCLUSION.....</u>	<u>252</u>
11.1 INTRODUCTION	252
11.2 RESEARCH FINDINGS	252
11.2.1 INCLUSION.....	253
11.2.2 COLLECTIVE AGENDA-SETTING	254
11.2.3 COLLECTIVE WILL-FORMATION	255
11.2.4 COLLECTIVE DECISION-MAKING	256
11.2.5 ACCOUNTABILITY.....	257
11.2.6 INSTITUTIONAL MODES OF CONSTRAINT	258
11.3 GENERALISABILITY OF RESEARCH FINDINGS	259
11.4 ORIGINAL CONTRIBUTION TO KNOWLEDGE	259
11.4.1 THEORETICAL CONTRIBUTIONS.....	259
11.4.2 METHODOLOGICAL CONTRIBUTIONS	260
11.4.3 EMPIRICAL CONTRIBUTIONS.....	261
11.4.4 NORMATIVE CONTRIBUTIONS	261
11.5 RESEARCH LIMITATIONS.....	261
11.6 RECOMMENDATIONS FOR FUTURE RESEARCH AND DESIGN	262
11.7 CONCLUDING COMMENTS	266
<u>BIBLIOGRAPHY.....</u>	<u>268</u>

APPENDICES	290
APPENDIX 1 INTERVIEW PROTOCOLS.....	290
APPENDIX 2 SA DELIBERATIVE MINI-PUBLIC INVITATIONS.....	293
Nightlife Jury invitation.....	293
Drains Panel invitation.....	294
Bicycle jury.....	296
Dog and Cat Jury invitation.....	297
First Nuclear Jury invitation.....	300
Second Nuclear Jury invitation	302
APPENDIX 3 NOOSA COUNCIL DELIBERATIVE MINI-PUBLIC INVITATION	304
APPENDIX 4 KINGSTON DELIBERATIVE MINI-PUBLIC INVITATIONS	305
Customer Charter Panel invitation	305
Customer Charter Panel envelope.....	307
Housing and Neighbourhood Character Panel invitation.....	308
Libraries Panel invitation	310
Kingston Ward Committees invitations.....	311
APPENDIX 5 GOULBURN VALLEY WATER MINI-PUBLIC INVITATIONS	312
APPENDIX 6 NEWDEMOCRACY FOUNDATION TIMELINE	314
APPENDIX 7 DEMOCRACYCO TIMELINE	318

List of tables

Table 1: Comparison Of Design Principles For DMPs	41
Table 2: Smith's Application Of His Democratic Goods To Deliberative Mini-Publics	48
Table 3: Canadian Citizens' Assembly And Democratic Functions	49
Table 4: Jäske & Setälä's (2020) Analysis Of Deliberative Mini-Publics Against Democratic Functions	50
Table 5: Modes Of Institutional Constraint: Key Characteristics	56
Table 6: Institutional Work - Creating Institutions	67
Table 7: Institutional Work - Maintaining Institutions	67
Table 8: Institutional Entrepreneurs - Disrupting Institutions	67
Table 9: Comparison Of Institutional Work, Institutional Change And Change And Design	69
Table 10: Sources Of Data To Identify Institutional Modes Of Constraint.	80
Table 11: List Of Informants For Each Case Study	81
Table 12: Operationalisation Of Democratic Functions For Deliberative Mini-Publics	84
Table 13: Research Methodology	86
Table 14: Key Features Of South Australian Deliberative Mini-Publics, 2013–2016	97
Table 15: South Australian Deliberative Mini-Public Commitments And South Australian DMPs - Public Commitments And Responses To Recommendations	117
Table 16: Democratic Functions – Overview Of Strengths And Weaknesses Of South Australian Dmps	122
Table 17: Institutional Modes Of Constraint - Overview Of South Australian DMPs	127
Table 18: Overview Of Key Features Of Noosa Community Juries	133
Table 19: Strengths And Weaknesses Of Shire Of Noosa Community Juries Against Democratic Functions	152
Table 20: Institutional Modes Of Constraint - Overview Of Noosa Shire Council's Community Juries	155
Table 21: Key Features Of Kingston Council's Processes	163
Table 22: Strengths And Weaknesses Of Kingston Council's Processes Against Democratic Functions	177
Table 23: Institutional Modes Of Constraint - Overview Of Kingston Council's Processes	181
Table 24: Overview Of Goulburn Valley Water's Processes	188
Table 25: Strengths And Weaknesses Of GVW Mini-Publics Against Democratic Functions	203
Table 26: Institutional Modes Of Constraint – Goulburn Valley Water Forums	206
Table 27: Democratic Functions And Institutional Modes Of Constraint	264
Table 28: Democratic Functions And DMPs: Areas For Additional Study	265

List of figures

Figure 1: Arnstein's Ladder Of Participation	36
Figure 2: Theories Of Change Matrix	61
Figure 3: Temporal Dimensions Of Institutional Design, Formation And Change	63
Figure 4: Multiple Case Studies With Multiple Embedded Units Of Analysis	75
Figure 5: The Four Jurisdictional Cases Studies And Their Embedded Units Of Analysis	76
Figure 6: The Two Institutional Entrepreneur Case Studies	78
Figure 7: Infographic For The First Nuclear Jury	107
Figure 8: Infographic For The Second Nuclear Jury	107
Figure 9: Infographic Of Demographics For Kingston Libraries Strategy Panel	168
Figure 10 Infographic For Goulburn Valley Water Customer Forum, May 2019	193
Figure 11 Goulburn Valley Water Customer Carbon Advisory Group, June 2019	194
Figure 12 Goulburn Valley Water Outcomes Report To ESC	201

Glossary

DEWNR	Department of Environment, Water and Natural Resources, South Australia
DI	democratic innovations
DMP	deliberative mini-public
ESC	Essential Services Commission, Victoria
GWV	Goulburn Valley Water, Victoria
nDF	the newDemocracy Foundation
NEP	non-electoral participation
PB	participatory budgeting
SA	South Australia

CHAPTER 1 INTRODUCTION

This is the core principle: people should have as much control as possible over those decisions which affect their lives. “Freedom” is the power to make choices about one’s own life; “democracy” is the power to participate in the effective control of collective choices that affect one’s life as a member of the wider society.

Olin-Wright, 2010: 18

The regime under which we live significantly impacts our daily lives. Depending on that regime's nature and design, we may not have the ‘freedom’ identified above. And even under a regime calling itself a ‘democracy’, we may or may not have the *power* to participate or *effective* control of collective choices.

There is a widespread view that democracy is the best of all regimes. In theory, this should be true, with the word's origin and its components - referring to people and power (Cartledge, 2016); all democracies should be about sharing power. However, with the large populations in most cities and countries, direct sharing of power daily is almost impossible. This is one of the reasons for the development of representative democracy.

Representative democracy has become so ubiquitous that most internet searches using the term ‘democracy’ deliver lists that relate specifically to representative democracy and the majority to the form of representative democracy operating in the United States of America.

The design of democracies varies significantly, not simply regarding those countries where the use of the word democracy is simply a smoke screen for an authoritarian regime, but also for those whose institutions appear to deliver some form of power to the people. A usual starting point when considering representative democracy is the division between consensual and majoritarian models (Lijphart, 2012), which focuses principally on the electoral system used to establish a government and its impact on how that government will operate. The majoritarian model “concentrates political power in the hands of a bare majority... whereas the consensus tries to share, disperse, and limit power in a variety of ways” (2012: 2).

Representative democracy has the potential to give people “the power to participate in the effective control of collective choices”; however, this does not always happen. There is a range of critiques of representative democracy, particularly the elite version, where elected representatives make the majority of decisions. This form of representative democracy is critiqued because people’s only opportunity to participate comes at elections, held every three to five years, when they can vote for a person or party based on the policy platform then. Participation in elections is a limited form of participation, not just temporally but also because many decisions governments need to make are not explicitly covered by their policy platform.

It was dissatisfaction with this elite form of democracy, where voting is the only input required from citizens, that led to calls for a more participatory form of democracy in the 1960s and 1970s (Arnstein, 1969; Pateman, 1970). Pateman's participatory democracy called for expanding people's role not only in representative democracy but also in their workplaces. Whilst participatory democracy did not achieve all of its aims, particularly around power sharing, it initiated the development of a range of options for people to participate between elections, referred to in this thesis as non-electoral participation (NEP).

In addition to participatory democracy, other models have been developed to change or supplement elite democracy, such as deliberative democracy and direct democracy. Some of the approaches to NEP in use today include public meetings, focus groups, surveys, submissions, discussion papers, citizen-initiated referendums, participatory budgeting, online discussion forums, deliberative mini-publics, deliberative polls, and collaborative governance.

One of the critical challenges for NEP is the extent to which participation results in 'effective control of collective choices.' In a representative democracy, except in rare situations, decisions are made by elected representatives or public servants to whom they have formally devolved decision-making authority. It is rare for elected representatives to devolve decision-making authority to individuals or groups of individuals outside of government. Without devolution of decision-making, the focus moves to how responsive elected representatives are to the people, their constituents. So, while NEP is now an accepted part of representative democracy, the appropriate level of responsiveness to the input from that participation is profoundly unclear.

Without voting to identify the majority view, it can be difficult for decision-makers to determine how they respond to diverse and sometimes conflicting points of view. Various democratic innovations, such as deliberative mini-publics, claim to address this challenge by engaging with a diverse group of people who deliberate to reach a consensus on a set of recommendations. Deliberative mini-publics (DMPs) are a form of citizen engagement arising from the theory of deliberative democracy.

Proponents of deliberative democracy argue that for democracy to be legitimate, it requires deliberation to have a central place (Dryzek, 1990). Although DMPs are a prominent mechanism for deliberation, proponents of deliberative democracy see them as just one venue for deliberation (Dryzek and Niemeyer, 2010; Mansbridge et al., 2012; Wegmann and Bächtiger, 2022; Niemeyer, 2014). For these scholars, deliberation should happen in various parts of the public sphere, for example, in Parliaments (Bächtiger et al., 2005).

The use of DMPs to address this responsiveness challenge is not accepted by everyone (Lafont, 2019). Nonetheless, many scholars see democratic innovations, including deliberative mini-publics, as key institutions to improve democracy. And yet, much of the evaluation and design of these institutions isn't done with an eye on democracy (broadly defined) but rather on the model of democracy from which this innovation derives. That is the genesis for this research. I aim to go beyond a model-based approach to consider whether deliberative mini-publics contribute to the quality of democracy broadly.

1.1 Focus of this research

It is often difficult to say whether an innovation has the effect of preserving the existing order by making it more effective and efficient or whether it has succeeded in changing or even transforming the system to create something very different and ultimately better... Perhaps the best we can do is leave the value judgements aside while trying to assess whether a given innovation has succeeded in achieving at least some of its goals. (Newton, 2012: 5)

A significant amount of scholarship around democratic innovations and deliberative mini-publics aligns with Newton's view that it isn't possible to determine their contribution to democracy. Instead, it has focused on their compliance with and achievement of the democratic model from which they spring.

Despite a personal view that electoral reform, in particular, the introduction of a consensual model, would improve Australian democracy, I recognise that this is unlikely in the short and probably even in the longer term. In addition, even with a different electoral system, the importance of engaging citizens between elections, on decisions that impact their lives will always be required. This is where NEP and its role as part of our system of democracy becomes important.

Newton's quote above, referring to democratic innovations and the system of democracy, suggests that we can't determine whether democratic innovations improve democracy. For some time, I reluctantly agreed with this statement as I struggled to identify how to assess the impact of democratic innovations on the democratic system. This was partly because much of the scholarship on the quality of democracy either dealt only with representative democracy or specifically addressed the quality of particular models of democracy.

Graham Smith introduced a broader conception of the contribution that democratic innovations could make to democracy with his concept of democratic goods (2009). These democratic goods were inclusiveness, popular control, considered judgement and transparency. Smith's democratic goods did provide a method to go beyond this model-based approach. However, it didn't support a comparison of the strengths and weaknesses of various democratic institutions across the system.

The democratic functions approach developed by Mark Warren (2017) allows this comparison and supports consideration of how to design a system that delivers against all democratic functions, albeit through numerous institutions. The democratic functions developed by Warren (2017) arise from two key questions he proposes need to be answered, as follows:

1. What problems does a political system need to solve if it is to function democratically? and
2. What are the strengths and weaknesses of generic political practices as ways and means of addressing these problems? (2017: 39)

Warren answers the first question by identifying three democratic functions: "empowers inclusion, forms collective agendas and wills, and organizes collective decision capacity." For the second question, he focuses on how identifying strengths and weaknesses of various practices supports identifying a political system that 'combine[s] these practices, usually into institutions, in ways that maximize their strengths and minimize their weaknesses, relative to the three broad democratic problems." (2019: 39)

My research applies an amended set of democratic functions based on the work of Jäske and Setälä (2019): inclusion, collective agenda-setting, collective will-formation, collective decision-making and accountability. However, I do use inclusion as a democratic function, rather than as something that applies across all functions¹. I agree with Jäske and Setälä that, for analytical reasons, there is value in separating agenda-setting and will-formation and that a democracy needs to deliver explicitly accountability, not simply as part of collective decision-making, in addition to these other democratic functions.

For my research, I combined the consideration of democratic functions with an institutional lens to allow a deeper consideration of how democratic institutions might fulfil the various

¹ There is overlap between many of the democratic functions.

democratic functions. Warren's reference to combining practices into institutions does not address the full complexity of institutions. Institutions are more than a combination of practices. Institutions are constrained and enabled by rules, practices and narratives (Lowndes and Roberts, 2013). Lowndes and Roberts define these modes of constraint as follows

Rules: are formally constructed and recorded; they impact actors through reading representations and interpretations of rules; are often justified by narratives and may formalise well-established practices.

Practices: are demonstrated through conduct; impact on actors through the observation of routinised action of members of the ground recreating those actions; often form the basis of narrative, and rules may specify practices required to enact the rules.

Narratives: are expressed through the spoken word; impact through familiar stories and shared understandings to the point where the normative implications are taken for granted; often used to make a case for changes to the rules and can present current practices in either a positive or negative light.

Note: that practices can become informal rules, called 'rules-in-use.' (Ostrom, 2005; Lowndes et al., 2006).

Regarding DMPs, there has been a growth in the publication of 'how to guides' that focus on existing good *practices* and the principles of deliberative democracy (newDemocracy Foundation, 2018; OECD, 2020, Curato et al., 2021). In addition, most scholarship around deliberative mini-publics conflates institutional design with practices. Whilst this is understandable because practices are often the most prominent aspect of an institution, this approach doesn't support a nuanced understanding of the impact of the institutional modes of constraint. In particular, this approach can be blind to situations where narratives and practices conflict. If researchers are unaware of the institutional modes of constraint, they can wonder why seemingly positive practices don't deliver the democratic outcomes expected. Identifying the underlying narratives of various actors can help to explain these unexpected outcomes, especially where these narratives guide the interpretation and implementation of rules and practices.

Adopting an institutional lens also provides tools to consider the role of actors in creating new institutions or maintaining existing ones. Whilst traditionally, institutionalism has focused on stability rather than change, over time, theories developed to acknowledge change as either the result of crises or as evolving over long periods and as the result of factors endogenous or exogenous to the institution (Peters, 2012; Pierson, 2000; March and Olsen, 2004). More recently, it has been recognised that change can also happen in the medium term and that actors can generate change intentionally through institutional design and unintentionally (Battilana et al., 2009; Goodin, 1998; Lawrence and Suddaby, 2006; Lowndes and Roberts, 2013; Streeck and Thelen, 2005; Vermeule, 2007). This recognition of medium-term change and actors' roles allows scholars to study institutional change as it unfolds.

This research uses two particular conceptual frameworks to consider the role of actors in institutional change and maintenance: institutional entrepreneurs and institutional work. Battilana et al. (2009) define institutional entrepreneurs as change agents who initiate divergent changes and actively participate in the implementation of those changes (2009:

68). I use their model to look at the work of two organisations, the newDemocracy Foundation and democracyCo, beyond their involvement in the jurisdictional case studies. The concept of institutional work provides a language to identify the work of various actors who intentionally and unintentionally either create, maintain, or disrupt institutions (Lawrence and Suddaby, 2006).

1.2 Research questions

As discussed above, my objective in undertaking this research is to determine to what extent democratic innovations and, in particular, DMPs can improve the quality of democracy and address democratic deficits.

To achieve this objective, I have four research questions that my research answers:

1. What are the strengths and weaknesses of deliberative mini-publics in fulfilling democratic functions?
2. What aspects of the institutional design (institutional modes of constraint) of deliberative mini-publics contribute to these strengths and weaknesses?
3. What role do decision-makers and the designers of deliberative processes play in enhancing or reducing the ability of deliberative mini-publics to improve the quality of democracy? and
4. How could the institutional design of deliberative mini-publics be improved to strengthen their contribution to democratic functions?

This research uses the concept of democratic functions to determine the contribution that DMPs make to democracy. The starting point for this assessment is to identify their strengths and weaknesses regarding each democratic function (Research Question 1). This is in line with Warren's proposal that democratic functions provide a basis for a comparative assessment of the strengths and weaknesses of various political practices (Warren, 2017: 45). The analysis in each of the four jurisdictional case studies, individually and comparatively, allows the identification of the strengths and weaknesses of the specific DMPs conducted in those cases regarding the five democratic functions.

Research Question 2 brings in the second element of my analytical framework - institutionalism. Considering the various modes of institutional constraint set out earlier allows a deeper understanding of how these institutions fulfil or don't the democratic functions. In particular, identifying the institutional modes of constraint allows consideration of how these modes operate individually and in combination and the potential for unintended consequences. Analysing the deliberative mini-publics in each jurisdictional case study identifies the institutional modes of constraint in play. It assesses how they, individually and in combination, strengthen or weaken the contribution to the five democratic functions.

The role of actors (Research Question 3) is considered in each jurisdictional case study. In addition, it is also answered through the organisational case studies. The two organisations, the newDemocracy Foundation and democracyCo, play a more significant role in promoting the use of DMPs and/or deliberative practices beyond their role in the jurisdictional case studies. The organisational case studies use Battilana et al.'s model of institutional entrepreneurs as a foundation to consider the work of these two organisations. In addition, under the component of Battilana et al.'s model 'Activities to achieve divergent change,' I identify various elements of institutional work being undertaken.

Research Question 4 is answered based on the analysis undertaken to answer the first three Research Questions. This analysis generates a clear picture of the strengths and weaknesses of the institutional design of the 16 DMPs considered in the jurisdictional case studies. Combined with an understanding of the roles different actors play, the jurisdictional and organisational case studies support the identification of design choices that could strengthen the contribution of DMPs to the five democratic functions. In addition, the analysis of both the jurisdictional and organisational case studies suggests that there would be value in adding an additional democratic function to the five considered here, that of democratic legitimacy.

1. 3. Research design

1.3.1 Case studies

This research is designed using two groups of case studies to answer the four research questions:

- Jurisdictional case studies
- Organisational case studies

There are four jurisdictional case studies, each with two or more embedded units of analysis (Yin, 2011), in these cases - deliberative mini-publics. The four jurisdictions considered in this research are

- South Australia, where six deliberative mini-publics were conducted between 2013 and 2016
- Noosa Shire Council, where two deliberative mini-publics were conducted in 2015
- The City of Kingston Council, where three deliberative mini-publics were conducted between 2017 and 2019, with three standing mini-publics established in 2019 and operating until 2020, and
- Goulburn Valley Water, where two mini-publics were conducted in 2017 and utilised as standing groups from 2018 until 2022.

These four case studies are analysed separately to identify the institutional modes of constraint in place and how they support or detract from the ability of these DMPs to fulfil the democratic functions. These cases are also compared to identify what they tell us regarding the institutional modes of constraint and the ability of deliberative mini-publics to fulfil the democratic functions subject to different institutional designs.

1.3.2 Analytical approach

As outlined above, this research combines democratic functions and an institutional lens to assess the contribution that DMPs can make to the quality of democracy.

To do this, the five democratic functions were operationalised specifically for deliberative mini-publics. This operationalisation was undertaken to support consistent comparison of the 16 DMPs across the four cases. This operationalisation provides criteria, in the form of questions, that focus on important elements of the design of DMPs for each function. These questions were used to interrogate the case study data to determine the strengths and weaknesses of the DMPs contained in the four jurisdictional case studies against each democratic function.

The analysis of my jurisdictional case studies is structured as follows:

- Describe the rules, practices, and narratives in each jurisdictional case relevant to each democratic function
- Identify the strengths and weaknesses of the DMPs against the democratic functions
- Identify the actors and their roles in creating new institutional arrangements or maintaining existing institutional arrangements, and
- Discuss how the rules, practices, and narratives contribute to these strengths and weaknesses, alone or in combination.

The two organisational case studies considered are the newDemocracy Foundation and democracyCo, which were process designers in two of the four jurisdictional case studies. As both of these organisations played a role in the SA case study and the nDF also in the Noosa case study, I will also consider their roles in those two jurisdictional case studies. Applying Battilana et al.'s model of institutional entrepreneurs to these two organisations allows a holistic view of their activities, not simply regarding the two cases they were involved with. The analysis of them as institutional entrepreneurs will provide another perspective on how they contribute to the quality of democracy.

1.3.3 Research Methods

Two broad methods are used as part of the empirical research for these case studies:

- Semi-structured interviews
- Document reviews.

Semi-structured interviews were undertaken with 17 decision-makers associated with the cases, both elected representatives and public servants, to understand how they saw the role of deliberative mini-publics in democratic decision-making and to identify their narratives around these processes. Semi-structured interviews were also undertaken with six people involved with the two organisations mentioned above to understand their perspective on the role and design of deliberative mini-publics.

The document reviews provided a detailed view of the specific institutional arrangements of the sixteen DMPs, which formed the embedded units of analysis in the four jurisdictional case studies. This documentation also allowed a comparison between the narratives presented in the semi-structured interviews, all of which were held after the conduct of these DMPs, and the narratives presented concurrently with these DMPs.

1.4. Overview of this thesis

I will provide here an overview of the structure of this thesis.

Chapter 2, Democracy Literature Review

This chapter provides a brief background to the development of democracy, particularly representative democracy, before considering some of the limitations of representative democracy from both a supply side (the institutions) and a demand side (the citizens). It includes a short discussion of the nature of the democratic deficit in Australia.

Most of chapter 2 looks at scholarship around democratic innovations and deliberative mini-publics. The purpose of non-electoral democratic innovations and some of the approaches taken to evaluating their operation are outlined. The final part of this chapter looks at Smith (2009), Warren (2017), and Jäske and Setälä's (2020) approaches to evaluating DMPs before setting out the approach taken in this thesis. The analytical framework used in this thesis is

based on Warren and Jäske and Setälä's democratic functions in combination with an institutional lens.

Chapter 3, Institutional Literature Review

Here I look briefly at what institutions are, adopting Lowndes and Roberts' (2013) institutional modes of constraint as an appropriate approach to apply when considering deliberative mini-publics. In looking at institutional theory, I note that this theory has traditionally focused on stability rather than change. However, for this thesis, institutional change and institutional design are of more relevance, as is the role of actors in supporting or opposing change. Different approaches to institutional change, institutional design and the role of actors are discussed and form the basis for much of the analysis in this thesis, in addition to using democratic functions.

Chapter 4, Research Design

This chapter sets out the research design for this research. A summary of chapter four is provided in section 1.3 of this Introduction.

Chapter 5, South Australian Case Study

The first *jurisdictional case study* considers the state of *South Australia (SA)*. Under Premier Weatherill, SA conducted six deliberative mini-publics over four years. Four of these DMPs were designed by the newDemocracy Foundation, one of the organisations considered in the organisational case studies. The other two DMPs were designed by democracyCo, the other organisation considered in the organisational case studies.

In this chapter, I set out the political context, and the associated narratives focused on improving citizen engagement in democracy. From there, I look at each democratic function, considering the institutional design of the six DMPs regarding that function, using the operationalising questions. In considering the institutional design of each DMP, I identify the rules-in-use, practices and narratives and how they, individually and in combination, either strengthen or weaken each DMPs' contribution to the democratic functions.

This case study highlights the role of narratives, the potential for narratives aimed at legitimising the use of DMPs to unintentionally support their instrumental use, and for practices to go unchallenged due to the cognitive biases of designers.

Chapter 6, Noosa Shire Council Case Study

The second case study is of the *Noosa Shire Council (Noosa Council)*, a local government organisation in Queensland. This chapter considers the content of the Noosa case and the two DMPs conducted there using a similar structure to that applied to the SA case. The newDemocracy Foundation was the process designer for both DMPs conducted in Noosa in 2015.

The context, though, was quite different, with the Noosa Council having been re-established as a separate council after a successful grassroots de-amalgamation campaign to separate them from a much larger council. A key element of the de-amalgamation campaign was the inability of a large council to listen and respond to residents. This formed the key narrative in the lead-up to the conduct of these two DMPs.

This case study also highlights the role of narratives with a focus on how the narratives of decision-makers evolved from ones that focused on a 'new approach to democracy' during the de-amalgamation campaign and reverting to the value of a more traditional approach to

community engagement after the de-amalgamation. The newDemocracy Foundation based its original proposals on the early narratives, pushing for even more innovation but was unable to apply more than the standard practices of that time due to the decision-makers' move from promoting deliberative mini-publics as a new way of doing democracy to simply a 'tool in the toolkit', a tool which this Council has not used since 2015.

The following two case studies differ from the SA and Noosa cases as neither involved the newDemocracy Foundation or democracyCo.

Chapter 7, the City of Kingston Council Case Study

This case study uses a similar structure to the previous two jurisdictional case studies. The context for this case study is a Victorian metropolitan council, with a Mayor at the time who held a very strong 'delegate' orientation to her role², an awareness of high profile DMP run by the City of Melbourne Council in conjunction with the newDemocracy Foundation, and the knowledge that the State Government was developing a new Local Government Act which would have an enhanced focus on community engagement and local democracy.

Kingston conducted three DMPs between 2017 and 2019, followed by the establishment of three standing mini-publics called Ward Committees that met three times per year from 2019 to 2020, when the Local Government elections were held, and Kingston was restructured from three wards to eleven wards. Kingston used independent consultants to recruit and facilitate these DMPs and Ward Committees. As a result, the practices and supporting narratives for each DMP were inconsistent. However, their design does demonstrate the development of rules-in-use for some of the practices around recruitment and deliberation, based on the practices developed by the newDemocracy Foundation.

The critical narrative of decision-makers was the value of hearing from people they didn't usually hear from and not hearing from the usual squeaky wheels. Despite the value that DMPs are acknowledged to deliver in engaging a broader group of people than traditional approaches to citizen engagement do, this narrative from Kingston decision-makers, combined with the decision to use mini-publics to replace politicised Village Committees, demonstrates a level of instrumentalism in the approach of decision-makers.

Chapter 8, Goulburn Valley Water Case Study

This case study adds an element, not in any other jurisdictional case studies, of formal rules. Water authorities in Victoria are monopoly providers of water and associated services and are strictly regulated by the Essential Services Commission of Victoria (ESC). In 2016 the ESC introduced a new regulatory framework to apply from 2018 using the acronym PREMO: performance, risk, engagement, management, and outcomes. All water authorities had to address these elements in their 2018-2023 price submission. The new framework provided incentives for water authorities to be ambitious. The higher a water authority's rating for its price submission, the higher the rate of return it could earn. The challenge was that if the ESC disagreed with a water authorities' self-assessment, whether because it was too high or too low, it would never be raised but could be lowered.

The guidance provided by the ESC was not prescriptive in terms of particular engagement practices to be used. However, it was prescriptive in that it required water authorities to

² She strongly felt that she was but one of the thousands of residents in Kingston and, as such, should listen and act on the input of residents, not simply her own views.

demonstrate how they had incorporated customer input into their price submission and to monitor the implementation of their price plan publicly.³

This regulatory framework was the key driver for GVW's establishment of two mini-publics, one to consider specific topics to be addressed in the price submission and the other to provide advice on how GVW could meet its carbon neutrality commitments. Whilst both mini-publics meet for one day and a half day, respectively, the first was seen as operating deliberatively, whilst the second was more structured as an advisory group.

GVW did not have a history of significant customer engagement. However, they saw the new regulatory framework as a challenge. They were proud to be the only Victorian water authority to get the highest rating of Leading in the 2018 round of price submissions. The decision-makers had a strong narrative around 'giving it a go' despite not having the same resources as larger water authorities.

This case demonstrates the value of a regulatory framework in fulfilling democratic functions. The competitive nature of the PREMO rating approach, combined with a desire to push themselves, led to GVW including, in its price submission, an ongoing role for the mini-publics in monitoring the implementation.

Chapter 9, Institutional Entrepreneurs Case Studies

This chapter assesses the two organisations, the newDemocracy Foundation and democracyCo, as change agents and possibly institutional entrepreneurs. Both of these organisations are assessed using Battilana et al.'s model of institutional entrepreneurs to assess their work beyond the jurisdictional case studies. The enabling factor of field characteristics is relatively similar for each organisation. When looking at the enabling factor of the actor's social status, we see a pretty different picture between the two organisations. The newDemocracy Foundation can leverage its strong social status, both as an organisation and its founder and board members, when undertaking activities to achieve change. DemocracyCo's social status, is less prominent status and it has significantly fewer resources which meant it hasn't achieved the same impact as the newDemocracy Foundation.

Chapter 10, Discussion

In this chapter, I compare *the four jurisdictional case studies* using a similar structure to that applied to the individual jurisdictional case studies but with a particular focus on areas of weakness in fulfilling the democratic functions. For each democratic function, suggestions are made to address these weaknesses.

In addition, the proposal to create an additional democratic function of legitimacy is set out in this chapter. Whilst the strengths of DMPs in fulfilling the democratic functions provide one type of legitimacy, procedural legitimacy, it does not address the aspect of legitimacy related to how the actors in the system view particular institutions. A democratic institution, in this case, a deliberative mini-public, would not be considered legitimate if, despite fulfilling the five democratic functions to the greatest extent possible, they are viewed as inappropriate or untrustworthy by decision-makers or citizens. In suggesting this additional democratic function, I propose how this function might be operationalised for individual DMPs and the role of DMPs in a democratic system generally.

³ A price submission becomes a price plan once it is approved by the regulator (ESC)

Chapter 11. Conclusion

Finally, in conclusion to this thesis, I summarise my research findings in terms of how the institutional modes of constraint in operation for the sixteen DMPs in the four jurisdictional case studies considered here strengthen or weaken the contribution of these DMPs to fulfilling the democratic functions. I discuss the generalisability of my findings and set out the original contribution to knowledge made by this research (see summary in section 1.5 of this chapter). I identify the limitations of this research and a range of areas for further research.

1.5. Significance of this research

The research presented in this thesis takes a different and unique approach to assess deliberative mini-publics. The analytical approach used here is to assess deliberative mini-publics against democratic functions and identify the various institutional modes of constraint that form these institutions.

This approach delivers on several levels:

- Theoretical: by demonstrating the value of combining democratic functions and institutionalism, it provides a framework that could be used by other researchers both when looking at democratic innovations and other democratic institutions
- Methodological: operationalising democratic functions specifically for deliberative mini-publics supports a comparative assessment between individual deliberative mini-publics and across cases, an approach that could be valuable for other researchers
- Empirical: this research provides an in-depth perspective on the jurisdictional and organisational case studies, covering sixteen DMPs, four jurisdictional and two organisational cases
- Normative: by using democratic functions and institutionalism to focus on the strengths and weaknesses of several deliberative mini-publics, it presents a clear picture of what design elements enhance the contribution of deliberative mini-publics to improving the quality of democracy and which do not.

CHAPTER 2 DEMOCRACY LITERATURE REVIEW

2.1 Introduction

As with all things we care about, democracy suffers from an excess of meaning, written into the concept by a long history of usage, and further complicated today by its identification with so many good things, which, like all political concepts, is stretched even further by opportunistic usages. (Castiglione & Warren 2006, p. 3)

In this chapter, I briefly look at the origins of democracy and the current practice of representative democracy before considering the democratic deficits identified by scholars and citizens. From that base, I move on to consider specifically non-electoral participation (NEP) or 'between-election democracy' and the various democratic, participatory institutions (Smith, 2019) used to address the previously identified democratic deficits and to improve democracy generally.

Next, I consider two approaches to evaluating participatory democratic institutions: democratic goods (Smith, 2009), which considers how participatory democratic institutions contribute to democracy as supplementary institutions; and democratic functions (Warren, 2017) as amended by Jäske and Setälä (2020), which provides a framework for looking at any democratic institution to consider whether it delivers for democracy.

Finally, I look in more detail at deliberative mini-publics – the particular democratic participatory institution my research considers – setting out what they are and how they have been previously evaluated.

2.2 Origins and Definitions of Democracy

The word democracy derives from two Greek words: 'demos' meaning the people, and 'Kratos', usually referred to as 'to rule' in the democratic context. However, this is not the case. 'Kratos' means 'power' or 'control'⁴ (Cartledge, 2016). There can be various interpretations for both words: does demos refer to all citizens with the positive connotations associated with citizenship, or refer to the masses with the negative connotations of an unruly mob (Cartledge, 2016)? What does power mean in the context of democracy? Does it mean the power to do things? Does it mean power over others or something else?

In a practical sense, studies of how democracy operated in ancient Athens show that the demos was defined as the free adult property-owning males, which excluded foreigners, enslaved people, women and the poor, and they exercised political power principally through the fortnightly meetings of the Assembly which was open to all citizens.⁵ The Assembly was supplemented by 500 administrative position holders selected by sortition – random selection from the citizens – and sortition also filled positions in the justice system. Looking at Athenian democracy through today's lens, we might call this a direct democracy: "[a]ctually, the first democratic practices in Ancient Athens were in many ways more similar

⁴ Kratos is also found in Greek mythology and is the name of a god who was associated with strength and power.

⁵ Whereas today Athens' definition of citizens as only adult males who owned property and excluding foreigners, slaves, women and the poor might also be seen as a form of oligarchy.

to direct democratic practices than to current forms of representative democracy” (Jäske & Setälä, 2020, p. 90).

Since the democracies of ancient Greece, various forms of representative democracy have progressively replaced this form of direct democracy, albeit after a long period where monarchs and oligarchies ruled. However, Cartledge (2016, p. 1) suggests that Athenian democrats would have considered representative democracy to be “at best – disguised oligarchy”. The rationale for replacing direct democracy with representative democracy was the increasing size of states and their associated demos, which made direct democracy difficult, if not impossible, in practice. Using representatives was seen as a practical necessity that has evolved into the primary approach to democracy.

Various scholars have sought to define democracy, although “on the central question, the actual meaning of ‘democracy’, agreement still seems far away. Most political theorists, one suspects, have by now given up hope and have moved on to more promising areas of inquiry” (Mulgan, 1968, p. 3). Others have attempted to come up with a definition; Lively (1975, p. 8) wrote an entire book – albeit a short one – to expand on his definition that democracy is “a form of government in which the ‘demos’, the people, rule; in which political power is held by the many rather than by the one or the few”. Held (2006, p. 1) provides a similar definition – “[d]emocracy entails a political community in which there is some form of political equality among the people” – noting, in agreement with Lively, that there is much work needed to unpack what that means in practice. Weale (1999, p. 14) suggests that

in a democracy, important public decisions on questions of law and policy depend, directly or indirectly, upon public opinion formally expressed by citizens of the community, the vast bulk of whom have equal political rights.

What we can take from these definitions is that the underlying concept of democracy is very much contested; and as the various models of democracy covered later in this chapter will demonstrate, representative democracy may be the way democracy is practised around the world, but it does not satisfy most democratic theorists. The value of defining democracy is that if there were a commonly agreed definition, it could be used to assess the practice of democracy. Later in this chapter, I will examine how democratic theorist Mark Warren (2017) responded to this challenge.

2.3 Representative Democracy

Democratic government today is not modelled on the Athenian approach. Rather, democratic governments today have at their heart the concept of representative government, whose central practice is the election of representatives. One argument for representative democracy is that it provides a practical way of delivering the ideals of democracy in the context of societies with large populations, often spread over large geographical areas (Alonso et al., 2011). Weale (1999) further suggests that

if we accept that there has to be some division of labour in politics and that there are limitations to public participation in decision-making, then we need a theory of political representation (p. 106).

Representative parliaments were established in response to primarily working-class agitation and distrust of elites. However, because those very same elites had a significant say in the design of the new representative governments, they were designed to minimise

the transfer of real power to the masses. Initially, elected representatives were seen as having a trustee role, that is, a focus on representing the common good as they saw it, rather than a delegate role, that is, explicitly speaking on behalf of their constituents for elected representatives (Thompson, 2019, p. 256). Some scholars (Hindess, 2002; Warren, 2017) have asserted that representative democracy was established because of distrust from both elites and citizens, as each group wanted the design of these institutions to hold the other in check or to account, respectively. Taking the trust-distrust question further, it has also been argued that either distrust or mistrust is a requirement for an effective representative democracy (Devine et al., 2020; Sztompka, 2010). In this context, distrust and mistrust both refer to a lack of trust, where distrust is based on experience or reliable information and mistrust is based on a general sense of unease toward someone (Citrin & Stoker, 2018, p. 50).

A key feature of representative democracy, which aims to deliver legitimacy, is voting with universal suffrage (Bevir, 2009). In this sense, representative democracy is built on citizen participation via voting. In democracies where voting is not compulsory, voter turnout is often used as an indicator of the quality or health of that democracy (Bulmann et al., 2011; Lijphart, 1996; QoG Institute; Varieties of Democracy project). Voting is intended to provide legitimacy to representative democracy by allowing citizens to elect their representatives based on their stated agenda of policies and platforms, and to hold those representatives to account at subsequent elections for implementation of this agenda (Manin et al., 1999). Unfortunately, the representation and accountability provided through elections is very much a "blunt instrument" (Fung, 2003). When selecting their representatives and holding them to account, the choices available to citizens are limited by party platforms and often by the limited numbers of parties contesting elections. From this perspective, representative democracy is a form of participatory democracy, albeit one whose main form of participation is voting in elections. Later in this chapter, I will discuss the concept of participatory democracy developed by Pateman (1970), which focuses on NEP.

Numerous supportive institutional arrangements in addition to voting are considered necessary for elections to deliver legitimacy, such as universal suffrage, freedom of speech, freedom of association, freedom of the press, and the rule of law. These are often part of the evaluative criteria applied in various democracy indices such as Democracy Barometer, Democracy Index and Unified Democracy Scores.

Finally, we need to recognise that not all representative democracies operate similarly. Another useful distinction is between majoritarian and consensus approaches to representative government (Lijphart, 1999). Majoritarian democracies are designed to elect representatives the majority of voters select. In contrast, consensus democracies are designed to elect representatives to maximise the number of voters who have representatives in the government. It has been argued that majoritarian democracies focus on delivering accountability; in contrast, consensual democracies focus on selecting a representative legislature (Aarts & Thomassen, 2008, p. 5). In their international comparative study, Aarts and Thomassen (2008) found that across majoritarian, proportional and mixed electoral systems, "people's satisfaction with their democracy primarily depends on their perception of the representation function, and to a lesser degree on the accountability function" (p. 17). This suggests that citizens value representation above accountability.

Evidence from around the world suggests that most concerns or lack of satisfaction with democracy relate to the operation of representative democracy, and therefore a lot of literature about how to 'fix' democracy focuses on the electoral and associated institutions

of representative democracy and how they could be changed or supplemented, or sometimes replaced, to address this lack of satisfaction (Farrell, 2011; Farrell & McAllister, 2006; Norris, 1999; Renwick, 2010; Whitehead, 2018). My research focuses instead on the scholarship and practice aiming to improve the quality of representative democracy through NEP, which is also called between-election participation.

2.4 The Democratic Deficit

As mentioned earlier, although representative democracy is the main form of democracy worldwide, it is not without its critics. In considering the perceived failures of representative democracy, the term democratic deficit is often used. While much of the early literature around the democratic deficit talks about the situation confronting the European Union, the term is also used more generically to recognise growing dissatisfaction with representative democracy. The emergence of 'democratic deficit' and similar terms signals scholarly concerns about the operation of democracies worldwide (Newton, 2012; Norris, 2009; 2011). For some scholars, the democratic deficit equates directly to falling levels of public trust; for others, institutional factors built into the design of representative democracy contribute to this deficit.

There are two broad aspects to the democratic deficit: supply and demand. The supply side relates to the characteristics of governance systems, the institutions of democracy and the trustworthiness of government and elected representatives (Hindess, 2002, Norris, 2011, Stoker et al., 2018) and the demand side to the characteristics of citizens and the nature of their expectations about democracy (Diamond, 2011; Norris, 2009; 2011, Stoker et al., 2018; Stoker et al., 2014).

2.4.1 Supply-side aspects of the democratic deficit

Looking at the supply side, some scholars argue that the basic design of representative democracy is adequate to deliver the power-sharing democracy it is expected to deliver, although the practice may leave something to be desired (Electoral Integrity Project). However, for others, the institutions of representative democracy, by their very nature, do not deliver on the fundamentals of democracy, such that "democratic deficit is built into the design of representative government" (Hindess, 2002, p. 37).

Hindess (2003) reviews the history of representative democracy, noting that in many places, it grew out of a distrust for the broader population's ability to self-govern and a desire to protect against "arbitrary rule by the many" (p. 32). Bandeira and Ferraro (2017, p. 10) highlight seven broad structural – that is, institutional – aspects of the democratic deficit, including:

- the inherent tension between equality and deliberation versus accountability and decisiveness;
- that equality of impact only applies at election times;
- the bundling of policies under party banners, which gives citizens limited choices;
- the short-run focus of most governments, who are seeking to win the next election
- that citizens aren't encouraged or supported to become informed about issues;
- the undue influence of party donors on policy directions and
- the lack of accountability of the bureaucracy.

2.4.2 Demand-side aspects of the democratic deficit

On the demand side, we see the democratic deficit in citizens' falling levels of trust and growing dissatisfaction with how representative democracy operates in practice. Australian research by Stoker et al. (2014) indicated that while citizens express strong support for democracy in theory, they have significant reservations about it in practice. Their research demonstrates

strong support for what democracy delivers and the opportunities to hold decision-makers to account... Yet equally powerful criticisms of the system... [a] majority of citizens in all generations fear that the power of business and media influence is usurping democratic politics and undermining its capacity to deliver accountable democracy. (p. 26)

As Saward (2010) notes, "the practice of democratic representation is being appraised by many as lacking in both democracy and accountability" (p. 139).

2.4.3 Australian perspectives on the democratic deficit

I now consider how Australians perceive the operation of democracy, their declining general levels of trust and their preferences for supply-side reforms.

Australia, as a British colony, is a constitutional monarchy with a system of democracy that is broadly based on the Westminster system (Taflaga, 2023). Australia has three levels of government: national, state/territory and local. A distinctive feature of Australian democracy is compulsory voting (Gauja, 2015). The national Parliament, and the majority of state Parliaments, have a lower and upper house, both elected by eligible voters (Arklay & Laurie, 2023). Until recently, the national and state/territory governments were majoritarian, with two major parties contesting control (Cameron, et al., 2022; Electoral Council of Australia & New Zealand, 2022). While the electoral system is still a majoritarian one, there has been a growth in minor parties and independents leading to a quasi-consensus style of politics slowly emerging (Cameron et al., 2022).

A longitudinal survey undertaken by the Australian National University (McAllister & Cameron, 2019) demonstrates declining levels of support for democracy, low levels of trust for the Federal Parliament but with increases in confidence that who you vote for makes a difference.

Citizen trust in Australian democracy has been in decline for many years. Recent data (Stoker et al., 2018) concluded that if levels of trust continue on their current trajectory, they will be below 10% by 2025⁶. Stoker et al. conclude that "levels of trust in government and politicians in Australia are at their lowest levels since time-series data has been available" (p. 9).

While trust is a complex concept, Stoker et al.'s (2018) research found that Australian citizens' top three dislikes about representative democracy are:

- Politicians can't be held to account for broken promises – 33%;
- Politicians don't deal with the issues that really matter – 31%;
- Big business has too much power – 29% (p. 40)

⁶ There was a brief uptick in trust during the pandemic.

These three dislikes correlate closely with the supply-side concerns identified by Hindess (2003) and Bandeira and Ferraro (2017) around accountability or lack thereof, agenda setting and representation. While electoral systems, and particularly voting, are intended to provide legitimacy by allowing voters to identify the agenda they wish implemented and to hold elected representatives to account where this agenda isn't implemented, in practice, voters' ability to use their vote for these purposes is circumscribed, particularly in majoritarian systems, by their choice between limited numbers of parties with party platforms containing multiple elements and the influence of stakeholder groups and campaign financing (Fung, 2012; Maclean, 2017).

The Australia-wide survey undertaken by Evans et al. (2013) found that "Australians imagine their democracy in a way that demonstrates support for a new participatory politics but with the aim of shoring up representative democracy and developing a more integrated, inclusive and responsive democratic system" (p. 5). Democracy 2025 research suggests that while citizens prefer electoral reforms such as allowing voters to recall ineffective local MPs and giving all MPs a free vote in Parliament, they also support other innovations such as deliberative mini-publics (Stoker et al., 2018, p. 11).

The "Trust and Democracy in Australia" survey (Stoker et al., 2018b) found

a strong appetite by Australian citizens for a range of democratic reforms aimed at solving both supply and demand-side trust problems (p. 9).

This support included both reforms to the electoral system and increased public participation:

- campaign financing reforms to limit how much can be spent on elections and how much can be accepted from donors (73%);
- political accountability reforms such as members of Parliament having free votes in Parliament (60%) and the right to recall local members (62%);
- public participation in the co-design of public services (71%); and
- the use of citizens' juries (60%) (p. 22).

A survey of federal Parliamentarians (Stoker et al., 2019, p. 2) found that while they were more satisfied with the system's operation than citizens (61% compared to 41%), they were concerned about citizens' declining levels of trust. However, their support for specific reforms is generally quite different to that of citizens:

- 72% of federal politicians oppose the right to recall members of parliament, whereas 62% of citizens strongly support this; and
- 64% of federal politicians oppose the use of citizens' juries, whereas 60% of citizens support them (p. 13).

However, there was similar support for campaign funding reforms: 73% by citizens and 76% by elected representatives (p. 14).

2.5 Non-Electoral Participation

In addition to proposing reforms to electoral democracy, governments, academics, and practitioners have paid much attention to addressing the democratic deficit by enhancing non-electoral participation (NEP). While Athenian democracy has been claimed as an example of both direct and deliberative democracy, three approaches to modern representative democracy aim to improve the quality of democracy generally:

- Participatory democracy promotes citizens' regular and impactful participation regarding decisions that affect them (Pateman, 1970).
- Deliberative democracy argues that for a democracy to be legitimate, it requires deliberation to have a central place (Dryzek, 1990).
- Direct democracy involves citizens selecting policies, programs and legislation (Budge, 1996; Qvortup & Qvortrup, 2005).

In addition to these three models or theories of democracy, there are numerous ways in which people participate in a democracy, such as protests, advocacy, social media, the arts, lobbying elected representatives, petitions, consumer action and boycotts, to name a few – most of which would fit under participatory democracy.

Additional models of democracy have been proposed but have not yet had an equivalent impact on the institutional arrangements of democracy to the three above. These include agonistic democracy (Mouffe, 1999), Machiavellian democracy (McCormick, 2011), government selected by sortition (Gastil and Olin Wright, 2019), demarchy (Burnheim, 2006) and radical democracy (Mouffe & Holdengraber, 1989), to name a few.

In response to the calls for more participatory democracy in the 1960s and 1970s, governments have increasingly sought to engage citizens between elections to legitimise policy decisions made outside of the electoral process (Budge, 1996). Participatory democracy is often equated with quantity: it provides as many people as possible with an opportunity to 'have their say'. However, proponents of participatory democracy (Mutz, 2006; Pateman, 1970) had much more than this in mind. Participatory democracy developed in response to narrow conceptions of representative democracy as elite democracy, arguing that citizens should have more power over decision-making (Pateman, 2012), and it initially focused on moving power from elites to the people in political and other realms such as the workplace. However, it is fair to say that

the radical, egalitarian, and emancipatory dimensions of the original proposal [of participatory democracy] are often very difficult to find in most participatory mechanisms as they spread around the world and in a variety of contexts (Bherer et al. 2016, p. 226).

One exception, at least in its original form, is participatory budgeting (PB) as it developed in Porto Alegre (Wampler, 2010). PB was 'invented' in Porto Alegre by the Workers' Party to provide a formal process for participation in specific budgeting decisions (Röcke, 2014). In its original form PB gave citizens, particularly those from low income neighbourhoods, the opportunity to make recommendations about annual infrastructure spending. In Porto Alegre, there were three levels: neighbourhood and regional assemblies, regional budget forums and council of the participatory budget (Smith, 2009, p. 35). PB is now a worldwide phenomenon, although it has been amended as it spread, for example some PB processes have used DMPs to make the final recommendations: Canada Bay (Thompson, 2012) and the Melbourne People's Panel (Reece, 2015). Unfortunately, in a review of PB in Europe, Röcke (2014) found that these PB process did not always live up to PB's genuinely participatory intentions as it travelled. (

Deliberative democracy is based on the idea that democracy should involve

mutual communication that involves weighing and reflecting on preferences, values and interests regarding matters of common concern, [which takes] place in contexts

of equal recognition, respect, reciprocity, and sufficiently equal power for communicative influence to function (Bächtiger et al., 2018, p. 1).

The study of deliberative democracy has involved several 'turns', most of which continue to interest scholars:

- To test the implementation of the theory of deliberative democracy – the practical turn (Gastil, 2005; Hendriks & Carson, 2008);
- To enhance our understanding of real-world deliberations – the empirical turn (Bächtiger et al., 2014; Dryzek, 2010; Gerber et al., 2012; Luskin et al., 2002; Niemeyer, 2004);
- To refine the design of deliberative institutions – the so-called institutional turn (Fung, 2003; Hartz-Karp & Briand, 2009; Ryan & Smith, 2014; Smith, 2009; 2011); and
- To identify how they contribute to a broader deliberative system – the systematic turn (Mansbridge et al., 2012; Owen and Smith, 2015; Steiner, 2012).

Direct democracy, as opposed to indirect democracy – that is, representative democracy – is focused on citizens' ability to have direct power to make political decisions. An early example is the Athenian Assembly, as described earlier. In the modern world, direct democracy has much in common with participatory democracy and is usually addressed through specific institutions such as referendums.

Moving from theory to practice, there are numerous approaches to describing citizens' level and type of participation between elections, many of which have evolved from Arnstein's (1969) Ladder of Participation. In an extensive review of public participation models from around the world from 1969 to 2020, Hussey (2020) identifies 60 models, including Arnstein's. Arnstein (1969, p. 217) focused on citizen power rather than particular engagement processes.

For Arnstein, "citizen participation is a categorical term for citizen power" (p. 216). In keeping with the original radical intent of participatory democracy, Arnstein's Ladder of Participation identified many approaches to non-electoral democracy as tokenistic – providing an "empty ritual of participation [rather than] having the real power needed to affect the outcome of the process." (p. 216). Describing rungs three to four on the Ladder, Arnstein notes:

When they are proffered by powerholders as the total extent of participation, citizens may indeed hear and be heard. But under these conditions, they lack the power to insure that their views will be heeded by the powerful. When participation is restricted to these levels, there is no follow through, no "muscle," hence no assurance of changing the status quo. (p. 2)

Arnstein's Ladder provides a useful way to evaluate public participation in considering the outcomes of any process in terms of the level of impact the recommendations/decisions of the public have on the final decisions. Her focus is on the citizen perspective with the rungs of the ladder centred around the level of citizen agency and autonomy and power. See Figure 1 for overview of Arnstein's Ladder.

Figure 1: Arnstein's Ladder of Participation



Source: adapted from Arnstein (1969)

Another well-recognised approach was developed by the International Association of Public Participation – known as IAP2 – in the 1990s. The Public Participation Spectrum, alongside IAP2's Core Values, aims to guide decision-makers when designing citizen engagement processes. The Spectrum receives more attention and application in practice than the Core Values.

The IAP2 spectrum is based on what Davis and Andrew (2017) call a "rationalist" approach, which they define as focusing on risk minimisation, and which I would suggest fits under an instrumentalist approach. While it has been argued (McGinley & Nakata, 2012) that the IAP2 Spectrum – inform, consult, involve, collaborate, and empower – was based on Arnstein's (1969) Ladder of Participation, unlike Arnstein's Ladder the IAP2 spectrum explicitly shies away from making value judgements regarding particular forms of citizen participation, and much of the spectrum would fit within Arnstein's concept of tokenism.

As mentioned above, whereas Arnstein's Ladder is predominately an evaluative tool considering the impact of a process from the perspective of citizens. Whereas, the IAP2 Spectrum focuses on providing guidance to decision-makers and practitioners, when designing public participation processes (with their Core Values guiding evaluation).

This difference in intent between the IAP2 Spectrum and Arnstein's Ladder also means that "when judging the success of a tool, process, or event, the IAP2 spectrum is primarily reliant upon the demonstration of the activity taking place, while Arnstein's Ladder supports a more holistic focus on the outcomes in the context of the broader socio-technical system" (Davis & Andrew, 2017, p. 6).

As I will address later in this chapter, the outcome focus of Arnstein's Ladder fits well with the democratic functions approach, in particular the collective will formation and collective decision-making functions, that I propose to use in this research to evaluate the contribution of deliberative mini-publics to improving the quality of democracy. However, I go further to suggest that the democratic functions approach supports both design and evaluation.

2.6 Democratic Innovations

Since Arnstein's work in the late 1960s there has been a growth in both theory and practice around what has been called democratic innovations:

As the name suggests, democratic innovations are both innovative and democratic. Yet of the two, there is an important sense in which democracy has got to have priority. Referendums, deliberative polls, citizen assemblies, participatory budgeting and the like do not matter in and of themselves. They are not intrinsically valuable. Rather, they matter if and because they help improve the quality of democracy. (O'Flynn, 2019, p. 32)

This statement sums up the rationale for my research. I am seeking to understand whether or not deliberative mini-publics can 'help improve the quality of democracy'.

Although some of the non-electoral participatory arrangements in the previous section of this chapter can be seen to address participatory democrats' calls for more opportunities to involve citizens in decision-making, using Arnstein's Ladder we would judge many such arrangements as inadequate to this task, falling into her category of tokenism.

Although the 'informing', 'consulting' and 'placating' rungs on Arnstein's ladder are identified as tokenism, these rungs can, however, be valuable in certain situations. For example, the provision of information is a necessary precursor to more robust engagement with citizens. There may be situations where consulting is appropriate when an election commitment is implemented, and the government wants to minimise any potential negative impacts. However, most of these approaches would not fit within the concept of democratic innovation.

Various definitions of democratic innovations have been proposed that focus on either deepening citizen participation (Elstub & Escobar, 2019; Smith, 2009) or improving democracy (Geißel & Joas, 2013; Newton, 2012). O'Flynn (2019), in the quote above, identifies a range of democratic innovations which fit into the three approaches to non-electoral participation outlined earlier. Other writers on democratic innovations (Elstub & Escobar, 2019; Geißel & Joas, 2013; Newton, 2012; Smith, 2009) include other institutional arrangements such as participatory budgeting, deliberative polling, referendums, collaborative governance, popular assemblies, and digital participation.

Reflecting on the theory and practice of democratic innovations since 2009, Smith (2019) expressed a concern regarding the nomenclature for these institutions, which I share: that the word innovation "assumes that 'new' is better" (p. 573). He is also hesitant to use the word 'innovation', arguing it has promoted the study of 'exemplary cases', which focus scholars on best practice and can mean they ignore more mundane – and likely more used – examples as well as instances that fail. Spada and Ryan (2017) also identify this critique. Smith (2019) would prefer to label these innovations and processes as "participatory democratic institutions" (p. 574). That is the term I will use, except when the literature refers explicitly to democratic innovations.

2.7 Deliberative Mini-Publics

I now move to consider the participatory democratic institution of deliberative mini-publics more deeply. Deliberative mini-publics are defined in different ways:

DMPs are defined as carefully designed forums where a representative subset of the wider population come together to engage in open, inclusive, informed, and consequential discussions on one or more issues. (Curato et al., 2021, p. 3)

Deliberative mini-publics have become one of the most popular deliberative initiatives worldwide, including in Australia, and are organised and conducted by academics, civil society organisations, practitioners, and governments. My research focuses on Australian governments and government agencies that conducted deliberative mini-publics during the period from 2013 to 2020. More details of the case studies being considered will be provided in Chapter 4, the Research Design chapter.

While DMPs are one of the most used institutional approaches to implement deliberative democracy, there has been some pushback against their use, and moves to focus the practice of deliberative democracy beyond these institutions (Mansbridge et al., 2012). Since 2012 there has been an explosion in literature considering how deliberative mini-publics might fit in a deliberative system (Felicetti et al., 2016; Hendriks, 2016; Jonsson, 2020) and how a deliberative system might operate (Dryzek, 2016; Edwards, 2016; Elstub et al., 2019). I do not focus on this aspect of deliberative theory, and when I talk later about deliberative mini-publics contributing to the democratic system I am looking beyond the concept of a deliberative system.

While disliked by some practitioners (Thompson, 2016b), the term deliberative mini-publics is in regular use in academic writing and refers to institutions that combine deliberation and sortition, that is, a randomly selected group of people, usually stratified to match the wider community. Deliberative democracy sees deliberative mini-publics as only one site for deliberation (Dryzek & Niemeyer, 2010; Mansbridge et al., 2012; Niemeyer, 2014; Wegmann & Bächtiger, 2022), albeit a very popular one. And while mini-publics do not always involve deliberation, these two elements usually go together.

Concerning DMPs, the institutional turn mentioned above has two aspects: how these institutions are designed individually; and how their use is regularised and ongoing, rather than ad hoc. What the institutional turn has left virtually untouched, and what this research considers, is how the institutional literature might support our analysis of the ability of deliberative mini-publics to improve the quality of democracy. This is a crucial component of my research approach and is explained in more detail in the next chapter.

2.7.1 The importance of design

As identified above, the institutional turn in the study of deliberative democracy – and, in particular, DMPs – has focused much scholarly attention on the design of these institutions. The language of institutional design is used in regard to democratic innovations, and DMPs in particular, often without any reference to the theories of institutions, institutional change or institutional design that produced this language (Bächtiger et al., 2014; Fung, 2003; Jäske & Setälä, 2020; Smith, 2009).

In practice, every DMP is designed individually, taking into account the aims for running that deliberative process along with the local context, amongst other things (Curato et al., 2021; Organisation for Economic Co-operation and Development [OECD], 2020). However, all

deliberative mini-publics include two key features to be considered DMPs: randomly selected participants and a process that involves deliberation (Farrell, 2019, p. 5). Some add a third feature: consequential outcomes (Curato et al., 2021) or influential recommendations that impact the wider public (OECD, 2020, p. 80).

Within and in addition to these two key features, a range of other choices are to be made when designing a DMP, and there is broad agreement that design choices affect the contribution that deliberative mini-publics make to improving democracy (Curato et al., 2021; Fung, 2003; Harris, 2019; Jäske & Setälä, 2020; Smith, 2009).

Most writing on the design of DMPs focuses on specific practices, which are but one aspect of institutions – other aspects of which will be covered in more detail in the next chapter. The recent design publications discussed below tend to have an explicit normative aspect that explains why at least some of their proposed design elements are considered essential. These normative elements provide helpful narratives to support the implementation of deliberative processes in the future.

Fung (2003) was one of the first to consider how design decisions can impact the contribution any single deliberative mini-public makes to the quality of democracy. Fung identified eight dimensions or “institutional design choices” (pp. 340–347) to which individuals and organisations seeking to improve democracy should pay attention when designing and running a deliberative mini-public. However, it is worth noting that he included a much broader range of processes under the rubric of DMP. Fung argues that these design decisions have democratic consequences, including enhancing the quantity and quality of participation, giving voice to less well-off citizens, fostering high-quality deliberation, providing decision-makers with information to guide policymaking and action, improving citizens’ understanding of an issue through access to information, enhancing citizens’ democratic skills, increasing the accountability of decision-makers, improving the justice of public policy, building the effectiveness of policy and action, and finally generating political action by participants outside of the mini-public (Fung, 2003, pp. 347–352).

More recently, a number of other organisations and individuals have developed publications that set out design considerations for deliberative mini-publics. The newDemocracy Foundation was commissioned by the UN Democracy Fund to develop a Handbook to guide the use of deliberative mini-publics (nDF, 2018). This handbook identifies six principles and how to implement a deliberative process that meets these principles. In 2020 the OECD published *Innovative Citizen Participation and New Democratic Institutions: Catching the Deliberative Wave: a comparative study of deliberative mini-publics*, which the OECD calls representative deliberative processes, from which the OECD draws 11 good practice principles to guide decision-makers when implementing deliberative processes.

And in 2019, a group of 12 academics released a working paper titled “Deliberative Mini-Publics: Core Design Features” (Farrell et al., 2019), followed in 2021 by a short book written by many of the original authors to be “a resource [for] anyone designing, implementing or studying deliberative mini-publics” (Curato et al., 2021: ix). This book identified five core design features for deliberative mini-publics (Curato et al., 2021, p. 3) that relate specifically to the practices needed to call something a deliberative mini-public. However, Curato et al. provide narratives that can guide the implementation of these practices when looking specifically at the legitimacy of deliberative mini-publics and how they fit within democratic systems.

A comparison of these approaches is set out in Table 1.

Table 1: Comparison of design principles for DMPs

Democratic functions	newDemocracy Foundation's principles	OECD's good practice principles	Curato et al. core design features for deliberative mini-publics
Inclusion	Diversity of perspectives and life experiences is more important than number of people involved	<p>Representativeness: The participants should be a microcosm of the general public. This is achieved through random sampling from which a representative selection is made, based on stratification by demographics (to ensure the group broadly matches the demographic profile of the community against census or other similar data), and sometimes by attitudinal criteria (depending on the context). Everyone should have an equal opportunity to be selected as participants. In some instances, it may be desirable to over-sample certain demographics during the random sampling stage of recruitment to help achieve representativeness.</p> <p>Inclusiveness: Inclusion should be achieved by considering how to involve under-represented groups. Participation should also be encouraged and supported through remuneration, expenses, and/or providing or paying for childcare and eldercare</p>	DMPs are composed of a representative subset of the wider population to ensure that a range of voices are considered in deliberation. ¹ This is what makes a DMP a mini-public: its members are composed of a sample of the wider public.
Collective agenda-setting	We need to openly share a hard problem. <i>and</i> Ask a clear question	Purpose: The objective should be outlined as a clear task and is linked to a defined public problem. It is phrased neutrally as a question in plain language.	
Collective will-formation	<p>Too much opinion, and not enough judgement. A better decision comes when people consider a range of information sources.</p> <p>We need to balance insistent voices with invited voices.</p>	<p>Group deliberation: Participants should be able to find common ground to underpin their collective recommendations to the public authority. This entails careful and active listening, weighing and considering multiple perspectives, every participant having an opportunity to speak, a mix of formats that alternate between small group and plenary discussions and activities, and skilled facilitation.</p> <p>Information: Participants should have access to a wide range of accurate, relevant, and accessible evidence and expertise. They should have the opportunity to hear from and question speakers</p>	The term 'deliberation' [refers] to the process of 'mutual communication that involves weighing and reflecting on preferences, values, and interests regarding matters of common concern' (Bächtiger et al, 2018, p. 1).

Democratic functions	newDemocracy Foundation's principles	OECD's good practice principles	Curato et al. core design features for deliberative mini-publics
		<p>that present to them, including experts and advocates chosen by the citizens themselves.</p> <p>Time: Deliberation requires adequate time for participants to learn, weigh the evidence, and develop informed recommendations, due to the complexity of most policy problems. To achieve informed citizen recommendations, participants should meet for at least four full days in person, unless a shorter time frame can be justified. It is recommended to allow time for individual learning and reflection in between meetings</p>	
Collective decision-making	Participating is pointless because we think the decisions has already been made.		DMPs are consequential. At the end of DMPs are outputs intended to inform decision-makers, whether these are voters, policymakers or the body that commissioned the DMP.
Accountability	All this requires time and feeling rushed affects public trust.	<p>Accountability: There should be influence on public decisions. The commissioning public authority should publicly commit to responding to or acting on participants' recommendations in a timely manner. It should monitor the implementation of all accepted recommendations with regular public progress reports.</p> <p>Transparency: The deliberative process should be announced publicly before it begins. The process design and all materials – including agendas, briefing documents, evidence submissions, audio and video recordings of those presenting evidence, the participants' report, their recommendations (the wording of which participants should have a final say over), and the random selection methodology – should be available to the public in a timely manner. The funding source should be disclosed. The commissioning public authority's response to the</p>	

Democratic functions	newDemocracy Foundation's principles	OECD's good practice principles	Curato et al. core design features for deliberative mini-publics
		<p>recommendations and the evaluation after the process should be publicised and have a public communication strategy.</p> <p>Integrity: The process should be run by an arm's length co-ordinating team different from the commissioning public authority. The final call regarding process decisions should be with the arm's length co-ordinators rather than the commissioning authorities. Depending on the context, there should be oversight by an advisory or monitoring board with representatives of different viewpoints</p>	
		<p>Privacy: There should be respect for participants' privacy to protect them from undesired media attention and harassment, as well as to preserve participants' independence, ensuring they are not bribed or lobbied by interest groups or activists. Small group discussions should be private. The identity of participants may be publicised when the process has ended, at the participants' consent. All personal data of participants should be treated in compliance with international good practices, such as the European Union's General Data Protection Regulation (GDPR).</p> <p>Evaluation: There should be an anonymous evaluation by the participants to assess the process based on objective criteria (e.g. on quantity and diversity of information provided, amount of time devoted to learning, independence of facilitation). An internal evaluation by the co-ordination team should be conducted against the good practice principles in this report to assess what has been achieved and how to improve future practice. An independent evaluation is recommended for some deliberative processes, particularly those that last a significant time. The deliberative process should also be evaluated on final outcomes and impact of implemented recommendations.</p>	

2.8 Evaluating Participatory Democratic Institutions

A significant amount of scholarship has evaluated the contribution that participatory democratic institutions make to democracy. This section outlines the main approaches to evaluating participatory democratic institutions in general, and DMPs in particular. From there, I identify what I perceive to be gaps in the current approaches to this evaluation – gaps I contribute to filling by applying a combination of institutional theory and democratic functions.

A key challenge for this research was determining how to assess whether deliberative mini-publics contribute to improving democracy and addressing the democratic deficit, when most definitions of democracy and evaluations of democracy either explicitly or implicitly address representative democracy.

In looking specifically at deliberative innovations, Mansbridge et al. (2012) note that most deliberative research has focused on “discrete instances of deliberation” rather than their place in the broader system as a whole (p. 25).⁷ A similar point could be made about research looking at other democratic innovations, where individual sites of innovation are evaluated against the theory of democracy they spring from: for example, comparing participatory budgeting processes around the world from the perspective of participatory democracy (Johnson, 2015; Pinnington et al., 2009; Wampler, 2007).

Despite their colleagues’ focus on how well particular participatory democratic institutions meet the goals of their underlying model of democracy, other scholars have developed frameworks to evaluate a cross-section of participatory democratic institutions. These approaches focus on both design features and the outcomes of these participatory democratic institutions for governments and citizens (Geißel, 2012; Geißel & Joas, 2013; Michels, 2011; 2012; 2013).

For the purposes of my research, I will consider three approaches to the evaluation of participatory democratic institutions, in terms of how they operate within a democratic system. There are numerous other approaches that address community engagement broadly, such as the Brisbane Declaration, or deliberative mini-publics specifically, such as the OECD’s Evaluation Guidelines for Representative Deliberative Processes (2021). I do not look at these more specific approaches as they do not relate to my research questions.

2.8.1 Democratic goods

The foundational text regarding the evaluation of democratic innovations, outside of their theoretical underpinnings, is Graham Smith’s *Democratic Innovations: Designing Institutions for Citizen Participation* (2009), which at the time of writing had been cited 2228⁸ times. Looking at how to evaluate democratic innovations, Smith does not choose a particular theory, but rather identifies four ‘democratic goods’ he believes would be recognised by all theorists:

⁷ In this quote Mansbridge and her colleagues are talking about the broader system of deliberation, whereas I am considering the broader system of democracy.

⁸ As at November 10, 2022.

- Inclusiveness, which relates to political equality with presence (engaging citizens from across different socio-economic groups) and voice (designing the process to support citizens from politically marginalised groups to be heard);
- Popular control, which relates to the ability of participants to influence the decision-making process (including having influence over the definition of the issue to be considered, the decision-making process itself and the final outcome);
- Considered judgment, which focuses on citizens' understanding of the matter under consideration and of other citizens' views (which can be supported or not by the way in which information is provided and the views of other citizens included); and
- Transparency, which goes to the openness of the process for both participants and the wider public (so that participants have a clear understanding of the process, as does the wider community). (pp. 20-26)

Smith (2009) is also "interested in the potential for democratic participation to be institutionalised" (p. 13). To support this aim, he adds two "institutional goods" to his four democratic goods – efficiency and transferability:

- efficiency relates to the cost of participation on both citizens and the government; and
- transferability focuses on "whether designs can operate in different political contexts" (pp. 26-27)

Both his proposed 'democratic goods' and his 'institutional goods' focus on how the design and operation of particular types of democratic innovations operate, as stand-alone democratic institutions, alongside the existing institutions of representative democracy. He aims to provide a framework to support a systematic comparative evaluation of different democratic innovations.

Smith (2009, p. 200) suggests his framework of democratic goods could be a starting point for developing an approach that looks at all institutions of democracy to determine how democratic they are. I believe that Warren's (2017) problem-based or functional approach to democracy provides a framework that does just this – as I will now describe.

2.8.2 Democratic functions

While Mark Warren (2017) was not the first to consider the functions relevant to democracy, his work provides a framework for assessing how different institutions, both electoral and non-electoral, contribute to democracy. He suggests that model-based approaches to democratic theory inherently limit both theorists and practitioners' consideration of how democracies should operate (p. 39).

Instead of turning to a particular democratic model, Warren (2017) suggests instead that democratic theorists should ask themselves two questions:

- What problems does a political system need to solve if it is to function democratically? and
- What are the strengths and weaknesses of generic political practices as ways and means of addressing these problems? (p. 39)

Warren believes that

To the extent that democratic theorists address these two questions, they will produce theories that are normatively robust and sufficiently fine-grained to frame democratic problems, possibilities, and deficits in complex polities. (p. 39).

In considering his first question, he identifies three functions he suggests are necessary for institutions and practices to be considered 'democratic':

- empowered inclusion – this function moves beyond simple inclusion of everyone affected to require that these people can “demand and enforce their inclusions”
- collective agenda-setting and will formation – this function builds on empowered inclusion to provide that individuals can come together to form their individual perspectives into “collective agendas and wills” and
- collective decision-making⁹ – this function is about collective empowerment: the power to “make and impose binding decisions upon themselves” (p. 44).

Warren (2017) argues:

If any one of these functional capabilities is missing, *the system* [emphasis added] cannot instantiate democracy. It will fail democracy in one or more of these three ways: it will exclude those with claims to inclusion, or it will fail to form collective agendas and wills that reflect the interests, perspectives, and values of those included, or it will fail to act as a collective agent of the relevant people. Any one of these failures will constitute a democratic deficit. (p. 43).

Warren (2017) acknowledges that other features of society may assist democracy to operate and meet these three functions. However, he argues that these are the “three broad functions that political systems must serve to be counted as ‘democratic’” (p. 44). His three functions implicitly acknowledge that power is a crucial feature of democracy, and they sit well with Shapiro’s (2004) thesis that “democratic theory should be centrally concerned with devising ways to manage power relations so as to minimise domination” (p. 11).

In response to his second question, he identifies a non-exhaustive list of seven generic political practices that a political system can use to solve democratic problems: recognising, resisting, deliberating, representing, voting, joining and exiting (Warren, 2017, p. 45). Warren proposes that each of these practices can be assessed generically for their strengths and weaknesses in fulfilling one or more of his democratic functions. Warren’s framework also considers how particular practices can be combined to deliver these democratic functions better.

In considering the strengths and weaknesses of these generic practices, Warren (2017) suggests that deliberation is best suited to fulfilling the collective agenda-setting and will-formation function (p. 48). He does not identify deliberation as being particularly strong in regard to either empowered inclusion or collective decision-making (p. 39). However, as I will propose in the next section of this chapter when considering the application of democratic functions to the operation of DMPs, the addition of a mini-public is seen to enhance their contribution to empowered inclusion.

Jäske and Setälä (2020) develop Warren’s (2017) democratic functions – explicitly to consider democratic innovations in the context of representative democracy – by splitting the

⁹ It is worth noting that not everyone agrees that collective decision-making should be a function to which deliberative mini-publics should contribute (Lafont, 2020). For the purposes of this thesis, I will not address this issue; rather, I will simply look at what happened in the deliberative mini-publics related to each case study.

agenda-setting and will formation function into two separate functions to enable a “more detailed distinction” (p. 4) relevant to policy-making processes. They also add the function of accountability to assess to what extent collective decision-making is implemented. I agree with these two changes as agenda-setting and will-formation are two different activities and won’t always occur together, and adding accountability as an additional function allows consideration of whether decision-makers are accountable for implementing decisions. Their “discussion of different functions follows the order in which they emerge [in] the policy-making process” (Jäske & Setälä, 2020, p. 5).

Jäske and Setälä also depart from Warren’s (2017) functions regarding the function of empowered inclusion. They view inclusion as a normative criterion that should apply to all democratic functions. Jäske and Setälä’s perspective has an underlying deliberative focus. Hence, they assess all functions against both their ability to meet the inclusion function and how well they address deliberative norms. Beauvais and Warren (2019) also highlight deliberation when applying Warren’s (2017) functional approach to assessing a particular deliberative mini-public – described in more detail in the next section.

In the next section of this chapter, I will look further at deliberative mini-publics and how their contribution to the quality of democracy has been assessed to date.

2.9 Evaluating Deliberative Mini-Publics

In this section, I consider how these two main approaches outlined above – democratic goods and democratic functions – have been applied to evaluating DMPs.

2.9.1 Democratic goods

In applying his democratic goods framework to DMPs, mainly referencing Citizens’ Assemblies conducted in Canada, Smith (2009) identifies their strengths and weaknesses – see Table 2 below.

Table 2: Smith’s application of his democratic goods to deliberative mini-publics

DEMOCRATIC GOOD	GENERIC STRENGTHS	GENERIC WEAKNESSES
Inclusiveness	Equal probability of being selected – if the size of the group is limited, then the random selection is a decent way to choose who is on the group. Mini-publics generally engage a broader cross-section of affected communities than the usual self-selection for attendance public meetings – equality of voice comes from the deliberative process itself.	Selection criteria are a relevant consideration of inclusiveness.
Popular control	Is achieved in two ways: space is provided to develop recommendations free from outside pressures and through change to power relations, whereby experts and stakeholders present to and answer questions from participants who then determine how to incorporate those perspectives into their recommendations.	Limitations relate to who determines the remit and experts, the mode of facilitation and impact of recommendations, and it is often hard to identify what their impact was unless they are linked to referendums and thereby not only clear what their impact was, but the broader population can hold them to ‘account’ by either supporting or rejecting referendum questions.
Considered judgement	Participants hear a range of evidence and ask questions; they discuss with other participants who have different perspectives and reflect on those discussions in ways that are orientated to the common good/public interest – research generally finds participants are open to changing their views as they hear evidence, etc.	Achievement of considered judgement can be limited by an unclear remit and not enough time to ‘consider’ and develop a sense of ‘responsibility’ to the wider community. The facilitation role is important here.

Source: Smith (2009, pp. 79-105)

Smith (2009) concludes that deliberative mini-publics can meet his democratic goods; however, this very much depends on the design of the process, from remit to recruitment to facilitation. He notes the potential for democratic innovations to be co-opted, with little or no capacity to change practices (p. 23)

2.9.2 Democratic functions

Warren and other scholars (Beauvais & Warren, 2019; Jäske & Setälä, 2020; Kuyper & Wolkenstein, 2019; Vrydagh & Caluwaerts, 2020; Werner et al., 2019) have begun to apply his problem-based approach to specific situations to assess the value of the democratic functions approach when evaluating the democratic-ness of different practices, primarily democratic innovations.

Beauvais and Warren (2019) apply an amended version of Warren’s (2017) framework to a specific case in Canada. This paper considered a specific case study, asking the question, “How can and should deliberative mini-publics relate to the legacy institutions of electoral democracy?” and concluded that the Citizens’ Assembly they considered did a good job addressing policy and other local level deficits and, as a result, increased the democratic

legitimacy in that policy area (p. 908). The detail of their findings against each function is summarised in Table 3 below

Table 3: Canadian Citizens' Assembly and democratic functions

Democratic Functions	Specific Citizens' Assembly contribution
Empowered inclusion (renamed "inclusion" and reframed as empowering inclusion of those potentially affected)	The Citizens' Assembly (CA) case being considered specifically addressed the inclusion deficit in place because of the electoral system, which was inadequate in linking elected representatives with local areas. In particular, the neighbourhood impacted by the planning process were significantly unrepresented, and the people who participated in general community engagement did not reflect the primary demographics of the community.
Collective agenda setting and will-formation (renamed "deliberation and communication" in this paper)	The Citizens' Assembly went through a relatively standard deliberative learning process via presentations from experts and stakeholders, which support their collective will-formation work. In addition, the CA was asked to develop a 30-year plan and hence had significant freedom to set the long-term agenda for their area.
Collective decision-making (renamed "decision-making" and reframed as having the capacity to decide)	Beauvais and Warren note that the CA was effectively "coupled" with the local elected representatives and senior public servants (Hendriks, 2016). In addition, they suggest that the timing of this particular CA contributed to its ability to impact decision-making: in this case, it was used after an ongoing and failed community engagement process. Ninety-two per cent of the CA's recommendations were incorporated into the new community plan.

Source: Beauvais and Warren (2019, p. 6 and pp.8-15)

Beauvais and Warren (2019) argue that "deliberative mini-publics are not (and have never intended to be) general solutions to democratic deficits, but they can target deficits within specific policy problems and processes. Suggesting that we should think of mini-publics as supplementing existing electoral and representative institutions" (p. 901), they conclude that,

Depending on when and how they are sequenced into democratic processes, deliberative institutions can supplement existing institutions and practices to deepen the democratic system's capacities for empowered inclusion, deliberative agenda formation, and collective decision making (p. 908).

Jäske and Setälä (2020) apply their amended version of Warren's framework – which I described in the previous section of this chapter – to various participatory democratic institutions, including deliberative mini-publics. In considering deliberative mini-publics, they assess their contributions based on their design and resulting ability to deliver particular democratic functions – this comparison is laid out in Table 4.

Table 4: Jäske & Setälä's (2020) analysis of deliberative mini-publics against democratic functions

Jäske & Setälä's democratic functions	Generic contribution of deliberative mini-publics
Inclusion	Stratified random sampling and facilitation of the process ensure both external and internal inclusion of relevant viewpoints (i.e. not people, per se)
Collective agenda-setting	Will depend on the wording of the remit – broad or narrow
Collective will-formation	Based on their underlying commitment to deliberation, they see deliberative mini-publics as “fit to perform this task”
Collective decision-making	Will depend “on the extent to which they impose obligations on decision-makers in terms of handling, responding to and following citizens' input”.
Accountability	Requires transparency as a prerequisite for monitoring decision-makers' actions and a requirement to give an account of why certain decisions are made – or not.

Source: Jäske and Setälä (2020, pp. 4-7)

They note that the ability of democratic innovations to deliver any or all democratic functions depends not “only on the type of innovation but also how well it is implemented and ‘coupled’ with other institutions” (2019, p. 12). Hence, while we can identify in general the likelihood that a particular type of participatory democratic institution will deliver particular democratic functions, we need to look at how each institution is designed and located in the broader democratic system to determine whether these functions are delivered in practice as opposed to theory.

Jäske and Setälä (2020) conclude that specific democratic innovations can only provide “partial solutions” and suggest that “one single innovation cannot and should not be expected to fix all problems of democracy”; rather, “combinations of democratic innovations can potentially contribute to several democratic functions at a time” (p. 14). Hendriks (2016) has also observed and developed the value in combining participatory democratic institutions with other democratic institutions, in a process she refers to as “coupling”.

In applying democratic goods and democratic functions, the usual approach is to look at the practices in place, either generically or for a specific case. This is an understandable approach because practices are easy to identify. However, by looking at only one of the three institutional modes of constraint – which I will outline in more detail in Chapter 3 – we miss the impact of rules, where they exist – and importantly, we also miss narratives.

2.9.3 My approach to evaluating deliberative mini-publics

For this research, I adopt Jäske and Setälä's (2020) democratic functions to identify five democratic functions that combine with an institutional lens to support a detailed analysis of how deliberative mini-publics contribute to improving the quality of democracy. More detail on the institutional lens is provided in my review of the relevant literature in Chapter 3.

My approach views these democratic functions as scaffolding one from the other: the starting point is inclusion and the concluding point is accountability, with some overlap between the functions. Hence, I include inclusion as a separate function and not a

normative criterion. I will describe how I operationalise these democratic functions for deliberative mini-publics in Chapter 4, Research Design, where I set out my analytical framework in section 4.4.2.

Using this amended democratic functions framework, we can see a close link to the three top concerns of Australian citizens with the operation of their democracy (Stoker, et al., 2018b):

- Politicians can't be held to account for broken promises – failure to fulfil the function of accountability;
- Politicians don't deal with the issues that really matter – failure to fulfil the functions of collective agenda-setting and collective will-formation;
- Big business has too much power – failure to fulfil the functions of inclusion and collective will-formation.

2.10 Conclusion

I would like to make a few points in conclusion.

I agree with O'Flynn's (2019) view that whether or not an innovation improves democracy will depend on "our chosen definition of democracy" (p. 33). In doing so, I use democratic functions as developed by Warren (2017), and amended by Jäske and Setälä (2020), to assess the contribution of the DMPs in my case studies to the quality of democracy. I do this because it addresses key functions a democracy should deliver, and also considers a range of institutions against these functions – whether innovative or not – rather than within the democratic model that gave them birth.

Democracy is not a single institution but consists of various institutions that deliver on normative ideals – or pragmatic goals. The idea that democracy is a range of institutions works nicely with the democratic functions approach, as it encourages us to look for a mix of institutions that maximise democratic functions. While noting that individual institutions may not be able to deliver all of the functions, through careful combinations we may maximise the functions and hence the quality of democracy.

There are likely to be normative judgements around whether some institutions deliver particular functions in a better way than others. The amended democratic functions approach situates different democratic institutions and practices in a broader system. It recognises that a multitude of multi-faceted institutions and practices are required to establish a democratic system. In particular, while any one institution or practice may not be 'perfect', we can and should aim to enhance its contribution to each function rather than assume these democratic institutions and practices can 'balance one another out', as per the deliberative system idea.

As Warren (2017, p. 42) argues, taking a functional view of democracy is both normative and systematic. His approach situates different democratic institutions and practices in a broader system and recognises that many institutions and practices are required to establish a democratic system. Jäske and Setälä (2020) make a similar point, noting that the ability of democratic innovations to deliver any or all democratic functions depends not "only on the type of innovation but also how well it is implemented and 'coupled' with other institutions" (p. 12). Hence, while we can identify in general the likelihood that a particular type of participatory democratic institution will deliver particular democratic functions, we need to look at how each institution is designed so we can determine whether these functions are delivered in practice, as opposed to theory.

When Jäske and Setälä (2020) consider how particular types of participatory democratic institutions fit within representative democracy and alongside other participatory democratic institutions, they identify sequencing as being a relevant consideration, in addition to the concept of 'coupling' mentioned above (p. 12). They further argue that participatory democratic institutions "are likely to have a more profound impact on democratic functions whenever they are institutionalised, compared to when they are used on an ad hoc basis" (2019, p. 12).

My empirical work will apply the democratic functions approach, combined with an institutional lens, to look at the strengths and weaknesses of deliberative mini-publics in my case studies, to assess their contribution to the quality of democracy, rather than simply focusing on best-practice examples of particular approaches or techniques. By combining these two frameworks, we can better understand what different elements of these institutions deliver, and whether they deliver improvements to democracy or are simply window dressing. Using the institutional lens I will describe in the next chapter, in combination with the democratic functions, gives a clearer perspective on where and when – and if – these democratic innovations contribute to improving the system of democracy.

Nonetheless, while most participatory arrangements in practice would not fulfil democratic functions, democracy would likely be weaker without them. As per the title of Taylor's wide-ranging book *Democracy May Not Exist, But We'll Miss It When It's Gone* (2019), it is likely that although these participatory practices are often tokenistic, we would miss them if they were to stop.

CHAPTER 3 INSTITUTIONALISM LITERATURE

REVIEW

3.1 Introduction

Institutions [are] the central component of political life ... institutions are the variables that explain political life in the most direct and parsimonious manner, and they are also the factors that themselves require explanation. The basic argument is that institutions do matter, and that they matter more than anything else that could be used to explain political decisions. (Peters, 2012, p. 184)

This chapter provides an overview of institutional theory: in particular, the three modes of institutional constraint, the concepts of institutional change and design, and the role of actors, as these aspects of institutional theory are relevant to my research.

For my research, I am particularly interested in how institutions operate to constrain or enable action, how they are designed and changed, and how actors, including institutional entrepreneurs and others, can work either intentionally or unintentionally to create or maintain institutions.

Institutional design and institutionalisation are areas of growing interest for academics, advocates and practitioners in the area of deliberative democracy. However, it is rare for this interest to be based on institutional theory; instead, institutions, institutional design and institutionalisation are terms used loosely with little attention to the detail that institutional theory can provide.

As mentioned in the democracy literature review in Chapter 2, most academics coming from a democratic tradition look at democratic innovations from the perspective of the practices involved. While this is understandable as practices are easy to identify, the narratives associated with particular cases require more in-depth study. Rules are also fairly easy to identify; however, there are few rules in place relevant to my case studies, other than informal rules-in-use.

3.2 What are institutions?

Unfortunately, this is not an easy question to answer, and some scholars have criticised institutionalism for being “everything and nothing” simultaneously (Peters, 2019; Rothstein, 1996).

Institutions comprise “regulative, normative, and cultural-cognitive elements that, together with associated activities and resources, provide stability and meaning to social life” (Scott 2014, p. 56). Institutions are forms of social organisation that guide human behaviour but are also affected by it (Lowndes & Roberts, 2013). Old institutionalists focused on the formal structures of government and their contribution to ‘good government’ (Peters, 2019). Under the rubric of new institutionalism, there is agreement that “political institutions are ‘the rules of the game’” including “informal conventions as well as formal procedures” (Lowndes 2018, p. 64). Despite the varied language used to define institutions, Peters (2012) suggests that there “is a sufficient core to justify these approaches being considered one broad, if variegated, approach to politics” (p. 184).

Numerous schools sit under the umbrella of new institutionalism. These different schools conceptualise institutions as having various 'components'. For example, Scott (2008), coming from a sociological perspective, identifies institutions as made up of cultural conventions, forms, cognitive frames, and practices and from a historical perspective, whereas Hall (1996) identifies institutions as comprised of "formal and informal procedures, routines, norms and conventions" (p. 6). For this research, I am adopting the three "core concepts at the heart of institutionalism" that Lowndes and Roberts (2013, p. 11) identify as rules, practices, and narratives, and which I will go on to describe in detail.

So-called 'old institutionalism' was the main approach to political science and the study of governments (Lowndes & Roberts, 2013). By the late 1950s new approaches to the study of politics replaced this institutional approach, focusing on behaviouralism, rational choice and neo-Marxist approaches. By the 1970s institutionalism saw a resurgence called 'new institutionalism' with various schools of thought (Lowndes, 1996; Kaiser, 1997; Koelble, 1995; March & Olsen, 1983;).

Reviewing the history and development of institutionalism, Lowndes and Roberts (2013) identify three phases of institutionalism, bringing together old and new institutionalism:

Phase 1 – exploration and rediscovery – combining insights from old institutionalism and new institutionalism;

Phase 2 – divergence and division – expansion of new institutionalism with various schools of thought;

Phase 3 – convergence and consolidation – a coming together of these different schools around core concepts and key dilemmas.

Arguing that we are now in Phase 3 of institutionalism, Lowndes and Roberts (2013) state that

Theoretical and methodological borrowing between schools, alongside a common 'engaged' stance, has led to growing convergence around core concepts and key dilemmas. Through a series of consolidatory moves, a shared picture is emerging of how political institutions work: they shape actors' behaviour through informal as well as formal means; they exhibit dynamism as well as stability; they distribute power and are inevitably contested; they take a messy and differentiated form; and are mutually constitutive with the political actors whom they influence, and by whom they are influenced. (p. 45)

Peters concurs with the view that there is convergence and consolidation happening saying "these seemingly disparate groups of scholars were talking about many common questions, albeit from different angles and different intellectual perspectives." (2012, p. 185)

Building on the view that institutionalism is entering the third phase, Lowndes and Roberts (2013) identify that institutions "work through three modes of constraint – rules, practices, narratives" (p. 50); and they identify key characteristics for each mode, which I will now summarise, with more detail provided in Table 5

Rules are formally constructed and recorded; they impact actors when those actors read representations and interpretations of rules; they are often justified by narratives; and they may formalise well-established practices.

Practices are demonstrated through conduct; actors enact them by observing which actions are routinised within a particular ground or setting, and tacitly consenting to re-create those actions; they often form the basis of narratives, and rules may specify the practices required to enact the rules. Lowndes and Roberts (2009) note that practices can also be called “rules-in-use.”

Narratives are expressed through the spoken word; actors enact them through telling familiar stories and shared understandings to the point where the normative implications of these are taken for granted; narratives are often used to make a case for changes to the rules and can present current practices in either a positive or negative light.

Lowndes and Roberts highlight the value in studying these modes of constraint separately and in combination (2009, p. 69), which is the approach I take when analysing my case studies.

Finally, in addition to these three modes of constraint, I will be including rules-in-use, which Ostrom (1999) defines as “the set of rules to which participants would ... reference if asked to explain and justify their actions” (p. 36) and which Lowndes and Roberts (2013) mention, when referring to Ostrom, as the “dos and don’ts that one learns on the ground” (p. 49).

For the purposes of this thesis, whilst there are no formal rules relating to specifically to DMPs in the case studies, there are a number of practices that have become entrenched and recognised as good practice and applied systematically in the design and delivery of DMPs. In this thesis I refer to them as rules-in-use to distinguish them from other practices. These rules-in-use will be highlighted in the empirical chapters later in this thesis and have more recently been incorporated into guidance documents on DMPs (Curato et al., 2021; OECD, 2020; nDF, 2018).

Table 5: Modes of institutional constraint: key characteristics

	Rules	Practices	Narratives
How we recognise them	Formally constructed and recorded	Demonstrated through conduct	Expressed through the spoken word
Empirical examples	Clauses in a constitution, terms of reference, national and international laws	How elected members conduct themselves in parliaments, assemblies, or local councils	Speeches by politicians explaining the need for change; the collections of stories in an organization which justify the status quo
Enactment by actors through	Writing and formal interpretation – e.g. law to policy documents to guidance	The consistent rehearsal of ‘the ways in which we do things around here’	The linking together and spoken expression of ideas into explanation and persuasion
Impact on actors through	Reading representations and interpretations of rules (e.g. speed limit signs, procedure manuals)	Observing the routinised actions of members of the group and seeking to re-create those actions	Hearing familiar stories and recognising shared understandings to the point where the normative implications are taken for granted
Sanctioned by	Coercive action through formal rewards and punishments	Displays of disapproval, social isolation, and threats of violence	Incomprehension and ridicule, and attempts to undermine the reputation and credibility of non-conformists
Interconnections between modes	Narratives are often used to justify the existence of rules; rules often formalise well-established practices	Practices often form the basis of narrative; rules may specify the practices through which actors must enact the rules	The case for changing the rules is usually made in narrative form; narrative accounts can present prevalent practices in a positive or negative light
Indicative research methodologies	Documentary analysis, laboratory studies including the use of games, mathematical modelling	Observation of conduct in formal meetings and behind the scenes; ethnographic approaches	Interviewing actors and recording their stories, seeking verbalised explanations for policies; narrative analysis of speeches and interviews

Source: Lowndes & Roberts (2009, pp. 52–53)

3.3 Why are institutions important?

The value of institutionalism to the study of democracy in general, and participatory democratic institutions in particular, is highlighted by Lowndes and Roberts’ (2013) explanation of what the study of institutions involves:

In understanding political institutions, we are as much concerned with what ‘ordinary people’ can and cannot do as with the capacities of government and the actors who directly inhabit the political arena. Political institutions shape the

opportunities that all of us have as citizens to make our voices heard, to participate in decision making, and to access public services ... The way in which government is organised provides opportunities for citizens to make contact with their representatives and decision makers – through institutional mechanisms such as consultations, complaints systems or question and answer sessions, as well as traditional routes like voting. Whether citizens take up these opportunities is conditioned by other, less obvious aspects of institutional configuration – such as the timing and location of public meetings – and by informal conventions about the way in which issues are discussed and decisions made. (p. 4)

It is worth noting that politics is not the only field where institutional theory is used. While my research focuses on political institutionalism, institutionalism is used in other fields including organisational studies, management, and economics. And while these different fields approach institutionalism differently, they borrow from each other to explain how institutions operate (Lowndes & Roberts, 2013).

3.4 Institutional stability or flux

Until fairly recently, institutionalism was focused on how institutions remained stable, with change only occurring as a result of crises (Fountain, 2014; March & Olsen, 2004; Peters, 2012; Pierson, 2000). More recent scholarship has recognised that change can occur over both the long and medium terms and is usually the result of intentional or unintentional actions by agents (Bell, 2011; Lowndes and Roberts, 2013) Mahoney & Thelen, 2009; Streek & Thelen, 2005; Vermeule, 2007; Weimer, 1995).

An oft-repeated criticism of both old and new institutionalism is that it provides “more powerful explanations of stability than of change” (Fountain, 2014). In particular, theories of institutional change have traditionally focused on “external, or exogenous forces to produce the motive forces for change, rather than looking at the role played by actors and institutions within the local political space” (Lowndes & Roberts, 2013, p. 111). This is often referred to as the theory of punctuated equilibria (Krasner, 1984), where institutions are stable until they are not, due to external shocks or crises in the external environment such as wars, economic depressions, and pandemics. Scholars who focus on the stability of institutions also point to the importance of path dependency in limiting institutions’ ability to change except in response to significant events (Krasner, 1984; Pierson & Skocopol, 2002). Path dependency is the term used to describe a particular theory of institutionalism (historical institutionalism), which views the structures established when an institution is created as resulting in “an inertial tendency for those initial policy choices to persist.” (Peters, 2012: 70). The concept is that the particular institutional arrangements form a pathway, a groove, that can be difficult to move away or out of without a significant event to push the institution out of that path.

Recognising that institutions are not entirely stable entities, Bell (2011) argues that it makes sense “to see institutions not just as sources of constraint but as also having important empowering and enabling effects which interpretative agents may be able to exploit” (p. 895). And while Lowndes and Roberts (2013) use the terminology ‘modes of constraint’, they also acknowledge that “institutions empower, as well as constrain” (p. 77). These newer approaches provide a more nuanced perspective around institutional stability, change and the role of actors.

Taking an explicitly political focus, Olsen (2008) also supports the idea that “political institutions are neither completely static nor in a constant flux” (p. 6) and claims that “the theoretical challenge is to understand the shifting mix of deliberate design and adaptive behavior” (2009, p. 6).

Institutionalism simply claims that the relationships between political agency, large-scale societal processes, normative democratic prescriptions, existing institutional arrangements, and institutional development are complex and that knowledge about the functioning of formally organized institutions adds to our understanding of continuity and change in democratic contexts... ‘institutional change and order’ is probably a too heterogeneous phenomenon to be captured by any simple theory based upon a few grand generalisations and a dominant mechanism of change. (Olsen 2009, pp. 26–27)

Various new-institutionalism scholars have considered how institutional change occurs. As will be covered later in this section, some of this work has remained purely theoretical, while some has been tested against real-world change. Kingston and Caballero (2009) undertook a review of theories of institutional change and identified a range of different approaches based on three distinct factors: the causes, the processes, and the outcomes. They found that:

- causes are exogenous and endogenous;
- processes are purposeful designed change and evolutionary change, which can sometimes happen together);
- outcomes can be intentional versus unintended, and optimal versus sub-optimal.

I would add an additional factor of time scale and amend two of the above approaches to create a more comprehensive understanding of the various aspects of institutional change:

- causes can be exogenous versus endogenous, and involve structure versus agency;
- processes of change can be purposeful and unintentional;
- time scale can be short-term, long-term, or mid-term and
- outcomes can be intentional versus unintended, and optimal versus sub-optimal

When considering democratic innovations and in particular deliberative mini-publics even a cursory review demonstrates that there has been a significant expansion in the use of deliberative mini-publics both in Australia and around the world in the last ten years (Participedia; nDF Projects). In addition, as my case studies will demonstrate, this growth has been due to agents who promote change, and not all of this change has been intentional or has its intended outcomes.

When considering slower institutional change, there are two broad theoretical approaches: evolutionary change and incremental change.

3.4.1 Evolutionary change

Lewis and Steinmo (2012) propose an explicitly evolutionary approach to institutional change using the concept of ‘universal Darwinism’ whereby evolution comprises “a very simple algorithm: variation, selection, retention” (p. 316). They propose an evolutionary change framework that “makes institutions both replicators of behavior and objects of contestation” (2012, p. 338), where ideas are a key mechanism for institutional change. They argue that “viewing institutions in this way also integrates analyses of agency and structure

because of the focus on the iterated interactions of agents and their environment” (Lewis & Steinmo, 2012, p. 38).

Tang argues that the phases of change correspond with the evolutionary phases of variation, selection, and inheritance. Both Lewis and Steinmo’s and Tang’s descriptions of evolutionary change include a role for agents, whereas Kingston and Caballero (2009) suggest that evolutionary change can be counterposed to purposeful change. Most theories of incremental change include a role for actors; however, others suggest there can be incremental change with little if any, role for actors – as I will now discuss.

3.4.2 Incremental change

One of the most cited conceptualisations of incremental institutional change comes from the work of Kathleen Thelen in combination with various others, especially Mahoney and Thelen’s (2010) ‘theory of gradual institutional change’. This is based on the idea that the distribution of power provides the “basic motor for change” (p. 4), which, when combined with compliance as a variable, explains both stability and change (pp. 10–11). In this approach, actors are identified as those who make the rules – rule-makers – or those who must comply with the rules – rule-takers.

Based on previous work by Streeck and Thelen (2005), Mahoney and Thelen delineate four modes of institutional change that “can both capture and help us analyse these forms of institutional change that are gradual but cumulatively transformative, rather than abrupt and discontinuous” (Thelen, 2009, p. 476). These four modes of gradual change may or may not include a role for agents:

Layering: the introduction of new rules on top of or alongside existing ones thereby changing the ways in which the original rules structure behaviour; which may alter the logic of the institution over time.

Drift: the changed impact of existing rules due to shifts in the environment, where the existing rules remain unchanged.

Displacement: the removal of existing rules and the introduction of new ones; this can be an abrupt change but can also be slow moving when new institutions are introduced which directly compete with (rather than supplement) an older set of institutions.

Conversion: the changed enactment of existing rules due to their strategic redeployment, where actors actively exploit the inherent ambiguities of the institution. (Mahoney & Thelen, 2010, pp. 15–18)

Under this framework, the characteristics of the political context and the institution jointly determine the likely mode of institutional change. Mahoney and Thelen (2009) put forward a theory where different political contexts and different institutions support – or do not – specific types of change agents and thereby different types, or modes of change. This framework is not based on specific evidence. Instead, they suggest that this theory

offers new concepts and causal propositions for scholars to draw on and use in their own investigations. ... Ultimately, the arguments we put forward can be evaluated only through the analysis of concrete cases and actual episodes of institutional change... (Mahoney & Thelen, 2010, p. 32)

In their meta-analysis of the empirical use of Mahoney and Thelen's (2010) modes of incremental change, van der Heijden and Kuhlmann (2017) find three key critiques of this model and add one of their own:

- the modes of change, their definitions and boundaries lack clarity;
- the theory builds on a static and narrow model of agency;
- the theory lacks analytical and explanatory power; and
- the above critiques run the risk of concept stretching and concept proliferation.

In reviewing Thelen and her co-authors' work, van der Heijden (2014) suggests that "the various mechanisms of gradual institutional change and their overarching framework have been beneficial in providing a language for discussing complex cases" (p. 24); and in fact, this would seem to be how most people use Thelen's work (Maggetti, 2014; Martin, 2015), rather than using the detail around types of agents and veto possibilities to predict outcomes. Nonetheless, political scientists generally refer to Mahoney and Thelen's incremental change concepts or apply them to specific institutional situations.

3.4.3 Third-wave institutionalism and change

Continuing their development of the third phase of institutionalism, Lowndes and Roberts (2013) identify two important aspects of institutional change: the tempo of change and the balance between structure and agency (shown in Figure 2). The spectrum's incremental/punctuated change ends have been referred to in preceding sections of this chapter. The agency/structure spectrum refers to how the existing structure of institutions limits how change can be generated and manifested; agency relates to the ability of both rule-makers and rule-takers to influence how institutions are enacted (Streeck & Thelen, 2005). This matrix recognises the real world's diversity, where things don't always fit neatly into either/or boxes, and allows a more nuanced approach to institutional change.

Institutional remembering: use of redundant institutional resources to serve new objectives;

Institutional borrowing: the transfer of institutional resources from an adjacent space by an agent involved in both spaces;

Institutional sharing: involves the transfer of institutional resources from other spaces that the agent is not involved in;

Institutional forgetting: withdrawal of active maintenance for existing institutions.

Some argue that intentional action amounts to a “myth of the intentional designer” on the basis that

Institutions are often the products of intentional activities gone wrong – unwanted by-products, the products of various intentional actions cutting across one another, misdirected intentions, or just plain mistakes. (Goodin, 1998, p. 29)

Lanzara (1998) draws attention to the role of ‘institutional bricolage’ – tinkering or patching-together – in contrast to formulating grand plans:

Seldom are institutions created from scratch. They are often the outcomes of recombining and reshuffling of pre-existing components or other institutional materials that... can serve new purposes. (p. 27)

In a similar vein, in the context of democratic constitutionalism Vermeule (2007) adopts Elster’s (1998) metaphor for institutional design, within the context of existing institutions, as “rebuilding a ship while at sea.” Vermeule talks about gaps for design at the margins, which allow alternate reforms to be considered:

Democrats of differing views can deliberate and decide together about what democracy permits or requires in particular contexts, even if they lack a full account of what democracy entails. (p. 246)

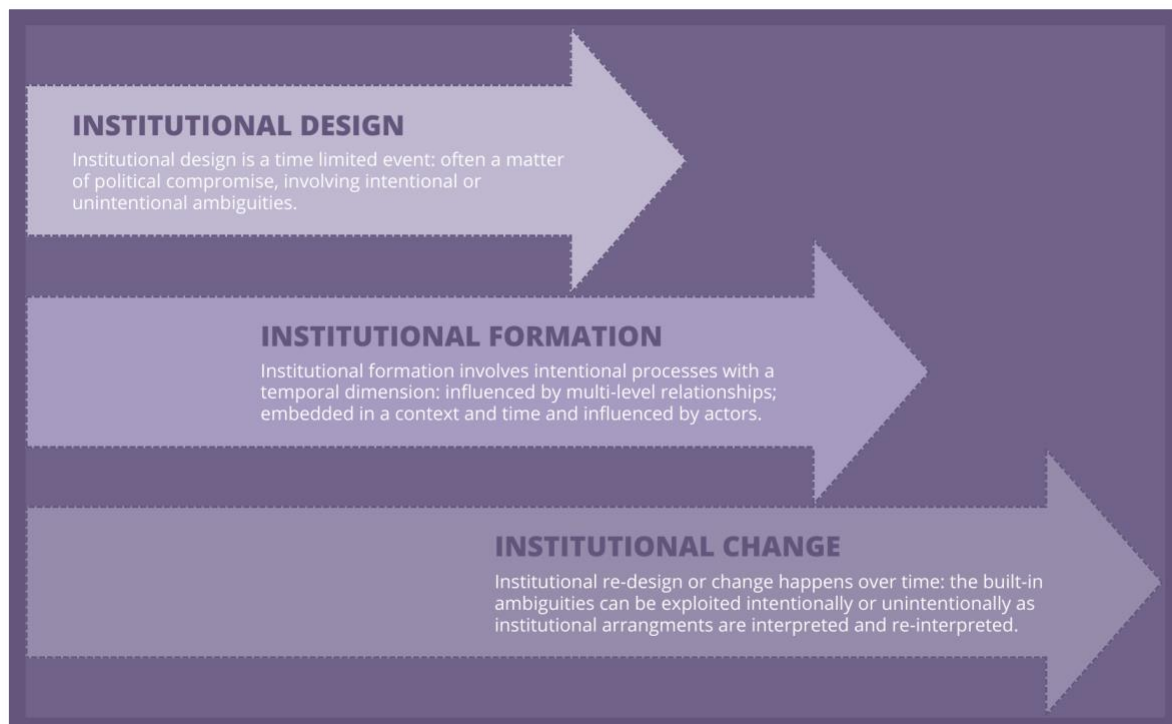
Continuing with the ship metaphor, he notes that some high-level debates may seem less important as “the ship must sail on, with all its leaks and flaws” (p. 246)

More recently, Lowndes and Lemprière (2018) have added an additional concept of institutional formation, identifying different temporal dimensions for design, change and formation:

- institutional design is ‘a time-limited event’, often a matter of political compromise, involving intentional or unintentional ambiguities;
- institutional change is ‘an open-ended trajectory’ which happens over time with built-in ambiguities that can be exploited intentionally, or unintentionally as institutional arrangements are interpreted and reinterpreted;
- institutional formation focuses ‘on intentional processes of institutional development’ that pay serious attention ‘to temporal effects’. (p. 229)

Figure 3 provides a visual of these three related activities, showing their temporal aspects.

Figure 3: Temporal dimensions of institutional design, formation and change



Source: adapted from Lowndes and Lemprière (2018)

3.6 The Role of Actors

Initially, the study of institutions focused on how rules and structures determined political life, including constitutions, laws, and parliaments. Under this approach, institutions existed outside of people, and were independent from them (March & Olsen, 1989). When considering institutional change, however, this focus on rules and structures was criticised for giving very little recognition to the role of actors and agency.

The role of actors in determining the direction of institutional change has more recently been acknowledged and theorised as part of new institutionalism and the third wave of institutionalism, described earlier in this chapter. The role of agents is also often linked to the role of ideas in supporting institutional change (Lewis & Steinmo, 2012). It is relevant here that Lowndes and Roberts (2013) identify narratives as one of the three modes of constraint by which institutions operate.

In considering the role of actors in institutional change, an early challenge for scholars was the so-called 'paradox of embedded agency':

Within the tenets of institutional theory, the concept of institutional entrepreneurship ... seems paradoxical. The question of how organizations or individual whose beliefs and actions are determined by existing institutions can break with these very same institutions and innovate relates to the paradox of embedded agency, which alludes to the tension between agency and structure. (Battilana et al., 2009, p. 72)

DiMaggio (1988) introduced the concept of institutional entrepreneurship as a starting point to developing a theory of action within institutionalism that addressed the perceived paradox of embedded agency and the impact of path dependency. Institutional

entrepreneurs are a category of actors undertaking institutional work, albeit with different skills and resources to other actors (Lawrence & Suddaby, 2006, p. 217).

More recently, another concept has developed within institutionalism to address the role of actors – institutional work. It is defined as the

purposive action of individuals and organisations [other institutions] aimed at creating, maintaining, and disrupting institutions (Lawrence & Suddaby, 2006, p. 215).

Institutional work provides a language to understand and research the roles of individual and collective actors (Lawrence & Suddaby, 2006).

Both these concepts are relevant to my research; and institutional work. In addition, institutional work, as I will set out here, has many features in common with the literature around intentional institutional change and institutional design.

3.6.1 Institutional entrepreneurs

Battilana et al. (2009) define institutional entrepreneurs as “actors who initiate and actively participate in the implementation of changes that diverge from existing institutions” (p. 70). They identify divergent changes as those “that break with the institutionalized template for organizing within a given institutional context” (p. 68).

Based on a comprehensive review of the literature, Battilana et al. (2009) develop a model of the process of institutional entrepreneurship which includes a range of features that distinguish institutional entrepreneurship from other forms of agency. They argue that while institutional entrepreneurs are change agents, not all change agents are institutional entrepreneurs. The model they develop aims to identify what makes a change agent an institutional entrepreneur. Despite using language such as “effectiveness” in their model and focusing on achieving the change, they argue that an institutional entrepreneur does not need to succeed in achieving change to be considered an institutional entrepreneur (2009, p. 70).

Building on several studies that seek to explain “how actors can become institutional entrepreneurs despite institutional pressures”, Battilana et al. (2009, p. 74) identify two key categories of enabling conditions for institutional entrepreneurs: field characteristics; and actors’ social position.

When considering how field characteristics might enable institutional entrepreneurship, Battilana et al. (2009) note that these are often interrelated. Examples of field characteristics include jolts or crises, acute field-level problems, the degree of heterogeneity and institutionalisation, and the action of other actors. Building on the idea that the actions of other actors might be a relevant field characteristic, Battilana et al. (2009) identify the social positions of actors as a second enabling condition. An actor’s social position can affect their perception of the field, their ability to access resources to initiate change and their belief in their ability to achieve change. Additionally, Battilana et al. (2009) also identify the potential for interaction between field characteristics and actors’ social position in influencing whether actors become institutional entrepreneurs.

Effecting institutional change and overcoming opposition is complex and fraught with difficulty. Battilana et al (2009) note that

Implementing change that builds on existing institutions is challenging, implementing change that breaks with existing institutions more so. Institutional

entrepreneurs who promote the latter type of change are challenged to envision the divergent change and mobilize allies in support of its implementation, which entails 'loosening' the institutional embeddedness of those being mobilized. Institutional entrepreneurs also must counter political opposition. "Institutional defenders" who benefit from the status quo ... almost invariably arise to defend existing beliefs and practices. This pattern is all the more pronounced if the proposed divergent change threatens established organizational privileges and social position within the organizational field. (p. 78)

To effectively address opposition, institutional entrepreneurs need to have mastery in three broad areas of activity involved in implementing change:

- Developing a vision that encompasses activities that make a case for change, including sharing the vision of the need for change with followers;
- Mobilising people and undertaking activities to gain others' support for and acceptance of new routines; and
- Motivating others to achieve and sustain the vision to institutionalize change (Battilana, 2009, p. 78).

Framing the vision

In developing and communicating a vision for change, institutional entrepreneurs use different types of framing:

- Diagnostic framing points to the failings of existing institutional practices (Suddaby & Greenwood, 2005);
- Prognostic framing identifies the new institution as preferable to the existing one and, in doing so, de-legitimises the existing arrangements (Creed et al., 2002);
- Motivational framing aims to motivate actors to support the new arrangements by relating them to their interests (Fligstein, 2001).

Mobilising allies, discourses and resources

Mobilisation of allies is another element in driving change. Institutional entrepreneurs do this by identifying potential allies and opponents and using discursive resources – the various approaches to framing the proposed change, along with other resources – to build these alliances. As part of this mobilisation, entrepreneurs use rhetorical arguments which build on existing "institutional logics which ... resonate with the values and interests of potential allies" (Battilana et al., 2009, p. 82). Other resources used to mobilise allies have been less studied but include financial resources and the entrepreneur's formal or informal authority in the field – their social capital.

Sustaining the vision

The final aspect of institutional entrepreneurs' activities is implementing and sustaining their vision. Discursive and other resources will contribute to institutional entrepreneurs' ability to implement their vision as field characteristics. Battilana et al. (2009) note that "the activities involved in motivating actors to realize and sustain a vision, that is, to institutionalize change, have been the least studied in the literature on institutional entrepreneurship" (p. 86).

3.6.2 Institutional work

Institutional work supports consideration of change or stability as it is happening, rather than only looking at change and the role of actors in retrospect. It also allows consideration of what actors do without identifying the outcomes of their actions (Lawrence et al., 2009, p. 10; Lawrence et al., 2013).

Since the concept of institutional work emerged, there has been a significant amount of research in this area of institutional theory. In 2012, Forgues et al. called the growth in academic interest around the concept of institutional work “bewildering” (p. 461) – an observation that is even more relevant now. For this reason, I am only highlighting those areas of institutional work that are relevant to my research.

While Lawrence and Suddaby, writing in 2006, acknowledge that “our understanding of institutional work is formative at best” (p. 246), they undertake a review and synthesis of the literature on institutional work in their field of organisational studies to develop “a preliminary taxonomy of institutional work” (p. 246) covering three areas: creation, maintenance, and disruption. They also argue that the concept of institutional work supports a critical approach in institutional research and theory that foregrounds power, noting that “all the practices we described above as institutional work require resources, which are available to some and not others” (p. 247).

Tables 6 – 8 provide an overview of the different types of institutional work identified by Lawrence and Suddaby, not only for creating institutions but also for maintaining and disrupting.

Table 6: Institutional work - creating institutions

Forms of institutional work	Definition
Advocacy	The mobilization of political and regulatory support through direct and deliberate techniques of social suasion
Defining	The construction of rule systems that confer status or identity, define boundaries of membership or create status hierarchies within a field
Vesting	The creation of rule structures that confer property rights
Constructing identities	Defining the relationship between an actor and the field in which that actor operates
Changing normative associations	Re-making the connections between sets of practices and the moral and cultural foundations for those practices
Constructing normative networks	Constructing of interorganizational connections through which practices become normatively sanctioned and which form the relevant peer group with respect to compliance, monitoring and evaluation
Mimicry	Associating new practices with existing sets of taken-for-granted practices, technologies and rules in order to ease adoption
Theorizing	The development and specification of abstract categories and the elaboration of chains of cause and effect
Educating	The educating of actors in skills and knowledge necessary to support the new institution

Source: Lawrence and Suddaby, 2006: 221

Table 7: Institutional work - maintaining institutions

Forms of institutional work	Definition
Enabling work	The creation of rules that facilitate, supplement and support institutions, such as the creation of authorizing agents or diverting resources
Policing	Ensuring compliance through enforcement, auditing and monitoring
Deterring	Establishing coercive barriers to institutional change
Valourizing and demonizing	Providing for public consumption positive and negative examples that illustrate the normative foundations of an institution
Mythologizing	Preserving the normative underpinnings of an institution by creating and sustaining myths regarding its history
Embedding and routinizing	Actively infusing the normative foundations of an institution into participants' day to day routines and organizational practices

Source: Lawrence and Suddaby, 2006: 230

Table 8: institutional entrepreneurs - disrupting institutions

Forms of institutional work	Definitions
Disconnecting sanctions	Working through state apparatus to disconnect rewards and sanctions from some set of practices, technologies or rules
Disassociating moral foundations	Disassociating the practice, rules or technology from its moral foundation as appropriate within a specific cultural context
Undermining assumptions and beliefs	Decreasing the perceived risks of innovation and differentiation by undermining core assumptions and beliefs

Source: Lawrence and Suddaby, 2006: 235

The growing interest in institutional work has produced numerous systematic reviews of how the concept is being used and how it has evolved (de Mattos Zareplon, 2019; Gidley & Palmer, 2020; Lehman et al., 2019). Lelman et al. (2019) undertook a systematic review of 102 articles published between 2006 and 2015;

de Mattos Zarpelon et al. (2019) undertook a systematic review of 30 papers published between 2013 and 2016; and Gidley and Palmer (2021) found 452 peer-reviewed articles in 185 different journals from March 2006 to December 2019.

Following their review, Lelman et al. (2019, p. 3) overlay a two-dimensional framework over Lawrence and Suddaby's (2006) three forms of institutional work: whether the general purpose of institutional change is offensive versus defensive; and whether the focus of the institution is established versus new and emerging. They restructure Lawrence and Suddaby's three forms of institutional work based on institutional pillars: regulative, normative, and cultural-cognitive (2019, p. 2). Additionally, they identify five new forms of institutional work:

- Bypassing: circumventing formal coercive rules to avoid monitoring and enforcement, or finding informal arrangements through situated improvising;
- Jurisdictional work: exploiting uncertainty, ambiguity or contradictions resulting from regulative differences between jurisdictions;
- Moralising: appeals to actors' character, moral imperatives or social responsibilities;
- Repairing breaches: restoring the moral integrity of roles, identities or practices;
- Contextualising; specifying and adapting institutional logics to the needs and goals of specific audiences.

Meanwhile, de Mattos Zarpelon et al. (2019) focus on mapping research before 2013 and from 2013 to 2016 to identify new opportunities for research on institutional work. Of the opportunities they identify, the most critical for my research is to undertake studies "that might inform practitioners about the possibilities of social transformation" (p. 768).

Finally, based on their extensive systematic review, Gidley and Palmer (2020, pp. 57–58) develop a new framework for institutional work with four components, which they argue provide an essential foundation for institutional work research:

- Setting: institution type and actor type;
- Motivation: scale and origin;
- Institutional work types: effort and visibility;
- Outcome: intentionality and grandeur.

3.7 Bringing institutional change and actors together

Despite Olsen's (2008) view, referred to earlier, that

'institutional change and order' is probably a too heterogeneous phenomenon to be captured by any simple theory based upon a few grand generalizations and a dominant mechanism of change. (p. 29)

It is clear from the overview of institutional change, design and actors that despite a range of approaches, they all identify similar relevant features, for instance, the nature of the institutions in place; the way in which new institutions interact with existing institutions how narratives are used to justify new or redesigned institutions.

If we compare Lowndes and Roberts' (2013) institutional design categories to Mahoney and Thelen's (2010) modes of change, we see significant similarities:

- Institutional remembering is similar to drift or conversion;
- Institutional borrowing is similar to displacement or layering;
- Institutional sharing is also similar to displacement or layering; and

- Institutional forgetting is similar to displacement or drift.

These similarities confirm the idea that institutional change and institutional design are two sides of the one coin. As does the recent suggestion that layering should be reconceptualised as institutional design rather than institutional change (Capano, 2018).

The same similarities emerge when we compare Battilana et al.'s (2009) activities to achieve divergent change and Lawrence and Suddaby's (2006) forms of institutional work see Table 9 below.

Table 9: Comparison of institutional work, institutional change and change and design

Battilana et al.	Lawrence and Suddaby	Institutional design/change
Mobilizing allies	Advocacy	
Discourses and framing	Defining	
n/a	Vesting	
Social status and resources	Constructing identities	
Sustaining change	Changing normative associations	Borrowing/layering
Mobilizing allies	Constructing normative networks	
Linking with existing institutional logics	Mimicry	Sharing/layering
Discourses and framing	Theorizing	
Authority	Educating	

The overlap between modes of change,

3.8 Institutionalism and participatory democratic institutions

Despite more recent use of the term 'institutional design', particularly regarding deliberative mini-publics, there is minimal scholarship applying institutional theory to participatory democratic institutions. In this section I outline two academic papers that explicitly use institutional theory to consider participatory democratic institutions.

Montambeault (2019) applies Mahoney and Thelen's theories of gradual institutional change to the institution of participatory budgeting in Belo Horizonte, Brazil. She explicitly states that her analysis is not intended to "impose a normative judgement on the fate of PB in the city [of Belo Horizonte]"; however, she does conclude that various modes of gradual institutional change have "led to decreased legitimacy [of participatory budgeting] as a citizen participation tool" (p. 48). Decision-makers have hollowed out these institutions by reinterpreting rules, despite maintaining the appearance of continuing to support participatory budgeting.

Applying an institutional perspective explicitly to institutions and proto-institutions of participatory governance in Barcelona, Blanco et al. (2022) confirm my contention that there is value in using institutional theory when considering whether deliberative mini-publics contribute to improving democracy. They suggest:

While formal rules may endure over time, responsiveness and innovation in participatory governance depends upon the relationship between formal rules, informal practices, and persuasive narratives. Such an approach allows us to look beyond the formal design of participatory methodologies and recognize the role of other institutional elements that contribute to the robustness, or otherwise, of local participatory processes. (p. 2)

As will be covered in more detail in the following Research Design chapter, I will be using a combination of democratic functions and institutionalism to analyse my cases. At the individual case level, I will be considering the institutional modes of constraint and the interplay of those modes with the processes of institutional design and change happening in those cases.

In addition, I will use Battilana et al.'s (2009) model of institutional entrepreneurship to review the activities of the newDemocracy Foundation and democracyCo in promoting deliberative mini-publics, drawing on interviews, nDF/democracyCo documentation and media coverage of their work. I diverge from this model in seeking to make a qualitative assessment of these two institutional entrepreneurs' effectiveness.

3.9 Conclusion

In this chapter, I have highlighted the importance of political institutions in determining how democracy is practised. Understanding what institutions are, how they operate, and how they change – or don't – provides a way to understand their intended and unintended impacts.

As I have addressed in the previous chapter, many academics writing about participatory democratic institutions use the terms 'institutions', 'institutionalisation' and 'institutional design' without formally considering institutional theory. In doing so, they often conflate institutions and institutional design with practices, and institutionalism with rules. Not only does this ignore the complexity of institutions, including the impact of narratives and the interplay of modes of constraint, but it also pays scant attention to the challenge of institutional change and the role of actors in creating and maintaining institutions. I contend that using an institutional lens can help us better understand the operation of participatory democratic institutions, particularly deliberative mini-publics, and their contribution to the quality of democracy.

Institutionalism enables us to move beyond considerations of institutional design that focus solely on practices, to consider the formal rules, rules-in-use and narratives – and in particular, to consider how narratives can either limit or expand the interpretation of practices (Blanco et al., 2021). Combined with recent scholarship around institutional work, these lenses provide the framework for my empirical work to identify what is happening over the short and medium terms to identify in turn how the institutional components of deliberative mini-publics contribute to the quality of democracy.

In addition to the value of using an institutional frame for my research, as set out above, the concepts used in institutional change and institutional work provide helpful concepts when considering the jurisdictional case studies in chapters five to eight and in the overall discussion in chapter ten. In particular institutional work, which effectively applies many of the approaches to institutional change when considering the roles of actors in real-time, allows my analysis to look at change over shorter timeframes than institutional change concepts alone would do. Whilst I have outlined a range of scholars in this chapter, my

analytical framework (section 4.4.2) will build mainly on the work of Vivien Lowndes and her various collaborators (Blanco, et al., 2022; Lowndes, 2016; Lowndes & Lemprière, 2018; Lowndes & Roberts, 2013). The reason for this is that in her book she has brought together multiple strands of institutionalism across various dimensions. With other collaborators, she has developed and applied institutional concepts to political, democratic and local government institutions.

CHAPTER 4 RESEARCH DESIGN

4.1 Introduction

This chapter describes and explains my approach to designing the research for this thesis. My overarching research objective is to determine whether democratic innovations and, in particular, deliberative mini-publics can improve the quality of democracy and address democratic deficits.

My goal for this thesis is to contribute to the theory and practice of deliberative mini-publics to enhance their contribution to democracy. As set out in the previous two chapters, I identified two theoretical lenses that support that goal: democratic functions and institutionalism.

This chapter will set out the philosophical positions that guided my research and will describe my research methodology, sampling strategy, data collection and analysis methods.

My research was designed to support answering my research questions:

1. What are the strengths and weaknesses of deliberative mini-publics in fulfilling democratic functions?
2. What aspects of the institutional design (institutional modes of constraint) of deliberative mini-publics contribute to these strengths and weaknesses?
3. What role do decision-makers (elected representatives and public servants) and designers of deliberative processes play in enhancing or reducing the ability of deliberative mini-publics to improve the quality of democracy?
4. How could the institutional design of deliberative mini-publics be improved to strengthen their contribution to democratic functions?

This chapter looks, firstly, at my underlying perspectives on knowledge and how we can understand the world before I identify the type of research and research strategy I have applied. I then discuss my sampling strategy, data collection methods and analytical framework. Finally, I consider the ethical issues associated with this research and its methodological limitations.

4.2 Research Philosophy

My approach to this research recognises that the study of humans is intrinsically different from the study of objects. Even when social researchers use numbers, as in quantitative approaches, they are still studying human consciousness and its products, which can only be assessed by considering spoken or written language, observed or reported behaviour and the artifacts these produce.

So, for my research around democratic innovations and democracy, I don't accept that these 'things' exist independently of the people who design them, interpret them and work within them. This approach has been called 'anti-foundationalism', which it is argued: "entails an interpretivist theory of knowledge" (Marsh et al., 2018, p. 178).

Marsh et al. (2018, p. 190) argue that interpretivism has three core features:

- the [social/political] world is socially or discursively constructed;

- social phenomena cannot be understood independently of our interpretations of them;
- analysis of a social phenomenon cannot be 'objective'.

They argue that because researchers are themselves operating within discourses or traditions, they operate in a double hermeneutic.¹⁰ Bryman (2012, p. 31) goes further and suggests a triple hermeneutic of how people interpret their world, how the researcher interprets those interpretations and, finally, how the researchers' interpretations sit within the broader literature on a particular topic. As both a practitioner and researcher in the area of deliberative mini-publics I am aware of these hermeneutics and will address them further in Section 6 and 7 of this chapter.

Discussing the use of interpretive research when studying deliberative systems, Hendriks et al. (2013, p. 8) identifies three characteristics of interpretative approaches. They:

- focus on uncovering meaning rather than measuring things;
- emphasis contextuality, not generalisability, i.e. aiming to explain things; and
- are abductive as opposed to deductive, using theory in an iterative way.

I will consider later in this chapter how these core features and characteristics apply in my research.

The interpretivist approach relates well to the theoretical framework being used to guide my research: that is, institutionalism, which recognises that institutions are forms of social organisation, made up of rules, practices and narratives which guide human behaviour but are also affected by it (Lowndes & Roberts, 2013). As Olsen (2009, p. 10) notes, paraphrasing Searle: "since institutions are human products, they exist only because a sufficiently high number of citizens believe they exist."

I am also taking an explicitly normative approach, agreeing with Stoker (2013) that "we need to make our [political] science more solution seeking in its agenda and conduct" (p. 180). My aim in answering my research questions is to provide specific and general guidance to the designers of democratic innovations and, in particular, deliberative mini-publics.

I will now look at the various design choices I made regarding my research and why I made them. In line with my research philosophy, my research is qualitative, analysing various sources – which I will shortly outline – and applying the analytical framework in Section 4.4.2 of this chapter to answer my overarching research questions.

4.3 Case Study Methodology

In considering institutionalist methodologies, Lowndes and Roberts (2013, p. 48) identify seven potential methodologies: mathematical modelling, game theory, experimental methods, ethnography, country case studies, practice case studies and narrative analysis.

For my research, I am using a case study methodology because, as Yin (2012, p. 4) says:

All case study research starts from the same compelling feature: the desire to derive a(n) (up-)close or otherwise in-depth understanding of a single or small number of "cases," set in their real-world contexts. This closeness aims to produce an invaluable

¹⁰ Hermeneutics is a term drawn from theology, which, when imported into the social sciences, is concerned with the theory and method of interpreting human action. It emphasises the need to understand from the perspective of the social actor (Bryman, 2012, p. 712).

and deep understanding – that is, an insightful appreciation of the “case(s)” – hopefully resulting in new learning about real-world behavior and its meaning.

This was precisely my purpose in studying the four jurisdictional cases I chose. Others have evaluated the democratic functions of DMPs, both generically and in individual cases; however, none have done so using an institutional lens as well. The institutional lens allows consideration of the DMPs in my cases, not simply as a collection of practices – which are often the focus of these evaluations – but also incorporating the other aspects of institutions, which are their rules and narratives and the operation of these institutional modes of constraint alone and in combination.

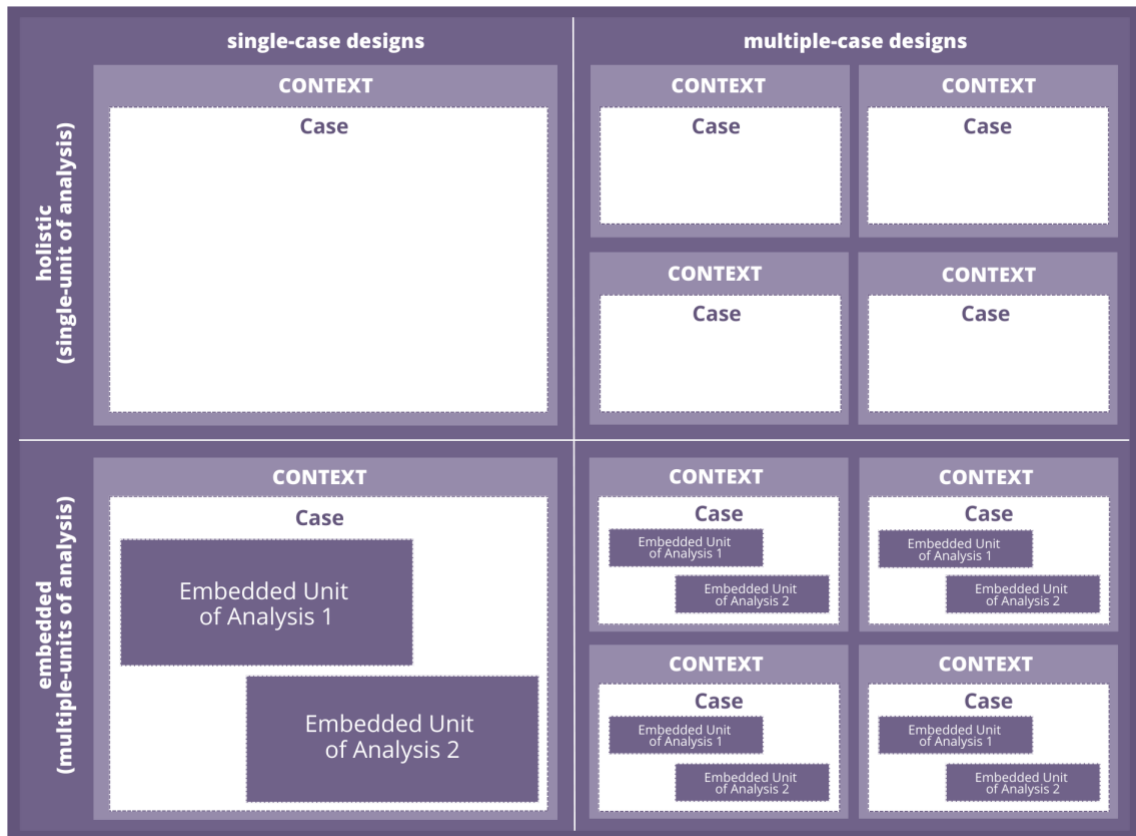
In my jurisdictional case studies, I am applying what Bartlett and Vavrus (2017) refer to as comparative case studies (CCS). They identify CCS as a heuristic and an approach that focuses on “tracing the phenomenon of interest in a study *across sites and scales*” (2017: 6, my emphasis). In regard to the jurisdictional case studies, the ‘phenomenon of interest’ is the use of a combination of democratic functions and institutionalism, into an analytical framework (see 4.4.5) that answers the research questions (see 1.2).

My research also involves two more case studies of organisations promoting the use of deliberative processes: the newDemocracy Foundation and democracyCo. The role of agents in institutional change and institutional design is relevant to the growing use of deliberative mini-publics and other deliberative processes. In undertaking my jurisdictional case studies, I was exposed to the work of these two organisations and decided to look at them in detail using the literature on institutional entrepreneurship. With the growth in organisations promoting DMPs and associated practices (Change Politics, DemocracyNext, Engage Britain, to name a few), this analysis, using the framework of institutional entrepreneurship, allows a comparison how these two quite different organisations have approached their work.

4.3.1 Jurisdictional case studies

My research involves multiple cases with embedded units of analysis in each case (Yin, 2012, p. 8). See Yin’s diagram of this approach to case studies (Figure 4).

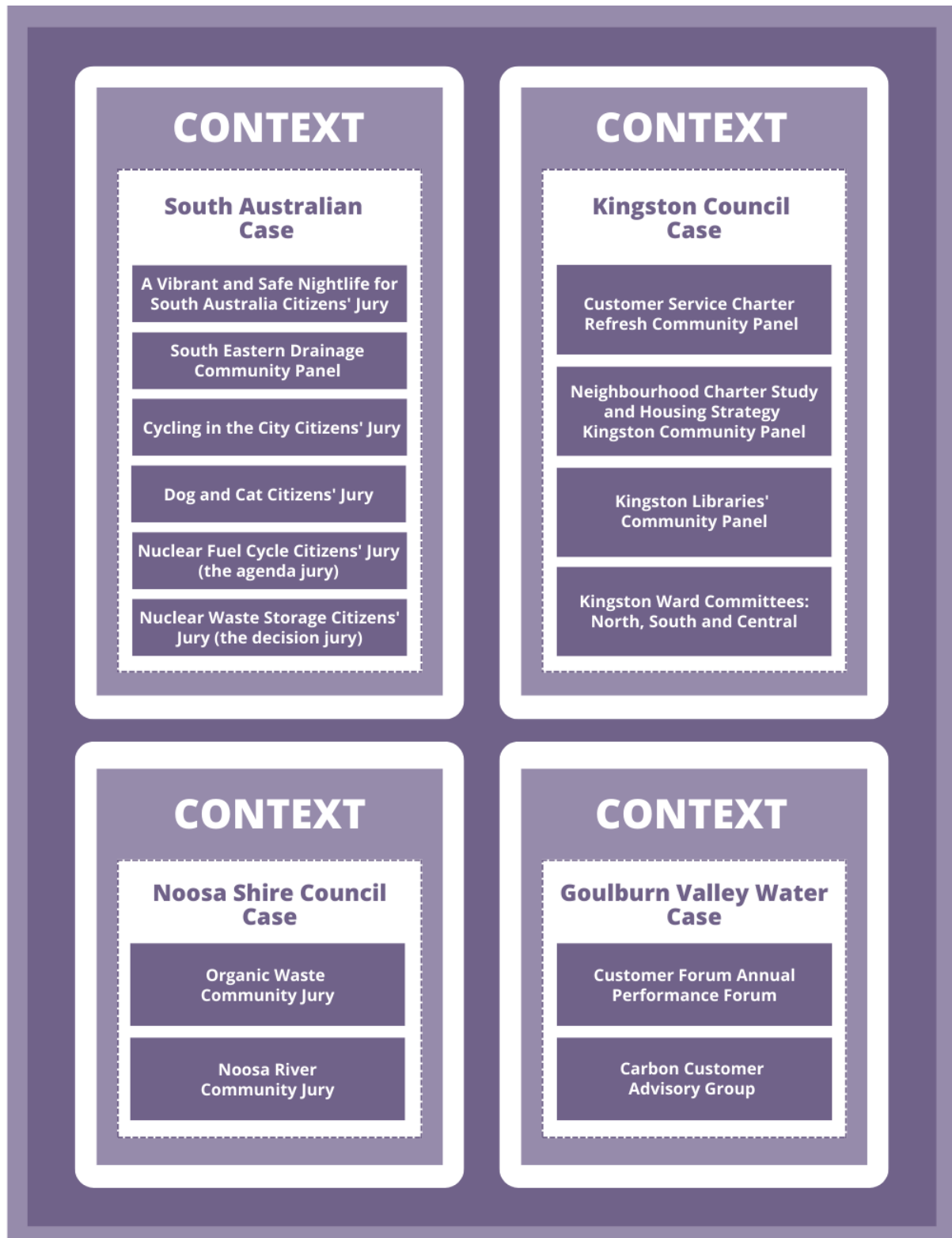
Figure 4: Multiple case studies with multiple embedded units of analysis



Source: adapted from Yin (2012, p. 8)

My selection of jurisdictional cases was based on a number of factors. Firstly, I wanted to consider cases where two or more DMPs were conducted, as these cases demonstrated an ongoing interest in DMPs. Secondly, in all of these cases, I had contacts who could facilitate access to decision-makers for interviews. Thirdly, each case had some specific features that the others didn't, allowing me to identify the impact of these features. Figure 5 provides an overview of my four cases and their embedded units of analysis.

Figure 5: The four jurisdictional cases studies and their embedded units of analysis



The choice of cases provided a number of valuable perspectives for my research, as follows:

- they cover different levels of government and government agencies, allowing me to explore those different institutional settings.
- South Australia had run the most DMPs in recent years, so it made sense for it to be the state government-level case study.

- Noosa and Kingston local councils both had specific, although different, narratives around their DMPs, hinting at a desire to institutionalise the processes and allowing insights into two additional Australian states.
- Kingston council also established a different model for its DMPs – semi-permanent Ward Committees – in contrast with Noosa, which ran two DMPs only.
- Goulburn Valley Water was the pre-eminent example of the use of a DMP by a utility business in response to its regulatory environment.

Each case provided specific features that the others didn't:

- South Australia had a premier who was committed to improving democracy and had a particular interest in deliberation leading to the conduct of six deliberative mini-publics over four years.
- Noosa Shire Council had just been de-amalgamated – more on this in Chapter 6 – and was initially looking to do “innovative, genuine democracy” (Noosa media release).
- The City of Kingston council conducted three DMPs and then set up three semi-permanent Ward Committees based on mini-publics to provide ongoing advice to Council; and
- Goulburn Valley Water undertook a new approach to customer engagement in response to a new regulatory framework set up by the Essential Services Commission in Victoria

The similarities and differences across these cases allowed the application of CCS with the aim of identifying whether the theoretical lens combined in the analytical framework set out in 4.4.3 below is robust. As will be seen through the analysis of each separate case study and the comparison of cases in Chapter 10, these theoretical lenses were proven to be valuable in analysing not simply the individual cases but for the CCS analysis. It should be noted that these case studies sit within broader political institutional arrangements, e.g., in the South Australian case study, all the embedded units (DMPs) were commissioned by the Executive Government (the Premier and a Minister), in the Noosa Shire Council case the Mayor and Councillors commissioned the DMPs, for the Kingston Council the DMPs were initiated by staff, and finally Goulburn Valley Water commissioned DMPs in response to state government regulatory framework. GVW does not have any elected officers, rather an appointed Board. The impact of these differences is addressed in each case study.

4.3.2 Institutional entrepreneurs' case studies

For the institutional entrepreneurs' case studies, I look at two organisations, the newDemocracy Foundation and democracyCo, which promote deliberative mini-publics and deliberative processes both in Australia and worldwide. I assess each case against the institutional entrepreneurs' framework developed by Battilana et al. (2009) before comparing them to each other as institutional entrepreneurs.

These two organisations were chosen as case studies because they were involved in the embedded units of analysis: both designed and oversaw the deliberative mini-publics in my South Australian case study, and the newDemocracy Foundation was also involved with the Noosa case study.

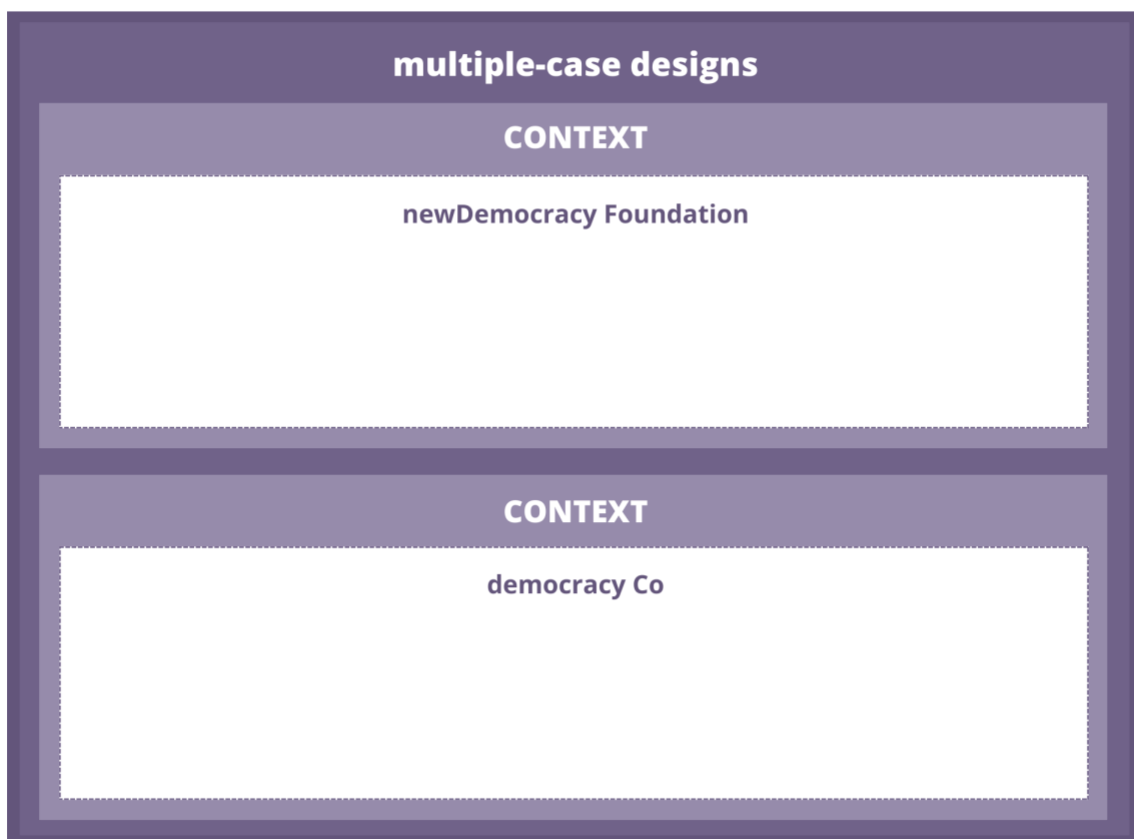
The newDemocracy Foundation was set up as a foundation and registered as a charity to undertake the promotion of deliberative mini-publics as an independent, not-for-profit organisation. newDemocracy Foundation promotes, designs and manages deliberative mini-

publics but does not facilitate them. democracyCo's co-founders were a facilitator and an ex-public servant, who saw the value of mini-publics and deliberative processes to the government and the community. democracyCo promotes, designs and facilitates deliberative mini-publics and other deliberative processes.

These two organisations have similarities and differences that make assessing them against Battilana et al.'s (2009) model of institutional entrepreneurs of value in understanding the different ways in which institutional entrepreneurs can operate and how they contribute to fulfilling the democratic functions.

The role of agents in institutional change and institutional design is relevant to the growing use of deliberative mini-publics and other deliberative processes. In undertaking my jurisdictional case studies, I was exposed to the work of these two organisations and decided to look at them in detail using the literature on institutional entrepreneurship. See Figure 6 setting out the two organisations using a similar image to Yin's.

Figure 6: The two institutional entrepreneur case studies



I will now set out how I approached collecting and analysing my research data.

4.4 Data Collection and Analysis

Theory plays a different role [in interpretivist research] than it does in the positivist research tradition. Rather than serving as a basis for developing hypotheses, theory in interpretivist research offers a lens (or heuristic) for making sense of the practice. It is through theory that the researcher defines the analytical problem and gives direction to her empirical analysis. ... In an interpretivist enquiry, theory informs both the generation and the analysis of the

data; it offers a perspective to make sense of the practice in its specific context. (Marsh et al., 2018, p. 197)

4.4.1 Data collection

My data comes from:

- semi-structured interviews with elected representatives, public servants and deliberative process designers.
- a review of design documents, government policies and websites, regulatory frameworks, media coverage and deliberative mini-public reports; and
- personal insights from my role as a recruiter for some of the deliberative mini-publics considered in the four case studies, either with the newDemocracy Foundation or Deliberately Engaging.

With the semi-structured interviews, I aimed to allow informants to provide me, in their own words, with their narratives on citizen (customer) engagement generally, their experience with deliberative mini-publics, and their views on citizen engagement in democracy and the pros and cons of representative democracy in Australia. In particular, I did not want to 'lead' them in any particular direction by hinting at my views on the role of deliberative mini-publics.

This approach aligns with my interpretivist analysis, where I wanted to understand how these decision-makers understood and talked about this area of citizen engagement. Using an interpretivist approach allowed me to find the meanings and the context behind the public aspects of these cases.

I developed three interview protocols for three categories of decision-makers: elected representatives, public servants and process designers (see Appendix 1). These categories were chosen because of their roles in determining the practices and narratives of the deliberative mini-publics being considered.

These interview protocols were developed before the publication of Warren's (2017) problem-based approach to democracy with his proposed democratic functions. So, my questions were not designed to address these democratic functions specifically. When designing my interview protocol, I was working with Smith's (2009) democratic goods as my tentative approach to evaluating the contribution of deliberative mini-publics to the quality of democracy. As I indicated in Chapter 2, I believe Warren's (2017) democratic functions build on Smith's (2009) democratic goods and allow them to be applied across the democratic system. In addition, I explicitly worded the questions to be as open as possible addressing informants' experience and views on community engagement generally, DMPs and democracy.

When developing my interview protocols, I kept my questions as open-ended as possible. I did not challenge interviewees about their answers so as not to direct their thinking. Instead, I allowed them to tell me what they thought about engaging citizens and the value of deliberative mini-publics.

Whereas the semi-structured interviews primarily provided an understanding of the various narratives constraining the deliberative mini-publics, the document review provided a picture of the practices used for the deliberative mini-publics. In particular, where independent parties designed deliberative processes, the documentation they developed to describe the processes they intended to use gave a clear picture of the practices proposed

for each DMP. Table 10 summarises the data sources for the three institutional modes of constraint.

Table 10: Sources of data to identify institutional modes of constraint.

Sources for identifying institutional constraints

Rules	Practices	Narratives
<ul style="list-style-type: none"> • Legislation • Regulation • Policy 	<ul style="list-style-type: none"> • Design documents • Invitations • DMP's reports • Media • Semi-structured interviews 	<ul style="list-style-type: none"> • Semi-structured interviews • Website promotion and FAQs

Finally, I compare and contrast the four jurisdictional case studies to identify what can be learnt about the strengths and weaknesses of the institutional design of deliberative mini-publics against the democratic functions. I will elaborate on this in Chapter 10, Discussion.

Table 11 sets out the people I interviewed, by title, for each case.

Table 11: List of informants for each case study

Case	Interviews/informants
South Australia	Premier, August 14, 2017 Minister for Sustainability, Environment and Conservation and for Water and the River Murray, May 23, 2017 Premier's Advisor, September 26, 2019 Manager, Community Engagement, Premier's Department, May 26, 2017 CEO, Department for Environment, May 25, 2017 Executive Officer, Dogs and Cats Board, May 23, 2017
Noosa Shire Council	Mayor 1, May 5, 2016 Mayor 2, May 6, 2016 General Manager Manager, Community Engagement, May 5, 2016 CEO, May 6, 2016.
Kingston council	Mayor, December 10, 2019 Manager, Governance, December 9, 2019 Governance Officer, December 9, 2019 Manager, Communications and Community Relations, December 9, 2019 Program Leader, Strategic Communications and Engagement, December 9, 2019
Goulburn Valley Water	Board member, October 23, 2019 Communications Officer – Stakeholder Engagement, October 24, 2019 General Manager, Planning and Assets, October 24, 2019 Executive Manager, Governance and Quality Systems, October 24, 2019 General Manager, Corporate Services, October 24, 2019 Pricing Plan Project Officer, October 23, 2019
newDemocracy Foundation	Founder: Bellgiorno-Nettis, August 6, 2018 Board members: Jones, January 17, 2020. Carson, March 16, 2016 Executive Director: Walker, November 24, 2017, and January 9, 2020
democracyCo	Co-founders: Jenke, May 25, 2017, and September 15, 2022 Fletcher, May 25, 2017, and September 15, 2022

All the interviews were recorded and transcribed. Informants were sent their interview transcripts to review and correct any errors and identify any aspects of the interview that they did not wish to be used publicly. The interviews were analysed against the

operationalisation of the democratic functions specifically for deliberative mini-publics – described in detail in the next section of this chapter – to identify the narratives and practices related to each function.

I analysed design documents, invitations, and deliberative mini-public reports to identify the rules, rules-in-use, practices and narratives related to the individual democratic functions. In addition, I interrogated these documents against the operationalising questions (set out in section 4.4.4) developed to apply the generic democratic functions to deliberative mini-publics. I also considered media generated by decision-makers through media releases, press conferences, organisational websites or general media coverage of particular deliberative mini-publics, to identify narratives as they were presented concurrently with the deliberative processes. This was of value because the research interviews were undertaken after the completion of the deliberative mini-publics in most cases, except for the ongoing mini-publics established by the City of Kingston council and Goulburn Valley Water, which Chapter 7 and Chapter 8 will discuss in more detail.

4.4.2 Analytical framework

My analytical framework sets out the concepts and questions I used to interrogate my data. In this section, I describe how I used the concepts of democratic functions and institutions set out in Chapters 2 and 3 to structure the analysis of my research data.

I apply Jäske and Setälä's (2020) function-based approach to democratic theory, as described in Chapter 2. These functions – inclusion, collective agenda-setting, collective will-formation, collective decision-making and accountability – provide a framework for assessing democratic institutions, whether they be electoral, parliamentary, participatory, direct, deliberative or from some other theory or model or combination of theories, against their ability to deliver against these democratic functions and as a result contribute to improving democracy.

The institutional aspect of my analysis identifies the rules, rules-in-use, practices and narratives, looking at how they strengthen or weaken the ability of deliberative mini-publics to fulfil democratic functions alone and in combination.

When considering the institutional aspects of my analysis, I adopt Lowndes and Roberts' (2013) view:

If we want to research political institutions and their effects, we should study rules, observe practices, and interpret narratives. ... But, this analytical deconstruction of institutions, while essential, is not sufficient. We also need to engage in a reconstruction, which considers how modes of constraint combine to produce institutional stability over time, and also how gaps and fissures open up to create instability – and possibilities for change. (p. 69)

While the democratic functions provide the tool to assess the deliberative mini-publics, institutional theory provides a way to consider the design of these deliberative mini-publics, the different players undertaking conscious and unconscious institutional work, and the impact of temporal dimensions on these institutions.

4.4.3 Analytical steps for jurisdictional case studies

The analysis of my jurisdictional case studies will:

- Describe the rules, practices, and narratives in each jurisdictional case relevant to each democratic function.
- Identify the strengths and weaknesses of the DMPs against the democratic functions.
- Identify the actors and their roles in creating new institutional arrangements or maintaining existing institutional arrangements, and
- Discuss how the rules, practices and narratives contribute to these strengths and weaknesses, alone or in combination.

4.4.4 Operationalising democratic functions for deliberative mini-publics

Starting with Jäske and Setälä's (2020) democratic functions framework, I operationalise each function specifically for DMPs. This operationalisation provides criteria – in the form of questions – that focus on important elements of the design of DMPs for each function.

This operationalisation is based on the higher-level descriptions of these democratic functions as outlined in Chapter 2, combined with an understanding of the design of DMPs from literature, research and practice. It starts with the democratic function – the concepts – identifies the relevant constructs for deliberative mini-publics and suggests questions relevant to each concept and construct. I then use these indicators to interrogate my data (see Table 12).

In considering the questions used, I am not seeking to make a definitive yes/no decision regarding whether any particular democratic functions have been fulfilled. Instead, in line with Warren's (2017) view that "[s]orting practices by their functional strengths and weaknesses enables us to theorize institutional innovations that optimize democratic outcomes" (p. 51), I am looking at each democratic function against the strengths and weaknesses of the particular DMPs which form part of my case studies. These strengths and weaknesses allow us to identify areas of potential improvement in how DMPs are designed to contribute to democratic functions, as well as supporting consideration of how they might fruitfully be 'coupled' with other democratic institutions and innovations (Hendriks, 2016; Jäske & Setälä, 2020).

Table 12: Operationalisation of democratic functions for deliberative mini-publics

	Inclusion	Collective agenda-setting	Collective will-formation	Collective decision-making	Accountability
Constructs	The sortition process	The remit	Deliberation and recommendations	Responsiveness of decision-makers	Reason-giving and monitoring implementation
Questions	<ul style="list-style-type: none"> a. Who is invited to participate? b. How are barriers to participation identified and addressed? c. How do the selection criteria reflect the characteristics of the affected community? d. To what extent does the mini-public reflect the intended diversity, i.e. does it achieve the demographic goals? 	<ul style="list-style-type: none"> a. Who chooses the topic or issue for the DMP? b. Who determines the remit for the DMP? c. Is the remit too broad or too narrow? d. Can the deliberative mini-public amend or interpret its remit? 	<ul style="list-style-type: none"> a. Does the design of the deliberative process align with deliberative principles? b. Is the implementation of the deliberative process robust? c. How is the will of people outside of the mini-public incorporated? d. Does the deliberative mini-public reach consensus? e. Does the deliberative mini-public provide reasons for its recommendations? 	<ul style="list-style-type: none"> a. Did decision-makers commit upfront regarding how they would respond to the deliberative mini-public's recommendations? b. To what extent did decision-makers meet their upfront commitment? c. Is a decision made and by whom? d. To what extent do the decision-makers adopt the deliberative mini-public's recommendations? 	<ul style="list-style-type: none"> a. Did decision-makers give a commitment regarding accountability for their decisions? b. To what extent did decision-makers meet their upfront commitment? c. Do decision-makers make public their decisions and reasons? d. Do decision-makers publicly report on the implementation of their decisions? e. Does the deliberative mini-public have a role in monitoring the implementation of the decisions?

4.4.5 Analytical framework for institutional entrepreneurs

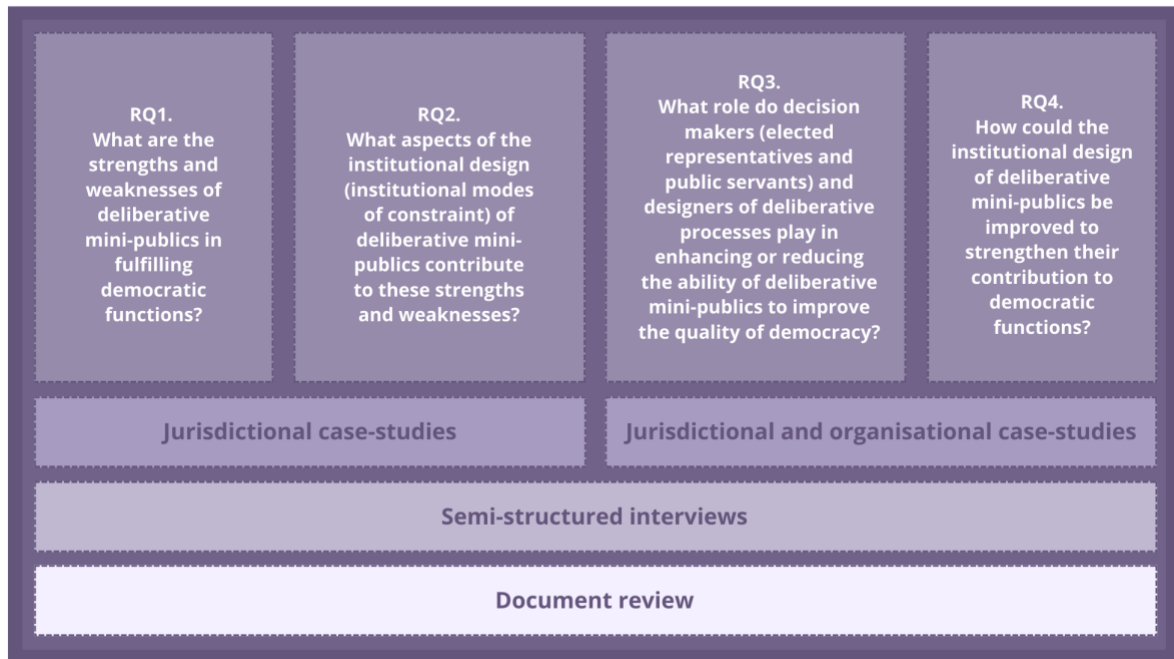
I will be critically applying Battilana et al.'s (2009) model of institutional entrepreneurship to the two organisations working in this field and included in my jurisdictional case studies, the newDemocracy Foundation and democracyCo. As both of these organisations played a role in the SA case study and the nDF in the Noosa case study, I will also consider their roles in those two case studies. Applying Battilana et al.'s model of institutional entrepreneurs allows a holistic view of their activities, which can then be considered in terms of how they contribute to the quality of democracy.

4.5 Research design to answer research questions

Drawing together my research questions and design, both the jurisdictional and institutional entrepreneurs' case studies are based on data gathered from semi-structured interviews and document reviews. Research questions 1 and 2 are answered by looking at the semi-structured interviews and document reviews that address the deliberative mini-publics conducted in the four jurisdictions. Research question 3 is also addressed by looking at the semi-structured interviews and document reviews that address the deliberative mini-publics conducted in the four jurisdictions, and the semi-structured interviews and document reviews that are specific to the work of the two institutional entrepreneurs.

Table 13 visually represents how my research questions align with my research methodology.

Table 13: Research methodology



4.6 Ethical Issues

In designing my research and considering its analysis and reporting, I was aware of the need to address ethical issues, and in obtaining ethics approval from the University of Technology, I identified the following potential risks to the people I interviewed:

As all of my participants are being interviewed in their professional capacities, the main risk relates to how reporting their responses to interview questions may impact their professional life. For most of my participants, this is an area where they are already ‘on the record’ in regard to the democratic innovations being conducted in their jurisdiction.

There is a small risk that my analysis of interview data could lead me to draw conclusions that they view as unfavourable to them or not in keeping with their view of their position. The risk from this would range from embarrassment to discomfort, particularly if there is concern that others may respond negatively to them as a result of my analysis.

I made it explicit when requesting interviews that people were under no obligation to talk to me, and that if they agreed to be interviewed, they could withdraw their consent at any time. Two informants did not review the transcripts of their interviews and so have not been included in this research.

To address these risks, all the people I interviewed were asked to consent to be interviewed and to identify any aspects of their interview, either at the time of the interview or when they reviewed the transcript, that they wanted to be kept confidential. Only a small number of interviewees took up this offer. When writing up my research, I decided to use titles rather than the names of the people I interviewed for two reasons: because their position is relevant to the nature of their responses; and also, to maintain some small level of privacy for them.

I also made it clear in my ethics application and at the start of each interview that my research data analysis would reflect my views, not those of my interviewees. All

interviewees knew my role in recruiting some of the deliberative mini-publics that form part of the case studies.

Finally, my role in a number of these cases should be acknowledged. I worked for the newDemocracy Foundation from 2013-2015. I did not design any of the DMPs included in the case studies; however, I did handle the recruitment for four of the six DMPs conducted in South Australia and the first of the two DMPs conducted in Noosa. After working for the newDemocracy Foundation, I established a consultancy that, amongst other things, recruited mini-publics. In particular, I undertook the recruitment of three of the four DMPs conducted by Kingston Council, as well as for the three Ward Committees, and recruited the mini-publics for Goulburn Valley Water up until 2020. This work has given me a first-hand experience of how DMPs are designed, managed, and recruited.

I address the potential limitations of my 'insider' position in the field below in section 4.7 (Unluer, 2012).

In the next section of this chapter, I will review the methodological limitations of this research.

4.7 Methodological Limitations

No research is without methodological limitations, and here I set out some of the limitations that apply to my research.

I started my PhD before Warren's 2017 paper on problem-based democracy and the associated democratic functions. Before this paper, I struggled to find a way to 'measure' or conceptualise the quality of democracy. For this reason, my interview protocols did not explicitly focus on democratic functions, although I'm not sure if I would have used the language of democratic functions in my interviews, even if I had been aware of it, as I was consciously aiming to ask open questions that did not point people in a specific direction in answering. I wanted to obtain their perspectives and understandings with minimal direction from me. For this reason, I did not challenge any of their responses to my questions. This may have meant some responses did not provide as much detail as I would have liked once data analysis was underway.

Notwithstanding these limitations, I found information relevant to both democratic functions and institutional modes of constraint from the interviews and document reviews. In looking at my research data – interview transcripts, government policies, websites and documents, and design documents – I sought to answer the operationalisation questions for each democratic function as well as identifying institutional modes of constraint. When reviewing the interview transcripts and other documents in detail, this was focused on my analytical framework. As a result, there may be other questions I could have answered from my data, and other commonalities that weren't relevant to my analysis but may be of interest to a scholar of deliberative democracy.

Another limitation to this case study research is that the cases are from a particular point in time, albeit across several years. The field of deliberative mini-publics is dynamic, and so some aspects of the institutional design of DMPs have changed since the period covered by these case studies. I have identified these design changes where I am aware of them.

My research interviews in each case were conducted after most of the deliberative mini-publics. In some cases, this meant that the initial DMP had been designed and conducted up to four years prior to the interviews, which could impact the reflections and perspectives of

the informants. As mentioned earlier, I sought to address this limitation by considering materials issued at the time of the individual deliberative mini-publics, such as website content produced by the commissioning authority explaining the process to the public.

There is no evidence that the designers of the deliberative mini-publics in my case studies had democratic functions in mind when designing these processes. By operationalising the democratic functions for DMPs I address this potential limitation.

I have highlighted earlier the value of choosing case studies where two or more DMPs have been undertaken. It is possible that considering cases where single DMPs were conducted could provide different answers to my research questions.

Another potential limitation in regard to the jurisdictional case studies is that each case operates on a different scale, i.e., a state government that conducted six DMPs; two local governments in different states that conducted two and four DMPs and finally, a government utility that conducted one DMP and another similar process that did not meet the key elements of a DMP. While comparing cases at the same level of government and the same scale of deliberative processes would be valuable, these were not available to me at the time of my research. In addition, as mentioned earlier in this chapter, by applying the same analytical framework to each of these cases, I have been able to demonstrate the value of this framework despite these differences.

Finally, I am aware of the triple hermeneutic within which I sit, and perhaps I have a quadruple hermeneutic as someone who also works in the field in which my research sits. I worked for the newDemocracy Foundation for nearly two years and since then, have run a small consultancy that designs and recruits deliberative mini-publics. My background, both with the specific cases and in the field of democracy and democratic innovation, clearly placed me, in the view of my informants, as someone who understands the field and has a strong normative commitment to democracy. I was aware of this positionality and the potential impact it may have on the openness of informants during interviews (Holmes, 2020; Moore, 2012). For this reason, I choose to take a very 'hands off' approach to interviews, consciously not entering into debate or challenging people during the interviews. I wanted to hear their views with as little 'direction' from me as possible.

In considering whether I should be seen as an insider or an outsider in the context of this research, I clearly sit closer to the insider side than the outsider. I favour Barnes' view that there are often "*varying degrees* of insiderness and outsidersness" (2021, p. 3, his emphasis). My potential 'insider' position arises from being someone who had worked on many of the DMPs considered in this research. However, as many of my informants would be considered 'political elites' it is unlikely that they considered me to be 'one of them'. On this basis, it is unlikely that my position as both a researcher and a practitioner would have influenced their responses.

On the positive side, as noted elsewhere, my work on many of the DMPs was beneficial in gaining access to interview people who might otherwise not have taken the time to speak with a doctoral candidate, as well as having direct knowledge of how the DMPs being studied operated (Unluer, 2012). I was also conscious of the potential for me to have access to confidential information and was careful not to use any 'insider' knowledge to include details which weren't publicly available.

My experience managing the implementation of DMPs for the newDemocracy Foundation and recruiting DMPs through my consultancy definitely influenced my thinking and analysis

around democratic functions. In particular, I have strong views on some of the challenges facing recruiters in putting together a truly diverse and reflective mini-public. I have sought to be aware of these prejudices when undertaking my analysis and take a reflective approach during my analysis (Holmes, 2020). In particular, in the early drafts of this thesis, I found it easier to apply the operationalisation questions to the inclusion function. My supervisor was an important resource in highlighting this bias. On the other hand, my first-hand knowledge of how some of the DMPs considered in my cases were designed and managed and how the field has evolved are positives that allowed me a deeper understanding of the practices in this field.

4.8 Conclusion

In this chapter, I have described and justified my research philosophy and my various research design choices. In undertaking political science research, I adopt an interpretivist stance and, as such, undertake qualitative research. I adopted a case-study methodology with the aim of better understanding how the DMPs considered operate in the real world and gaining an in-depth understanding of how they contribute to the quality of democracy by considering their strengths and weaknesses vis-à-vis democratic functions.

Each case provides novel insights that the others do not. The research data included interviews with key decision-makers and a document review. My analytical framework builds on Warren's (2017) and Jäske and Setälä's (2020) democratic functions, operationalising the five democratic functions specifically for DMPs. In addition, I apply an institutional lens to my consideration of the strengths and weaknesses of these DMPs. This additional lens allows me to look at the practices of these deliberative mini-publics and the impact of the rules and narratives that constrain or enable them.

In the following four chapters, I apply my analytical framework to the four jurisdictional case studies, considering both the interview data and the public materials related to the design and delivery of the embedded units of analysis, the deliberative mini-publics. In addition, I will consider the two deliberative mini-publics designers against Battilana et al.'s (2009) model of institutional entrepreneurs.

CHAPTER 5 SOUTH AUSTRALIAN CASE STUDY

5.1. Introduction

In this chapter, I analyse the approach taken in South Australia when conducting six deliberative mini-publics (DMPs) over four years, from 2013 to 2016. South Australia was chosen as a case study because of its premier's commitment to deliberative democracy and commissioning these six DMPs over four years.

I will apply the analytical framework set out in Chapter 4, looking at:

- the strengths and weaknesses of these DMPs regarding each of the five democratic functions identified by Jäske and Setälä (2020) – inclusion, collective agenda-setting, collective will-formation, collective decision-making and accountability.
- the institutional modes of constraint: rules, practices, and narratives in place for each DMP and how they support or undermine the ability of these DMPs to deliver against these democratic functions, whether individually or in conjunction; and
- the role of different agents in the institutional design of these DMPs.

The decision-makers and process designers considered in this case did not have Warren's (2017) or Jäske and Setälä's (2020) democratic functions in mind when they commissioned or designed these DMPs. My analysis does not focus on the goals set by the decision-makers or process designers. Instead, I am applying my analytical framework to assess their contribution to democracy, particularly considering their strengths and weaknesses in fulfilling democratic functions. In doing so, I can answer my first two research questions:

1. What are the strengths and weaknesses of deliberative mini-publics in fulfilling democratic functions?
2. What aspects of the institutional design (institutional modes of constraint) of deliberative mini-publics contribute to these strengths and weaknesses?

This chapter starts by looking at the context of South Australia and the South Australian Government under Premier Weatherill, who was firmly and publicly committed to engaging citizens in government decision-making. Next, it applies my analytical framework to the six deliberative mini-publics.

5.2 Context of This Case

South Australia is one of six states and two territories in Australia. It is the fifth-largest state in Australia by population. The current population estimate is 1,809,100¹¹, and it is the third-largest by area covering 1,044,353 square kilometres. South Australia operates under a bi-cameral Parliament with a 47-seat lower house, the House of Assembly, and a 22-seat upper house, the Legislative Council (SA Parliament).

South Australia is home to over 30 Aboriginal groups, each with their own beliefs, culture and languages (ParksSA). The capital of South Australia, Adelaide, is located on the traditional country of the Kurna people (City of Adelaide). The colonisation of South Australia followed the passing of the British Parliament of the South Australian Colonisation

¹¹ Australian Census, 2021

Act of 1834 (State Library). South Australia was not a convict state; instead, it was first populated by immigrants from the United Kingdom, Germany and others.

South Australia has a history of pioneering democratic reforms, including introducing adult male suffrage, secret ballot voting, and an elected upper house in 1856.

We think it [democratic reform] is a tradition, ...the first place in the world actually for women to stand for Parliament and also the second place in the world where they could vote. But we're very proud of that. ... We think this is a South Australian trait. (Thompson, 2016a)

Jay Weatherill was the 45th premier of South Australia, holding this office from 2011 to 2018. He was elected to the South Australian Parliament from 2002 until he retired in 2018 (SA Parliament). One of his advisory staff, who worked with him when he was the Minister for Education before becoming the premier, told me in a 2019 interview that Premier Weatherill brought a commitment to deliberative practices and ongoing democratic reform to his role as premier.

South Australia was the second Australian state⁵ to commission multiple deliberative mini-publics.

When Weatherill became premier, the Department of Premier and Cabinet had commenced an extensive community engagement around the state's Strategic Plan. Building on Weatherill's commitment to move from "announce and defend" to "debate and decide", the department decided to take a new approach, which the DEWNR Chief Executive viewed in a 2017 interview as "deliberative", by "not start[ing] with a product we want people to respond to. We're going to be much more open". The same informant continued:

We were very clear in framing, which I thought was quite different for government at the time, probably lost on the public ... but very clear to the public servants that this wasn't a South Australian government plan. It was a whole-state plan. The authors of the plan hence were the citizens of South Australia.

Weatherill had a history of valuing input from people affected by decisions as an elected representative and in his earlier working life. When I interviewed him in 2017, he attributed his interest in involving people in decisions that affect them to his work history as a union official and later as a solicitor. And in a 2019 interview, his long-time advisor described how Weatherill introduced new ways to engage with people in the education portfolio, visiting hundreds of schools in a year and having a hotline for principals to call him.

Weatherill's commitment to democratic reform was evident early in his first term as premier. In an October 2012 speech titled "Strengthening Australian Democracy: Political Discourse and Engagement", he critiqued current democratic practice as catering to "mass uninformed opinion". He pointed towards deliberative democracy as an alternative, calling for the development of "high-quality public judgements" and decision-making processes that "debate and decide rather than announce and defend". He specifically mentioned the work of the new Democracy Foundation, with whom he would collaborate on several deliberative mini-publics.

Weatherill's interest in deliberative democracy arose after reading *Coming to Public Judgement: Making Democracy Work in a Complex World* by Daniel Yankelovich. In his 2017 interview, he stated:

[This was] a very influential book about the way people move from mass opinion to considered judgement and the processes through which they do not do that. That's the sense in which I think citizens' juries can play an important role.

In addition to being influenced by Yankelovich's work, Weatherill indicated that he was also influenced by Geoff Gallop, a previous Western Australian Premier (2001–2006) and member of newDemocracy Foundation's Research Committee from 2010. As a result, the executive director of the newDemocracy Foundation approached Weatherill offering to design and manage a deliberative mini-public for the government around alcohol-fuelled violence. This was the third deliberative mini-public designed and managed by the newDemocracy Foundation and its first in South Australia.

Better Together: Principles of Engagement

In 2014, the premier moved from rhetoric to policy when the Department of Premier and Cabinet released *Better Together: Principles of Engagement*. This document focused on providing "a foundation for engagement in the South Australian government" (p. 1) and building "a strong and consistent culture across government, where government agencies and public servants are working to continuously improve their approaches to engaging communities and stakeholders." (p. 11). In the foreword, the premier states that the role of this policy document is to "provide a strong foundation on which to build excellent engagement practices"; in the final sentence of the foreword, he states that implementing this policy will "help us improve South Australia's democracy."

Better Together identifies engagement as being "about bringing the voices of communities and stakeholders into decision-making which is relevant to them. ... the key to good engagement is giving people who want to contribute the opportunities to do so" (Government of South Australia, 2014, p. 7). This policy document sets out six integrated engagement principles:

1. We know why we are engaging, and we communicate this clearly;
2. We know who to engage;
3. We know the background and history;
4. We begin early;
5. We are genuine;
6. We are creative, relevant and engaging. (Government of South Australia, 2014, p. 12)

Better Together details how each principle can be applied in practice with case studies to demonstrate their real-world application. This document was aimed at public servants to guide their engagement planning and activities. Even though there is no explicit mention of citizens' juries or deliberation in this document, the state government ran four deliberative mini-publics between 2013 and 2015.

An essential element of the *Better Together* policy was that the Department of Premier and Cabinet took the lead in supporting the rest of the state government in improving their engagement practice. In 2017 interview, the department's director of strategic engagement described some of the initiatives the department established: the YourSAy website, Country Cabinet meetings in regional South Australia, participatory budgeting – "Fund My Idea" and "Fund My Community" – and numerous events and training for public servants.

Reforming Democracy: Deciding, Designing and Delivering Together

In 2015 the Government of South Australia released the *Reforming Democracy: Deciding, Designing and Delivering Together* policy document building on the Better Together program. In the Premier's Message opening this document, Weatherill states:

Voting in a general election once every few years is no longer enough – we need a more consistent effort in collective decision-making and collaborative problem-solving.

This is a task that calls for a major change in the way government works with the community. It is a task that is no less than the reform of our democracy. (p. 3)

Weatherill concludes:

The old days of “announce and defend” decision-making by Government are over.

A new era of genuinely engaging people – of “debate and decide” – has arrived. (as cited in Government of South Australia, 2015, p. 3)

Reforming Democracy (2015) set out the vision that “South Australia will always be at the cutting edge of democratic reform” (p. 5), with three key objectives: to decide, design, and deliver together. From these three objectives, the policy identifies four areas of activity:

- Reach public judgement on big issues;
- Collaborate to create public value;
- Build South Australia's collaborative capacity;
- Make Better Together even better.

The policy identified commitments and targets for each of these activity areas. Of relevance to this research was the commitment under activity area 1, “Reach public judgment on big issues”, to run two citizens' juries (DMPs) by December 2017. This target was met as the government ran two juries on the nuclear fuel cycle in 2016.

5.2.1 Overarching narratives

In addition to specific narratives relevant to each democratic function, addressed in section 5.4 of this chapter, the premier had well-known narratives around democratic reform that provided a guiding framework for public servants around his expectations. Weatherill's frequently repeated, and well-known narrative was that his government would replace “announce and defend” with “debate and decide”, which he reiterated to me in a 2017 interview. Multiple informants mentioned Weatherill's commitment to reforming non-electoral participation:

The premier wanted the government he led to have a reputation and position on doing consultation differently (Chief Executive, Department for Environment and Water)

In SA, we are fortunate to have a premier with a sophisticated understanding of engagement generally and deliberative practice. It's rare to have a premier with such a deep interest in the practice. (Director, Strategic Engagement, Premier's Department)

I think for Jay, it was sort of part of his DNA. That was his nature. (Chief of Staff, Premier's Office)

Despite this very public and well-known narrative, interviews with Weatherill and others also identified clear limitations on how far decision-makers would take this enhanced role for citizens. In a podcast interview, Weatherill referred to deliberative mini-publics as a "tool in the toolbox" (Thompson, 2016a). In the 2017 interview for this research, he identified improved decision-making and the maintenance of the traditional model of representative democracy as two of the reasons he supported deliberative processes:

You get better decisions ... you're able to rely upon common sense judgement of citizens who take the experts and then apply it using their own judgement, using their own value systems. I think that just improves the quality of decisions. I mean, there's a lot of wisdom amongst ordinary everyday citizens.

[They] preserve the function and role of the politician, the collective representative.

The minister for environment, water and natural resources, when asked in 2017 whether he would recommend deliberative mini-publics to his counter-part in another state, said:

I'd say, "be very, very careful." I think you're in government, you're there to make decisions, and that's your job. But there may be particular areas of policy that will benefit from not just you hearing different people's point of view, having different people work it out together.

The premier's chief of staff noted in 2019:

I think, at the end of the day, politicians are very pragmatic, practical people who just want to get things done, and if these things [citizens' juries] are helping you get something done, you use them.

These views demonstrate a normative commitment to listening to citizens with a more instrumental focus on issues that politicians can't solve using the standard tools of representative democracy (Thompson, 2019). They provide insight into why the recommendations from the majority of the deliberative mini-publics run between 2014 and 2016 were implemented and why some weren't – and also why the minister for environment, water and natural resources did not run any further deliberative mini-publics after his experiences in 2014.

The director of strategic engagement in the Premier's Department demonstrated a personal commitment to democratic innovation, which, she said in a 2017 interview, is about "sharing power" and "shifting the power balance a little bit". However, when discussing the practice of deliberative mini-publics, she identified them as providing elected representatives with "a defensible position" – clearly an instrumental perspective on the value of these processes. Interviewed in 2017, the lead public servant for the Dogs and Cats jury also identified a combination of normative and instrumental drivers for the premier and the minister:

I think our premier, and to a lesser extent [the minister], do have a genuine belief in greater citizen involvement in decision-making. I think it's a personal belief, an ideology with them. ... And they're both wily enough

politicians to probably have an element of the cynical side inside of them that this is a way forward.

In response to a question about why decision-makers choose to use deliberative processes, a change agent and co-founder at democracyCo, previously a senior public servant, said:

I can only assume they're making it a political decision based on whatever they're thinking the politics are at the time because that's what they tend to [make] decisions based on...

The newDemocracy Foundation's response to these narratives

In keeping with the premier's commitment to democratic reform, the newDemocracy Foundation made explicit in its initial proposal for the Nightlife Jury the potential to embed the deliberative mini-public process in South Australia, building on the premier's request that this project provide "a clear link ...(to) transformational change to 'how we do government.'" (2013, p. 3). The legacy was identified as a commitment to refer other issues to deliberative mini-publics based on pre-set criteria, where "the key role for the elected representatives ... becomes one of agenda-setting, establishing non-negotiable parameters and recognising which policy areas are appropriate" (2013, p. 3). This 'trigger' proposal was never implemented in South Australia. While the Government of South Australia commissioned another five deliberative mini-publics, there is no evidence that this was done based on pre-set criteria for when to refer matters to these bodies; instead, the decisions were made case by case. Much of the newDemocracy's work in SA would fit within the "advocacy", "changing normative associations" and "defining" types of institutional work identified by Lawrence and Suddaby (2006).

Beyond this aspirational statement, the process designers' narratives aligned more with instrumental and substantive rationales rather than normative ones. In its desire to demonstrate that deliberative mini-publics 'make sense' for politicians, the nDF's design proposal for the initial Nightlife Jury explicitly states that "[t]he process serves to empower elected representatives" (newDemocracy Foundation, 2013, p. 2). Meanwhile, democracyCo's narratives are that DMPs "have typically resulted in considered and moderate recommendations that successfully blend competing claims and help reconcile antagonistic groups" (democracyCo, 2015, p. 2).

The narratives of decision-makers, politicians and public servants sat at a reasonably high level, falling in line with the premier's commitment to "debate and decide" and describing why it makes sense to engage citizens generally and in deliberative processes around complex topics in particular. However, it is clear that despite this change in approach to community engagement under Premier Weatherill, deliberative mini-publics were seen as something to be used in circumstances where decision-makers couldn't decide without a better understanding of community values.

The words from the *Better Together* policy do not go much further than traditional participatory approaches: "bringing the voices of communities and stakeholders into decision-making that is relevant to them. ... the key to good engagement is giving people who want to contribute the opportunities to do so" (SA govt, 2014, p. 7). In addition, this focus on people who want to be involved doesn't address the idea of engaging with the people most affected by a decision.

5.3 Overview of the Case

The six DMPs included in this case study are listed here:

2013 A Vibrant and Safe Nightlife for South Australia Citizens' Jury (Nightlife Jury)

2014 South East Drains Panel (Drains Panel)

2014 Cycling in the City Jury (Cycling Jury)

2014/5 Dogs and Cats Citizens' Jury (Dogs and Cats Jury)

2016 Nuclear Fuel Cycle: the agenda jury (first Nuclear Jury)

2016 Nuclear Fuel Cycle: the decision jury (second Nuclear Jury).

The Premier commissioned four of these six deliberative mini-publics, and the Minister for Sustainability, Environment and Conservation commissioned two. An overview of the key features of each DMP is set out in Table 14.

Table 14: Key features of South Australian deliberative mini-publics, 2013–2016

Name of process	A Vibrant and Safe Nightlife for South Australia Citizens' Jury	South East Drains Panel	Cycling in the City Jury	Cats and Dogs Citizens' Jury	Nuclear Fuel Cycle - The agenda jury	Nuclear Fuel Cycle - The decision jury
Year	2013	2014	2014	2014/5	2016	2016
Commissioned by	Premier and Department of Premier and Cabinet	Minister for Water and Natural Resources and the South-East Natural Resources Management Board	Premier and Department of Premier and Cabinet	Minister for Sustainability, Environment and Conservation and the Dog and Cat Management Board	Premier, South Australia	Premier, South Australia
Designed by	The newDemocracy Foundation	The newDemocracy Foundation	Emily Jenke and newDemocracy Foundation	democracyCo (with input from and recruitment by the newDemocracy Foundation)	the newDemocracy Foundation and various international experts	the newDemocracy Foundation and various international experts
Facilitated by	OzTrain	Barbara Chappell	Emily Jenke	democracyCo	democracyCo and various experts from outside of SA	democracyCo and various experts from outside of SA
Size of mini-public	43	26	35	35	50	350, including participants from the agenda jury
Meetings	Four days	Three days	Four days	3.5 days	Four days	Six days

Name of process	A Vibrant and Safe Nightlife for South Australia Citizens' Jury	South East Drains Panel	Cycling in the City Jury	Cats and Dogs Citizens' Jury	Nuclear Fuel Cycle - The agenda jury	Nuclear Fuel Cycle - The decision jury
Remit	How can we ensure we have a vibrant and safe Adelaide nightlife?	How should we pay for maintaining our largest local infrastructure asset – the South East Drainage Network? The State Government will commit \$2.2m p.a. Do we want to spend more than that, and if so, how do we fairly share this cost across the region?	Motorists and cyclists will always be using our roads. What things could we trial in Adelaide to ensure they share the roads safely?	Last year in South Australia, over 10,000 unwanted dogs and cats were put down. The State Government recently announced some reforms to dog and cat laws. What further measures can we introduce or trial to reduce the number of unwanted pets?	What are the parts of the Nuclear Fuel Cycle Royal Commission report that everyone needs to discuss?	Under what circumstances, if any, could South Australia pursue the opportunity to store and dispose of nuclear waste from other countries?
Commitment	The Premier commits to submit to Cabinet the outcomes of the Jury's deliberations. The Premier commits to discuss and respond to the final recommendations with the Jury. The Premier commits to table the recommendations in both Houses of Parliament.	The Minister commits to meet with the Community Panel at the commencement of the Panel's deliberations. The Minister commits to meet with the Community Panel to discuss your final recommendations. The Minister commits to submit to Cabinet the outcomes of the Community Panel's Deliberations. The Minister commits to table the recommendations in Parliament unedited.	The Premier will meet with the Jury and personally receive the Jury's final recommendations. The recommendations will be carefully considered, and both the recommendations and the government's response will be tabled in Parliament.	The Jury's recommendations will be carefully considered by the State Government and tabled unedited in Parliament. The Minister will consider all the recommendations of the Jury and seeks the Jury's verdict on the specific matter of whether desexing should be mandatory.	You are the independent producers of an independent guide to help every South Australian understand the trade-offs raised by the Royal Commission. Your unedited and unchanged report will be distributed with every copy of the	The Citizens' Jury report will be presented, in unedited format, to the Premier of South Australia and will also be tabled in the South Australian Parliament. A response to this report will be publicly provided by the Premier.

Name of process	A Vibrant and Safe Nightlife for South Australia Citizens' Jury	South East Drains Panel	Cycling in the City Jury	Cats and Dogs Citizens' Jury	Nuclear Fuel Cycle - The agenda jury	Nuclear Fuel Cycle - The decision jury
				The Minister will respond to all of the Jury's recommendations publicly and in writing.	Royal Commission report.	

5.4 Analysis

In this section, I will consider each democratic function, describing the design of each DMP as it relates to that function, particularly highlighting the rules-in-use, practices and narratives that make up these designs. From there, I will consider the strengths and weaknesses of these DMPs in fulfilling these democratic functions.

Before I consider the detail of the institutional modes of constraint in play for each of these six DMPs, I will provide an overview of the key principles the designers of these processes apply when designing DMPs. As identified in Table 14, the six DMPs considered in this case study were designed by either the newDemocracy Foundation or democracyCo.

The first two deliberative mini-publics conducted by the Department of Premier and Cabinet in 2013 and 2014 were designed and managed by the newDemocracy Foundation with facilitation provided by independent providers. In both of these cases, the newDemocracy Foundation undertook the recruitment of the mini-public. The third and fourth deliberative mini-publics in 2014 and 2015 involved both the newDemocracy Foundation and democracyCo undertaking specific design tasks: the newDemocracy Foundation handled recruitment of the mini-publics and democracyCo handled the overall project management and facilitation. The final two deliberative mini-publics related to the issue of siting a nuclear fuel waste storage site in South Australia. The newDemocracy Foundation designed these two deliberative mini-publics and oversaw their implementation, in collaboration with various Australian and international experts. democracyCo led a large team of experienced facilitators from around Australia for these two juries.

The Nightlife Jury was the first DMP held by the Weatherill Government and the third DMP designed and managed by the newDemocracy Foundation for a government client. In the design document for this process, the nDF (2013) identified three elements as essential:

- random selection;
- time and access to information; and
- independently facilitated forums for dialogue.

As democracyCo's second co-founder said in a 2017 interview, the company has four key principles that guide its deliberative work:

- Transparent – all elements of the process and the information shared to support the process will be accessible to all;
- Collaborative – those stakeholders and government agencies who might have a role in the implementation of the strategy will be required to be a part of the process;
- Respectful – the process and the strategy will reflect and respect the input of the panel – as well as respect their rights as citizens to have and use their voice;
- Independent – community panellists need to be allowed to seek their own information/advice, and they come to their own conclusions without coercion or undue influence.

By establishing these 'principled' approaches to the design of DMPs, these organisations were undertaking the institutional work of "defining" and "constructing normative associations" as per Lawrence and Suddaby (2006).

One difference between the two designers was that democracyCo regularly used a reference group comprising key stakeholders from within and sometimes from outside of government, in order to support the collaborative process outlined in its operating principle

2. This approach arose from evaluating the Nightlife Jury when one of the democracyCo founders, then employed by the Premier's Department, was overseeing this jury. democracyCo proposed and used this practice in the Cycling in the City Jury, where it was well received by the public servants overseeing this project. It continued to include this practice in later deliberative mini-publics, including the second Nuclear jury. A stakeholder group was not included in the design for the Nuclear juries, and so democracyCo had to argue for the creation of this group, as its second co-founder explained in 2017. The establishment and ongoing work with relevant stakeholders fits within the institutional work category of "constructing normative networks." (Lawrence and Suddaby, 2006)

And in nuclear, we actually wrote to them and said we are not running this process unless we have a stakeholder reference group and that their role is X, Y and Z ... We're going to refuse the contract unless you accept that we're putting this in place, we'll manage it, we'll do it for free ... But we're not doing it [the jury] unless you let us do it [the reference group] because we have to manage the politics, the political environment...

Although the newDemocracy Foundation did not regularly include this type of reference group in its designs, and still does not, it did explicitly acknowledge the importance of engaging with stakeholders in the Drains Jury, where its proposal (2014d) noted:

Critically, it is proposed to convene an earlier session of stakeholders and interest groups (spanning the full spectrum of views) to allow for them to be briefed on detail on the process and interrogate our methodology (and neutrality): this is essential to building confidence in the process. It is proposed that this group would be given the opportunity to prepare written materials for the community panel and to work together to agree a panel of experts the jurors should be exposed to in one session. This is designed to address the simplistic criticism "if you haven't heard from person X, how can the process be well informed?" (p. 5)

I will now move on to consider the institutional design of these DMPs in more detail, looking at the modes of constraint: rules, practices and narratives.

There were no formal rules such as legislation or regulations guiding the design and implementation of deliberative mini-publics in South Australia. However, South Australia was one of Australia's first state governments to formally include references to deliberative mini-publics – which it called citizens' juries – in government policy, and to commit to commissioning them.

The premier explicitly links improved community engagement with democracy in the *Better Together* policy document (Government of South Australia, 2014). The *Reforming Democracy* policy document (Government of South Australia, 2015) restates his commitment to replace "announce and defend" with "debate and decide" (p. 3) and commits his government to conduct another two citizens' juries by 2017. These policy documents set out for public servants and the community the Weatherill government's commitment to "to build excellent engagement practices" (Government of South Australia, 2014) and that "voting in a general election once every few years is no longer enough – we need a more consistent effort in collective decision-making, and collaborative problem-solving" (Government of South Australia, 2015, p. 3).

In terms of institutional theory, these policy documents act as 'rules-in-use' in this case, enabling the development of particular types of institutions. However, these statements

were relatively high-level and did not provide detailed guidance about how their reforms should be designed or delivered. The design and delivery were left to public servants and external consultants.

The use of deliberative mini-publics was limited to two portfolios: the premier and one other, the minister for sustainability, environment and conservation and for water and the River Murray. In a 2017 interview, this minister suggested this selective approach was taken because of the risks associated with the unknown outcomes of a deliberative process:

You'll know, as a minister, based off your experience and your advice, some very difficult policy areas that the government hasn't or bureaucracy hasn't been making headway on because of such firmly entrenched views of different stakeholders.

Again, you might decide that it's not worth your political capital or risk to move on that area, but if it's an important area of public policy, then it is probably incumbent, as a minister, for a short time in your life, to give it a shot. The question is, which area do you tackle? Because you can't do too many of them, I don't think, and maintain the impact of them. So, you have to pick and choose where your biggest bang for your buck is going to be because it's quite an investment of public money.

This sentiment was echoed in 2017 by the senior public servant in the Department of Premier and Cabinet responsible for community engagement:

[the decision] to engage or not to engage and whether to use a more substantive, high profile deliberative method in a particular circumstance is really influenced by the Premier's office, and it's a decision made within the political realm. Because our deliberative work has been so high profile here in SA, there is always consideration of the political impact.

These narratives highlight that despite the Premier's normative commitment to improving citizen participation in decision-making, the use of DMPs was primarily considered instrumentally: they were used when it was seen as beneficial to the decision-makers, and not from the perspective of when citizens might wish or need to have a deeper involvement in the making of decisions that would impact on their lives.

Other than the commitments included in the two government policy documents and the premier's broad narratives around improving democracy, the rules-in-use, practices and narratives associated with deliberative mini-publics covered in this case study were primarily determined by either the newDemocracy Foundation or democracyCo, under the oversight of the Department of Premier and Cabinet.

5.4.1 Inclusion

a. Who is invited to participate?

The newDemocracy Foundation designed and undertook recruitment for all six of these DMPs, following its standard approach of sending out invitations to randomly selected addresses, setting up an online registration process where various demographic data was collected, undertaking a stratified random sample and briefing all participants before the first meeting. The stratification goals were based on census data.

The number of invitations distributed for each DMP was chosen based on the number of people determined for each DMP:

Nightlife Jury, 20,000 invitations were distributed to randomly selected households across the Greater Adelaide area;

Drains Panel, 7,000 invitations were distributed to randomly selected households across the South-East Natural Resources Management region;

Cycling Jury, 6,000 invitations were distributed to randomly selected households in the Greater Adelaide area, up to a 100 km radius of Adelaide;

Dogs and Cats Jury, 5,000 invitations were emailed⁷ to randomly selected people from a non-government database, with 80% sent to people in metropolitan Adelaide and 20% in regional South Australia;¹²

First Nuclear Jury, 25,000 invitations were distributed to randomly selected households across the state;

Second Nuclear Jury: an additional ¹³10,000 invitations were distributed to randomly selected households.

As set out above, the invitations for the Drains Panel were randomly distributed across the South East region: invitations were sent to those most impacted – in this case beneficially – by the operation of the drains. However, the cost of maintaining and potentially expanding the drainage system was spread across the state. By distributing the invitations only to those living near the drains and not to others contributing to the cost of the drains, everyone affected by the decision did not have an equal opportunity to be invited. The sustainability minister and newDemocracy Foundation's executive officer, both interviewed in 2017, shared a view that this contributed to the Drains panel's recommendation that the state government fund all future costs associated with the drains.

b. How are barriers to participation identified and addressed?

The invitations for each DMP addressed potential financial barriers to participation in the following ways (see Appendix 2 for copies of these invitations):

- "Meals will be provided and a small payment made to cover expenses." (Nightlife Jury)
- "Accommodation is provided free for those who require it for any or all of the meeting dates. A one off payment of \$400 will also be made to cover travel expenses and incidentals" (Drains panel)
- "meals will be provided and a payment to Jury members to cover expenses" (Bike Jury)
- "Jurors will receive a one off payment of \$300 in recognition of your time and to cover travel expenses and incidentals. Accommodation will be provided to participants coming from regional South Australia" (Cats and Dogs jury)

¹² Based on personal knowledge, the use of an email database was due to timing and resource constraints.

¹³ Note: volunteers from the recruitment for the first Nuclear Jury were included in the selection process for the second jury.

- “Meals will be provided and a payment of \$500 made out of respect for your time and to cover expenses. If you live over 60kms away from Adelaide, you will receive travel assistance which may include air travel and accommodation.” (Nuclear juries)

The newDemocracy Foundation emphasised that the design of invitations was important to reach people who might otherwise not respond to a government letter or similar. They refer to these invitations – examples of which appear in Appendix 2 – as looking like a “wedding invitation”.

The financial supports offered to participants were pretty standard at this time. While per diems and reimbursement of participation costs can address financial barriers, other factors can impact who registers to be part of a mini-public, such as working hours, carer commitments, English language competence, self-confidence and trust in government.

When the newDemocracy Foundation called selected participants to brief them about the process, it enquired about any other support needs. However, asking if people need support after registering and being selected is not a proactive approach to addressing potential barriers to participation. People with specific needs, for instance due to disability or language skills, may exclude themselves and not register if they aren't sure that support will be available. In more recent DMP processes that I have been involved with, this issue has been explicitly addressed in the invitation with wording such as “Support will be provided to make sure all members of the .. Panel can participate. If you need support to participate, we will work with you to provide this.”

c. How do the selection criteria reflect the characteristics of the affected community?

The newDemocracy Foundation (2013) promotes using random selection as “a key tool used to identify participants as a means of securing a *descriptively representative* [emphasis added] sample of the community” (p. 4). Its narrative on the value of stratified random selection is that “the wider community will clearly see ‘people like me’ in a sample drawn evenly in this way” (newDemocracy Foundation, 2014d, p. 5). From the perspective of elected representatives, newDemocracy Foundation (2013) suggests that a DMP “serves to *empower elected representatives* [emphasis added] who are otherwise subject to the non-deliberative response of ‘vox pop democracy’” (p. 2).

The stratification goals for each of the DMPs that form part of this case study were as follows:

2013 – Nightlife: age, gender and location

2014 – Drains: age, gender, urban/rural and ATSI

2014 – Cycling: age, gender, housing tenure and location

2015 – Dogs and Cats: age, gender, housing tenure, metro/regional and pet ownership

2016 – Nuclear: age, gender, housing tenure and metropolitan/regional

As seen above, the newDemocracy Foundation's stratification goals evolved from 2013 to 2016, primarily to add housing tenure as a proxy for socio-economic status¹⁴ and, on occasion, the inclusion of stratification criteria to better reflect the community relevant to the topic. It has consistent narratives to support the use of a limited number of stratification criteria:

Representation by disability and self-identified ethnic identity is achieved naturally by the randomisation element as these groups tend to participate in the same proportion as any other group (newDemocracy Foundation, 2014c p. 1).

This [approach to stratification] is not claimed as a "perfect" method, but it delivers a more representative sample than any other community process (newDemocracy Foundation, 2014d, p. 5)

Our recommendation is to proceed with only basic variables (age, gender, metro/regional location) and leave it to the statistical benefit of randomisation and probability to deliver people across a range of professions, lifestyles, ethnic and cultural backgrounds etc. The household type variable (owner occupier or tenant) is used as an effective surrogate indicator of income and education which may otherwise prove unlikely to be accurately disclosed – and we are particularly mindful of the need to have the broadest possible range of educational backgrounds in the room. (newDemocracy Foundation, 2016c p. 6).

[W]e do not plan to ask respondents to self-identify as being Indigenous and stratify a matching proportion of participants in the room. Two points should be noted in this decision. Firstly, nDF has enjoyed participation from indigenous members of the community without using this variable which is most likely due to the fact that most people (regardless of cultural background) want to be part of decisions which affect them. Secondly, as a self-identified variable, there is no checking mechanism we are able to apply, and this has been a question not always answered honestly. (newDemocracy Foundation, 2016d, p. 8)

It is difficult to evaluate nDF's assertions that stratification for other demographics – such as disability, Aboriginal and Torres Strait Islander and ethnic identity – is unnecessary because the random sampling process delivers the appropriate mix. Numerous publications address the need to carefully consider and address the barriers to participation faced by people with disabilities (Jackson, 2006; Robinson & Dyke, 2004; Stienstra & Troschuk, 2005). In addition, my personal experience recruiting over 50 mini-publics has demonstrated that when collecting broader demographic data, only a small number of Aboriginal and Torres Strait Islander people register and a disproportional number of people with bachelor's or higher degrees register. If this information isn't collected, it isn't possible to be sure that these

¹⁴ "We also stratify by whether a respondent is an owner or a tenant where they live and match this to Census profile: we have found this to be a highly effective surrogate indicator of income and education level." (newDemocracy Foundation, 2016c, p. 1)

particular demographics are included in the final DMP. It may be that nDF's assertions are a form of cognitive bias such as optimism bias and base rate fallacy¹⁵ (Flybjerg, 2021, p. 532).

In only one DMP were non-demographic criteria applied – for the Dogs and Cats Jury, where the participants were stratified based on pet ownership and the usual demographics. There are arguments about whether demographic categories create a mini-public that is reflective of the affected community, or whether other characteristics, such as discourses, would deliver a mini-public that better reflects the affected community (Dryzek & Niemeyer, 2008).

d. To what extent does the mini-public reflect the intended diversity, i.e. does it achieve the demographic goals?

The newDemocracy Foundation did not and does not publicly disclose how well the final membership of any specific DMP matched the demographic goals set. It explicitly states in most of its design documents:

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.
(newDemocracy Foundation, 2013, p. 3)

In a report produced by TACSI evaluating the Nightlife jury, and based on interviews with a random selection of eight jurors, it was noted that

A high number of jurors in our sample had involvement with a university or education establishment, either as a student, member of staff or academic. Only one of the jurors was not educated to a degree level. (TACSI, 2013, p. 14).

However, for both the Nuclear Juries, infographics were produced to show the demographics (see Figure 7 and 8).

¹⁵ Optimism bias: the tendency to be overly optimistic about the outcome of planned actions, including overestimating the frequency and size of positive events and underestimating the frequency and size of negative ones.

Base rate fallacy: The tendency to ignore generic base rate information and focus on specific information pertaining to a certain case or small sample.

Figure 7: Infographic for the first Nuclear Jury

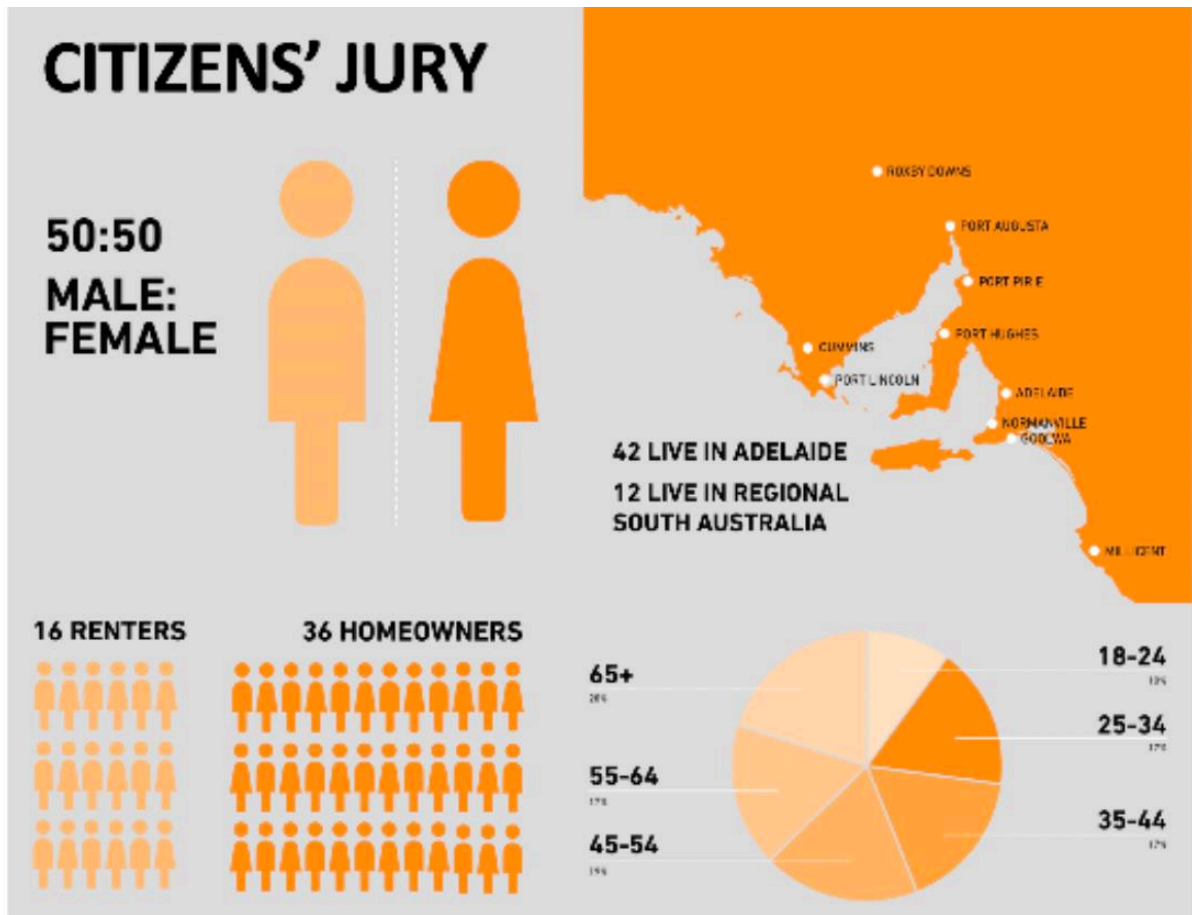
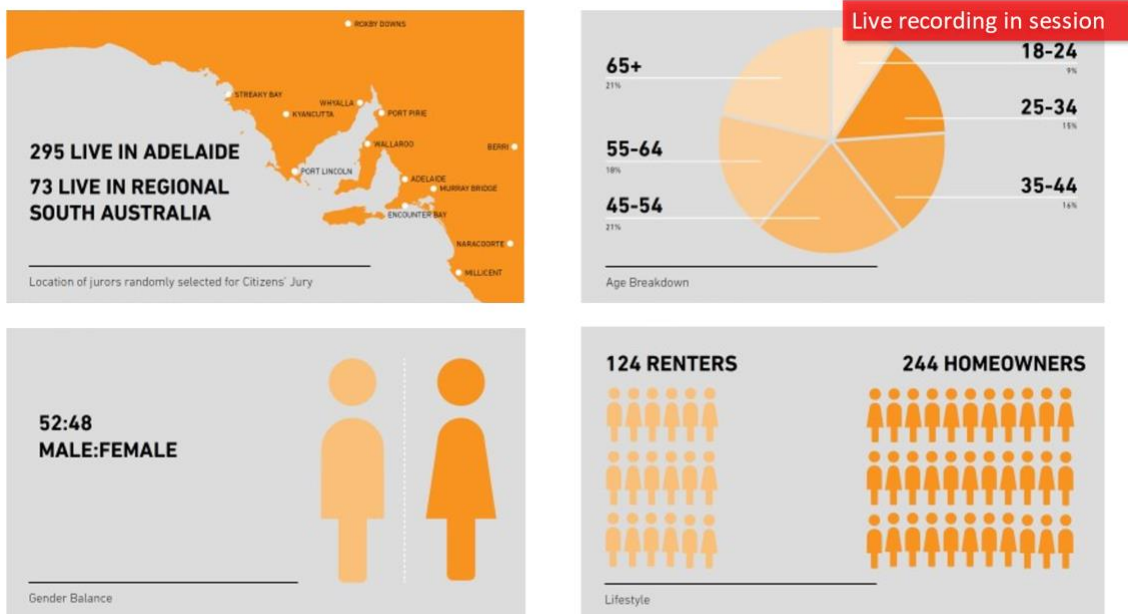


Figure 8: Infographic for the second Nuclear Jury



5.4.2 Collective agenda-setting

a. Who chooses the topic or issue for the DMP?

The decision-makers set the topics or issues for each South Australian DMP.

The practices and narratives of the newDemocracy Foundation and democracyCo identify the government decision-makers as responsible for setting the agenda for these deliberative mini-publics. In the Nightlife Jury design proposal, newDemocracy Foundation states that

the key role for the elected representatives ... becomes one of *agenda-setting* establishing non-negotiable parameters and recognising which policy areas are appropriate. (newDemocracy Foundation, 2013, p. 3, my emphasis)

b. Who determines the remit for the DMP?

Despite this clear view of the appropriate role for decision-makers to set the agenda, one co-founder of democracyCo said in a 2017 interview that their organisation, and the newDemocracy Foundation, usually worked with the decision-makers on the wording of the remit and provided advice – sometimes quite forcefully – on this wording. For example, regarding the wording of the remit for the Dogs and Cats Citizens' Jury, the Dogs and Cats Board and the Minister were focused on the politically tricky challenge of compulsory desexing.

However, as the second co-founder of democracyCo said in 2017, "I don't feel that running a deliberative process around what is a yes/no answer to things [is] particularly useful." The first co-founder noted that the broadening of the remit and adding a request from the minister for a separate 'verdict' on mandatory desexing gave the jury significant scope to move beyond a simple yes/no decision to consider a broader array of recommendations. Interviewed in 2017, the minister for sustainability, environment and conservation and for water and the River Murray also commented on the breadth of the recommendations coming from this jury:

Whereas for the Dog and Cat jury they asked the government to go further. They said, "Yeah, okay, legislation is good, but it doesn't go far enough. We want you to do this, we want you to do this, and we want you to do this," and it was unanimous. Unbelievable, and the power of that persuaded not just the cabinet but also the parliament to endorse the legislation.

The first Nuclear Jury was called the 'agenda' jury as it was charged with determining what information from the Royal Commission Report should be included in the state-wide consultations held between the two juries. While this jury was asked to determine the content for a significant community engagement initiative – at least in part – it was limited to what was in the Royal Commission's report.

For all six of these DMPs, there was no intention to give citizens a role in determining the remits, whether part of the mini-public or not. For the decision-makers, their responsibility for setting the agenda was clear, as the premier stated:

The disadvantages [of DMPs], I think you have to pick and choose the issue. Sometimes people just want politicians to just get on with it and make a decision.

A problem was seen as being insoluble.... If it's something that government could do, or my agency could do, well, why waste your time and money having a citizens' jury? Because that's what you're there for But if it's something that's just been deadlocked and it's good public policy to try and shift it, then that's when you try to be brave. (Minister for Sustainability, interview, 2017)

The evaluation of the Nightlife jury by TACSI (2013) suggests that public servants, too, felt excluded from the agenda-setting process, which meant the remit for this jury was "too broad, too complex, and too safe" (p. 35). In response to these concerns, TACSI suggested, under the heading "What if..."

Prior to a jury starting, bureaucrats were canvased on questions that would be useful to tackle.

This could potentially help engage them in the process and create topics of interest for future juries. When a topic is chosen, it seems it would be important to communicate why that topic is good for a citizens' jury, and what the jury will add beyond existing exploration of the question and initiatives related to the question.

There also seems to be an opportunity to focus ... the question on targeted areas the government are struggling with. For example, rather than a vibrant and safe nightlife, would it have worked better to narrow the scope to reducing binge drinking or increasing diversity of age groups participating in nightlife?

It would be easy to say that collective agenda-setting is not a function DMPs need to fill particularly as decision-makers choose the topics and set the remits for all of the deliberative mini-publics considered in this thesis. However, after leaving government, Weatherill identified agenda-setting as the next frontier for deliberative mini-publics:

They want to be involved in how you shape the questions they think need to be answered, and that, in a sense is what most of the business [of politics] is about," he says.

It's really about shaping the questions – because the answers tend to fall out from the questions.

How you engage with the questions asked – that's the critical question in a democracy. (as cited in Richardson, 2019)

This apparent change in position aligns with international findings that politicians who out of government are often more supportive of giving more power to citizens (Thompson, 2019). However, in a recent online discussion, in response to a question about agenda-setting, Weatherill expressed caution about giving citizens agenda-setting power due to the growth of populism. (MosaicLab webinar, 2022).

In practice, some governments are now giving DMPs an explicit collective agenda-setting function – for example, the Ostbelgian Regional Citizens' Assembly and the Paris Council. It appears that, in some jurisdictions, decision-makers believe that there is no fundamental reason why DMPs should not fill or at least partially fill this function.

c. Is the remit too broad or too narrow?

This question speaks to the level of collective will-formation provided to the DMP based on the remit. A remit can be too broad, making it difficult for the DMP to identify options and generate recommendations (Carson, 2020). Alternatively, it can be too narrow, prohibiting the DMP from addressing “relevant adjacent issues” that impact on the topic being considered.

The remits for the Nightlife, Cycling, and Dogs and Cats juries were reasonably broad, in regard to the topic it amended to address, allowing these DMPs to consider a range of options for responding to the issues being considered. The Drains panel remit was narrow, focusing only the funding of the drains and explicitly excluding a particular recommendation. The remit for the first Nuclear jury was understandably narrow as that jury was asked to develop a report for the broader community, specifically about the Royal Commission report. The second Nuclear jury was narrow as it only dealt with the storage of nuclear waste rather than any other issues addressed in the Royal Commission report, which precluded consideration of other issues related to nuclear fuel or the broader economic situation of SA.

During the second Nuclear Jury, a group of jurors approached one of the facilitators about broadening the remit:

[W]e had to tell them they couldn’t”, but they went there anyway...They split off and formed a subgroup and did it in their own time outside of the jury process, came up with a whole economic strategy for the government, ... we had to tell them had nothing to do with the jury because it wasn’t how the question now being was asked. ... [so we said] we’ll give it to the economic adviser on your behalf.” (2017)

The remits for the six DMPs considered in this chapter can be found in Table 14.

d. Can the deliberative mini-public amend or interpret its remit?

democracyCo, in its role as facilitator, did not align with the newDemocracy Foundation’s view about “non-negotiable parameters”; instead, as one of its co-founders explained in a 2017 interview, democracyCo allowed DMPs to interpret the remit and provide recommendations outside that remit’s scope.

Decision-makers did recognise that, in practice, DMPs could move outside of their remit. As the premier’s strategic engagement director explained in 2017:

[O]ne of the key learnings from the first citizen’s jury – a jury won’t necessarily contain its recommendations to a government portfolio area. In fact, juries tend to take a holistic approach; that’s one of their strengths. This meant that a number of recommendations fell outside of the remit of the agency that had committed to implementing (at least some) of the recommendations.

5.4.3 Collective will-formation

a. Does the design of the deliberative process align with deliberative principles?

The newDemocracy Foundation and democracyCo were the key players who determined what deliberation was for the DMPs considered here. The government set no specific rules or requirements around how the deliberative mini-publics should work ‘in the room’.

The newDemocracy Foundation and democracyCo set similar overarching practices used to develop consensus recommendations by the deliberative mini-public. For the newDemocracy Foundation (2013), these included multiple phases to the work of the deliberative mini-publics:

- The learning phase;
- Understanding;
- Focus;
- Reflect, discuss, deliberate;
- Shared goals (pp. 10–11).

b. Is the implementation of the deliberative process robust?

An important element of this democratic function is that neither the decision-makers nor the facilitators 'lead' the mini-public to a particular decision. This is why independent facilitators are considered essential to these processes. Using tools and techniques, skilled facilitators are responsible for developing agendas – usually called run sheets – for each session of a DMP to deliver these practices. Although these tools and techniques are essential to delivering a genuinely deliberative process, I will not be evaluating these tools and techniques in this thesis.

My experience consistently indicates that inexperienced facilitators can affect the ability of a DMP to reach consensus and ensure the diversity of the participants is included.

c. How is the will of people outside of the mini-public incorporated?

From its first process design, newDemocracy Foundation (2013) was clear that DMPs should hear from the broader community and stakeholders:

Expert groups, interest groups, 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, not organisers, facilitators or Government. (p. 2)

To my own knowledge, this approach has become relatively standard in Australia for newDemocracy Foundation projects and others. Here is an overview of the broader input each DMP received.

Nightlife Jury

"The Citizens' Jury considered numerous submissions, heard from many local and interstate experts, and shared their own knowledge, experience and research in analysing and recommending how to ensure Adelaide's nightlife is vibrant and safe." (Nightlife Citizens' Jury, 2013, p. 2)

Drains Jury

"The Community Panel would like to thank the cross-section of community members who gave their time to prepare written submissions, present Expert Witness sessions and assist members over the months of January, February and March 2015." (South East Drainage Community Panel, 2015, p. 9)

Cycling Jury

"The Jury were privileged to have heard from many interested parties in the course of their work. These experiences took the form of:

- Formal presentations & Q&A scheduled with the Jury

- Submissions which were lodged through the YourSay website
- Online forums: both formal, and informal
- Networking with their own communities of interest
- Live Twitter Chat on Day 4 of their deliberations
- Conducting their own research, observations and reflections
- Use of their own, private online Jury forum
- Group work in Jury deliberation sessions

All of these experiences, resulted in the Jury being exposed to thousands of ideas and initiatives.” (Citizens’ Jury, 2014, p. 5)

Dogs and Cats Jury

For the Dogs and Cats jury, broader community consultations were run from April to June 2015, and more than 1800 submissions were received through the Government’s online portal YourSAy¹⁶. In addition, a range of stakeholders and experts presented to the jury.

The jury was able to call expert witnesses of their choosing (Citizens’ Jury, 2015, p. 4)

The first Nuclear Jury

There was no broader engagement feeding directly into this jury as it was limited to considering the Royal Commission Report.

The second Nuclear Jury

Between the first and second Nuclear juries there was broad state-wide engagement convened by Nuclear Fuel Cycle Royal Commission Consultation and Response Agency, involving drop-in centres, and including specific meetings with Aboriginal communities. This was presented to the second Nuclear Jury.

d. Does the deliberative mini-public reach consensus?

Five of the six DMPs reached a consensus set of recommendations. There was a minority report in only one of the six DMPs being considered here – the second Nuclear Jury.

There are different approaches to seeking consensus: some focus on 100% agreement, and others set the decision rule at a percentage level of agreement. For most of their deliberative process designs, the newDemocracy Foundation recommended an 80% supermajority as the appropriate level of agreement for a jury decision, known as the decision rule. An anti-voting narrative supports this supermajority concept:

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, newDemocracy Foundation recommends an 80% supermajority be required for a final decision from the jury. In practice, citizens’ panels 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. (newDemocracy Foundation, 2013, p. 6).

For the Dogs and Cats Jury, where the process was designed by democracyCo, the supermajority was set at 75%.

¹⁶ <https://participedia.net/case/4353>

Notably, the newDemocracy Foundation did not propose a specific super-majority for both nuclear fuel juries. It was silent on the appropriate decision rule for this jury. Instead, under the heading “What constitutes a decision?” it stated, in part:

We will work with the facilitators to encourage the jury to find common ground where possible: finding statements with broad agreement is of the highest value. However, the core task is to fairly reflect the view of the room, and in this circumstance, that is likely to include dissenting and divergent views.
(newDemocracy Foundation, 2016d, p. 12)

Collective decision-making appears to be the democratic function most likely to be achieved through deliberative mini-publics. When the pre-determined supermajority isn't reached, but a majority view is reached, it is unclear how decision-makers should deal with the majority's recommendations. Only one of these six DMPs – the second Nuclear Jury – delivered a minority or dissenting decision/report to decision-makers. While the ability to provide a minority or dissenting report acknowledges and gives a voice to the minority, it isn't clear what the purpose of this report is for decision-makers.

e. Does the deliberative mini-public provide reasons for its recommendations?

All of the DMPs provided explanations for their recommendations:

- Nightlife Jury gave reasons and sources for recommendations;
- Cycling Jury provided detailed background and insights for their recommendations
- Drains Panel provided explanations for most of their recommendations as well as the background to the issues they considered
- Dogs and Cats Jury provided a statement of intent, background, and ideas for implementation for each recommendation
- First Nuclear Jury produced a document that identified the parts of the Royal Commission report they recommended everyone consider
- Second Nuclear Jury gave reasons for their recommendations.

5.4.4 Collective decision-making

a. Did decision-makers commit upfront regarding the deliberative mini-public's recommendations?

These commitments set out in the invitations for each DMP related more to the democratic function of accountability than to how responsive they would be to the DMP's recommendations; see Table 14.

The premier's oft-quoted “replace announce and defend with debate and decide” doesn't provide much guidance on who is debating, who is deciding, and on what basis a decision is made. However, the view that the elected representatives should be the final arbiters, particularly where legislation was required to implement a deliberative mini-public's recommendations, was a straightforward narrative. As the premier told me in 2017:

I think there is a distinction, in my mind at least, between outsourcing deliberations to the mob and the process of deliberative democracy, which ultimately preserves the function and role of the politician, the collective representative.

This wording by the premier is part of the institutional work of maintaining institutions, in particular “mythologizing”, as per Lawrence and Suddaby (2006).

The two key policy documents didn't provide any more precise guidance. They used ambiguous language regarding how the 'voices' of communities, stakeholders and DMPs would be responded to:

To make better decisions by bringing the voices of communities and stakeholders *into the issues* [emphasis added] that are relevant to them. (Government of South Australia, 2013, p. 7)

We are determined to give South Australians *more of a say* [emphasis added] ... we need a more consistent effort in collective decision-making and collaborative problem-solving. (Weatherill, as cited in Government of South Australia, 2015, p. 3)

Nonetheless, the newDemocracy Foundation and democracyCo encouraged decision-makers to set a strongly worded commitment on how they would respond to the DMP's recommendations.

b. To what extent did decision-makers meet their upfront commitment?

Although, as I have just outlined, the wording of the commitments focused more on accountability – and even though the newDemocracy Foundation referred to this wording as setting the 'authority' for the DMP – the decision-makers did meet these commitments.

c. Is a decision made, and by whom?

In South Australia, the idea of giving a collective will-formation function to a DMP was controversial from the first citizens' jury held in 2013. The leader of the opposition criticised the Nightlife Jury as "a stunt" and "a waste of taxpayers' money" and that "the government should simply be out there listening to the public themselves" (9News Adelaide, 2013). From the opposition's perspective, collective will-formation was the responsibility of elected representatives based on listening to their constituents. He certainly saw the use of deliberative mini-publics as outsourcing a role that sat squarely with elected representatives.

In responding to the criticism that the government was outsourcing decision-making, Weatherill said:

We are still accepting responsibility for government to make the decision; we are only asking citizens to assist us in that regard. The way I like to describe it is we aren't consulting on the answer but on permission to decide. (Thompson, 2016a)

When asked in 2017 about the appropriate role for deliberative mini-publics vis-à-vis elected representatives in a representative democracy, Weatherill said:

I don't know if I've clarified my thoughts sufficiently about that to say anything definitive ... You know, that's something I might reflect on in a post-parliamentary career, but it's sort of, for me, it's been a practical thing about improving governing. ... It probably needs some deep thinking about where it sits in our democracy.

In another 2017 interview, the sustainability minister added:

When the accepted recommendations required legislative change involving cabinet support and parliamentary approval, the existence of unanimity, such as from the Dogs and Cats jury, resulted in cross-party support for the new legislation.

d. To what extent do the decision-makers adopt the deliberative mini-public's recommendations?

Following four out of the six DMPs, the decision-makers choose to implement virtually all of the DMPs' recommendations. However, where the recommendations of the DMPs diverged from the decision-makers' preferences, as they did explicitly in the Drains and implicitly for the second Nuclear Jury, the decision-makers either did not implement them or were more reluctant to do so. The detail of the government's responses to the DMPs' recommendations is shown in Table 15.

Reflecting on the Drains Panel's recommendations in 2017, the sustainability minister said:

I told them at the outset there is only one outcome that I won't accept and that is more money from the government. Everything else was open for discussion. At the end of a long process, the only answer they came back with was the one I would not accept.

After the second Nuclear Jury did not reach a consensus – two-thirds of the 350-person jury opposed the introduction of a nuclear waste facility in South Australia under any circumstances – the premier publicly stated that the issue was not closed and would go to a referendum:

I believe continued public debate about SA's role in the nuclear fuel cycle is important, and ultimately it is a matter that the people should decide, not political parties. This would always be a test of our democracy. I am supportive of continued debate on this issue – I am not supportive of shutting down democracy. The message we heard from the jury was about trust. The best way forward is to restore that trust by putting this decision in the hands of the people. For Aboriginal people, there was enormous distrust of non-Aboriginal people [but] by providing a right of veto to a local Aboriginal community ... these concerns can be allayed. (as cited in Richardson & Siebert, 2017)

In an unusual move for the newDemocracy Foundation, its founding director, Luca Belgiorno-Nettis, issued a public rebuke to Premier Weatherill's proposal to take the issue to a referendum in an opinion piece in the *Sydney Morning Herald*:

From the time the royal commission report was handed down earlier this year, the South Australian government has been trying to listen, very carefully to its community. But now, it has stopped listening, even after the citizen jury concluded their deliberations. A referendum has now been floated as a way to finally determine the question, never mind the most recent lessons from the Brexit experience. The jury tried to find common ground. A referendum won't. ... The jury's considered decision should not be ignored by the government. The greatest underused asset in politics today is the common sense of everyday people – when they deliberate. (Belgiorno-Nettis, November 17, 2016).

In response, Weatherill said:

The citizens' jury has been an important part of the state's largest-ever public consultation process ... The jury's findings have helped guide the Government's response. A key finding of the jury was the importance of listening to Aboriginal communities. In response, the Government has stipulated local Aboriginal communities will be given the right of veto over any future project. Above all, the jury's key concern was about trust. In response, the Government has decided the only path forward is to put its trust in the people of South Australia and secure

broad social consent through a state-wide referendum. We want the people to decide, not political parties. Of course, before a referendum can be considered, bipartisanship needs to be restored. (as cited in Washington, 2016)

However, by June 2017, the Premier declared the project “dead” due to a lack of bipartisan support for a referendum on the issue (as cited in Richardson, 2017). In August 2017, in an interview for this research, Weatherill was looking on the bright side:

I mean, what was powerful, I think, [from] the citizens’ jury ... the large one about the Nuclear Fuel Cycle Royal Commission was the significance of how the broad group took on the interests of Aboriginal people, which was, I think, a surprise to Aboriginal people.

Table 15: South Australian deliberative mini-public commitments and South Australian DMPs - public commitments and responses to recommendations

	Nightlife Jury	Drains Jury	Cycling Jury	Cats and Dogs Jury	Nuclear Jury #1	Nuclear Jury #2
Commitment in invitation	<p>The premier commits to submit to cabinet the outcomes of the jury's deliberations.</p> <p>The premier commits to meet with the jury and personally receive the final recommendations.</p> <p>The premier commits to table the recommendations in parliament.</p>	<p>The minister commits to meet with the community panel at the commencement of the panel's deliberations.</p> <p>The minister commits to meet with the community panel to discuss its final recommendations.</p> <p>The minister commits to submit to cabinet the outcomes of the community panel's deliberations.</p> <p>The Minister commits to table the recommendations in Parliament unedited.</p>	<p>The premier commits to submit to cabinet the outcomes of the jury's deliberations.</p> <p>The premier commits to meet with the jury and personally receive the final recommendations.</p> <p>The premier commits to table the recommendations in parliament.</p>	<p>The minister will respond to the report personally and in writing. The minister has also committed to table its recommendations – unedited – in parliament. The minister will consider all the recommendations of the jury and seeks the jury's verdict on the specific matter of whether desexing should be mandatory.</p>	<p>You are the producers of a short independent guide to help every South Australian understand the recommendations raised by the Royal Commission's Report.</p> <p>Your unedited and unchanged report will be made available to all South Australians.</p> <p><u>Note:</u> the newDemocracy Foundation considers that this gave agenda-setting power to the initial Nuclear Jury (nDF, 2016a, p. 13).</p>	<p>The Citizens' Jury report will be presented, in unedited format, to the premier of South Australia and will also be tabled in the South Australian Parliament.</p> <p>A response to this report will be publicly provided by the premier.</p>
Was commitment met?	<p>Most of the Nightlife Citizens' Jury recommendations were implemented, with others used to guide ongoing policy</p>	<p>The minister made it clear in his presentation at the opening session of the Drains Panel that he would accept all</p>	<p>In preparing its response to the jury's recommendations, the reference group of government agencies established to support</p>	<p>Of the jury's seven recommendations, the government supported four, agreed to investigate two further and did</p>	<p>This jury's work did inform the broader consultations, but not perhaps to the extent envisaged in</p>	<p>Initially, the premier publicly proposed taking the issue to a referendum. However, he subsequently decided not to</p>

	Nightlife Jury	Drains Jury	Cycling Jury	Cats and Dogs Jury	Nuclear Jury #1	Nuclear Jury #2
	and legislative development. The Premier's Department continued to monitor and oversee the ongoing implementation of the jury's recommendations under the Labor Government.	recommendations except that the government fund all costs for the South East Drainage Network. Despite this, the panel chose to make recommendations it knew would not be accepted. This process did not deliver on the collective decision-making function. As a result, its recommendations were not implemented.	the process considered the recommendations, as did other stakeholders. Of the 21 individual recommendations, 18 were supported, and three were identified for further investigation. The implementation of supported recommendations involved a combination of funding and legislation.	not support one. Legislation was enacted to implement most of the jury's recommendations that were accepted.	the original design document.	investigate the possibility of nuclear fuel storage and disposal site in South Australia, primarily because a referendum would have required bipartisan support, which he could not get.
Accountability	The SA government published a formal written response to the jury's seven high-level and 22 detailed recommendations. They identified which recommendations would be implemented and how and which would inform future action.	In some ways, by stating his position upfront, the minister aimed to hold the panel to account. Once the panel made a recommendation outside of the terms of the remit and the minister's clear statement about what he would or wouldn't accept, no further accountability was necessary.	The government published a detailed report responding to the Cycling Jury's ten high-level recommendations and their eleven sub-recommendations. This report stated that the "implementation of the Government's response will be monitored by the Department of Planning, Transport	The government published a report providing a detailed response to the Dogs and Cats Citizens' Jury's seven recommendations.	This jury's work informed the focus for the broader consultations, which fed into the decision jury's work.	It is unclear if a formal report was provided to the jury; however, as identified earlier, the Government's evolving response to these recommendations did receive significant media coverage. It appears that no formal report was provided to the decision jury about the government's response and actions

	Nightlife Jury	Drains Jury	Cycling Jury	Cats and Dogs Jury	Nuclear Jury #1	Nuclear Jury #2
			and Infrastructure and reported on a quarterly basis on the YourSAy website”			arising from their recommendations. As mentioned above, the premier’s evolving intentions received significant media coverage so jury members and the general public would easily know what was being proposed. The premier did attempt to justify his responses, which is part of being held accountable.

5.4.5 Accountability

a. Did decision-makers give a commitment upfront regarding accountability?

The government set no specific rules around accountability. The designers' practices included initial accountability, which generally required the decision-maker to meet with the DMP to 'discuss' their recommendations. These commitments addressed initial accountability, because they clearly stated their decisions and reasons, but provided no ongoing accountability for implementation. Referring back to Table 14 setting out the commitments provided to each DMP, four of the six commitments included a reference to responding to the DMP's recommendations. There was no mention of providing advice on what recommendations were accepted and which weren't, or why – although in practice, this did happen for at least three of the DMPs. In practice, there was a certain level of ongoing accountability through the ongoing provision of updates via the Government's YourSAy website (SA government, 2014)

b. To what extent did decision-makers meet their upfront commitment?

For all DMPs the upfront commitment was met (see Table 14).

c. Do decision-makers make public their decisions and reasons?

In three of six DMPs, the government published a formal response to the deliberative mini-publics' recommendations:

- Nightlife Jury – the government released a 40-page response to the jury's recommendations providing detailed responses for each of the jury's recommendations as well as identifying what actions were already underway;
- Cycling Jury – the government released a 40-page response to the jury's recommendations set out how the government developed its response, an overview of this response and a detailed explanation for each of its responses;
- Drains Panel – there was no formal report, as the minister had already stated that he would not accept any recommendations which called for the state government to allocate additional funds to the drains;
- Dogs and Cats Jury – the minister released a 12-page response to the jury's recommendations, including detailed explanations of why some recommendations were accepted and others not;
- Nuclear Jury #1 – the jury's report was used in the broader engagement process;
- Nuclear Jury #2 – this jury's recommendations were debated in the public sphere, where the Premier initially proposed to go back to the community and hold a referendum on the issue before accepting the decision due to a lack of the required bipartisan support to hold a referendum.

See Table 15 for more detail.

However, it wasn't clear how citizens could follow up on government decision-making for those jury recommendations where they identified the need for further action, for example, where the response to a recommendation was "investigate".

d. Do decision-makers publicly report on the implementation of their decisions?

Although there was no commitment to ongoing accountability around implementing accepted recommendations, the government agencies involved did provide implementation updates through the YourSAy website, as I will outline.

The accountability function could have been addressed more explicitly in the commitments given to each DMP. Without appropriate accountability, not just in providing an initial response but also in providing updates on implementation, the value of the deliberative process can be undermined.

e. Does the deliberative mini-public have a role in monitoring the implementation of the decisions?

There are no examples of ongoing involvement of DMPs throughout the implementation of their original recommendations – unlike, for example, Goulburn Valley Water, as I will explain in Chapter 7. In addition, the DMP’s ability to follow up on items where the decision-makers indicated they would “investigate” specific recommendations is problematic.

Implementation was monitored by the government agencies responsible for the different issues. These agencies published updates on a few of the DMPs using the YourSAy website. For the Cycling jury, the Government’s response explicitly addresses ongoing accountability:

Implementation of the Government’s Response will be monitored by the Department of Planning, Transport and Infrastructure and will be reported on a quarterly basis on the YourSAy website. (SA Government, 2014)

Table 16 provides an overview of the strengths and weaknesses of this case.

Table 16: Democratic functions – overview of strengths and weaknesses of South Australian DMPs

Democratic functions	Nightlife jury	South-eastern drains panel	Cycling jury	Dogs and Cats jury	First Nuclear jury	Second Nuclear jury	Overall assessment
Inclusion Strengths	Random distribution of invitations sent directly to people's homes	Random distribution of invitations sent directly to people's homes Went beyond usual stratification goals to include Aboriginal Incentive payment (\$400) and accommodation if required	Random distribution of invitations sent directly to people's homes	Included people from across the state Included question and stratification for pet ownership Incentive payment (\$300) and accommodation for regional jurors	Random distribution of invitations sent directly to people's homes Included people from across the state Incentive payment (\$500) and travel and accommodation in specific cases	Random distribution of invitations sent directly to people's homes Included people from across the state Incentive payment (\$500) and travel and accommodation in specific cases	Random distribution of invitations sent directly to people's homes for five out of six DMPs
Weaknesses	Limited range of stratification goals used	Stratified based on urban and rural areas Didn't include all affected people, i.e. taxpayers outside south-eastern region	Limited range of stratification goals used Reference in invitation to payment for time and expenses didn't explicitly include	Limited range of stratification goals used Use of online database likely to have reduced diversity of group receiving invitations	Limited range of stratification goals used Did not specifically recruit for Aboriginal people despite topic being of especial importance to this group	Limited range of stratification goals used Did not specifically recruit for Aboriginal people despite topic being of especial importance to this group	Limited stratification goals may have impacted on diversity of views on DMPs Use of owner/tenant as a proxy for socio-economic status isn't justified

Democratic functions	Nightlife jury	South-eastern drains panel	Cycling jury	Dogs and Cats jury	First Nuclear jury	Second Nuclear jury	Overall assessment	
			amount of payment					
Collective agenda-setting	Strengths	Reasonably broad agenda	Remit explicitly excluded recommendations for govt to pay more than \$2.2m pa Panel members made recommendation explicitly against Minister's request	Reasonably broad agenda	Facilitators supported jury interpretation of remit Reasonably broad agenda	Fairly narrow remit Remit gave jury role in advising broader community about Royal Commission report	Fairly narrow agendas as focused on nuclear waste disposal only	Some remits were broad Jurors went beyond remit on occasion
	Weaknesses	Agenda set by decision-makers	Agenda set by decision-makers Fairly restrictive agenda	Agenda set by decision-makers	Agenda set by decision-makers	Agenda set by decision-makers Very narrow agenda	Agenda set by decision-makers	Agenda always set by decision-makers
	Strengths	Broader community had input Jury reached consensus	Broader community had input Stakeholders consulted on witnesses	Broader community had input Jury reached consensus	Broader community had input Jury reached consensus	Jury reached consensus	Broader community had input Jury provided reasons for its recommendations	Broader community had input in majority of juries Jury provided reasons for its recommendations

Democratic functions	Nightlife jury	South-eastern drains panel	Cycling jury	Dogs and Cats jury	First Nuclear jury	Second Nuclear jury	Overall assessment
Collective will-formation	Jury provided reasons for its recommendations	Jury reached consensus Jury provided reasons for its recommendations	Jury provided reasons for its recommendations	Jury provided reasons for its recommendations			in majority of DMPs
Weaknesses	Deliberative process dependent on skills and experience of facilitators	Deliberative process dependent on skills and experience of facilitators	Deliberative process dependent on skills and experience of facilitators	Deliberative process dependent on skills and experience of facilitators	Deliberative process dependent on skills and experience of facilitators Broader community did not have input	Jury did not reach consensus Jury was very large which appears to have impacted on the deliberative quality	
Collective decision-making	Strengths Commitment upfront to take recommendations to Cabinet and table in both houses of parliament Clear statement of which recommendations would be supported, investigated	Commitment upfront to take recommendations to Cabinet and table in both houses of parliament minister stuck with commitment not to accept any recommendation that required	Clear statement on which recommendations would be supported, investigated further or not actioned	Clear statement on which recommendations would be supported, investigated further or not actioned	Jury's recommendations were available to people who attended public meetings about the nuclear fuel waste facility	Jury's recommendations finally accepted, although mainly due to political limitations to hold referendum on the issue	Overall support for the majority of juries' recommendations except for Drains Panel and second Nuclear Jury

Democratic functions	Nightlife jury	South-eastern drains panel	Cycling jury	Dogs and Cats jury	First Nuclear jury	Second Nuclear jury	Overall assessment
	further or not actioned	additional funding from the state govt					
Weaknesses	No specific commitment regarding adopting recommendations, even with some caveat, e.g. 'as far as possible'				Use of the jury's recommendations was more limited than initially proposed	Initial failure to take on board jury's recommendations	When recommendations did not align with the firmly held views of decision-makers, they were not supported
Accountability	Strengths	Government provided updates on implementation on YourSAy website				Very little accountability other than through publicity this issue gained	Where recommendations were generally supported, there was some ongoing reporting on implementation
	Weaknesses	No commitment upfront around accountability	No commitment upfront around accountability	No commitment upfront around accountability	No commitment upfront around accountability	No commitment upfront around accountability	No commitment upfront around accountability

5.4.6 Institutional modes of constraint

In the preceding analysis of the DMPs that form the embedded units in the SA case study against the democratic functions, the role of narratives, practices and rules is considered in regard to each function. This section considers the role and inter-relationship of narratives, practices, rules and rules-in-use at the case study level. At this level, we see that

- The six DMPs arose from the Weatherill government's strong narratives and policies (rules-in-use) around enhancing democracy.
- The government's narratives were supported by those of the nDF and democracyCo.
- The nDF and democracyCo were responsible for translating these narratives into practices and in some cases rules-in-use, where specific practices became entrenched in SA and other parts of Australia.
- Despite the narratives of the nDF supporting the government's narratives, they also had the potential to undermine some aspects of the practice of DMPs, due to the instrumental 'spin' used to promote their use.
- Whilst the Government set out its broad agenda in two policy documents to explain its intentions to the public and guide the public sector, neither document could be considered as setting rules for the use of DMPs or other democratic innovations. Both addressed enhancing democracy at a high level, with little to no specific detail.

Table 17, on the next page, identifies the key narratives, practices, rules and rules-in-use comprising the modes of constraint in this case, as well as identifying where some of these modes were potentially in conflict with each other.

Table 17: institutional modes of constraint - overview of South Australian DMPs

Institutional modes of constraint	Actor/s	Overview of modes applied	Potential/actual conflict between modes
Narratives	Decision-makers	<ul style="list-style-type: none"> • replace 'announce and defend' with "debate and decide' – no detail on what this means was provided. • maintain role of elected representatives as decision-makers • DMPs 'help' elected representatives 	<ul style="list-style-type: none"> • Accepting 'helpful' narrative leads to reduced support for DMP recommendations when they aren't 'helpful' • Role of elected representatives as collective decision-makers minimises ability of initiatives, including DMPs to give any power/authority to citizens
	nDF/democracyCo	<ul style="list-style-type: none"> • Support transformation of government • DMPs 'help' elected representatives • DMPs make 'better' decisions 	<ul style="list-style-type: none"> • Transformation narrative conflicts with 'helpful' narrative leaving the choice between these narratives in the hands of formal decision-makers
Practices	Decision-makers	<ul style="list-style-type: none"> • Outsourced design/practice of DMPs totally • Developed standard approach to responding to DMPs' recommendations 	<ul style="list-style-type: none"> • Standard approach not applied when decision-makers didn't want to accept DMP's recommendations (Drains and Nuclear #2)
	nDF/democracyCo	<ul style="list-style-type: none"> • Each organisation had similar but not identical practices for DMPs (see also rules-in-use) • Key difference was establishment of stakeholder reference group (democracyCo) 	<ul style="list-style-type: none"> • Practices were fairly standard for deliberative processes, however the narratives around the value of these processes were often instrumental, e.g., better decisions, helping elected representatives, rather than being focused on improving democracy more broadly
Rules-in-Use	Decision-makers	<ul style="list-style-type: none"> • Commitment to the number of DMPS to be conducted, set when only one more was required to meet this goal 	<ul style="list-style-type: none"> • Despite strong positive narratives about democratic reform, all decision-making rested with elected representatives
	nDF/democracyCo	<ul style="list-style-type: none"> • Key practices became so regularly used that they can be considered rules-in-use <ul style="list-style-type: none"> ○ Stratified random selection ○ Time & information ○ Independent facilitation 	<ul style="list-style-type: none"> • Looking at the stratified random selection rule-in-use in particular the practice focused on simplicity rather than considering inclusion of relevant demographics. As identified earlier, the stratification for the second Nuclear Jury did not include Aboriginality, despite this group having a clear and specific interest in this issue. • The narrative of elected representatives 'seeing faces they didn't usually see' in the room and citizens seeing 'people like

Institutional modes of constraint	Actor/s	Overview of modes applied	Potential/actual conflict between modes
			me' took precedence over real diversity, which is not always 'visual'
Rules	Decision-makers	<ul style="list-style-type: none"> Broad policy linking DMPs with reforming democracy – no detail 	<ul style="list-style-type: none"> Lack of clear rules allows decision-makers to respond to DMPs in inconsistent ways
	nDF/democracyCo	<ul style="list-style-type: none"> Attempts to set rules around future use of DMPs (nDF) 	<ul style="list-style-type: none"> Change agents/facilitators cannot effectively set rules that bind decision-makers, this relates to conflict between transformation and helping narratives mentioned above

5.5 Conclusion

The premier's commitment to the concept of "public judgment" and his intention to replace "announce and defend" with "debate and decide" was crucial to establishing these deliberative mini-publics. However, his underlying commitment to not disturbing what he called "the function and role of the politician, the collective representative" (interview, 2017) meant that his government accepted and implemented DMP recommendations where the elected representatives had no strong views on what should happen in the policy areas being considered. Where the elected representatives did have a pre-existing view, the deliberative mini-publics' recommendations were not accepted, as in the South East Drains Panel, or at least not initially accepted, as with the Nuclear Jury).

The premier required another necessary element to convert this commitment into new institutions: the existence of organisations advocating for and designing these processes. Although, as the public conflict over the Nuclear Jury reveals, the narratives of these agents could undermine as well as support the ability of these DMPs to fulfil democratic functions.

Applying an institutional lens allows us to look in more detail at the six deliberative mini-publics conducted in South Australia to identify the institutional modes of constraint that supported the achievement of particular democratic functions and the modes that did not or worked against the supportive modes. In particular, we can see that while the supportive context was necessary, without compelling narratives to guide the implementation of these deliberative institutions, the supportive context could fall flat and fail to deliver against the amended democratic functions.

The analysis of this case demonstrates that despite a common view that collective will-formation is *the* fundamental strength of DMPs in regard to democratic functions, they can contribute to other democratic functions, subject to their design. This review also shows that even with a supportive premier, the ability of deliberative mini-publics to fulfil any of these democratic functions can be limited by the narratives of decision-makers and the narratives and practices used by advocates and process designers. Choices are made to fulfil certain narratives, such as moving away from voting with 80% as the appropriate supermajority for a jury decision; and narratives are also used to influence decision-makers to use deliberative processes: for instance, 'to help politicians govern' supports decision-makers to maintain authority over both agenda-setting and decision-making.

CHAPTER 6 NOOSA SHIRE COUNCIL CASE STUDY

6.1 Introduction

The second case study is of Noosa Shire Council, a local government in Queensland, Australia. This council worked with the newDemocracy Foundation and ran two deliberative mini-publics in 2015.

Noosa Shire Council is a coastal shire north of Brisbane, covering 871 square kilometres and currently has a population of 56,298¹⁷. Before white settlement in 1863, the area's Traditional Owners were the Kabi Kabi/Gubbi Gubbi peoples. Seven councillors are elected for the entire shire, and the mayor is popularly elected by the residents.

The Shire of Noosa was established in 1910 out of two other local government areas and continued to exist until 2008, when the shire was merged with Maroochy Shire and the City of Caloundra to form a new regional council called the Sunshine Coast Regional Shire. The amalgamation of Noosa, Maroochy and Caloundra councils into a new Sunshine Coast Council was part of a broader program of amalgamations initiated by the Queensland State Government in response to the recommendations of the Local Government Reform Commission to reduce the number of local councils from 156 to 73 (Local Government Reform Commission, 2007). The Commission's recommendations flowed from changes to the objectives of the Local Government Act 1993 and their Terms of Reference, which created "the imperative to create a stronger and more regionally-based structure" (Local Government Reform Commission, 2007a, p. 5).

After a prolonged and successful de-amalgamation campaign, the Shire of Noosa was re-established as a stand-alone council in 2014.

In this chapter, I will discuss the background and context for the two deliberative mini-publics conducted in 2015, particularly the successful de-amalgamation campaign that resulted in the Noosa Shire Council being re-established as a stand-alone council in 2015. The overarching narratives of the newDemocracy Foundation and the council will then be reviewed, followed by an in-depth review of the strengths and weaknesses of these DMPs against the democratic functions and the impact of the rules, practices and narratives on fulfilling these democratic functions.

As I acknowledged in the South Australian case study, the DMPs designed for Noosa Shire Council did not explicitly seek to address democratic functions. The criteria identified by the newDemocracy Foundation were model-based – they aimed to meet deliberative democracy standards. Nonetheless, these two DMPs explicitly addressed the democratic functions of inclusion, collective will-formation and collective decision-making in their design. And more recent DMP designs suggest that these institutions have the potential to address collective agenda-setting and accountability.

6.2 Context: amalgamation and de-amalgamation

Not all the existing councils and their residents supported the state government's program of council amalgamations. For this research, it is relevant that a significant de-amalgamation

¹⁷ Australian Census 2021

campaign was run under the leadership of a previous Noosa Mayor, Noel Playford, with significant grassroots involvement. This campaign culminated in a referendum in 2013, where 82.6% of Noosa's voters favoured de-amalgamation (Noosa Library Service). Noosa Shire was formally re-established on January 1, 2014, an election for the mayor and councillors having been held in November 2013. Noel Playford, who led the de-amalgamation campaign, was elected mayor.

Noel Playford was first elected to Noosa Shire Council in 1982. He was a councillor from 1982 to 1985 but wasn't re-elected in 1985. He was then elected as mayor in 1988 and held that position for nine years until 1997, when he stepped down as mayor but remained on the council. As he explained in a 2016 interview, he "semi-retired" in 2004 and was "roped in to heading up the push for de-amalgamation in 2008".

Talking about his approach to community engagement, when reflecting on his time on the Noosa Shire Council before 2004, Playford said:

I guess you can divide my period in local government between the time when you had to get out in front and lead on big issues; in other words, you had to show that this was the future for us as a community. But, by the time I left as mayor in '97, there wasn't really any argument about that. ... So, from then on, my attitude changed, obviously, and things could be more inclusive. But not as inclusive as they can be these days, simply because of the mechanisms we have these days versus the mechanisms we didn't have in those days.

And based on his view that by 1994 "the community knew ... where their future was and where it wasn't", the council began a more consultative phase starting with the development of the Noosa Plan. As Playford recalled in 2016, instead of starting with a draft plan, it started with a blank slate and went around to "each little community ... start talking about what sort of future they want to see".

Playford argued that this level of community engagement was one of the key reasons that Noosa residents had so much support for the de-amalgamation campaign and referendum:

What became absolutely clear ... the key issue for Noosa people, was that they had been part of a council of 50,000 people where they could always have their say, they would be listened to. They'd been used to it for years. ... So people got used to that. They had ownership of what was happening in their community. A regional council with 300,000 people ... They didn't talk to people, they couldn't. ... But the thing that people really hated was that they were just a number. They were not asked, any time they wanted a say, never listened to.

Others echoed this view about the expectations of Noosa residents and the level of activism in the community, with over 300 local groups active in the area. As the council's CEO explained in a 2016 interview, a significant proportion of the population comprises retirees from other parts of Australia and the world, who are "generally well off, well educated, reasonably in terms of their expectations":

This is a very active community. It's not a community that's passive. It's not a community that's going to sit back and not have a say.

Tony Wellington, who was elected mayor in 2015, directly after Mayor Playford's term, noted in a 2016 interview that while the amalgamated Sunshine Coast council had held many of its meetings in camera – not allowing people outside of council to attend – "Noosa Shire

Council holds all of its meetings, including preparatory meetings leading up to the ordinary meeting ... they are all public.” He added:

Noosa is a product of 50 years of community engagement. ... They’re not simply a product of an idealistic council; they’re a product of an idealistic community.

Playford stood for mayor in 2013 to provide experience to an otherwise reasonably inexperienced group of councillors on the proviso, he told me, that he would not stay for the entire term. He stood down after two years, and Wellington, previously a Sunshine Coast councillor and a fellow de-amalgamation campaigner, was elected to replace him.

6.3 Case Overview

In the process design prepared by the newDemocracy Foundation for the Noosa Shire Council in 2014, it was proposed that council conduct three DMPs as part of a pilot phase before moving on to institutionalise DMPs as a regular feature of the council’s engagement with their community.

For this reason, nDF’s process design covered both the community juries in 2015. Unusually, the design document and the invitation to register for the DMPs did not identify the specific topic for either of these juries. Instead, it identified several possible topics (see Table 18), and to my knowledge the wording of the final remit the jury was asked to respond to was provided in the email sent to people selected to be on the juries.

Table 18: Overview of key features of Noosa Community Juries

Name of process	Noosa Community Jury: Organic Waste (the Waste Jury)	Noosa Community Jury: Noosa River (the River Jury)
Year	2015	2015
Final remit	What is the best option for minimising organic waste sent to landfill?	How can we manage the Noosa River better? What role should Council play and what resources should Council apply?
Commissioned by	Noosa Shire Council	
Designed by	The newDemocracy Foundation	
Facilitated by	Marcia Dwonczyk	
Size of mini-publics	24	
Proposed Remits	<ol style="list-style-type: none"> 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. 4. Tree regulation – should tree owners need to ask council for permission to cut or remove? 	
Remits included in the invitation	<p>The topic is likely to be one of the following:</p> <ul style="list-style-type: none"> • What is the best option for minimising waste sent to landfill? • Should Noosa take over management of the Noosa River from the State? • Should Noosa invest in a free electric bus service? 	
Proposed Commitment	<p>In terms of authority, it is proposed that for each referred issue the Mayor and the Councillors will notify the Jury in advance <i>which</i> [emphasis added] of the following apply:</p> <p>Mayor and Councillors will respond in writing and in-person to all recommendations made by the Jury.</p> <p>The Mayor and Councillors commit to undertake recommendations on an all-or-nothing basis.</p> <p>Where a decision is reached unanimously by the Community Jury on that issue [it] will be treated as binding.</p> <p>Council may return a given decision to the Community Jury once with a request that they consider additional information.</p> <p>(newDemocracy Foundation, 2014b, p. 9)</p>	
The commitment included in the invitation	<p>The Mayor and Councillors will meet with the Jury and personally receive the Jury's final recommendations.</p> <p>The recommendations will be carefully considered, and both the recommendations and the Council's response will be tabled at a Council meeting.</p>	

6.3.1 Overarching narratives

Initially, the narratives of the council and the newDemocracy Foundation aligned around democratic innovation, as the newDemocracy Foundation focused on the institutionalisation of the DMP process at Noosa and eventually across Queensland. Over time, however, the council narratives became less about democratic innovation and more about community consultation and the various tools that could be used – Mayor Playford called the DMPs “a tool in the toolbox” (see also Riedy et al., 2019).

Interviews were undertaken in 2016 with the first two mayors elected after de-amalgamation, the CEO of the new council and the newly appointed community engagement manager, who oversaw the two community juries. This allows a clear picture of their perspective on the place of deliberative mini-publics in their decision-making processes and the waning of enthusiasm for these processes since the de-amalgamation campaign, the 2013 de-amalgamation referendum and the conduct of the two community juries described above.

Council's initial narratives

Mayor Playford identified a vital element of the de-amalgamation campaign as ensuring local people had a voice. Before the Noosa Shire Council was re-established, the leaders of the de-amalgamation campaign were looking for ways to quickly demonstrate their commitment to listening to and giving their residents a say (Gardiner, 2010). As soon as the new council was established, Playford engaged one of his de-amalgamation advisors as a consultant to

design a system, design a team, design all the tools, what we could possibly put in the toolbox so that we can keep faith with the community and make sure that our community is always going to feel that they have a say and that they will be listened to because that is what is needed.

After undertaking research and identifying deliberative mini-publics – or citizens' juries – as a possible way to achieve their goals of listening and giving a voice to the residents, this consultant identified the newDemocracy Foundation, an advocate and designer of deliberative mini-publics, as an important resource for the council, as Mayor Wellington recalled in his interview. Playford identified some critical features of the newDemocracy Foundation, which helped him ‘sell’ this concept to other councillors:

They were pre-eminent experts in the field in Australia. They had experience; they had money behind them from a seriously rich person, in particular. But also, they had some standing, some status. Partly, I'd say, it was important who was on the board and the fact that it was a cross-party political alliance. And experienced people like an ex-Premier, and so on.

The newly elected councillors' decision to engage the newDemocracy Foundation and commission citizens' juries was a unanimous one, “but that was after much decision in a co-operative way as opposed to just a vote,” Playford said. “If you'd just put it to a vote, it would've been five-two, my guess.”

The language used in the media before the community jury was finalised and the invitation was distributed reflected the language in the newDemocracy Foundation discussion papers. It highlighted that this initiative was effectively a democratic innovation. Media coverage of a Cooroy Area Residents Association meeting attended by Mayor Playford before the council vote to implement the community jury model reported:

While nothing was set in stone, Mayor Playford said it might be a case of telling the jury that their decision would be binding if they were in 100% agreement on a council issue. (Christian, 2014)

In launching the community jury concept, Noosa Shire Council issued a media release on September 10, 2014, titled "Democracy – the Noosa way" (Noosa, 2014). In this release, it stated:

A Noosa Community Jury of 24 randomly selected citizens will be used to consider certain complex and weighty local issues. Council could either ask for a recommendation or, in some circumstances Council may agree beforehand to implement the jury's decision.

In this media release, the mayor described the jury as an "innovative, genuine democracy", noting that "in the de-amalgamation battle, our community was not just fighting for the return of their council, but also *for a bigger say* in local decision-making." (my emphasis)

At the formal launch of the Noosa Community Jury scheme, Deputy Mayor Bob Abbot said, "the real definition of leadership is the creation and maintenance of safe spaces ... for good people in our community to make good decisions", again hinting at devolving decision-making to the jury (Noosa Shire Council YouTube).

From the council's various media comments and appearances before the conduct of either community jury, it appears it was considering the idea of accepting consensus decisions. However, the actual level of authority included in the invitation to register for the jury was significantly lower. As I will shortly describe, the council's response to the juries' recommendations was positive. Still, it did not accept all of their recommendations, except "in principle".

newDemocracy Foundation's narratives

In February 2014, the newDemocracy Foundation produced an initial discussion paper as "a backgrounder before a detailed discussion with councillors to explore and question how this would work based on our experiences with other local and state governments" (newDemocracy Foundation, 2014a, p. 1). In this first discussion paper – as opposed to the final project design document – the newDemocracy Foundation identified that it was responding to the mayor's request to "provide a recommendation as to how best to empower the local community in a substantive way" (newDemocracy Foundation, 2014a, p. 1). The discussion paper:

[S]uggests 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 a reasoned decision. We also invite councillors to consider the merits of establishing some circumstances/criteria where if the community find consensus, then the decision is binding. (newDemocracy Foundation, 2014a, p. 1)

The newDemocracy Foundation (2014a) noted that this document was

a baseline backgrounder prior to a detailed discussion with the councillors to explore and question how this would work based on our experiences with other local and state governments.

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 that principle that this paper most closely adheres to. (p. 1)

The aim was to put forward an approach that, if accepted by council, would “make Noosa a national and international leader in sharing decision-making power with the community” (newDemocracy Foundation, 2014a, p. 1). The newDemocracy Foundation (2014a) acknowledged that “we have provided Council with an adventurous and provocative paper for consideration” (p. 7).

In this first discussion paper, the deliberative mini-public was referred to as a ‘Community Senate’.¹⁸ After discussions with councillors, the subsequent “Discussion Paper 2: Delivering Noosa Shire Council a Democratic Process the Envy of Australia” included much of the same background information from the first discussion paper, providing “a plan ready to put into action” (newDemocracy Foundation, 2014b, p. 1).

In the newDemocracy Foundation’s second discussion paper, the DMPs were no longer called a Community Senate. Instead, the title was the Noosa Community Jury. This process was to be run over 18 months, including three DMPs in what the second discussion paper called a “pilot phase in order to assess its practicality, referring to this as a ‘trial before embedding this as ‘how we do government’” (newDemocracy Foundation, 2014b, p. 1). During this period, the newDemocracy Foundation (2014b) expressed its intention to seek legislative change by the state government to allow the devolution of decision-making power to the community jury, where a unanimous decision was reached (p. 6).

The arguments put forward for the use of deliberative mini-publics included that

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 Government in achieving public acceptance of hard tradeoffs. (newDemocracy Foundation, 2014b, p. 2; emphasis in original)

the creation of a complementary jury of citizens to whom they decide to pass *some* decisions will aid in greater public trust and understanding of the complex tradeoffs involved. (newDemocracy Foundation, 2014a, p. 2; emphasis in original)

In keeping with the newDemocracy Foundation’s goal to continually “push the envelope”, it was suggested that councillors consider empowering a jury where public opinion is uninformed, where a decision involves trade-offs, or where complex issues are subject to campaigning by interest groups. The foundation explicitly states that “for any issue where councillors have a clear view of the right decision for the community and are confident of the community’s acceptance, then that decision should be taken, and there is no role for this style of process” (newDemocracy Foundation, 2014b, p. 3).

The newDemocracy Foundation’s institutional work here fits into the categories of “advocacy”, “constructing identities”, “changing normative associations” and “theorizing” (Lawrence and Suddaby, 2006).

¹⁸ In Australia the senate is a parliamentary house of review.

Council's evolving narratives

While the first jury was being designed, the council's language became more conservative. For example, the FAQs on the council website expressly stated the Community Jury would provide advice to assist the council to "make more informed decisions" (Noosa Shire Council). Also, in these FAQs, the council indicated clearly that the role of community juries was limited, suggesting that

A better outcome for the community would be reached if Councillors hear the views of individuals, special interest groups and the Community Jury. It is sometimes too easy to be influenced by vocal individuals or groups. The Community Jury can provide a more representative view to Council, but it is not the only view that Councillors will be listening to.

This contradicts the newDemocracy Foundation's preferred approach, where the community jury considers the input from individuals and special interest groups and develops recommendations for the council that take all of that input into account. It also fits under the institutional work of maintaining institutions, in particular "Valourizing and demonizing" (Lawrence and Suddaby, 2016).

The interviews with the initial mayor, the subsequent mayor and the Council CEO, conducted in 2016 after the two community juries had been held, shed light on how the implementation diverged from the early rhetoric.

Appropriate use of deliberative mini-publics

The initial mayor set out his perspective on when deliberative mini-publics should be used and when it wasn't appropriate:

It's a difficult decision, but the council is willing to make the decision, but we want informed feedback from our community.

So, as a council, we're interested in what the whole community's got to say. When you get that sort of situation, how do you judge? You really can't. You just do a survey, but you do a survey, people don't understand the issue. The issue is really complex. On the surface of it, it's a simple question, but people just do not understand the implications of doing something or not doing something ... That's perfect for a community jury.

It has to be a significant issue ... I think it's important to keep it for really important, significant issues.

Another criteria would be issues that can be easily beaten up by self-interest groups.

Inappropriate use of deliberative mini-publics

Where a decision has to be made, and the council doesn't want to make it, so cops out and get a jury to make it. Or it's going to be a split decision, and you don't know which way it's going to go. Or whatever you decide, you're going to get kicked by one side or the other. So, "Oh, let's flick it to a community jury." Then we'll just say whatever they decide is what we'll do.

If I had thought it was absolutely essential and it had to be done, I wouldn't deliver it to a community jury.

You don't want to use it for issues that aren't significant; that would be a misuse.

If ... the council thought, "if they decide this way, we won't go with it," then don't do it. That would be duplicitous.

The subsequent mayor explicitly stated that "the community jury was a symbolic gesture towards the Noosa community that this council wants to engage". He was also adamant that "the citizens' juries were a trial, and we always said they were a trial. It was a bit of an experiment in alternate approaches to engagement ... The symbolism, I think, was also highly successful in some ways." He identified three ways in which the community juries were unsuccessful:

The expectations of the community were beyond the council's means at the end.

They weren't able to get their head around the council's ability to act.

I don't feel that the community jury took the overwhelming community, the broader community, along on the ride.

This mayor also identified the need to choose the jury's topic carefully:

I would recommend a citizens' jury for a topic which is complicated, which has broad ramifications for the community, and whereby whatever outcome the jury choose, the council could stomach the result.

This was an obvious challenge in this case, as the topic for consideration had not been selected before the invitations were sent out; so while the council retained the agenda-setting function, the agendas were set after the invitations went out, and the dates were set for the first jury's meetings. The three potential topics identified on the invitation were all high-profile issues in the local area. However, my interviews with decision-makers suggest that, after experiencing these juries in practice, they weren't sure these were good topics.

For example, the Waste Jury's work was undertaken after the new council had already commissioned a report on waste management issues and decided to engage "a specialist consultant to develop options around the significant waste issues", which included "cutting Organic Waste; garden and food waste which makes up about 50-percent of what ends up in landfill" as one of five key themes (Noosa Council, May 2014).

Both mayors highlighted the importance of being open to accepting the jury's recommendations. Yet, as I will go on to detail, the council did not fully accept the recommendations of both the Noosa community juries.

The CEO of the newly formed Noosa Shire Council also spoke about the link between the de-amalgamation campaign and the use of deliberative mini-publics:

It actually met the expectations of most people about establishing a local council again. It was about listening. It was about saying, "We don't know everything. You guys help us out." That fundamental philosophy about putting power back to the people to make decisions or pushing the edges in terms of community engagement was exactly why most people, 82% or 81.3% of people, voted for de-amalgamation. Local people having a say in local issues.

He also highlighted the importance of carefully choosing a topic for a deliberative mini-public:

The bad was that we probably wanted to do community juries and then went looking for topics ... To some extent, we have a solution looking for ... a question.

Like Mayor Playford, the CEO identified when deliberative mini-publics would be “the best tool to use”:

We’d use it if it’s a big issue. We’d use it if it’s going to affect the whole community. We’re going to use it if it’s got a financial impact. If we really need to know what everyone’s going to think about [it] and not just a part of the community, it was going to take six months. We need a deeper rather than just a cursory examination. It’s something we can live with.

Some of this change in narratives may be attributed to the community response – or lack thereof – to the use of these deliberative mini-publics. As the key stakeholder interviews indicated, one of the motivating factors for commissioning the Noosa Community Jury was to fulfil a commitment to the people of Noosa given as part of the de-amalgamation campaign. As mayor, Wellington identified the jury as “a symbolic gesture towards the Noosa community that this council wants to engage”; however, in practice he found that they did not receive any positive feedback:

I don’t feel that the community jury took the overwhelming community, the broader community, along on the ride ... And the media didn’t take a particular interest in coming along to the sessions, ... the usual rock throwers in the community were incensed by us engaging a community jury ... In actual fact, of course, the community [jury] wasn’t making the decision, simply making a recommendation.

But no one came up to me and said, “Gee, it’s fantastic you’re doing a community jury.” I have to say I can’t remember a single resident saying, “Wow, this is a great initiative.” ... There were people who came up to me and said, “Why are you doing it? How much is it costing? I don’t understand it.” But I didn’t have people rapping on the door saying, “Brilliant initiative.”

This lack of ongoing support from the community, once the de-amalgamation campaign had succeeded, is likely an important element of the changing narratives of councillors.

Institutionalisation narratives – pilot phase or pilot project?

The newDemocracy Foundation saw the Noosa Community Jury as a pilot phase before moving to a more permanent approach.

In the pilot phase, the complementary role of the randomly-selected jury will handle issues referred to them by councillors. At the conclusion of the pilot phase, nDF will consult with Council to set appropriate criteria for future referrals. (2014, p. 4)

While the newDemocracy Foundation took an optimistic view of the potential for the Noosa Community Jury to become a permanent feature of Noosa Shire Council’s operations, with a commitment to delegate decision-making when the jury’s decision was unanimous, this did not eventuate. Nor did the newDemocracy Foundation’s plan eventuate to change the *Local Government Act 2009* (Qld) to allow this delegation, as an nDF Executive Officer told me via email (personal communication, 2022).

After the initial publicity about the use of community juries, the council’s narrative about these processes became more conservative. In the Community Jury FAQs put out before the first jury, one of the questions was “Is Noosa’s Community Jury a trial?” The answer:

No and Yes. Noosa Shire Council’s first Community Jury will be real and not a trial, and it is hoped that its decision will be instrumental in helping Council make the very

best decision for the people of Noosa. ... Future Councils will decide whether or not to use the Community Jury method on any subsequent major issues. (Noosa Council)

All my informants used the terminology of “tool in the toolkit” when talking about community engagement practices, including citizens’ juries:

I’m glad we did it because I think it is a tool in the tool kit, and it’s a really significant one and a really useful one to be used in the right place at the right time. Not overused, I think. And I think a council would get criticised if it overused it. (Mayor 1, interview, 2016)

The community jury is just one tool in the toolbox of all the things you can do. (CEO, interview, 2016)

Council’s community engagement is quite broad ... we encourage a wide array of tools. (Community Engagement Manager, interview, 2016)

This terminology moves the use of deliberative mini-publics from “innovative genuine democracy” to one of a series of options, including public meetings, online surveys, and writing submissions. It also moves away from the initial aim of institutionalising this approach.

At an ordinary meeting of the council in January 2016, after responding to the recommendations about Noosa River from the second community jury, the council considered the ‘Community Jury Pilot Process’ and decided to “retain the Community Jury as a tool in Council’s community engagement framework to be used if and when an appropriate major issue arises in the future” (Ordinary Meeting Minutes, 14 January 2016, p. 3). There is no evidence on the council’s website of deliberative mini-publics being used since this time.

6.4 Analysis

In this section, I will first consider the overarching and evolving narratives in operation for this case.

Then I will apply my analytical framework to these DMPs from two perspectives:

1. What are their strengths and weaknesses with respect to each of the five democratic functions: inclusion, collective agenda-setting, collective will-formation, collective decision-making and accountability? and
2. How do the institutional modes of constraint (rules, practices and narratives) work alone or in combination to strengthen or reinforce these strengths and weaknesses?

The only formal rules relevant to this case were contained in the *Local Government Act 2009* (Qld), which did not allow councillors to devolve their responsibility for making decisions to other non-governmental bodies (ss 9–10). This was why the newDemocracy Foundation was proposing to seek legislative change, at least for Noosa Shire Council, to give it legal authority to make this commitment to its community juries.

Noosa Shire Council engaged the newDemocracy Foundation to design and manage the practices of the two deliberative mini-publics. Council did not provide direction around practices, although subsequently they were unhappy with some of the practices applied. In particular, both mayors and the community engagement manager mentioned that they couldn’t provide any information to the jury when, towards the end of their deliberations,

the jury was unsure of the potential costs associated with the council taking responsibility for certain river management functions.

The design principles – effectively the rules-in-use – nDF (2014a; 2014b) identified in the Noosa discussion papers were:

- 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;
- 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;
- 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;
- The jury should receive a reasonable per diem payment for their time;
- The jury is 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;
- Participants have the right to determine the length of time they need to complete their recommendations. Deliberation requires time to consume information;
- Participants have access to information and expertise within an agreed budget and are allowed to hear from a diverse array of expertise of their choosing.

As discussed in the sections of this chapter on context and overarching narratives, the decision-makers' narratives were focused on meeting the expectations of their community, which had just decisively won the de-amalgamation referendum. As Mayor Playford said, they were doing this:

so that we can keep faith with the community and make sure that our community is always going to feel that they have a say and that they will be listened to because that is what is needed.

An overview of the strengths and weaknesses of the Noosa Community Jury is shown in Table 19 at the end of this section.

6.4.1 Inclusion

a. Who is invited to participate?

The invitation to register interest in participating on a community jury was distributed to 3,000 randomly selected households in the Noosa local government area in late 2014. This was standard practice for the newDemocracy Foundation and remains a standard practice the Foundation and others undertaking recruitment of deliberative mini-publics. This practice provides everyone in the relevant area an equal chance to receive an invitation.

b. How are barriers to participation identified and addressed?

When the invitations were distributed, the topic had been finalised for neither jury, although three topics were listed on the invitation – as was the topic that went to the second jury. To my personal knowledge, it is not standard practice for the newDemocracy Foundation to offer topic options in an invitation. This may have impacted the response rate for these deliberative mini-publics, as people weren't clear about exactly what they were volunteering to do.

The invitation to register interest in participating on the community jury stated that the jurors would attend six all-day meetings over six months from February, with monthly

meetings on Wednesday evenings. The invitation indicated that meals would be provided and “Jury members will receive a payment to cover expenses”, although the amount of this payment was not disclosed. By not disclosing the amount of the per diem, it is unclear whether the reference to “expenses” would have been sufficient to encourage people for whom finances were a barrier to register.

No other barriers were considered or addressed for these two DMPs.

c. How do the selection criteria reflect the characteristics of the affected community?

The newDemocracy Foundation set the stratification criteria for these DMPs. The criteria were the standard ones used by the newDemocracy Foundation (2014b, p. 7): age, gender, ratepayer status and general location: CBD or hinterland. The newDemocracy Foundation (2014b) supported these criteria by saying:

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 (p. 7).

The newDemocracy Foundation selected participants for the second jury from the people who had registered their interest in response to the original invitation distributed in late 2014. This community jury met in the evenings five times from August to December 2015.

d. To what extent does the mini-public reflect the intended diversity, i.e. does it achieve the demographic goals?

Whether the stratification categories set out above are sufficient to create a mini-public that represents or reflects the diversity of the Noosa community isn't clear. For example, as Mayor Wellington explained, the turnover of the population in Noosa is quite significant and applying stratification criteria around time as a resident would have allowed stratification to encompass newer and more established residents, who would likely hold different views on the topics. As mentioned in the South Australian case study, my personal experience suggests that explicitly asking for educational attainment is important as people with a university education comprise a more significant proportion of registrants than their numbers in the community.

In line with its standard practice, the newDemocracy Foundation does not make public the demographics of the final DMPs, so this question cannot be answered.

6.4.2 Collective agenda-setting

a Who chooses the topic or issue for the DMP?

The council determined the agenda for each community jury with advice from the newDemocracy Foundation. For the Noosa community juries, the newDemocracy Foundation suggested four potential topics based on discussions with Councillors: waste minimisation, electric buses, regulation of business signage and regulation of trees. As previously mentioned, the invitation referred to the first two topics and a new topic of river management, as options (see table 18). The final wording of the remit for the waste jury was not determined until the selection process for that mini-public was complete.

Most of the Council interviewees highlighted the importance of the decision-makers choosing the ‘right’ topic for deliberative mini-publics:

Pick the significant issues. They will either be significant because of the issue itself, and the importance to the future of the community, and/or the amount of money

involved. It'll be one or both. Otherwise, they wouldn't be significant issues. (Mayor 1 - interview, 2016)

It's up to each individual local government area, obviously, to determine whether or not it's an appropriate approach and whether they've got an appropriate topic to throw at a jury. (Mayor 2 - interview, 2016)

We probably wanted to do community juries and then went looking for topics. ... To some extent, we have a solution looking for a question. The two topics, were they perfect for the jury? I don't know, but we had to find topics to fit the model and fit the experiment or fit the trial as opposed to coming up with something that may have been the best solution. (CEO - interview, 2016)

The comment from the CEO highlights the importance of topic selection from the perspective of decision-makers. In this case, the Council wanted to demonstrate that they were listening to their residents and giving them a say. They chose to use deliberative mini-publics to achieve that; however, despite the oft-repeated 'tool in the toolkit' rhetoric, they chose the tool before deciding on the topics. This approach likely reinforced their view that the engagement approach (the tool) should be chosen to suit the topic and not the other way around.

b. Who sets the remit?

The newDemocracy Foundation set the remit in consultation with the Council. In both cases the remits were set after the invitations had been distributed. Panel members were only advised of the final remits when they had been selected to participate on the Community Panel.

c. Is the remit too broad or too narrow?

The remits for the two community juries were:

1. What is the best option for minimizing organic waste sent to landfill?
2. How can we manage the Noosa River better? What role should Council play and what resources should Council apply?

The newDemocracy Foundation's original wording for the waste topic was 'Toward Zero Waste – how green should/can we be and how do we pay for it?' This initial remit was reasonably broad. The final remit was narrower asking for one option in regard to organic waste only.

The wording of the river management remit was broader than the waste remit, not limiting either implicitly or explicitly what the panel could consider. Unlike in South Australia, none of the Noosa interviewees mentioned the juries going beyond their remit.

d. Can the deliberative mini-public amend or interpret its remit?

In these cases, the jury's ability to amend or reinterpret its remit was virtually non-existent. For the Waste Jury, the narrowness of the remit limited that group's ability to consider the waste challenge in depth. In contrast, the original wording proposed by the newDemocracy Foundation was broader and would have allowed the DMP to consider more than simply organic waste management.

6.4.3 Collective will-formation

a. Does the design of the deliberative process align with deliberative principles?

For the two Noosa community juries, the standard for deliberation was set by the newDemocracy Foundation.

The process design (practices) for the conduct of the community jury were set out in the Project Plan (2014b) prepared by the newDemocracy Foundation, following its usual model at this time:

The First Deliberation – The Learning Phase;

The Second Deliberation – Understanding;

The Third Deliberation – Focus;

The Fourth Deliberation – Reflect. Discuss. Deliberate;

The Fifth Deliberation – Shared Goals;

Shared Decision – Discourse with the Lord Mayor and Councillors.

b. Is the implementation of the deliberative process robust?

As is still the standard approach for the newDemocracy Foundation, it worked closely with the selected facilitator to deliver a robust deliberative process in line with its aforementioned model of practice. In the Noosa case, the council engaged a facilitator who did not have much, if any, experience with deliberative processes. It's my personal knowledge that after the first day of the Waste Jury, this facilitator was replaced with a more experienced facilitator. The second mayor acknowledged the importance of a facilitator who understood deliberation:

The facilitator is terribly key to how these things work, and if you don't have a good facilitator...

c. How is the will of people outside of the mini-public incorporated?

In line with the newDemocracy Foundation's practice, broader community engagement was part of both DMPs.

The Organic Waste Community Jury involved 24 residents who considered 30 submissions and heard from around 10 witnesses: experts and others of their choice. In terms of the level of inclusion, this compares favourably to the later broader community engagement around the draft Waste Reduction and Recycling Plan, which received submissions and comments from 36 people/organisations (YourSay Noosa, 23 June 2016).

Broader community input was also an essential element of the River Jury, as were presentations from experts of their choice, including the local Kabi Kabi people. The River Jury considered around 20 submissions from the community and heard from several experts and speakers of their choice.

d. Does the deliberative mini-public reach consensus?

For the Noosa Community juries, the newDemocracy Foundation set the threshold for consensus at 80%. This 'decision-rule' aims to distinguish deliberative processes from more traditional 'first past the post' voting on decisions.

The Waste Jury achieved consensus and presented the council with a 15-page report with three elements and detailed explanations for each component of the report:

1. A Vision: Noosa will become a leader in organic waste management, targeting zero organic waste to landfill by 2030;
2. A strong case for action;
3. Guidelines underpinning its recommendations, nine unanimous recommendations. (Noosa Waste Community Jury, 2015)

The River jury reached a consensus on 12 recommendations addressing the first question in the remit. The jury did not reach a consensus regarding the second question: 18 jurors (75%) supported the idea that the council should take a more significant role in managing the river, and six (25%) did not support that (Noosa River Community Jury, 2015a, pp. 1–2).

As previously mentioned, council interviewees felt that this lack of consensus was caused by the newDemocracy Foundation staff member's refusal to allow them to address the cost issue of taking over some river management functions:

The second one I'd say, the process went off the rails a little bit towards the end from my perspective ... [at the last meeting] there were a lot of them that were not happy about the fact that it might cost rate-payers' money. It was obvious that they didn't really know how much, even though they had been told ... A lot of them were hot on, "Oh, well, yes. We agree to all this as long as it doesn't cost us anything." And so they're arguing about this, but nobody can tell them ... so one of them said, "Why don't we ask the mayor? He's sitting there. He'll know the answer, but nobody here knows it." They weren't allowed to ask me. (Mayor 1 - interview, 2016)

There was a minority report as part of the River Jury's recommendations.

However, one challenge in this area was the decision rule set by the newDemocracy Foundation. Using its standard decision rule of 80% and applying it to the River Jury, which achieved only a 75% majority, it could be argued that no consensus was reached.

e. Does the deliberative mini-public provide reasons for its recommendations?

Both juries provided explicit recommendations to the council. The Waste Jury's report included explanations for its decisions and was published on the council website, so that jury offered a version of accountability by giving reasons. The River Jury's report was significantly shorter than the Waste Jury's. It included reasons for the majority and minority views on the issue of whether the council should take responsibility for certain aspects of river management, but not for the consensus recommendations. Subsequently, a working group of three members of the River Jury produced a report providing "supporting explanations for recommendations" (Noosa River Community Jury, 2015b)

6.4.4 Collective decision-making

a Did decision-makers commit upfront regarding the deliberative mini-public's recommendations?

The invitation for the two deliberative mini-publics included the following commitment:

The Mayor and Councillors will meet with the Jury and personally receive the Jury's final recommendations.

The recommendations will be carefully considered, and both the recommendations and the Council's response will be tabled at a Council meeting.

The narratives of decision-makers in my research interviews were inconsistent regarding how the DMPs' recommendations should impact the final decisions made by council. Nearly all informants talked about the importance of being open to the DMPs' recommendations:

I said to the [second] jury at the start, "I can't speak for all Councillors, but for me, I can live with any recommendation you make" ... "So, although I have an opinion, whatever you people decide, I'm giving you my word, whatever you decide, is what I will agree to. Because you are much more representative of the community than we seven councillors are." (Mayor 1, interview, 2016)

So, if it's something the council thought, "If they decide this way, we won't go with it," then don't do it. That would be duplicitous. (Mayor 1, interview, 2016)

You've got to be prepared to respect the decision. I might say respect it, not accept it, because you get these little ... it can be tweaked, if you like. (Mayor 1, interview, 2016).

I would recommend a citizen's jury for a topic which is complicated, which has broad ramifications for the community, and whereby whatever outcome the jury chose, the council could stomach the result. (Mayor 2, interview, 2016)

However, in dealing with the two Noosa Community Juries' recommendations, they did not accept all of the recommendations of those juries. Whether the council was genuinely open to whatever recommendations came from each jury is unclear. As addressed earlier, decision-makers did not see the topics chosen for these two juries as appropriate for a deliberative process, at least in retrospect. In addition, the council had already done a lot of work around these topics.¹⁹

b To what extent did decision-makers meet their upfront commitment?

The Council met its commitment to meet with the juries, carefully consider their recommendations, and table the recommendations and Council's responses at a Council meeting. This commitment did not require Council to give reasons for their responses (this relates to accountability, but for other DMPs designed by the newDemocracy Foundation, this has been included in the statement of 'authority').

While in its proposal for the Noosa Shire Council, the newDemocracy Foundation identified "a minimum threshold for [newDemocracy Foundation] being involved is that councillors agree to accept the citizens' solution in full or reject it outright, i.e. no cherry-picking" (newDemocracy Foundation, 2014b, p. 4), this is precisely what the Noosa Shire Councillors did. This demonstrates the limited ability of the newDemocracy Foundation to hold the governments they work with to account. I will deal with the nDF's strategies further in Chapter 9.

¹⁹ Prior to establishing the Waste Jury, the council had engaged two consultants to assist the council "consider its strategic direction for Waste Management" The initial consultant participated in a "Councillor workshop [in March 2014] to discuss the principal elements that should be considered in Council's new waste management plan, 'Towards Zero Waste'" (Noosa Council, General Committee Meeting, 24 August 2015, p. 3) The second consultant then developed a long list of options from which the council identified a shortlist of options for detailed examination. The report from this second consultant "included costs for a range of options, particularly organic waste collection and treatment" (Noosa Shire Council, General Committee Meeting, 24 August 2015)

c. Was a decision made, and by whom?

The council did consider the reports from both juries at council meetings and passed resolutions regarding these reports. However, the wording of these resolutions indicates that the council was not aiming to make definite decisions regarding either DMP's recommendations. In responding to both juries, the council 'hedged their bets', giving only 'in principle' support to the Waste Jury's recommendations, noting one recommendation, and utilising others in the future for the River Jury's recommendations. The council's approach is further supported by the additional consultation processes it undertook on both jury topics, which I will detail in the next section of this chapter.

While the newDemocracy Foundation's narratives sought to push for the institutionalisation of deliberative mini-publics with devolved decision-making, it also recognised the need to convince the councillors that the Community Jury was not usurping their role:

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* [emphasis added] to their decisions. (newDemocracy Foundation; 2014b, p. 1)

This wording doesn't make it clear what might be expected of the council in terms of responding to the juries' recommendations if legal changes allowing devolution were not achieved.

The council decision-makers' initial narratives, which I set out earlier in this chapter, aligned with the newDemocracy Foundation's proposal and used the language of shared decision-making or giving people decision-making power. However, the invitation clarified that this was not their intention in practice. The newDemocracy Foundation proposed several elements for the commitment for the council to set (see Table 18); however, the authority finally given to the community juries only included the first two newDemocracy Foundation elements.

d. To what extent do the decision-makers adopt the deliberative mini-public's recommendations?

For the River Jury, it would appear that the council already had a view on this, as the first mayor commented: "We don't want to take over all of it. We only want to take over some of it."

In addition, by the time they formally considered the River Jury's recommendations, the councillors were aware of survey evidence demonstrating broad community support for council to take a more significant role in river management. As the community engagement manager explained:

During the process of the second jury on the Noosa River, ... the local MP conducted a survey on the same topic: did the community want the council to take over control of the Noosa River. He ended up with 75% yes, and 25% said no, which is precisely where the jury got to at the end of their deliberation. The difference between just running a survey and getting the result, and running the jury and getting the result, is that we understand exactly why that 25% would never want the council to take over control of the river from the state.

The community engagement manager's comments also demonstrate the council's instrumental view: it valued the jury's deliberations insofar as they provided the council with

an improved understanding of “those sensitive points” that it could use when considering “how to roll things out”.

When the Waste Jury’s recommendations were considered at an ordinary meeting of the council on August 27, 2015, the council supported the following resolution:

- A. That Council note the report by the Manager Waste and Environmental Health to the General Committee dated 24 August 2015 and Attachment 1, “Noosa Community Jury’s Verdict – Findings and Recommendations on the Best Way to Minimise Organic Waste to Landfill”, and:
- B. Thank the Community Jury members for participating in the Community Jury Process, for their dedication and time attending meetings, researching material and finalising their Report and Recommendations to Council;
- C. Agree in principle to the introduction of a mandated Garden Organics Waste Collection Service to urban areas of Noosa Shire and refer the proposal to a Council workshop to determine details of who would receive the service, how the service would be implemented and timing for its introduction;
- D. Agree in principle to the introduction of a future Food and Garden Organic Waste collection service to sections of the Noosa Community and refer the proposal to a Council Workshop to consider who would receive the service, how it would be implemented, and timing for its introduction;
- E. Agree in principle to a ban on single use non-biodegradable plastic bags in Noosa and refer the proposal to a Council Workshop to determine how this might be implemented; and
- F. Agree with the Jury recommendations regarding the need for a comprehensive community education and information campaign to accompany the introduction of any significant changes to the waste collection services currently provided by Council. (Noosa Shire Council, 2015b, p. 8)

The council workshop reviewing the jury’s recommendations decided to respond, as per point C of the minutes, by introducing green garden waste bins for all new dwellings from July 2016 (Noosa Shire Council, 2016a, p. 19).

As the above decision demonstrates, the council was only prepared to commit ‘in principle’ to the majority of the community jury’s recommendations, and the only one they agreed in full related to community education. Although they did later introduce green waste bins. §In particular, despite negotiating a new waste contract at the time of the jury, it explicitly decided to delay the introduction of a food waste collection. As the mayor at the time explained:

There’s one element of it that is a problem, in that I think they wanted one element of it done sooner rather than later, and the council said, “No, we’ll leave that option open ... That element obviously got left open but has not been included in the new contract for a range of reasons, some of which I don’t think the community jury actually came to grips with or understood. It’s a feel-good element, almost, that has very little practical effect but costs a great deal of money.

The Waste Jury’s report was considered at a general committee meeting of the council on August 24, 2015. In addition to making recommendations to the ordinary meeting of council, as set out above, under the heading “Finance & Risk” the minutes warned of

There are significant financial implications and risks for Council associated with implementation of the Community Jury's recommendations, which will affect a wide section of the community.

In response to the financial impacts and risks, the recommendations need to be considered carefully with regard to who will receive the services proposed by the Jury, how they could be introduced and the timing for their introduction.

The most suitable method of considering the recommendation is to refer them to a Council Workshop where the details required to implement the recommendations can be considered in the context of the introduction of the upcoming new waste contract. (Noosa Shire Council, 2015a, p. 4)

The mayors were less satisfied with the process for the River Jury, which they saw as producing the split decision on whether the council should take on specific responsibilities for the Noosa River. From the council's perspective, the critical issue here for the jury was the potential financial impact of this change. The council believed this issue was addressed in the information provided to the jury by councillors and council staff earlier in the process. However, as the mayor later explained to me, they couldn't bring the information to the jury's attention when the decision was being made, as the newDemocracy Foundation representative saw this as potentially allowing undue influence from the decision-makers.

Although the River Jury lacked consensus around the role of the council in managing the Noosa River, and had a 75%/25% split, which falls below the 80% super-majority recommended by the newDemocracy Foundation in its discussion papers, the council made the following decisions:

Note the Jury recommendation that Noosa Shire Council should take on the responsibility of managing anchoring, mooring, commercial uses and jetty leases for the Noosa River and agree to progress the matter with the State Government;

Write to the Department of Transport and Main Roads and Department of Natural Resources advising them of the Jury's recommendation for Noosa Shire Council to manage on-river and foreshore activities, seeking their support to establish an acceptable process for both parties to transfer agreed management responsibilities for the Noosa River to Council; and

Agree to utilise both the 12 additional Jury recommendations and the supporting explanations in the development of a comprehensive River Management Strategy and the associated discussions with State Government agencies. (Noosa Shire Council 2016c, p. 2)

Under state government legislation, the final decision-making authority rested with the council. While the newDemocracy Foundation attempted to have Noosa Council commit to implementing consensus recommendations, the council did not accept this, as the wording on the invitation to register for the community juries reveals. In addition, even though there was a consensus set of recommendations from the Organic Waste Community Jury, the council chose not to accept one of the recommendations, whereas for the Noosa River Community Jury, where there wasn't consensus or even an 80% supermajority, the council adopted the recommendations made by 75% of the jury.

6.4.5 Accountability

a. Did decision-makers give a commitment upfront regarding accountability?

The jury invitation stated, “The Mayor and Councillors will meet with the Jury and personally receive the Jury’s final recommendations.” (See invitation in Appendix 3).

The second element of the commitment stated that “the recommendations will be carefully considered, and both the recommendations and the Council’s response will be tabled at a Council meeting.”

While this provides an initial level of accountability, the council did not commit to ongoing accountability; and based on the wording of the decisions, ongoing accountability would likely have been unnecessary. This is in line with the newDemocracy Foundation’s standard practice around what it refers to as ‘authority’. This practice combines the idea of responsiveness to DMP’s recommendations and accountability around that response. However, using the language of authority misses the opportunity to provide some level of ongoing accountability from decision-makers to the DMP and/or the broader community.

b. To what extent did decision-makers meet their upfront commitment?

Both of the commitments above were met. The council considered recommendations from both juries at workshops, which were then presented to ordinary meetings of the full council, which jurors had been invited to attend.

The council did not commit to publishing the juries’ reports and recommendations, but both were published on the council website, separately and as part of the council minutes.

c. Do decision-makers make public their decisions and reasons?

Yes and no. The council determined to accept the Waste Jury’s recommendations in principle only. For the River Jury, the non-consensus recommendation was noted – and actioned – and the council would utilise the consensus recommendations to develop a comprehensive strategy. The reasons for these decisions weren’t clear in the publicly available information, and as previously mentioned, the wording on the invitations did not commit the council to provide reasons.

d. Do decision-makers publicly report on the implementation of their decisions?

Decisions were made at council meetings which were open to the public, and minutes were published on the council’s website.

In April 2016, the year after the Waste Jury was held, the council took a draft “Waste Reduction and Recycling Plan 2016–2024” out to its community via popups at local libraries, using a more traditional community engagement approach. This plan included a table which identified the relationship between the Jury’s recommendations and the content of the plan (2016a, p. 20). This consultation received 36 submissions and comments on the draft plan. The final plan, which “spells out Council’s waste reduction and recycling priorities for the next eight years, including targets set by the state and the community jury’s recommendations for reducing organic waste sent to landfill” (YourSay Noosa), does not include food waste under domestic waste. However, the plan states that,

in line with one of the recommendations from the Community Jury (refer to Section 10 Table 7 Community Jury Recommendations), it is proposed to make the garden waste service compulsory to residents in urban areas from the commencement of the new waste contract in 2017. (Noosa Shire Council, 2016b, p. 10)

The recommendations around the collection of food waste have still not been implemented as of November 2022, although the draft plan showcased the council staff collecting food waste for composting (Noosa Shire Council, 2016b, p. 8). The plan suggests that the cost-benefit ratio for introducing food recycling does not justify its introduction (Noosa Shire Council, 2016b, p. 19). The council did produce a composting and worm farming DVD as part of the plan to encourage home-based composting (Noosa Shire Council, 2016b, p. 23).

The council posted an update on the River Jury on the Noosa YourSay site in January 2017, mentioning the jury's recommendations and noting that the council had decided to update the Noosa River Plan and would be undertaking broader community and stakeholder engagement as part of this process. In a media release issued in May 2017, Councillor Brian Stockwell said:

Given the community's concern about the way the River is managed, plus the advice of our recent community jury, it is time to revisit the Noosa River Plan. We need to ensure it is up-to-date and relevant, and there will be plenty of opportunity throughout that process for residents and stakeholders to have a say.

Despite references to the work of the River Jury, it is clear that the council saw the need for additional community engagement before finalising the Noosa River Plan. In early 2018 it publicly announced that a draft Noosa River Plan would be put out for consultation and that the River Jury's input had "contributed to the development of the new draft Noosa River Plan".

When the final Draft Noosa River Plan v2 was released in 2019, it did not mention the River Jury's work. Consultation on this plan was completed in January 2020. A final Noosa River Plan could not be found on the Council's website or the Noosa YourSay site.

e. Does the deliberative mini-public have a role in monitoring the implementation of the decisions?

No. It is clear from the council's ongoing community consultation around waste and river management that it did not feel the juries provided a definitive set of recommendations for the council to work with.

Table 19: Strengths and weaknesses of Shire of Noosa Community Juries against democratic functions

Democratic functions		Organic Waste Jury	Noosa River Jury	Overall assessment
Inclusion	Strengths	Random distribution of invitations		Narratives guided stratification goals rather than evidence of the diversity of the community Lack of detail about 'payment to cover expenses' may not have addressed the financial concerns of some residents
	Weaknesses	Basic stratification goals that may not have addressed the diversity of the community, e.g., time as a resident Jury invitation did not include final remit/s Invitation did not include detail of amount of per diem		
Collective agenda-setting	Strengths	Jury went beyond the scope expected by decision-makers	The remit was reasonably broad	No role for 'collective' in agenda setting Process looking for a topic, i.e., decision-makers wanted to 'do something' and so needed to have topics
	Weaknesses	Decision-makers determined remits Decision-makers not confident that topics were appropriate		
Collective will-formation	Strengths	Broader community had input Jury reached consensus	Broader community had input	Broader community input was achieved Decision rules impacted whether a recommendation was made or not level of consensus
	Weaknesses		Jury did not reach consensus	
Collective decision-making	Strengths	Commitment upfront to consider carefully and table at council meeting		Council cherry-picked juries' recommendations Response to juries' recommendations was general and did not include a recommendation by recommendation response Pre-existing views of decision-makers appeared to have impacted council responses
	Weaknesses	Council decision on recommendations 'in principle' support only Decision-makers may have had some pre-existing preferences	Council decision on recommendations 'noted' only, although they did agree to take some further actions	
	Strengths	Some reference to recommendations of juries in future policy development		

Democratic functions	Organic Waste Jury	Noosa River Jury	Overall assessment
Accountability Weaknesses	No commitment to accountability upfront Limited formal accountability over time		Ongoing accountability and monitoring of how the council implements juries' recommendations was limited for these juries

6.4.6 Institutional modes of constraint

In the preceding analysis of the DMPs that form the embedded units in the Noosa Shire Council case study against the democratic functions, the role of narratives, practices and rules is considered in regard to each function. This section now considers the role and inter-relationship of narratives, practices, rules and rules-in-use at the case study level. At this level, we see that

- The narratives of advocates for the de-amalgamation, many of whom were elected to the re-formed Council, evolved over time, from a focus on democratic reform to one of DMPs being a 'tool in the toolkit' for public consultations
- The nDF attempted (unsuccessfully) to use these reform-based narratives to establish strong rules-in-use, to establish specific "criteria where if the community find consensus, then the decision is binding' (ndF, 2014a, p.1)
- NDF also proposed a trial of three DMPs before embedding DMPs in how Noosa Council, i.e., the establishment of a rule round using DMPs, again whilst early narratives from advocates suggested this may then be approach taken, later narratives explicitly moved away from establishing such a rule
- Even after the conduct of the two DMPs, Councillors' narratives around when to use DMPs were inconsistent with their practices, with narratives revolving around being open to acting on DMP's recommendations and not using a DMP where Council already knows what they want to do. However, it is clear from interviews that Councillors had a clear view on how they wanted to manage the Noosa River.
- Despite the propitious circumstances and Councillor respect for the nDF, Council saw no barrier to ignoring the 'minimum threshold' set by nDF that they would not support 'cherry picking of recommendations. Whilst nDF aimed to suggest this 'minimum threshold' was a rule-in-use for them, they were unable to enforce it.

Table 20, on the next page, identifies the key narratives, practices, rules and rules-in-use comprising the modes of constraint in this case, as well as identifying where some of these modes were potentially in conflict with each other.

Table 20: Institutional modes of constraint - overview of Noosa Shire Council's Community Juries

Institutional modes of constraint	Actor/s	Overview of modes applied	Potential/actual conflict between modes
Narratives	Decision-makers	<ul style="list-style-type: none"> Initial narratives suggested that the use of DMPs was an important democratic innovation for Noosa. Over time, once the Council had been re-established, this narrative reverted to a more traditional community consultation one 	<ul style="list-style-type: none"> The internal inconsistencies in the narratives of decision-makers undermined nDF's attempts to drive democratic reform and 'make Noosa a national and international leader in sharing decision-making power with the community.'
	nDF	<ul style="list-style-type: none"> Whilst NDF wound back their narratives in iterations of their project proposals (from a Community Senate to a Community Jury), they continued to describe a process of democratic innovation and reform 	<ul style="list-style-type: none"> Despite their continued narrative around reform and innovation, many of their standard arguments for the use of DMPs,
Practices	Decision-makers	<ul style="list-style-type: none"> Council did not set any rules and were initially supportive of using nDF's expertise and experience in the area 	<ul style="list-style-type: none"> Council was explicitly unhappy with some of the practices enforced by nDF in the River Jury and this dissatisfaction likely contributed to their decision not to conduct any further DMPs
	nDF	<ul style="list-style-type: none"> nDF used their standard practices for these two juries, with the exception that some meetings were held in the evenings rather than over full-days 	<ul style="list-style-type: none"> whilst one of nDF's narratives around stratified selection spoke to achieving 'more diversity than usual' this is quite a low bar and the stratification goals used ignored a significant local variable – duration of residency, that would likely have provided valuable diversity of perspective on the Juries
Rules-in-Use	Decision-makers	<ul style="list-style-type: none"> Council did not set any rule-in-use, nor did they comply with those set by nDF which were within their prevue 	<ul style="list-style-type: none"> Even when decision-makers are aware of proposed rules-in-use, they are not obliged to comply with them, e.g., the no cherry picking rule
	nDF	<ul style="list-style-type: none"> Key practices became so standard can be considered rules-in-use. <ul style="list-style-type: none"> Of relevance to this case is the 80% decision-making rule 	<ul style="list-style-type: none"> the River Jury did not reached an 80% super-majority for all of their recommendations – this limitation however was virtually ignored when recommendations were published and did not impact on Council's responses to these recommendations

Institutional modes of constraint	Actor/s	Overview of modes applied	Potential/actual conflict between modes
Rules	Decision-makers	<ul style="list-style-type: none"> The only formal rule in place was in <i>the Local Government Act 2009</i> (Qld), which did not allow Councils to devolve decision-making 	<ul style="list-style-type: none"> Councillors did not refer to this limitation in interviews
	nDF	<ul style="list-style-type: none"> NDF initially indicated that they would lobby for a change to this provision of the Act 	<ul style="list-style-type: none"> This lobbying did not proceed, likely due to the reduced interest by Council in even informally giving authority to the Community Juries

6.5 Conclusion

These two deliberative mini-publics incorporated conflicting narratives and practices from an institutional perspective. While the newDemocracy Foundation aimed to institutionalise these processes both in Noosa and eventually more broadly across Queensland, pushing for legislative change that would allow local councils to devolve decision-making to deliberative mini-publics, the narratives of the Noosa mayors and CEO were quite different.

The de-amalgamation context meant decision-makers were interested in demonstrating they were doing democracy differently, particularly distinguishing Noosa Shire Council from the Sunshine Coast Council, in line with commitments made during the de-amalgamation campaign. However, as the de-amalgamation was bedded down and the deliberative mini-publics were rolled out, more conventional narratives about these processes took precedence: that they were simply one of many “tools in the toolbox” and that it was important for the council to listen and understand its community’s views. This aligns with the very pragmatic approach to involving the community taken by the leader of the de-amalgamation campaign and first mayor of the re-established council, as evidenced in his interview statement that his approach to community engagement evolved based on his expectation that the community would “do the right thing”.

Now that they no longer needed to demonstrate innovation in community engagement, council decision-makers were also unhappy with some of the ‘purest’ practices applied by the newDemocracy Foundation to the management of the second Community Jury, which they believed led to the lack of consensus recommendations from that jury.

The newDemocracy Foundation successfully provided positive narratives to the decision-makers and used many of the newDemocracy Foundation’s phrases during the research interviews. However, the decision-makers’ actions demonstrated that they retained a more conservative view on the role of citizens in council decision-making, which focused on providing input and ideas rather than direction.

Only two deliberative mini-publics were conducted, and both the research interviews and a review of the council website indicate that no more have been run since these two. This is despite a clear intention, at least from the newDemocracy Foundation, that this ‘pilot phase’, which would run for 18 months, would have involved three juries, each running for six months, which would be used to promote legislative change to allow the council to formally devolve decision-making authority to the community jury. Neither of these goals was achieved.

From the perspective of improving democracy, as assessed against the democratic functions, this case had strengths and weaknesses:

- The main strength of these juries was in collective will-formation, where with a skilled facilitator’s support, both community juries worked together to understand the issues and develop comprehensive recommendations. However, similarly to the South Australian case study, one of the deliberative mini-publics did not reach a consensus, nor the 80% supermajority proposed by the newDemocracy Foundation. Both juries involved a public call for input to the community jury and the usual random selection process for the jurors, supporting as broad as possible engagement on these topics;

- Neither the Council nor the newDemocracy Foundation ever intended any collective agenda-setting; this role was explicitly given to councillors, although all informants commented that they established a process and then went looking for topics;
- The councillors never really challenged the decision-making role of council, set in legislation, despite the newDemocracy Foundation's attempts to get a commitment to implement all recommendations if consensus was reached; and
- Unlike in the South Australian case study, the commitment made to the community juries did not explicitly require the council to provide reasons for its response to the jury's recommendations. The council's practice of holding committee meetings and ordinary council meetings in public would allow anyone, including jurors, to attend these sessions if they wanted to. They were invited to the ordinary council meetings.

In the next chapter, I will look at the City of Kingston, Victoria, where the council ran three DMPs before establishing three semi-permanent mini-publics called Ward Committees. Victoria is a state in Australia where the use of deliberative mini-publics has been widespread, both with the direct support of the newDemocracy Foundation and as a result of seeing deliberative mini-publics in action. Local councils, government utilities and the state government have commissioned deliberative mini-publics in Victoria, which also included a requirement to use "deliberative engagement practices" in its recent *Local Government Act 2019*.

CHAPTER 7 CITY OF KINGSTON COUNCIL CASE STUDY

7.1. Introduction

This chapter continues the approach taken in the previous two chapters, looking at a particular case, the City of Kingston local council, assessing its deliberative mini-publics against the democratic functions – inclusion, collective agenda-setting, collective will-formation, collective decision-making and accountability – and institutional modes of constraint – rules, practices and narratives.

The City of Kingston ran three DMPs over two years, and then set up three semi-permanent Ward Committees based on mini-publics to provide ongoing advice to the council over two years. Wards are the sub-areas within the council, and in the period of this case study, 2017–2020, Kingston council had three wards. Since the 2020 Victorian local council elections, it now has 11 wards.²⁰ It has not yet re-established either ward committees or another ongoing advisory process, although to my personal knowledge it is considering doing so.

Kingston council commissioned these DMPs and the Ward Committee mini-publics without the support of an external organisation to promote these approaches and provide an overall institutional design. As a result, this is an opportunity to consider a case where the rules, practices and narratives originated within rather than external to the organisation, albeit with some support from external consultants. This allows for comparison of the impact on achieving democratic functions.

This chapter will firstly set out the broad context for local government in Victoria before looking at the specific context for this case study. Following this overview, I will review this case will be reviewed to evaluate Kingston council's DMPs against the democratic functions and investigate how the institutional modes of constraint – rules, practices and narratives – impacted any observed these strengths and weaknesses.

7.2 Victorian Local Government

There are currently 79 local councils in Victoria: 31 councils in the Melbourne metropolitan area and 48 in regional Victoria. There are also a few areas of Victoria that are not part of any local council.²¹

Several local councils in Victoria have demonstrated an interest in deliberative processes since the City of Melbourne People's Panel in 2014, a DMP designed and managed by the newDemocracy Foundation. Up to 2006, there were no DMPs, or other deliberative processes run at the local government level in Victoria (Carson, 2007, p. 5). Research using a combination of the OECD's Database of Representative Deliberative Processes and

²⁰ This change was a result of the *Local Government Act 2020*, which required the City of Kingston to move from multi-member (councillors) wards to single-member (councillor) wards.

²¹ Small areas of Victoria are not incorporated into any local councils:
https://www.citypopulation.de/en/australia/admin/victoria/29399__unincorporated_victoria/

Institutions and *Participedia* identifies only one deliberative process at the Victorian local government level between 2006 and 2014: the Bayside Child Care Future Options Community Panel (2013).

Since 2014 the use of DMPs has expanded significantly. The newDemocracy Foundation has designed and managed six DMP processes in Victoria, at both the local and state government levels, including one with a state-owned water corporation – Yarra Valley Water. Other local and state governments and state-owned water corporations have independently conducted DMPs, without support from the newDemocracy Foundation. Desktop research and personal knowledge suggest councils in Victoria have conducted at least 20 DMPs between 2014 and 2020.

The situation changed dramatically in 2020 when the Victorian state government introduced a new *Local Government Act 2020* (Vic) that required all 79 local councils in Victoria to include ‘deliberative engagement practices’ (not defined) in their community engagement policies. They were also required to apply these practices when engaging with their communities around the Community Vision and various council plans (s 55(2)(g)).²² From 2020 on, every local council in Victoria has undertaken engagement processes that they could argue were ‘deliberative’.

However, because this legislation was ‘principle based’, the ‘deliberative engagement practices’ requirement was not described in either the legislation or associated instruments such as regulations, and the nature of these deliberative processes was highly varied. Local Government Victoria, the government agency responsible for local councils in Victoria, did run a series of seminars and provided examples of deliberative practices to support councils in meeting this requirement.

7.3 Overview of the City of Kingston Council

The City of Kingston council is located around 20 km south of Melbourne, with a current population of 158,129 (Census, 2021). The City of Kingston was established in 1994 by the amalgamation of four other councils. It covers around 91 square km, including 22 suburbs; at the time of the DMPs that are the focus of this research, the council was split into three wards, and at the time of writing, it is split into 11 wards. The elected councillors select the mayor. The Traditional Owners of this area are the Bunurong people of the Kulin Nation.

Over two years before the new *Local Government Act 2020*, Kingston council ran three ad hoc DMPs before establishing three standing groups, called Ward Committees, to provide ongoing advice to council. The first DMP was held in 2017 to provide advice on updating the council’s Customer Charter. The second was also held in 2017 and provided advice on the Housing Strategy and Neighbourhood Character Study. In 2019 the council commissioned a Community Panel to provide advice regarding the development of a Library Strategy and also established the three Ward Committees, which met three times per year over two

²² Section 55(2)(g) requires councils to include in their Community Engagement Policy, amongst other things ‘deliberative engagement practices which must include and address any matters prescribed by the regulations for the purposes of this paragraph and be capable of being applied to the development of the Community Vision, Council Plan, Financial Plan and Asset Plan’. The legislation defines with deliberative engagement practices as ‘the deliberative engagement practices included in a community engagement policy’ as such not providing much direction for the design and use of these practices.

years. The Ward Committee members were recruited as mini-publics. Table 21 sets out the key features of these processes.

7.3.1 Overarching narratives

Looking firstly at the Customer Service Charter Refresh Community Panel held in 2017, the newly elected council commissioned this panel in response to its decision to prioritise customer service – among other things. The council’s manager of communications and community relations told me that she proposed the idea to use a DMP to the senior leadership group. The manager saw this project as a “gentle start ... a good way to [show] ... people here at council that you can do a deliberative panel”; and she suggested to me that the senior management team approved this proposal because “it was so low risk”. Kingston’s program leader of strategic communications and engagement supported this perspective, and said regarding the Customer Charter Panel:

I think it was sensible that we started with a fairly low-risk, non-controversial topic. Most people can agree that we as a council want to provide good customer service ... So it was a good place to start. (personal communication, December 9, 2019)

The Housing Strategy and Neighbourhood Character Panel of 2017 – also known as the Planning Panel – was established in response to challenges arising in the outsourced planning process for neighbourhood character and housing. Partway through the planning process, the communications and community relations manager told me, council staff had identified that the engagement process was only hearing from “the same people who are highly involved in council anyway, and we know their views on everything” (personal communication, December 9, 2019). She added that a panel process was seen as appropriate “because planning is very complex” (personal communication, December 9, 2019). As a result, the council went out to tender again and engaged consultants to run a deliberative panel alongside the broader planning process.

As the communications and community relations manager explained, council staff saw the Library Strategy Panel of 2019 as a more strategic process than the Customer Charter process (personal communication, December 9, 2019). This was because it was initiated by the head librarian, who believed that the recommendations coming out of that process would support the library’s aim to improve its services across the board and would convince councillors of the need for action.

The Ward Committees were developed to replace 10 Village Committees, which the council’s governance manager told me had been abolished in 2014 because “they’d become politicised; the same people were on the committees. I think people felt entitled; they had a direct line to council agendas” (personal communication, December 9, 2019). The aim of the Ward Committees was to

make them high-level in the sense of being a lot more in the strategic space, to try to get them involved in decision-making. Not the ultimate decision, but to impact the decision-making and early development of the policy or strategy or whatever. ... We wanted to kind of find the voices we haven’t heard from. (Governance manager, personal communication, December 9, 2019)

The governance manager observed that within council the Ward Committees were seen as “new” and “experimental” (personal communication, December 9, 2019). The Terms of Reference established for these committees identified their purpose, among other things,

Council is seeking high-level discussion, advice and feedback from members of the local community on matters that link directly to the delivery of the Council Plan.

This includes feedback on Council projects, policy initiatives and issues that impact on the local community.

Ward Advisory Committees provide an important link in Council's communication process and enable Council to deliver on the goals as set out in the Council Plan 2017-2021 by engaging the community in decision making and speaking up on behalf of our community. (Kingston, 2019, p. 1)

Table 21: Key features of Kingston Council's processes

Name of Process	Customer Service Charter Refresh Community Panel	Housing Strategy and Neighbourhood Character Panel	Library Strategy Panel	Ward Committees
Year	2017	2017	2019	2019-2020
Number of participants	34	49	25	20 on each committee
Remit	Kingston council wants to deliver great customer service. We need to find a balance between meeting diverse community expectations and budget constraints. How can we do this?	How can council manage change within the City of Kingston while protecting what we love about where we live?	What key principles and priorities should guide council in the delivery of its library services to meet the current and future needs and interests of our diverse community?	Collaborate with council ... Your council is keen to work closely with the community to make sure we are making decisions, delivering services and planning for the future with you in mind.
Commitment	Being part of the Community Panel is a chance for you – along with around 30 residents and business operators from across Kingston – to get together, understand the issues, share ideas and make recommendations to council on the content of the new Customer Service Charter.	Joining the panel is a chance for you, along with around 45 other residents, to work with us to understand the issues, share ideas and draft a set of community principles for council to consider in future directions relating to housing and neighbourhood character.	Being part of the Community Panel is a chance for you – along with around 25 residents from across Kingston – to work with us to understand the current services that Kingston Libraries deliver, consider other library services, share ideas and make recommendations on how we best target our services and activities to meet the changing needs of our diverse community. A Community Panel is being established to help council develop a Library Strategy that will ensure council can deliver relevant, contemporary library services and facilities that will continue to meet the evolving needs of the community.	Starting in February 2019, the ward committees will take part in strategic discussions and provide advice to council on key issues.

7.4 Analysis

As indicated earlier in this chapter, Kingston council did not work with the newDemocracy Foundation in the conduct of these DMPs. The idea to use DMPs originated in the council's own communications and community relations team, who were aware of DMPs due to the City of Melbourne People's Panel conducted in 2014. The City of Melbourne People's Panel was designed and overseen by the newDemocracy Foundation and was a high-profile process. Kingston engaged the same facilitators who had handled the City of Melbourne People's Panel to run its first DMP, the Customer Service Charter Refresh Community Panel. It is clear from the design of the three panels run by Kingston Council that the work of the nDF had influenced many of the design decisions made by council or their consultants.

No formal rules were in place before 2020, either at the state government level or within the council, that required the use of DMPs. However, by 2019, like most councils in Victoria, the City of Kingston was aware of the push by the state government, expected to be incorporated into legislation, for enhanced community engagement, and this was a motivating factor for Kingston when considering how to engage its community in the years before the legal change. This comment from the program leader of strategic communications and engagement highlights that new legislative requirements around community engagement were on the horizon:

It was probably around when discussions started ... around what the next Local Government Act might look like, discussions around would requirements around engagement be embedded in legislation, which they hadn't currently been.

In this section, I will review the DMPs, and the Ward Committees conducted by Kingston council against the democratic functions and also consider the institutional modes of constraint related to each function.

Unlike the South Australian and Noosa case studies, where the use of DMPs was driven by elected representatives and designed by external organisations the newDemocracy Foundation and democracyCo, Kingston council staff led this approach, with support from experienced recruiters and facilitators. However, the then mayor strongly supported the use of mini-publics, explaining in a 2019 interview:

We want to also hear from those people who might not necessarily always be engaging with council, and they're [DMPs] going to give us that different perspective to ensure that we are being truly representative of our community. I think that's been a real goal and focus of council, to get those unheard voices that we don't always hear from and looking at the different ways that we can do that.

7.4.1 Inclusion

The council engaged consultants to support the recruitment of the mini-publics, and those consultants consulted with council to determine stratification criteria.

A critical narrative from the council regarding this democratic function related to their desire to hear from residents beyond what the communications and community relations manager called the "squeaky wheels" (personal communication, December 9, 2019).

a. Who is invited to participate?

Invitations for all three deliberative mini-publics and the Ward Committees were distributed randomly to households in the council area. Each household had an equal chance of being

selected to receive an invitation. The invitations were distributed as follows for each process:

Customer Charter Panel: 10,000 households (personal knowledge)

Housing Strategy Panel: one in every four households, approximately 15,948 (Capire Consulting Group, 2018)

Library Strategy Panel: 12,000 households (personal knowledge)

Ward Committees: 10,000 randomly selected households in each ward (personal knowledge)

By this stage, this approach to distributing invitations for deliberative mini-publics to randomly selected households had become a rule-in-use that was the standard approach for this element of DMP recruitment. The number of invitations to distribute was chosen by considering the number of participants required for each DMP on the advice of whoever was handling the recruitment of the DMP.

The random distribution of invitations addresses the idea of equality by giving everyone in the local government area an 'equal chance' of receiving an invitation. Another way to achieve this type of equality is to send invitations to every household in the relevant area. To my personal knowledge, some more recent DMPs have taken this approach.

b. How are barriers to participation identified and addressed?

The invitations for all these DMPs and the Ward Committees clarified that meals would be provided and payment made for participation. Again, paying an honorarium to participants has become a rule-in-use for DMPs in Australia and is primarily considered as an incentive to participate rather than specifically to address financial barriers to participation. The honorarium amount is usually set based on what the commissioning body can afford rather than considering what participants might 'need' if it were intended to address a financial barrier. However, if 'money is no object' then a daily amount equivalent to the usual court jury per diem is suggested (nDF, personal communication, 2021).

As mentioned in the previous case studies, the invitations were designed to capture people's attention, specifically to address the potential barrier of 'apathy' when receiving correspondence from the government. The envelopes for the Kingston council deliberative mini-publics were also designed to address this potential barrier (see Appendix 4).

When selected participants were briefed, they were asked if they needed any particular support. In the case of the Library Panel, where the council was organising a bus to undertake a tour of various libraries, one participant needed wheelchair access, which to my personal knowledge was provided. However, the provision of this type of support *after* selection does not address perceived barriers that may stop particular individuals from volunteering.

More recently, to my personal knowledge some councils in Victoria have included multi-lingual leaflets with the invitations and explicitly state that support will be provided if it is required to participate.

c. How does the selection criteria reflect the characteristics of the affected community?

In practice, all three DMPs and the Ward Committees included the basic stratification criteria of age, gender, housing tenure and location. These were and are the minimum standard for DMP stratification criteria – effectively, a rule-in-use.

Additional criteria were developed for each DMP; based on shared data or my personal knowledge, they were:

Customer Service Charter Panel: for businesses – how long have you operated your business in Kingston (personal knowledge)?

Housing Strategy Panel: length of time lived in Kingston, household structure, dwelling type, country of birth, language spoken at home, and previous engagement with Council (Capire Consulting Group, 2018).

Library Strategy Panel: identification as a person with a disability, an Aboriginal person or Torres Strait Islander, country of birth, ancestry, language spoken at home, library membership, the timing of last visit to a library and employment in a library (personal knowledge).

Ward Committees: identification as a person with a disability, an Aboriginal person or Torres Strait Islander, lesbian, gay, bisexual, transgender (LGBT);²³ country of birth, parents' country of birth, and language spoken at home (personal knowledge).

The practice of including stratification criteria around disability, Indigenous status and cultural diversity is supported by a narrative that argues that these criteria are required to ensure – or at least know if – the DMP recruits a more diverse group of participants, assuming people from these demographics register. Further, there are insufficient numbers fitting these criteria; it ensures that organisers are aware of this limitation and can potentially address it by explicitly including the views of these groups under collective will-formation.

The extension from the basic criteria of age, gender, housing tenure and location allowed these DMPs to reflect better demographics relevant to the topics being considered by the DMPs: business customers on the customer charter panel; a range of housing structures and dwelling types for the panel considering housing strategy and neighbourhood character; and library membership, usage and related employment for the library panel. The practice of adding stratification criteria fulfilled two purposes: firstly, it allowed the council to select participants from among categories of people it needed to hear from to demonstrate the legitimacy of the outcomes; and secondly, it supported people likely to be affected by the DMP's recommendations to participate in those discussions.

Whether the processes produced mini-publics that reflected the council area's diversity is unclear. For example, Australian studies have found that educational attainment is a better proxy for socio-economic status than housing tenure (Pham, 2019)⁵. However, housing tenure – whether a resident owns or rents their home – can be a helpful criterion for local

²³ The council requested the inclusion of LGBT as a criterion to demonstrate its recognition of non-cis people, in line with council policy.

councils as it is always easier for them to engage with ratepayers²⁴ and potentially not hear from tenants.

The 2016 Census data for Kingston shows that

- 71.3% of people lived in homes they owned outright or via a mortgage;
- 25.3% were tenants;
- 25.3% held bachelor's or higher degrees;
- 23.3% had diplomas;
- 14% held certificates;
- 29.9% had completed education from year 10–12;
- 7.9% had reached year nine or below, and
- 9.6% had either no educational attainment or did not provide details.

This suggests that using housing tenure as a proxy for socio-economic status in this council area could skew the participation towards higher-educated people, who volunteer in higher numbers to be part of DMPs.

d. To what extent does the mini-public reflect the intended diversity, i.e., does it achieve the demographic goals?

As had become standard practice, the latest Census data was used where relevant to set the number of participants required against each stratification goal. When the Census does not include data regarding a particular stratification criterion, for example, library membership, based on my personal knowledge, the council and the recruitment consultant, would usually agree on an appropriate proportion to apply.

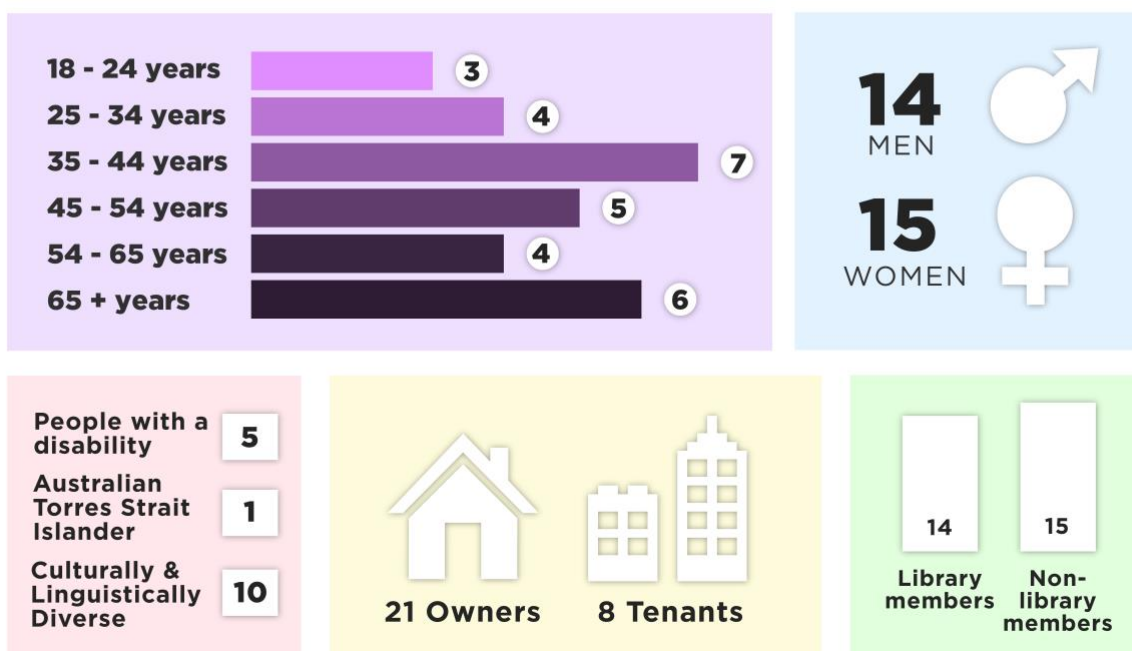
The final composition of the first two DMPs was not made public, so it is not possible to assess how well those two DMPs matched the demographic goals determined for them. However, over time it became a standard practice to issue an overview of the final demographics of DMPs; and here, the Kingston Libraries Strategy Panel published an infographic (see Figure 9). To my knowledge, the demographics of the final 29 participants on this panel closely matched the demographic goals for this panel.

²⁴ In Australia ratepayers are people who own the property whether they live in it or not.

Figure 9: Infographic of demographics for Kingston Libraries Strategy Panel

KINGSTON LIBRARY COMMUNITY PANEL

The Kingston Library Community Panel was randomly selected to form a stratified sample of the community.



Recruitment and stratification undertaken by Deliberately Engaging

Council staff and the Mayor's narratives make it clear that seeing and hearing from a group of people they didn't usually encounter was of the most value to them. As the program leader for strategic communications and engagement explained:

And we looked around the room; there were some familiar names, but not a lot. And just such a mix of backgrounds and ages and people who would never have interacted with council in any meaningful way before. So yeah, it was really great.

The Council's narratives were primarily instrumental rather than normative. The team wanted to hear from residents from whom they did not usually hear, rather than what the mayor called "[the] 10 people who will always give us their views on everything" – and the stratified random sampling approach delivered this for them.

7.4.2 Collective agenda-setting

a. Who chooses the topic of issue for the DMP?

Council staff determined which topics to take to the DMPs. Council selected the first three topics for the Ward Committees: alignment strategy (service delivery), housing and neighbourhood character and parking management (Manager, Governance, personal communication, 9 December 2019). This council officer who established and oversaw the Ward Committees identified topic selection as "our biggest challenge... [to find] topics that

matter, that they feel that they can be involved in at an early stage, or enough of an early stage so that they feel that they're part of the thinking behind it.”

b. Who sets the remit?

As is standard practice, Council staff determined the remits for the three DMPs with limited input from the process consultants (see Table 21). The rationale for the topics and remits is set out above under Overarching Narratives in Section 7.3.1 of this chapter.

The Ward Committees dealt with specific topics at each quarterly meeting, and whilst feedback from committee members was sought about the overall approach to the Ward Committees, they were not asked to select topics (Manager, Governance, personal communication, 9 December 2019).

c. Is the remit too broad or too narrow?

For the Customer Charter Panel and the Library Panel, the remits identified the perceived challenges facing the council in each area: how to balance community expectations and budget constraints and how to meet the current and future needs of the community, respectively. This wording limits the DMPs to specifically considering these challenges and does not ask them to identify other relevant factors to be considered around customer service and library services. Identifying the challenges this way is standard practice for DMP remits, particularly as one of the supporting narratives for their use is that it provides decision-makers with recommendations that aren't simply a wish list but recognise the need for trade-offs.

The wording of the Housing Panel's remit *was* broader, although it still highlights the challenge of managing change and protecting valued aspects of the current situation. It did not allow the DMP to question the need for growth, probably as this requirement was set by the State Government. As this panel was working within the context of a larger and ongoing piece of work around Kingston's Housing Strategy, despite the broader wording this panel had a limited opportunity to go beyond that context.

The Ward Committees dealt with specific topics at each quarterly meeting, and while feedback from committee members was sought about the overall approach to the Ward Committees, the governance manager informed me they were not asked to select topics (personal communication, December 9, 2019).

The remits for each DMP and the Ward Committees are set out in Table 21.

d. Can the deliberative mini-public amend or interpret its remit?

There was no scope for the DMPs or Ward Committees to amend their remits and little scope for interpretation. However, while council officers determined topics for the Ward Committees, they made a significant attempt to meet committee members' expectations around the type of topics that could be considered. This is principally because of the ongoing and experimental nature of this model.

As mentioned in the South Australian case study, this is a usual practice. It is only if a facilitator pushes this with the decision-makers that DMPs are given some scope to interpret their remits.

7.4.3 Collective will-formation

a. Does the design of the deliberative process align with deliberative principles?

There were no specific standards or rules set for deliberation. The council did engage facilitators with deliberative experience to design the ‘in-the-room’ elements of the process.

As noted before, I did not observe the ‘in-the-room’ elements of these DMPs, so it isn’t possible to take a definitive position on how well they met the principles. However, from my personal knowledge the run sheets for the first three processes indicate that the process covered the standard elements of learning, considering options and reaching consensus. The agenda for the inaugural meeting of the Ward Committees shows some similarities to an introductory session for a deliberative process. As the governance manager explained, webinars were held before Ward Committee meetings to provide opportunities for ‘learning’ before discussing each topic (personal communication, December 9, 2019).

In response to an informal question, the governance officer who facilitated these processes said they weren’t deliberative, primarily due to time constraints. There were different opinions among council staff about the deliberative nature of these Committees:

The feedback we’re getting from the [Ward] committee members is that they love this deliberative panel way of doing things. (Governance officer, interview, 2019)

I don’t think they’re deliberative at all. (Communications and community relations manager, personal communication, December 9, 2019)

However, since this time, there has been a growing awareness in the literature that deliberation does not necessarily require three or more days to achieve. The concept of short-form deliberation and deliberative workshops is becoming more mainstream (InvolveUK, nd; Stark et al., 2021, White et al., 2022). Interviews with council staff suggest that the driving consideration for the Ward Committees was their mini-public aspect rather than their deliberative aspect; however, aspects of learning, discussing and reaching consensus were all there. The guiding principles in the Ward Committees’ Terms of Reference align with deliberative principles:

We are inclusive, open minded and respectful of everyone’s perspective;

We put our personal agendas aside and provide advice for the greater good of the diverse City of Kingston community;

Challenging and exploring are an integral part of what we do and how we operate;

We represent and commit to the value of the committee;

We actively participate and engage in the work of the committee;

We are punctual, well prepared, timely with responses and we follow through;

We are realistic about what we can achieve;

We have a strong focus on outcomes (City of Kingston, 2019, p. 4–5)

The Ward Committees also focused on consensus with a ‘two-thirds plus one’ decision rule where voting is necessary (City of Kingston, 2019, p. 3).

b. Is the implementation of the deliberative process robust?

As mentioned in the other case studies, the robustness of the deliberative process was not the focus of this research, and I did not attend the meetings, so I cannot answer this question.

Two aspects that suggest that the processes were robust are: firstly, experienced deliberative facilitators designed and ran the in-the-room process; and secondly, the interviews with council officers yielded no comments to suggest any concerns with the processes.

c. How is the will of people external to the deliberative mini-public incorporated into the will-formation process?

For all three DMPs, broader community input and expert presentations were important elements of the process. For the Customer Charter Panel, the consultancy that managed the panel undertook broad community engagement ahead of the panel, and the DMP considered input from this engagement when developing its recommendations. The Planning Panel was added to an existing large-scale engagement process on Kingston's Housing Strategy and Neighbourhood Character Study, and the input from that larger process fed into the panel as part of the development of its recommendations. For the Library Panel, the majority of broader community engagement occurred after the panel's deliberations and recommendations were completed (Kingston, 2019, p. 22). The panel met from March to April 2019, and the public consultations closed at the end of July. This is an unusual approach and would mean the panel's recommendations would be uninformed by the broader community's input, giving the collective will-formation role instead to the consultants engaged by the council. I will discuss this further in the next section of this chapter, on collective decision-making.

The Ward Committees were provided with input about the broader community's views on the topics they considered when those were available. The council did not specifically commission community engagement around the Ward Committee's work; however, for most topics the council did have information about the community's perspectives. The Ward Committees did not have external experts present on the topics they were considering.

d. Do the deliberative mini-publics reach a consensus?

The three DMPs did reach a consensus and made recommendations to council in the form of written reports. The facilitators of each DMP determined what consensus meant, that is, the decision rules to be applied. The facilitators of the Customer Charter Panel, who had also facilitated the City of Melbourne People's Panel, adopted the newDemocracy Foundation decision rule of an 80% supermajority. The facilitator of the other two panels used a 75% decision rule. There is no evidence that these slightly different decision rules had any impact on the ability of the DMPs to reach consensus.

The Ward Committees aimed to achieve consensus, although it is unclear if this was always possible with significantly shorter meetings, which I did not observe. In addition, because the same topics went to all three Ward Committees, it would be necessary to bring together the consensus reached by each committee. As the governance manager told me, the council brought these groups together after a period of separate meetings, and was considering amalgamating them (personal communication, December 9, 2019).

There were no minority reports from the three panels.

e. Does the mini-public provide reasons for its recommendations?

The Customer Service Charter Refresh Community Panel Report, October 2017, was 18 pages long, providing:

- an overview of the panel's approach to developing their recommendations;
- 12 expectations, including a description of each customer service; expectation, reasons why this expectation was important and examples of what it would look like in practice; and
- 12 process/system recommendations, again explaining why this recommendation is important and how it would look if implemented appropriately (Customer Service Charter Refresh Community Panel, 2017).

The Housing Strategy and Neighbourhood Character Panel report – that is, the report of the Planning Panel – was included in an overall process and evaluation report prepared by the consultants who facilitated the panel (Capire Consulting Group, 2018). The outputs of the panel included:

- the identification and prioritisation of key issues facing Kingston regarding housing development and neighbourhood character;
- a number of key messages, aimed at the wider community, developers and builders, government broadly and council;
- 14 key principles under four broad themes which they recommended should guide council in the development of the strategy and should influence ongoing decision-making; and
- a short communiqué reflecting on their process. (Capire Consulting Group, 2018, p. 6–9)

The same consultants facilitated the Library Panel and the Planning Panel, and their recommendations regarding the libraries were also included in a broader process and evaluation report. The recommendations of the Library Panel emerged over four sessions, and included:

- identification of key issues, opportunities, barriers and constraints facing libraries in Kingston;
- a number of key messages, aimed at the wider community and council;
- nine community principles with 30 guiding statements detailing why these principles are important; and
- a short communiqué reflecting on their process. (Capire Consulting Group, 2019, p. 4–10)

The practice of the consultants who facilitated the second two panels was significantly different to that of the first consultants. The recommendations from the Customer Charter Panel were included in a stand-alone report, written by the panel. This approach is the standard one adopted by the newDemocracy Foundation. As mentioned earlier, the consultants who facilitated the Customer Charter Panel had also worked with the newDemocracy Foundation on the Melbourne People's Panel. A key narrative of the newDemocracy Foundation around DMPs' reports is that they must be in the group's own words. The newDemocracy Foundation is explicit that it does not write the report for the DMP or even recommend a structure for that report. Instead, from my personal knowledge it provides advice and examples of other DMPs' reports.

The consultants who facilitated the Planning and Library panels, by contrast, had a standard practice of including the DMP's recommendations within a broader report on the deliberative process. There is no reason to see this as a weakness. However, there may be concerns that encouraging these DMPs to organise their recommendations in a particular way – by identifying key issues, then developing key messages and principles – limits their thinking about their recommendations. The extent to which this standardisation limited the DMPs would require observation of the deliberative processes and/or input from participants. Indeed, my experience suggests that participants would value this guidance on how to structure their recommendations.

The Ward Committees did not produce formal reports, and their recommendations were not publicised.

7.4.4 Collective decision-making

a. Did decision-makers commit upfront regarding how they would respond to the deliberative mini-public's recommendations?

The wording in the invitations was quite general, and no explicit commitments were given about how the council would respond to DMPs' recommendations. Here are the key phrases from each invitation:

- “share ideas and make recommendations to council” (Customer Charter Panel)
- “draft a set of community principles for council to consider” (Planning Panel)
- “help council develop a Library Strategy” (Library Panel)
- “provide advice to council on key issues” (Ward Committees)

The wording in the invitations amounted to an informal commitment to consider the recommendations from the DMPs when making decisions. The invitations can be seen in Appendix 4.

The informal nature of these statements likely arises from the City of Kingston's newness to this approach to engaging with their community: the three DMPs were the first Kingston council had tried, and it wasn't prepared to over-commit. These commitments did not meet the rule-in-use for DMPs, based on the narrative that DMPs should have more impact on decision-making than, say a public meeting or focus group. The commitments set out above could have been given to other non-deliberative engagement processes.

Despite the council's limited written commitment for the Ward Committees, the governance manager responsible for their establishment and operation said:

we wanted to make them high-level in the sense of being a lot more in the strategic space to try and get them involved in decision-making. Not to make the ultimate decision but to impact the decision-making and the early development of the policy, strategy, or whatever.

b. To what extent did the decision-makers meet their upfront commitment?

As stated above, the commitment given in the invitations was very general. The recommendations from all three DMPs were presented to Council at a regular meeting, meeting their commitments in one sense.

It would be fair to say that the recommendations were more influential than those commitments suggested: as the program leader for strategic communications and engagement told me, the majority of recommendations were incorporated into policy and

strategy development. In addition, the mayor at this time held a solid delegate orientation to her role: in a 2019 interview she explained that she saw her role was to represent the views of the residents, as presented to her:

I think fundamental to the job of being, whether that's a councillor or a Mayor, is you work for your community, and you're there to represent your community, not your views. I see my view as only one of 163,500 residents that we have across our city, but you're there to represent your community and give everyone in your community the best possible representation.

The advice from the Ward Committees was incorporated into council's decision-making (Governance Manager, email communication, 2022).

A clear commitment to providing explicit feedback on how panel recommendations would be used, and were used, would have strengthened the contribution of DMPs to this democratic function.

c. Is a decision made, and by whom?

In this case, while the council made the final decisions, each DMP was part of a broader process before and after the DMP met to develop their recommendations.

The facilitators of the Customer Charter Panel used what they called a co-design process. The recommendations from the community panel were presented to council and then to a staff panel made up of customer service staff and randomly selected staff. The staff panel's role was to consider and discuss the community panel's report and use the recommendations in that report to create a customer service charter to go to council for final approval (MosaicLab, 2017). The council produced a Customer Service Charter as a result of these combined processes (Council YourSay site).

The council initially used the outputs of the planning panel to finalise its Draft Housing Strategy and Neighbourhood Character Study, which fed into a longer-term project that started in 2017 and is only coming to fruition now, in 2022:

Council has worked with the community since 2017. With your feedback, we developed the Housing Strategy and Neighbourhood Character Study, which was adopted in 2021. Right now, we are waiting for the Victorian Government to give Council permission to begin a formal Planning Scheme Amendment that will take the recommendations of the Housing Strategy and Neighbourhood Character Study and turn them into new residential zones.

Further consultation will be undertaken when this Amendment starts, with letters to be sent to residents later in 2022. (Council website)

A different approach again was taken with the Library Panel, where:

The community panel ... develop[ing] recommendations that will be presented by the panellists directly to the City of Kingston and will be used to shape the new Library Strategy.

An external consultant who is well regarded for their work with public libraries across Australia will then use the community panel's recommendations to develop a final version of the Library Strategy 2019- 2030. (Kingston, 2019, p. 5)

A draft Library Strategy, 2019–2030, was released in June 2019, with a final strategy released in March 2020. In this final strategy under *Acknowledgements*, it stated:

Kingston Libraries would like to thank members of the Kingston Community Panel for their thoughts, suggestions and recommendations on how our libraries can best meet the community's future needs and aspirations. (2020, p. 3)

The different approaches adopted by the City of Kingston council, as outlined above, demonstrate the flexibility of DMPs to support decision-makers with policy development while still retaining their decision-making authority.

d. To what extent do the decision-makers adopt the deliberative mini-public's recommendations?

Council did not explicitly respond to each panel's recommendations, as in the South Australian case study. For this reason, it is not easy to determine to what extent the recommendations of each panel were incorporated into the subsequent Customer Strategy Charter, Housing Strategy and Neighbourhood Character Study and Libraries Strategy.

The council's program leader for strategic communications and engagement advised me that the three panels' recommendations were incorporated significantly into these policies and strategies (personal communication, December 9, 2019), and in interview, the Mayor did the same:

What was achieved at the end was really fantastic and I think that [the] majority of the recommendations that were put forward by the [Customer Charter] panel were agreed with by council and taken onboard.

Comparing the DMPs' recommendations against the policy and strategy documents released by the council confirms this advice.

The lack of clear statements from the council demonstrating the relationship between the DMPs' recommendations and the final policy and strategy decisions is a weakness, as it requires members of the DMPs, and other community members, to undertake web searches and detailed comparisons between DMP reports and final policies to know to what extent council has responded to the DMPs they commissioned. A review of the council's website demonstrates that in responding to the recommendations of recent deliberative processes run by the City of Kingston under the *Local Government Act 2020* (Vic) provisions, the council has used an approach similar to that of South Australia. In responding to the community panels' recommendations around its plans, the council has produced a three-page document setting out each recommendation, showing the percentage of acceptance by the council, summarising council action for each recommendation and identifying strategic indicators where relevant.

7.4.5 Accountability

a. Did decision-makers give a commitment upfront regarding accountability for their decisions?

There were no explicit statements about accountability included in the DMP or Ward Committee invitations. See Appendix 4 for copies of invitations.

b. To what extent did decision-makers meet their upfront commitment?

As there were no specific commitments, this question isn't relevant for this case study.

c. Do decision-makers make public their decisions and reasons?

There is no evidence that decision-makers publicised their reasons regarding these DMPs. However, as the City of Kingston developed a policy for each area considered by the three

DMPs, and these policies were made public, it would be fair to say that the DMPs' final decisions were made public.

Kingston council's practice around accountability has improved: it made a clear statement on its decisions, reasons and performance indicators for its most recent DMP addressing council plans.

d. Do decision-makers publicly report on the implementation of their decisions?

To an extent, the policy and strategy documents the council issued on the three topics set out its intentions for each aspect of council operations.

In regard to ongoing accountability for the implementation of these policies, there are other processes that address some aspects of implementation:

- The council participates in the state government's Community Satisfaction Survey, which addresses various aspects of council performance, including customer service and libraries. The state-wide Community Satisfaction Survey report identifies customer service and libraries separately, but no council-specific data is provided. Customer service is the City of Kingston's second-best-performing area, with an index score of 73, which is higher than the state-wide average (City of Kingston, 2022);
- The City of Kingston report includes data about customer service but not libraries;
- The Planning Panel was part of a larger ongoing process, with regular updates on the Council YourSay site.

e. Does the deliberative mini-public have a role in monitoring the implementation of the decisions?

No formal role was given to the three DMPs to monitor the implementation of their recommendations, which were accepted.

However, for the two years that the Ward Committees operated, they could consider how their recommendations were incorporated into council policies. The council's governance manager explained that this was in line with the 'experimental' nature of these groups and the clear narrative that they involved two-way communication (personal communication, December 9, 2019).

Table 22 sets out an overview of the strengths and weaknesses of the Kingston DMPs and mini-publics.

Table 22: Strengths and weaknesses of Kingston Council's processes against democratic functions

Democratic functions	Customer Charter Panel	Planning Panel	Library Panel	Ward committees	Overall assessment	
Inclusion	Strengths	Provided financial incentive to address potential financial hardship Included businesses	Included a range of stratification criteria relevant to the issues being considered by the panel	Included stratification criteria specifically relevant to libraries Specifically provided services to meet the particular needs of participants	Included a broad range of selection criteria	Kingston council demonstrated a commitment to expand the stratification criteria to ensure relevant types of diversity were included
	Weaknesses	Council's focus on hearing from 'new people', while not a weakness in itself, can be where it is done for instrumental reasons e.g. to avoid citizens with strong views on particular topics				Made a start on addressing non-financial disadvantages, e.g., wheelchair accessible bus Among both councillors and staff, there was a level of instrumentalism around inclusion, with a focus on hearing from new people
Collective agenda-setting	Strengths	The remit for this panel allowed some scope for interpretation	The remit for this panel allowed the most scope in principle, although the broader engagement process, as required by the state government, probably	The remit for this panel had the potential to be reasonably broad, however as the use of a panel for this topic was seen as being done for strategic (instrumental) reasons, this may be misleading	Clear attempts to engage committee members in determining the type of issues they considered	As per most DMPs council identified the topics and set the remit There was some room for panels to broaden the scope of their recommendations
	Weaknesses	Remit set by the council				
	Strengths	Panels were facilitated by consultants experienced in deliberative processes Broader community input was a key element for all DMPs		Despite the intention to work by consensus, it is	DMPs were facilitated by experienced consultants and given sufficient time to	

Democratic functions	Customer Charter Panel	Planning Panel	Library Panel	Ward committees	Overall assessment
Collective will-formation	DMPs provided reports with clear recommendations and reasons for its recommendations			unclear if these Committees would have time to reach a consensus	achieve collective will-formation
Weaknesses	<p>Can't identify any weaknesses from outside of the process</p> <p>The placement of these DMPs within broader engagement and will-formation processes lessened the impact of the DMP to collective will-formation</p>				
Collective decision-making	<p>Evidence suggests that the council acted on DMPs' recommendations</p> <p>The DMPs were creatively placed within broader engagement and will-formation processes</p>			Intention of designers to provide further decision-making role to committees	<p>No explicit commitments around collective decision-making were given, and no reports were provided</p> <p>Requires 'research' to identify that recommendations were incorporated</p> <p>Evidence suggests that Kingston council has significantly improved its approach in this area</p>
Weaknesses	<p>There were no explicit commitments given around how decision-makers would deal with DMPs' recommendations</p> <p>There was no explicit reporting on how DMPs' recommendations were incorporated into strategies and policies</p>			<p>Unclear the extent to which the outputs of Committee meetings impacted council decision-making</p> <p>Need to bring input from three separate committees together to provide coherent advice to council</p>	
Strengths	No strengths as accountability were not addressed			Regularity of meetings meant that committee members could follow up on	Accountability did not receive much attention in DMPs generally at this time

Democratic functions	Customer Charter Panel	Planning Panel	Library Panel	Ward committees	Overall assessment
Accountability				actions from previous meetings	Recognition of the importance of accountability is growing across the board, especially in water authorities where the regulatory framework requires it.
Weaknesses	Accountability was not formally or even informally addressed			Short duration of meetings could make it challenging to deal with meeting topics and follow up on previous topics	

7.4.6 Institutional modes of constraint

In the preceding analysis of the DMPs that form the embedded units in the City of Kingston Council case study against the democratic functions, the role of narratives, practices and rules is considered in regard to each function. This section now considers the role and inter-relationship of narratives, practices, rules and rules-in-use at the case study level.

It is worth reiterating here that this case study differs from the previous two in that there is no single organisation providing an overall design for the DMPs and Ward Committees. Rather these processes were initiated by Council staff who had a general commitment to engaging residents (and businesses) in deliberation. Practices and rules-in-use were set by the consultants engaged by Council.

At the case level, we see that

- Council's two main narratives related to the value of deliberation as an additional citizen engagement practice, in particular delivering a less politicised process engaging people who had not previously engaged with Council
- Lack of an overall process designer allowed some slight and some significant differences in practices to develop – these differences were both positive and negative from the perspective of deliberative practice
- Despite the above point, by using consultants with experience in deliberative recruitment and facilitation, the DMPs and Ward Committees delivered processes that were recognisably deliberative.

Table 23, on the next page, identifies the key narratives, practices, rules and rules-in-use comprising the modes of constraint in this case, as well as identifying where some of these modes were potentially in conflict with each other.

Table 23: Institutional modes of constraint - overview of Kingston Council's processes

Institutional modes of constraint	Actor/s	Overview of modes applied	Potential/actual conflict between modes
Narratives	Decision-makers	<ul style="list-style-type: none"> Supported introducing deliberation as a deeper approach to engaging residents, and in some cases local businesses. Strongest narrative from Council staff and Mayor related to hearing from 'new' people and not already politicised residents 	<ul style="list-style-type: none"> The breadth of this narrative lead to decision-makers relying on external consultants to determine the practices used for recruitment of mini-publics and facilitation of deliberation. This second narrative did not provide specific direction around stratification goals, which were determined by consultants and evolved over time
	Consultants	<ul style="list-style-type: none"> Responded to Council Request for Tenders, aligning their offerings with Council's request 	<ul style="list-style-type: none"> In practice the consultants engaged by Council were experienced in recruiting and facilitating DMPs, so
Practices	Decision-makers	<ul style="list-style-type: none"> Council staff did not set specific practices, rather they engaged experienced consultants to deliver good practice to both recruitment and facilitation 	<ul style="list-style-type: none"> This lack of direction from Council on practices allowed consultants to put their own take on certain practices e.g., writing DMPs recommendations
	Consultants	<ul style="list-style-type: none"> Consultants used standard recruitment and deliberative processes, with some company specific approaches 	<ul style="list-style-type: none"> With no specific overall designer, it could be argued that there was no way in which some key principles of deliberation could be ensured e.g., having another consultancy use a DMP's recommendations as 'input' to another policy development process doesn't align with the view that the output of the DMP is taken directly to decision-makers
Rules-in-Use	Decision-makers	<ul style="list-style-type: none"> Council staff did not set specific practices, rather they engaged experienced consultants to deliver good practice to both recruitment and facilitation 	<ul style="list-style-type: none"> See above
	Consultants	<ul style="list-style-type: none"> All consultants applied what have become rules-in-use for the recruitment and facilitation of deliberation e.g., random stratified sampling, provision of information and time to the DMP 	<ul style="list-style-type: none"> Consultants were able to use their experience to further develop the design of some rules-in-use e.g., adding issue specific stratification criteria

Institutional modes of constraint	Actor/s	Overview of modes applied	Potential/actual conflict between modes
Rules	Decision-makers	<ul style="list-style-type: none"> There were no formal rules in place, although Council was aware of upcoming legislation that would require Councils to use deliberative practices 	<ul style="list-style-type: none"> As there were no rules at this time there was no conflict
	Consultants	<ul style="list-style-type: none"> ditto 	<ul style="list-style-type: none"> ditto

7.5 Conclusion

Unlike South Australia and Noosa, this case study does not have a clear overarching narrative other than the value of hearing from people the council did not typically encounter. While there is value for decision-makers in hearing from the so-called “silent majority”, in this case both council staff and the mayor clearly felt that the people who they usually heard were unnecessarily politicising issues.

Both the City of Kingston decision-makers and the external DMP proponents they engaged lacked specific narratives about other aspects of the use of DMPs, which meant that they did not always apply the rules-in-use and practices consistently in the design of these institutions.

Similarly, to the South Australian and Noosa case studies, where external proponents of deliberative mini-publics sought to justify their use on instrumental grounds, staff at Kingston council did much the same. Staff responded to specific operational needs rather than making a broader policy commitment to enhancing or innovating democracy. Nonetheless, I do not imply that staff are not committed to local democracy and citizen engagement. Many of the staff interviewed demonstrated a strong commitment to democracy and, in particular, citizens’ roles in democracy.

The mayor and the manager of communications and community relations, who led the establishment of the DMPs, and the governance manager who established the Ward Committees, were all personally committed to empowering residents. However, overall, the focus of these processes was more on their mini-public aspect than their deliberative aspect.

Nonetheless, the fact that the City of Kingston conducted three DMPs over two years and then set up three semi-permanent Ward Committees to give residents more significant input in decision-making demonstrates that they valued these types of approaches to community engagement, even if that value was primarily instrumental. Their knowledge that in the next year or so they would likely be subject to new legislative requirements requiring greater resident engagement likely also impacted Council’s openness to these processes.

CHAPTER 8 GOULBURN VALLEY WATER CASE

STUDY

8.1. Introduction

This chapter continues the approach taken in the previous three chapters, looking at a particular jurisdictional case: Goulburn Valley Water (GVW), a Victorian water authority. This case was chosen because it provides different elements to the other three cases considered in this thesis. In particular, this is the only case where engagement is a regulatory requirement, that is, a rule.

The initial mini-publics forming part of this case were established in response to the regulatory framework set by the Essential Services Commission (ESC) for water authorities when developing their pricing submissions, as I will detail in the following section on the context for the case. The ongoing use of mini-publics to monitor the implementation of the GVW's pricing plan – as approved by the ESC – was a commitment made by GVW in its pricing submission.

This chapter will first set out the broad context for water authorities' engagement practices in Victoria before looking at the specific context for this case study. Next, I will review this case to identify the strengths and weaknesses of GVW's processes in fulfilling the democratic functions, and how the institutional modes of constraint – rules, practices and narratives – impacted these strengths and weaknesses.

This case provides a different perspective to the previous three primarily because of the regulatory framework and the design of the processes by GVW staff.

8.2 Context: Victorian water authorities

Water authorities in Victoria are monopoly service providers and are subject to strong regulation around how they deliver water and associated services. The regulatory authority responsible for water services in Victoria is the Essential Services Commission (ESC). The ESC regulates water authorities through price reviews, codes, guidelines and performance monitoring (ESC). The price review and monitoring aspects of this suite of regulatory tools are relevant to this case study.

After a review in 2016 of its existing approach to the regulation of water authorities, the ESC developed a new approach called PREMO: an acronym standing for performance, risk, engagement, management and outcomes.

The framework gives water businesses strong incentives to deliver better value for customers. It does this through the new PREMO incentive mechanism. (ESC, 2016).

PREMO was applied to pricing reviews from July 1, 2018, and provided an incentive mechanism by

linking the rate of return a water business can earn with the level of ambition of its pricing proposal. In other words, the framework will reward businesses that: focus on delivering outcomes sought by their customers, accept risks on behalf of their communities, and deliver services as efficiently as possible. (ESC, 2016b: II).

The PREMO approach puts customers at the centre of water authorities' work:

- The customer, not the regulator, is now central to a water business's price submission;
- Water businesses will be required to express their entire [pricing] proposals in terms that reflect the outcomes they will be delivering to their customers;
- Only customers know their preferences. Just as occurs in other markets, service providers in the water industry must also endeavour to discover those preferences; and then they must seek to align their outputs with those preferences in order to achieve the most socially efficient outcome possible;
- Our entire framework centres on customers and the value they receive from their water business. (ESC, 2016b: II-III)

The ESC does not prescribe how water authorities should engage with their customers. It has, however, developed five key principles it uses when assessing water authorities' pricing submissions:

- The form of customer engagement undertaken by a water business should be tailored to suit the content on which it is seeking to engage, and to the circumstances facing the water business and its customers.
- A water business must provide customers with appropriate instruction and information, given the purpose, form and the content of the customer engagement.
- A water business's customer engagement should give priority to matters that have a significant influence on the services provided and prices charged by the business.
- A water business should start customer engagement early in its planning. The engagement should be ongoing, to keep testing proposals with customers.
- A water business should demonstrate in its price submission how it has taken into account the views of its customers. (ESC, 2016b, p. 16)

Therefore, deliberative processes are not required to fulfil the 'E' engagement component of the PREMO framework.

As an incentive to undertake a robust pricing review under the PREMO framework, water authorities are asked to rate themselves as either Leading, Advanced, Standard or Basic. The ESC sets out guidelines for this assessment, and wants water authorities to be "ambitious"

The ambition of a price submission reflects the extent to which a water business has challenged itself to meet all of its statutory and regulatory objectives while delivering the outcomes and prices customers value.

It is a measure of the value customers will receive from their water business. A more ambitious price submission will propose targeted services and outcomes at lower prices, for example. This is achieved through better customer engagement, efficient management practices and rigorous self-examination. (ESC, 2016b, p. 9)

Using the same criteria applied by the water authorities, the ESC determines whether it agrees with the water authority's self-rating. The ESC's rating determines the return on equity the water authority can receive. An additional incentive is that if the ESC rates the water authority lower than it did itself, the return on equity allowed will be lower than if it had accurately rated itself. The ESC will never increase the rating of a water authority from what it set for itself (ESC, 2016)b. In the 2018 pricing round, the only water authority to receive a Leading overall rating was Goulburn Valley Water, the subject of this case study.

In the 2018 pricing review, deliberative processes were part of the engagement processes of Goulburn Valley Water, Yarra Valley Water, Coliban Water, North East Water and Barwon Water. While none of these water authorities received a Leading overall rating, three – Barwon Water, North East Water, and Yarra Valley Water – received a Leading rating for their engagement work. Although Coliban Water conducted a deliberative process, it rated itself as Advanced for all elements of the PREMO framework. The ESC accepted this rating, and as explained above, the ESC never sets a higher rating than the one given by the water authority itself.

Water authorities in Victoria are now finalising their next pricing submission. Other water authorities have now included deliberative processes as part of their customer engagement, including Melbourne Water, Central Highlands Water, South East Water and Western Water.¹

In addition to evaluating each water authority's rating and making a judgement, the ESC also assesses the extent to which water authorities have incorporated their customer input into their price plan. For example, Melbourne Water submitted its price submission in 2020 and rated its engagement as Advanced. The ESC did not accept this rating and replaced it with a Standard rating, primarily due to the lack of demonstrated influence of customer input on the content of their price submission (ESC, 2021, p. 5).

In 2018 ESC commissioned a review of the PREMO framework, and in a 2019 report of this review, the consultants concluded that

There is clear evidence that PREMO was successful in giving stronger emphasis to customer engagement for most water businesses. (Farriersweir, 2019, p. 21)

The water authority considered in this chapter is Goulburn Valley Water (GVW), which not only used a mini-public to obtain customer input for the development of its 2018 pricing submission but also used a mini-public to get customer input around carbon reduction for its price submission. In addition, GVW's 2018 pricing submission committed to continue engaging with these mini-publics to review the implementation of its pricing plan. GVW was the only water authority to have its 'leading' rating confirmed by the ESC in the 2018 pricing review round.

More detail about GVW's processes is in the following sections of this chapter.

8.2.1 Overview of Goulburn Valley Water

Goulburn Valley Water (GVW) is a regional water authority in Victoria, Australia. It serves a 20,000-square-km area divided into four main districts covering 48 towns with 41 water treatment plants and 130,000 customers. Due to the dispersed population of this large geographical area, GVW considers itself a small water authority, as a communications officer on its stakeholder communication team said in a 2019 interview. Also due to the wide area of its coverage it includes the traditional lands of the Yorta Yorta, the Taunguraung and the Bangerang Peoples.

Like most other water authorities in Victoria, in 2016 GVW was obliged by the Essential Services Commission's (ESC) new PREMO guidelines to engage with its customers and include the outcomes of that engagement in its 2018–2022 price submission.

There were three elements of GVW's customer engagement for this price submission:

1. 'Water Cafés'²⁵ held around the region;
2. A customer survey, available both online and at Water Cafés; and
3. Two mini-publics: one to get customer input to the pricing plan generally, known as the Customer Forum; and the other to specifically address GVW's carbon commitments – the Customer Carbon Advisory Group.

Both of these mini-publics met in 2017. The Customer Forum process would be called 'short form' deliberation, as it met for one day each. The Customer Carbon Advisory Group, while recruited as a mini-public, operated more as a traditional consultative group. GVW's 2018 price submission included a commitment to continue meeting with both mini-publics to get customer input to monitor the implementation of its pricing and carbon plans. More detail about each mini-public is set out in Table 24.

Several GVW staff acknowledged the importance of the introduction of the PREMO framework:

"If they hadn't introduced that, it would have been just, quite frankly, business as usual." (Price plan project officer, interview, 2019).

"Partly the new framework for producing submissions that had a much bigger emphasis on community engagement, but also just the buy-in from management to commit to, we want to do this differently. So a real commitment from the organisations to do it differently." (General manager, planning and assets, interview, 2019)

In interview, the stakeholder communications officer elaborated on this point about "business as usual": GVW was identified as sitting at the 'inform' level on the IAP2 spectrum before the PREMO framework was introduced. This is also explicitly mentioned in GVW's 2018 price submission, under the heading "Ongoing Culture of Embedded Engagement":

We will implement our strategy of ongoing structured engagement to ensure activities and delivery of services are in line with the expectations and preferences of our customers and communities. It will be a core "business-as-usual" activity. We will continue having a wide cross-section of employees participate in engagement activities. We will employ a range of techniques to ensure coverage of demographic diversity. (GVW, 2017, p. 9)

As mentioned in Section 2 of this chapter, GVW put itself forward to the ESC as deserving an overall 'Leading' rating, and the ESC accepted this. As the governance and quality systems manager recounted in interview:

There is a certain pride in delivering over and above ... [we] went to the board, we presented what we thought our submission should be, and the board said, "Have a crack." And so we submitted as leading, the highest. We were really proud of the engagement side of things. And we ... [were] the only one in the state that had the guts to actually bid at that level.

These overarching narratives from GVW staff demonstrate the use of "defining" as institutional work of creation in the new approach they were taking.

²⁵ Water Cafés were locally based conversations with customers, more detail at 8.3.3 (a)

Table 24: Overview of Goulburn Valley Water's processes

	Customer Forum	Customer Carbon Advisory Group (called "Carbon-Neutrality Customer Group" in price submission)	Annual Performance Forum
Year	2017	2017–2022	2019–2022
invitations	10,000 invitations were distributed by email to randomly selected GVW customers	4,000 invitations were distributed by email to randomly selected GVW customers to establish the CCAG, In 2019 another round of 1,500 email invitations were distributed randomly to GVW customers to supplement participation from CCAG. 2021: another round of invitations was distributed to customers who had previously registered but weren't selected, and to a fresh group of 5,000 customers, to top up the CCAG,	2019: 5,000 email invitations were distributed randomly to GVW customers to supplement participation in forum. Additional recruitment to engage younger people was undertaken through schools and colleges in the region. 2021: another round of invitations was distributed to customers who had previously registered but weren't selected, and to a fresh group of 5,000 customers, to top up the AFP.
Number of participants	40	22–24	43
Remit	GVW would like to work with a cross-section of customers to review the input received so far and provide any further advice and feedback for consideration by the GVW Board.	The State Government expects GVW to reach zero carbon emissions by 2050 and has set an interim target for 2025. There are several ways to achieve these targets, and GVW would like to establish a Carbon Customer Carbon Advisory Group to assist in developing the specific carbon emission reduction measures for GVW. The Customer Carbon Advisory Group is being asked to input into the strategy to meet these targets and steer the strategy's outcomes. As part of our Price Plan 2018–23, we have committed to ongoing engagement around these issues, to assist GVW to	To monitor Goulburn Valley Water's performance on the key outcomes set out in our Price Plan for 2018–2023 and provide recommendations for action.

	Customer Forum	Customer Carbon Advisory Group (called “Carbon-Neutrality Customer Group” in price submission)	Annual Performance Forum
		understand a customer perspective in the methods to reduce carbon emissions. The Carbon Customer Advisory Group (CCAG) will meet once a year over the next five years to support the ongoing development of our next Price Plan.	
Commitment	The Board will consider the draft Price Submission for approval and submission to the ESC.	<p>The outcomes of the Customer Carbon Advisory Group will be presented to the GVW Board and used to inform future GVW planning. The Customer Carbon Advisory Group will also provide input into a suite of measures for carbon emission reduction and inform GVW on how to use these means to steer the delivery of a range of projects.</p> <p>In the CCAG Terms of Reference, one of the roles and responsibilities identified for GVW is to “Ensure that views and concerns of the community, as expressed through the CCAGroup, are considered in decision-making processes.”</p>	Background material sent to APF members stated, “The APF is a key element of ensuring that we are learning from our customers in order to deliver a great service.”

8.3 Analysis

As indicated earlier in this chapter, Goulburn Valley Water did not work with the newDemocracy Foundation in the conduct of these mini-publics. The idea to use mini-publics originated in the price plan and engagement teams, who were aware of the use of DMPs by the City of Melbourne and North East Water.

In this section, I will review the mini-publics conducted by GVW against the democratic functions and consider the practices and narratives related to each function.

GVW used external consultants for broad customer engagement and recruitment and facilitation of the 2017 Customer Forum. Nonetheless, interviews revealed that the idea to use a deliberative style process, with learning, deliberating and reaching consensus, mainly developed organically from the educational background of the communications officer in the stakeholder communication team. The engagement and facilitation consultant's Engagement Plan included detail about the online survey and Water Cafés and only limited information about the idea of deliberative workshops (Insync, 2016, p. 6).

Unlike the South Australian and Noosa case studies, where the use of DMPs was driven by elected representatives and designed by external organisations the newDemocracy Foundation and democracyCo, here it was the regulatory framework which led this approach – as did the GVW staff working on GVW's price submission, according to the price plan project officer. As the general manager of planning and assets explained to me, the executive team were involved as the engagement process developed, and the GVW Board endorsed the final price submission.

8.3.1 Inclusion

a. Who is invited to participate?

Invitations to participate on the Customer Forum (CF) and the Customer Carbon Advisory Group (CCAG) were sent to randomly selected residential customers for whom GVW held email addresses. At this time, GVW (2017) had email addresses for around 20,000 of its residential 51,278 customers (p. 6), which matches my personal knowledge. This approach excluded customers who did not have email addresses registered with GVW from receiving an invitation. This decision was made due to time and resource constraints and in recognition that GVW had run Water Cafés in all 48 towns in its supply area to get broad input.

Distributing invitations to randomly selected households via customers is a standard first step to putting together a DMP – or, in this case, what GVW called simply a mini-public. As mentioned in the City of Kingston council case study, this approach has effectively become a rule-in-use for the recruitment of DMPs and mini-publics. The difference here is that GVW did not post hard-copy invitations; instead, invitations were emailed out (see sample invitations in Appendix 5). This choice limited who would receive an invitation: older customers and customers in areas with poor internet coverage were likely to be excluded from the chance to receive an invitation. It could also exclude people without easy access to technology, who might have a different perspective on some of the issues considered by DMPs, such as smart metering. Despite this limitation, GVW had an explicit narrative around doing what it could in the context of being a small water authority with limited resources and being happy to stand by these choices, as the price plan project officer mentioned in a 2019 interview.

b. How are barriers to participation identified and addressed?

As was standard practice, the invitation to participate in the Customer Forum specifically addressed potential financial barriers:

Morning tea and lunch will be provided, and participants will receive \$100 in recognition of your time and commitment. Participants who live outside of the Shepparton area [where the meeting was being held] will receive travel assistance. This may include transport and accommodation.

This level of remuneration continued for the Annual Performance Forum. The remuneration for the CCAG was \$50 per meeting, as the meetings were shorter.

Again, as per standard practice at this time, no other barriers other than financial ones were explicitly addressed.

c. How does the selection criteria reflect the characteristics of the affected community?

The demographic information collected and used for stratification in both of the initial GVW processes fell into the standard categories used for DMPs at this time:

- Age;
- Gender: male/female;
- Tenure: owner/tenant;
- Location in GVW's region.

It is worth noting that location in GVW's region was a critical stratification criterion in this case, as GVW explained in its 2018 price submission:

GVW provides water services to 54 towns via 37 discrete water systems and sewerage services to 30 towns via 26 discrete wastewater systems. Our customers do not receive a common set or quality of services depending upon which town they live. (p. 6)

The stratification goals for these criteria were based on the 2016 Census data for the six local government areas included in GVW's service area, considering the proportion of each LGA sitting within GVW's service area.

For the Customer Carbon Advisory Group, an additional attitudinal question was asked about volunteers' preference for achieving carbon neutrality. To my knowledge, these answers were one of the stratification criteria for the CCAG. The question and answer options asked in the registration survey were the same as those asked in the online survey:

The State Government expects Goulburn Valley Water to reach zero carbon emissions by 2050 with an interim target for 2025. There are several ways to achieve these targets, which of the following approaches do you favour?

There were three choices offered in response:

- Goulburn Valley Water should achieve carbon neutrality in the cheapest way possible without further community input;
- The community should be involved in choosing how to reduce emissions (e.g. buying low emissions technology vs planting trees vs buying carbon credits on the open market);

- No opinion.

In the first round of registrations, from my personal knowledge 20% selected the first option, 76% the second and 4% the third. The selection process included the answers to this question as a stratification goal to broadly match these proportions.

As noted in the other three case studies, these stratification criteria are very basic. In later top-up recruitment for the Annual Performance Forum and the CCAG, additional stratification criteria were included:

- Gender: female/male/transgender/other;
- Identify as a person with a disability and/or Aboriginal or Torres Strait Islander (ATSI);
- Country of birth;
- Language spoken at home;
- Ancestry.

Adding these criteria allowed stratification of GVW's mini-publics to include, insofar as there were registrations in these categories, people from cohorts that are typically challenging to engage, such as ATSI people and those with a disability.

While location was an important stratification criterion for GVW to demonstrate it was engaging with customers from different parts of its region, it could have included additional criteria relevant to different groups of customers and their particular needs as customers. For example, since 2019, to my personal knowledge recruitment of mini-publics for other water authorities have included additional stratification criteria specifically related to their status as customers, such as concession holder, a user of recycled water, duration as a customer, large user of water/size of household, and for business customers, the number of employees, duration as customer and type of business.

Additional stratification criteria potentially impact registrations and complicate the selection process. Nonetheless, these additional criteria allow a more nuanced approach to reflecting the diversity of a water authority's customer base, including the views of customers who have different needs around water services.

Another cohort that did not register in sufficient numbers was young people. GVW was committed to including young people in these mini-publics. Additional targeted recruitment was undertaken via schools, which to my personal knowledge led a small number of young people to join these groups. The impact of targeted recruitment will be discussed further in Chapter 10, Discussion.

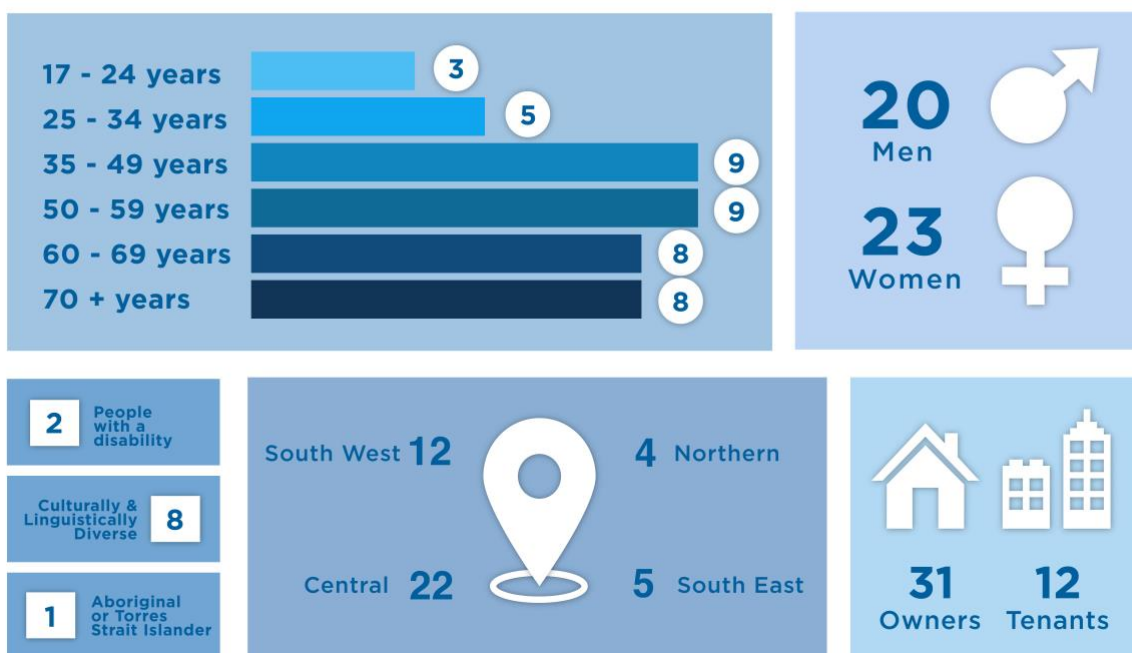
d. To what extent does the mini-public reflect the intended diversity, i.e., does it achieve the demographic goals?

The final demographics of the initial groups were not made public. However, for the two groups established to monitor the implementation of the 2018 Pricing Plan, the final demographics were made public and can be seen in Figures 10 and 1.

Figure 10 Infographic for Goulburn Valley Water Customer Forum, May 2019

GOULBURN VALLEY WATER CUSTOMER FORUM

The Goulburn Valley Water Customer Forum was randomly selected to form a sample of customers.



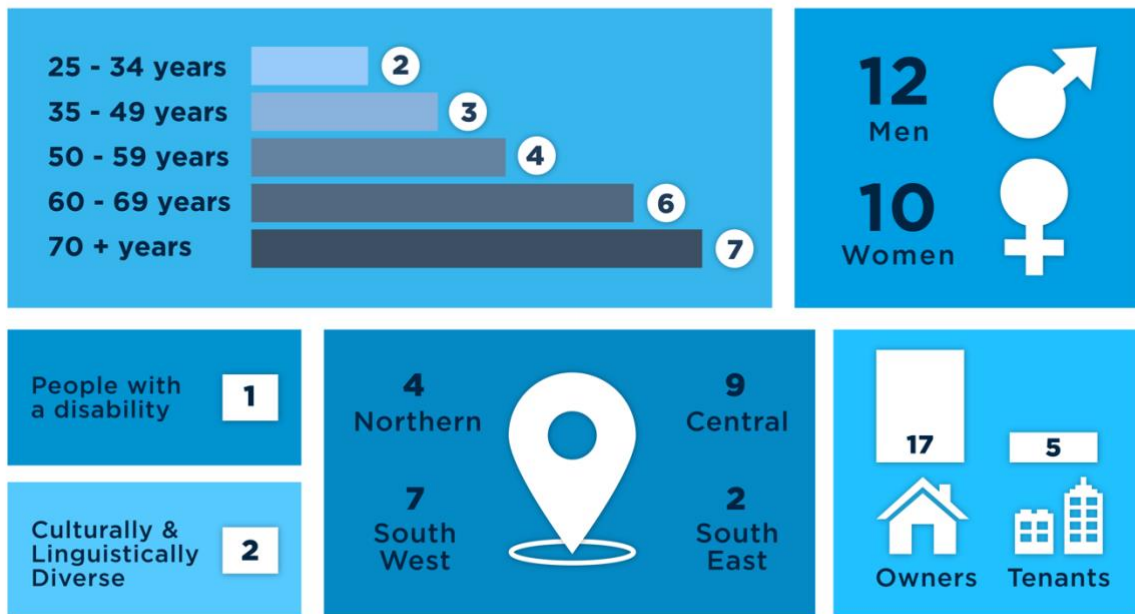
Recruitment undertaken by Deliberately Engaging

For the Annual Performance Forum, after additional targeted recruitment of younger people: there were three people in the 17–24 age group (one fewer than the goal); the goal was met for 25–34-year-olds; there were two fewer than required for 35–49-year-olds; and there was one more than required for all other age groups. For other demographic goals, the tenure goals were met, the goal for people with a disability was met, the goal for Aboriginal or Torres Strait Islanders was met, the numbers for people from a culturally and linguistically diverse background²⁶ were not met, and there was a slight skew towards women participants.

²⁶ Cultural and linguistic diversity was based on a combination of country of birth, language spoken at home and ancestry. These categories came from the Census.

Figure 11 Goulburn Valley Water Customer Carbon Advisory Group, June 2019

GOULBURN VALLEY WATER CUSTOMER CARBON ADVISORY GROUP



Recruitment by Deliberately Engaging Pty Ltd.

For the CCAG, established in 2019, the age range goals were met for the 25–34 and 50–59 age groups; no 18–24 years old participated; the goal was not met for 35–49-year-olds; and more than required in the 60–69 and 70+ age groups participated. For other demographic goals, some were met, and others weren't: the goal for people with a disability was met; however, the numbers for people from a culturally and linguistically diverse background was not; slightly more men than women participated; and there was a slight skew towards owner-occupiers.

This comparison of the demographics of the two mini-publics against the goals for each one demonstrates that achieving the intended diversity is not always easy. Whether some of the gaps mentioned above would have been addressed through a different recruitment process design, such as posting out hard-copy invitations, is unknown. The use of targeted recruitment to fill these gaps needs to be considered while also considering the impact of this approach on the value of openness and equality of opportunity to be part of one of the mini-publics for customers.

8.3.2 Collective agenda-setting

a. Who chooses the topic or issue for the mini-public?

The broad topics were determined partly by the requirements of the regulator (ESC), identifying what needs to be addressed in a price submission, and in part by GVW based on their knowledge of the challenges and opportunities facing them.

The topics considered by the CF were determined by GVW staff based on issues arising from the Water Cafes held with customers in every town in their region and the available time at the Forum meeting. This was in line with the engagement and facilitation consultants' recommendations to use the output from the water cafes (and online survey) to feed into the deliberative forum

There is a third type of issue, where the organisation can't currently provide a clear and simple set of options and doesn't feel it can accurately predict community sentiment.

These more complex issues are best suited to deliberative techniques. (Insync, 2016: 5)

Because the topics considered by the CF came out of the Water Cafes, it could be argued that customers had a role in setting the remits. Unlike broader community engagement undertaken in other cases around the pre-determined remit, a range of topics were discussed with customers at these Water Cafes. GVW used the consultants' recommendation to take topics where customer views weren't clear to the mini-public.

In the background document provided to CF participants, GVW explained the Water Cafes and other face-to-face engagement with over 2,000 customers as follows:

At the centre of the engagement plan was a community-targeted 'Water Café'. Water Cafés were developed to initiate conversations with customers and community members in community spaces such as farmers' markets and other community events. Set up using a GVW branded promotional trailer as a backdrop (and storage), the space included café style tables and stools, with free iced water on offer and GVW staff encouraging passers-by to have a drink or take a promotional item. The stall was most popular in warm weather and allowed staff to initiate conversations with customers around their water supply and their satisfaction levels in general and to then guide the customer through some price Submission related questions to obtain data from each interaction.

GVW staff also regularly adapted the café to suit public spaces in townships, where a smaller version was used outside milkbars, bakeries, newsagents and supermarkets. Staff attended community meetings in smaller towns and tried varied styles of activities in order to meet with as many customers as possible: sporting events, community days, mothers' groups, working bees, CFA Open Days, Australia Day celebrations – and in towns that were not running activities or community meetings, in particular the small non-potable townships, GVW called customers together for feedback sessions. These interactions provided opportunities for conversations and anecdotal style feedback, but the information was collected in a way that ensured the themes discussed provided statistically valid, meaningful data to inform the discussions and planning for the Price Submission document. (GVW, 2017a: 3-4)

These interactions were not deliberative; however, the number of customers involved over 12 months in areas where customers congregate suggests that GVW was able to reach beyond stakeholders and activists. However, it is worth noting that the issue of only hearing from the same people whenever customer engagement occurred was not raised by any of the informants from GVW. This is probably because, as noted earlier, GVW did not usually undertake engagement other than at the 'inform' level.

The agenda for the CCAG was determined by the staff responsible for that area of work within GVW and focused on the carbon-neutrality legislative requirements.

b. Who sets the remit?

The approach taken by GVW did not require them to set specific remits as other DMP processes did. Rather the invitations referred to seeking the CF to review input received and for the CF to provide further advice and feedback.

c. Is the remit too broad or too narrow?

The remits included in the email invitations were very broadly worded (see table 24). However, the topics for discussion at the CF meeting were quite specific. After considering six or seven topics arising from the Water Cafe process, the Forum addresses five topics (Communications Officer, Stakeholder Communication - interview 2019). These topics were digital enablement, upgrade of non-potable towns, peak demand reduction, installation of hydration stations and tariff structures (GVW, 2017: 7). These topics were very specific.

GVW was clear that there was no value in consulting on topics such as 'do you want clean water?' rather

We came up with topics where there was choice and customers could genuinely influence decisions. And some of those were areas where we wouldn't have gone into before. Particularly on improving services, maybe for a small number of customers (General Manager, Planning and Assets - interview, 2019)

d. Can the deliberative mini-public amend or interpret their remit?

Due to time and resource constraints - each group only met for one day or part of a day, and there was no time to change or interpret the topics on the agenda. Again, this was a conscious decision by GVW to work within its resources.

8.3.3 Collective will-formation

a. Does the design of the deliberative process align with deliberative principles?

There was no formal intention to use deliberation in this case, and GVW did not refer to either of these groups as DMPs; instead, it called them 'mini-publics'. However, as mentioned earlier, the approach to the conduct of the Customer Forum was developed organically within GVW, primarily as a result of the teacher background of the stakeholder communications officer:

But it was my idea - this forum to get everyone in a room. Because of my educational background, I thought we need to get people commenting on things and involved in discussions about these topics. But we can't expect them to do it on a clipboard down the street because it's not giving them any context or understanding. So, I've always been big on, if you want to add something meaningful to the discussion, then you need to understand what you're talking about.

Although the design of the Customer Forum process came from this communications officer, the use of a deliberative forum was recommended by the engagement and facilitation consultants:

By the beginning of 2017, it should be agreed what, if any, issues need to be taken to some kind of deliberative forum.

We recommend that each issue be tackled using a separate process and separate group[s] of participants. This is accepted good practice because it provides a fresh new, and thus not “over-informed” group of everyday people for the forum. (Insync, 2016, p. 5)

This good practice was not adopted, although a separate group was established for the carbon neutrality topic.

The organisation saw the CF as “very much a shortened version of a citizens’ jury” and, looking at the four- to five-day processes other organisations had run, the price plan project officer said:

We didn’t want to do that. The enormity of how much that was going to cost ... we did our engagement on the smell of an oily rag ... We knew that we wanted to deeply engage, but we wanted to do it in a fairly succinct manner that still had merit and that still gave credible results.

The background information provided to the CF described the Forum’s role as follows:

GVW will be asking customers at the Forum to further review the evidence on a number of topics discussed at these engagement activities [Water Cafés and other face-to-face discussions].

Attendees will be asked to work through and suggest some responses and actions that they believe would best reflect community preferences. (GVW 2017a, p. 4)

In its price submission, GVW (2017) described the process of these mini-publics as follows:

Background information, options and willingness-to-pay scenarios were presented to ascertain consensus views of preferences (p. 7)

b. Is the implementation of the deliberative process robust?

As for all cases considered in this thesis, the in-the-room deliberative process was not part of this research.

From the research interviews, we know that the GVW communications officer in the stakeholder communication team developed the overall approach and was supported by an external consultant with experience in this work. As described above, this communications officer developed the learning and discussing elements of the process, and the external facilitator proposed that the groups should aim to achieve consensus.

The manager of governance and quality systems acknowledged the importance of skilled facilitation:

But it must be managed well ... It’s not a free-for-all dynamic ... it’s got to be genuinely properly managed ... when you have a broad enough church of people doing it, they come out with a good answer, it’s not necessarily the one you expected, but democratically it seems to work.

To my knowledge GVV staff or a group member with facilitation skills ran more recent meetings of the APF. If the APF were a formal DMP, this use of GVV staff to facilitate the meetings would be considered a weakness because the participants could potentially be 'led' to specific recommendations.

The CCAG was recruited similarly to the CF and was stratified to create a mini-public. However, its operation was quite different to that of the CF. The CCAG was established to be an ongoing group from the beginning, with Terms of Reference that made explicit its purpose:

Through two-way information sharing, we will represent the views of Goulburn Valley Water's customers to facilitate informed decision-making with regard to climate change mitigation aspirations and activities by Goulburn Valley Water.

The CCAGroup will be convened periodically for updates on Goulburn Valley Water's performance and to seek feedback and direction as the program progresses.

From time to time, the CCAGroup may be requested to reach a decision on a matter. Decisions will be made by consensus. If consensus cannot be reached, voting shall be conducted via a show of hands. In the event of a tied vote, feedback will be provided to the Goulburn Valley Water Board on the outcome and relevant background issues. (GVW, 2017, pp. 1-2).

c. How is the will of people outside of the mini-public incorporated?

As identified above, the topics considered by the Forum arose from discussions with customers at the Water Cafés. Input from these Water Cafés was provided to the Forum members, as the stakeholder communications officer told me:

Water Cafés ... [were] the beginnings of planning for the forum. What's going to go into this forum? What are the directions of the conversations we're having, and the areas customers are talking about?

For the CCAG, the outputs from the online survey and Water Cafés that were relevant to carbon reduction were presented to this group.

As both groups met for either a day or part of a day, they couldn't include multiple speakers presenting different perspectives, as would occur in a long-form deliberation. This practice limitation also limits their ability to incorporate the views of people not selected to be on the CF or CCAG.

d. Does the deliberative mini-public reach consensus?

As mentioned earlier, the clear intention of the GVV staff was that the CF would work on a consensus basis. The facilitators supported the mini-publics in reaching a consensus, as the stakeholder communications officer recounted:

At the end of each session, each workshop, they were to come up with a consensus. And ... they were told they needed to be responding to these based on what they thought was best for the community base, not themselves and their own interests.

No formal decision rule was set to define what consensus was for these groups. The aim was to reach a consensus on each topic considered by the CF, and this was achieved.

The mini-publics' recommendations were not made public, other than as presented by GVV in its price submission, so it is not possible to assess this. For this reason, there were no

minority reports from either of the GVW mini-publics. This is a weakness, as no one outside the mini-publics can assess whether the price plan adequately represents their recommendations. However, the regulatory framework makes it unlikely that GVW would not accurately report on the recommendations coming from the CF. In particular, the ESC can request copies of materials presented to customers and their feedback (ESC, 2016a, p. 24).

e. Does the deliberative mini-public provide reasons for its recommendations?

As the consensus reached by the mini-publics was not made public, it is not possible to determine if they provided reasons to GVW or not.

GVW states that the recommendations of the DMPs were included in its 2018–2023 pricing submission, a public document on the GVW and ESC websites. However, it is unlikely that many customers would access and review this 51-page document.

8.3.4 Collective decision-making

a. Did decision-makers give a commitment upfront regarding the [deliberative] mini-public's recommendations?

The commitments given upfront were broadly worded. However, the regulatory framework required GVW to incorporate its customers' input into its price submission.

b. To what extent did decision-makers meet their upfront commitment?

GVW met its broad commitment and, due to the regulatory framework, went further by demonstrating explicitly how the mini-publics' recommendations were incorporated into its price submission – more detail on this in response to question c. GVW (2017) stated in its Price Submission that it did include the DMPs' recommendations, except where it was “clear that an amount of further ongoing engagement is justified” (p. 7).

c. Is a decision made, and by whom?

GVW staff developed the price submission, which the GVW Board then endorsed. The price submission was subject to review by the ESC.

d. To what extent do the decision-makers adopt the [deliberative] mini-public's recommendations?

As required by the regulatory framework, the recommendations of the two mini-publics and other customer inputs were included in the GVW 2018–2023 price submission. In section 2 of its price submission, GVW identified four broad themes arising from its customer engagement, with specific outcomes it would seek to achieve against each theme:

1. Best prices for customers;
2. Renewed focus on water quality and supply;
3. Modern and thoughtful customer service; and
4. Meaningful environmental and recreational outcomes.

It also identified where the engagement input came from and how it would be held accountable for this outcome. The Customer Forum's recommendations were explicitly referenced in one of the outcomes under Themes 1, 2 and 4 and for two of the outcomes under Theme 3 (GVW, 2017, p. 11–26).

This detailed reporting on how the mini-public's recommendations were addressed is a clear result of the regulatory requirements and the ESC's evaluation of whether customer input has been adequately addressed.

The ESC reviews all water authorities' pricing submissions before releasing a draft decision, open to broader input, followed by a final decision. As part of the PREMO framework, the ESC reviews the extent to which water authorities' customer engagement influences their pricing proposals. For GVW, the ESC found "evidence that Goulburn Valley Water's engagement influenced its proposals", including:

- reducing prices in response to feedback that customers prioritise affordability
- improving water quality in response to customer support for better tasting drinking water
- introducing digital services in response to feedback that customers value real-time notifications
- trialling new approaches to fixed and variable charges in response to feedback that customers would prefer greater control over their bills.
- The influence of Goulburn Valley Water's engagement on its proposals supports the objectives in our pricing framework relating to efficiency and the interests of consumers. (ESC, 2018, p. 6).

8.3.5 Accountability

a. Did decision-makers give a commitment upfront regarding accountability?

There was no public commitment around accountability provided when the mini-publics were established. However, monitoring and accountability are explicit requirements of the regulator, which requires annual reporting on the implementation of price plans.

b. To what extent did decision-makers meet their upfront commitment?

As explained above, there was no accountability commitment in the invitations to participate on the mini-publics. However, this is a regulatory requirement, and GVW specifically addressed this in its 2018 price submission, going further than required to set up mini-publics to monitor its implementation.

c. Do decision-makers make public their decisions and reasons?

GVW set out its decisions and reasons for them in its price submission, as required by the ESC.

The regulatory framework for water authorities in Victoria provides a high bar for making decisions and publicly stating their reasons. Water authorities' price submissions are published on the ESC website as well as on each water authority's website. The ESC's draft response to price submissions is also published, as is the water authorities' response to this draft response. ESC's final response is also published, which includes its reasons for accepting or rejecting the water authority's submission or elements of its submission. Finally, the annual reports from water authorities are also published on the ESC website.

d. Do decision-makers publicly report on the implementation of their decisions?

The ESC requires all water authorities to report yearly on their performance against the targets included in their price submissions. GVW releases an annual overview of its progress against the themes and outcomes using the ESC's green, red and yellow traffic light system

to indicate how it is going. This report is published on the GVW and ESC websites. In GVW's Outcomes report for the years 18–19, 19–20 and 20–21, it rated itself overall as 'green,' meeting its targets, and rated itself 'yellow', that is, "close to targets or largely met", for two outcomes. See Figure 12 below.

The recommendations from the two mini-publics were included in the GVW 2018–2023 pricing submission under the four broad themes and outcomes referred to above. As I have outlined, the price submission also included explicit accountability measures relevant to each outcome, as well as explicitly committing to ongoing engagement with the two DMPs to monitor the implementation of the pricing submission.

Figure 12 Goulburn Valley Water outcomes report to ESC

Goulburn Valley Water – Outcomes – 2018–2023

In this document, the water business provides a summary report of its actual performance against each of its outcome commitments for the 2018-19 reporting year. The business has given itself a "traffic light" rating (green = met target, red = not met, yellow = close or largely met) for its performance on each measure, outcome and an overall rating. The business has provided its own comments about its performance on each outcome and overall.

Summary table

Outcome	18-19	19-20	20-21	21-22	22-23
1. The best price outcomes for customers	Green	Green	Green	Grey	Grey
2. Renewed focus on water quality and supply	Green	Green	Yellow	Grey	Grey
3. Modern and thoughtful customer service	Green	Green	Green	Grey	Grey
4. Meaningful environmental and recreational outcomes	Green	Yellow	Yellow	Grey	Grey
Overall	Green	Green	Green	Grey	Grey

Essential Services Commission Goulburn Valley Water – Outcomes – 2018–2023

1

e. *Does the deliberative mini-public have a role in monitoring the implementation of the decisions?*

In its 2018 price submission, the GVW made a public commitment to ongoing engagement with customers through a mini-public to support monitoring the implementation of its price plan:

we will have an Annual Performance Forum (APF) where a representative group of customers will critique our progress against delivery of Outcomes and our broader performance, and provide recommendations for any remedial action. The APF will be a key element of ensuring our accountability to customers. (GVW, 2017, p. 9)

The Annual Performance Forum and the ongoing Carbon-Neutrality Customer Reference Group included members of the original mini-publics, topped up by two further recruitment rounds to maintain the numbers in each group. From personal knowledge, around a third of the initial participants continued on each of these groups. The main reason participants gave for withdrawing was their inability to attend the scheduled meetings.

GVW publicised the existence and role of these two groups through an Information Sheet on the Price Plan 2018–2023, which states:

We'll host an Annual Performance Forum each year, where we'll ask a group of customers to rate us on our progress and performance on Price Plan objectives. You'll *help keep us accountable* [emphasis added] to our goals. (GVW, 2018, p. 2)

And on its website, GVW explains:

As part of our five year plan we have committed to holding Annual Performance Forums (APF) where a representative group of customers will critique our progress against delivery outcomes and our broader performance as well as provide recommendations for action. The APF is a key element in ensuring accountability to our customers during the 2018–2023 period.

Table 25 sets out an overview of the strengths and weaknesses of the Goulburn Valley Water mini-publics.

Table 25: Strengths and weaknesses of GVW mini-publics against democratic functions

Democratic functions		Customer Forum	Customer Carbon Advisory Group	Overall
Inclusion	Strengths	Included geographical criteria relevant to water services Top-up recruitment included additional stratification criteria Financial barriers were addressed via payment of an honorarium and reimbursement of travel costs in some cases		GVW recognised the need to consider the relevant characteristics of their customers when developing stratification criteria
	Weaknesses	Initial stratification criteria were fairly basic		
Collective agenda-setting	Strengths	Topics arose from broader customer engagement	CCAG members identified what was important to them and their interest in ongoing involvement, which GVW acted on	While topics for mini-publics were determined by GVW staff; this was based on broader customer input
	Weaknesses	Choice of topics made by GVW staff		
Collective will-formation	Strengths	Despite the short time allowed, mini-publics followed a general deliberative methodology		<ul style="list-style-type: none"> GVW's approach demonstrates that short-form deliberation can provide valuable input to decision-makers
	Weaknesses	The short time allowed to each mini-public may have impacted their ability to consider a range of options and reach a consensus		
Collective decision-making	Strengths	The regulatory framework required GVW to include customer input in their price plan		<ul style="list-style-type: none"> The regulatory framework requires a clear link between customer input and price submission plus an assessment of this by regulator maximised link between collective will-formation and collective decision-making
	Weaknesses	Link between mini-public recommendations and the GVW price plan is not transparent as there is no public report from mini-publics		
	Strengths	The regulatory framework required GVW to report on and		

Democratic functions	Customer Forum	Customer Carbon Advisory Group	Overall
Accountability	<p>monitor the implementation of the approved price plan</p> <p>GVW built on this requirement by committing to involve the mini-public in monitoring</p>		<ul style="list-style-type: none"> ▪ The regulatory framework sets minimum standards for monitoring and publicising implementation outcomes ▪ These minimum standards and self-rating system encouraged GVW to build on accountability requirements
Weaknesses	Unlikely that many customers would visit either GVW or ESC website to read annual reports		

8.3.6 Institutional modes of constraint

In the preceding analysis of the DMPs that form the embedded units in the Goulburn Valley Water case study against the democratic functions, the role of narratives, practices and rules is considered in regard to each function. This section now considers the role and inter-relationship of narratives, practices, rules and rules-in-use at the case study level. At this level, we see that

- This is the only case study where there were explicit and mandatory rules in place, although they did not relate specifically to deliberative processes
- This case study is also the only one where there was impactful evaluation of the process and outcomes, i.e., if the regulatory did not agree with the water authority on their assessment of the standard of their activities this affected their price and other financial aspects of their operation for the following five years
- In response to the regulatory requirements and incentives, GWV sought to design a customer engagement process what pushed their own boundaries, whilst also respecting their self-view as a small organisation with less resources than some other water authorities
- The regulatory requirement for ongoing monitoring of the implementation of the Price Plan generated innovation in the form of the conversion of the Customer Forum into an Annual Performance Forum, a new practice for water authorities and others undertaking DMPs.

Table 26, on the next page, identifies the key narratives, practices, rules and rules-in-use comprising the modes of constraint in this case, as well as identifying where some of these modes were potentially in conflict with each other.

Table 26: Institutional modes of constraint – Goulburn Valley Water forums

Institutional modes of constraint	Actor/s	Overview of modes applied	Potential/actual conflict between modes
Narratives	Decision-makers	<ul style="list-style-type: none"> GWV as a relatively small regional water authority choose to focus on two main processes – water cafes and the Customer Forum (a DMP) 	<ul style="list-style-type: none"> GWV's narrative around being a small regional water authority supported them taking a less formal approach to the Customer Forum, with GWV staff and a member of the Customer Forum facilitating the Annual Forum, which does not align with the rule-in-use regarding independent facilitation
	ESC	<ul style="list-style-type: none"> The ESC provided guidance to water authorities but were not prescriptive. Water authorities were free to choose the range and style of customer engagement they undertook 	<ul style="list-style-type: none"> Despite this non-prescriptive approach, in practice almost all water authorities who used DMPs or similar processes were well regarded by the ESC and this resulted in the use of these processes by a growing number of water authorities
Practices	Decision-makers	<ul style="list-style-type: none"> GWV did not specifically adopt the DMP model, rather they choose to use a mini-public to engage a 'representative' group of customers The deliberative process they used was developed internally based on staff knowledge 	<ul style="list-style-type: none"> In line with GWV's narrative about being a small water authority and designing their engagement to reflect this all of their processes were quite short, time-wise compared to standard DMPs This development internally, with no specific direction setting by consultants, led to a move away from some standard practices over time, in particular, independent recruitment and independent facilitation
	ESC	<ul style="list-style-type: none"> The ESC provided detailed guidance to water authorities around customer engagement, with a focus on outcomes, rather than setting prescriptive processes 	<ul style="list-style-type: none"> These guidelines did not specifically address deliberative practices However, the role of the ESC in monitoring and evaluating customer engagement allowed them to identify good and poor practices against their guidelines, and over time it became clear that DMPs and similar processes were considered good practice by the regulator leading to an increase in their use

Institutional modes of constraint	Actor/s	Overview of modes applied	Potential/actual conflict between modes
Rules-in-Use	Decision-makers	<ul style="list-style-type: none"> As mentioned above, as the design of the Forums was undertaken by GVW, they did not apply rules-in-use that were included in earlier case studies, e.g., time to consider various options and identify agreed recommendations. Whilst initially recruitment and facilitation were undertaken by independent consultants, for the ongoing Forums this was replaced with recruitment by GVW staff and facilitation by Forum members and GVW staff 	<ul style="list-style-type: none"> Because GVW did not explicitly adopt the model of DMPs, it is not surprising that they did not apply all of the standard rules-in-use used in the other cases included in this thesis
	ESC	<ul style="list-style-type: none"> The ESC set five principles for customer engagement (see 8.2 p.183) The ESC provided guidance only 	<ul style="list-style-type: none"> The assessment of water authorities and the ongoing development by the regulator of updated guidance for water authorities has the potential to create rules-in-use for water authorities seeking to achieve Leading or Advanced ratings
Rules	Decision-makers	<ul style="list-style-type: none"> GVW ran Water Cafes and Forums involving mini-publics to meet the regulators requirements, rather than continuing with a business-as-usual approach to customer engagement 	<ul style="list-style-type: none"> GVW's customer engagement around their Pricing Plan for 2018-2023 was under a new regulatory framework, which meant that GVW could not be sure if their approach would meet the regulator's requirements, their narrative about being a small water authority and their confidence in their innovation did convince the regulator
	ESC	<ul style="list-style-type: none"> As monopolies all water authorities in Victoria the ESC reviews their operations and pricing every five years From 2018 the ESC applied PREMO to this process (see 8.2 p.182). All water authorities were required to submit their five-yearly Price Plan demonstrating how they had complied with the PREMO incentive mechanism. 	<ul style="list-style-type: none"> See above re: rules-in-use

8.4 Conclusion

The Goulburn Valley Water case study demonstrates the impact of regulatory requirements on robust engagement and, in particular, the value of such requirements to demonstrate to the regulator's satisfaction that the customers' input has been taken into account. The ESC framework for water regulation also supports enhanced accountability. The regulator judges whether the water authority has acted on the customers' input and reviews ongoing monitoring via regular reporting requirements.

GVW did not follow the usual approach to DMPs – in particular, the time provided to the Customer Forum was significantly below what DMPs advocates such as the newDemocracy Foundation would require. It did, however, apply to its mini-public processes some of the key elements of a deliberative process, identified in Chapter 2, Democracy Literature Review: learning, identifying options and reaching consensus.

As addressed earlier in this chapter, GVW made this decision consciously based on its resources. Despite this limitation, in many ways, the GVW case study demonstrates several strengths against the democratic functions, such as:

- Inclusion: GVW explicitly recognised the need to include customer perspectives from different towns and water systems;
- Collective agenda-setting: topics for the Customer Forum were identified from the Water Cafés as requiring further consideration;
- Collective will-formation: a short-form deliberative process was used to obtain recommendations on these topics;
- Collective decision-making: the regulatory framework specifically required GVW to demonstrate how it had incorporated customers' input into its price submission
- Accountability: again, the regulatory framework mandates reporting and monitoring the implementation of GVW's price plan. GVW went further and committed itself to engaging with customers via the Annual Performance Forum and the Carbon-Neutrality Customer Reference Group (CCAG) to monitor progress and provide relevant suggestions.

Although the PREMO framework explicitly addresses engagement and the ESC provides guidance for this aspect, the regulations should be considered 'performance based' rather than prescriptive. ESC set out broad guidance around the various aspects of the PREMO framework but is explicit that

The Commission has not prescribed the manner in which water businesses should engage with their customers. Each business is able to design its own engagement strategy according to its own context. (ESC, 2016a, p. 23)

Water authorities choose how to meet the regulator's requirement to engage with customers to develop their price submissions. This allowed GVW to tailor its customer engagement to its customers' specific needs and characteristics.

In chapter 10 of this thesis, I will compare and contrast the fulfilment of the democratic functions in each of the four jurisdictional case studies to identify what lessons we can learn to improve the contribution that DMPs can make to improving the quality of democracy. Chapter 10 will also compare and contrast the impact of the rules, practices and narratives

across these cases. The next chapter (chapter 9) moves to the organisational case studies of change agents, using the concept of institutional entrepreneurs to consider their activities.

CHAPTER 9 INSTITUTIONAL ENTREPRENEURS CASE STUDIES

9.1 Introduction

As shown in the four jurisdictional case studies, actors play a significant role in supporting or hindering institutional change. In those case studies, actors undertook institutional work to create new institutions and maintain existing ones. This chapter will examine two specific actors aiming to create new institutions. These two actors are the newDemocracy Foundation and democracyCo, both involved in the South Australian case study and the newDemocracy Foundation in the Noosa case study.

This chapter uses Battilana et al.'s model of institutional entrepreneurship to structure a discussion of the institutional work undertaken by nDF and democracyCo. This discussion then provides a foundation to respond to RQ3:

What role do decision-makers (elected representatives and public servants) and designers of deliberative processes play in enhancing or reducing the ability of deliberative mini-publics to improve the quality of democracy?

Institutional entrepreneurs are change agents and undertake institutional work; however, Battilana et al. argue that institutional entrepreneurs must also:

1. initiate divergent changes, i.e., “changes that break with existing institutions” (2009, p. 68)
2. actively participate in the implementation of these changes (2009, p. 68).

Battilana et al. also suggest that institutional entrepreneurs do not have to successfully create new institutions to be considered institutional entrepreneurs. They do, however, recognise the difficulty of studying unsuccessful institutional entrepreneurs (2009, p. 71) There are likely at least two related reasons for this difficulty: firstly, unsuccessful attempts at divergent change are not visible outside of the institutions in which the change attempts happen and collecting data about unsuccessful change attempts after the fact can be challenging.

9.2 Institutional entrepreneurs

Battilana et al. explain their model of institutional entrepreneurs as follows:

We propose a conceptual account that views institutional entrepreneurs as change agents who initiate divergent changes, that is, changes that break the institutional status quo in a field of activity and thereby possibly contribute to transforming existing institutions or creating new ones. (Battilana et al., 2009, p. 67)

In their conceptual account of institutional entrepreneurs, they identify two phases of institutional entrepreneurship:

1. the *emergence* of institutional entrepreneurs, which they identify as having two aspects: field characteristics and the actors' (institutional entrepreneurs) social status, and

2. the *activities* they subsequently undertake to achieve divergent change have three components: developing a vision, mobilising allies behind this vision and motivating others to achieve and sustain the vision.

I will now consider both the newDemocracy Foundation and democracyCo using Battilana et al.'s model of institutional entrepreneurs, to structure an assessment of how the field characteristics and their activities and institutional work have supported the change they are seeking and their contribution to the quality of democracy.

9.3 Organisational cases

The newDemocracy Foundation - a pragmatic revolutionary

The newDemocracy Foundation was established by Luca Belgiorno-Nettis out of his dissatisfaction with the current political order and his search for alternatives. The Foundation (initially called the New Republic) was established in late 2005 with the motto, "We don't need better politicians. We need a better system." Not long after this, Belgiorno-Nettis met Professor Lyn Carson for the first time to discuss democratic reform. He recalls:

Well, we didn't really know what we were doing in the first instance, I mean, Carson was pretty much the inspiration in terms of another way of approaching government, and then we were very much inspired by the Canadian examples, you know, that British Columbia citizens' assembly.

One of the newDemocracy Foundation's first initiatives arose when Belgiorno-Nettis asked Carson: "If money was no object, what would be the thing that you consider would best further the cause of deliberative democracy in Australia?" Carson's answer was a citizens' assembly, like in British Columbia (Carson & Belgiorno-Nettis, 2013, p. 14). And so was born the Australian Citizens' Parliament (ACP). In May 2007, the Foundation committed to providing funding for the ACP, and in September, the Australian Research Council approved funding to research the ACP. In February 2009, the ACP brought together 150 Citizen Parliamentarians from around Australia for a four-day meeting in the Old Parliament House Canberra. Randomly selected participants from every federal electorate in Australia were recruited. The ACP was preceded by online and regional meetings to inform participants, develop teamwork and allow some initial deliberation (2013, p. 4).

The ACP resulted in the publication of *The Australian Citizens' Parliament and the Future of Deliberative Democracy* (Carson et al., 2013), a significant contribution to scholarly research in deliberative democracy. Whilst the event successfully built an understanding of deliberative processes, it did not gain much attention from the community or politicians. This was attributable, at least in large part, to the 'Black Saturday' fires that occurred on the weekend of the ACP. The 2009 Black Saturday bushfires in Victoria resulted in 173 deaths and 414 people injured, with four hundred and fifty thousand hectares, 2,000 homes and 3,500 buildings were destroyed²⁷. Media coverage of these bushfires eclipsed most other events at this time, including the ACP.

The ACP involved retired politicians, was opened by current elected representatives and the findings of the ACP were formally presented to elected representatives on the final day of

²⁷ <https://www.nma.gov.au/defining-moments/resources/black-saturday-bushfires>

the ACP. Despite this engagement, there was little interest and buy-in from decision-makers to respond to the ACP's recommendations:

Mini-publics such as the ACP - no matter how grandiose in scope and design - appear unlikely to achieve transformational change in terms of public policy making without extensive and impartial media coverage, more collaborative forms of democratic governance, and a stronger institutional foothold. (Hartz-Karp et al., 2013. p. 291)

This failure to engage decision-makers in responding to the ACP's findings lead to one of the five principles the newDemocracy Foundation now applies to their work: that there must be political support with a pre-determined level of authority given to any deliberative mini-public. Belgiorno-Nettis describes it as follows: "we want to do it with governments because we want to demonstrate to the government that there was another way of doing public policy." (interview, 2018). The other four principles are random selection, adequate time, provision of information and a clear remit.

In 2011 the newDemocracy Foundation decided to enhance its work by employing an Executive Officer to push its agenda forward. Iain Walker took on this role and works with a small team of paid staff and volunteers. At the same time (2011), the Foundation established a Research Committee to provide advice and oversee their research projects. Most of the newDemocracy Foundation's initiatives have involved the design and oversight of deliberative mini-publics across Australia. They have designed twenty-five deliberative mini-publics in four states and one territory. The newDemocracy Foundation also submits to Parliamentary enquiries, advocates directly to elected representatives and speaks at events in Australia and internationally.

The work of the Foundation will be considered in more detail below against the components of institutional entrepreneurship identified by Battilana et al. (2009).

DemocracyCo: improving democracy from the inside and out

DemocracyCo was founded in 2015 by Emily Jenke and Emma Fletcher. These two decided to work together after Emily facilitated the Cycling in the City Citizens' Jury (see chapter 4 for more detail) and Emma, the lead officer in the Premier's Department during the Nightlife Jury, was returning from maternity leave. Fletcher recalls

I... felt that maybe I could change more from the outside than I could from within.

Before establishing democracyCo, Emily did various types of community engagement work. When they established democracyCo Jenke told me

We made an explicit decision for me to stop doing ... little stuff, and we would only take on work that had a deliberative tone to it.

The founders refer to DemocracyCo as a social enterprise (Jenke - interview, 2022). They see a social enterprise as "about being purpose-driven - our purpose being a greater good, not ...for our own benefit" (Jenke - email communication, 2022). They considered registering as a not-for-profit charity but decided not to due to the financial and administrative costs.

Since its establishment, democracyCo has conducted around forty client processes, including designing and running deliberative mini-publics, developing engagement policies, delivering training and other engagement processes using broad deliberative practice, sometimes including citizens, stakeholders and staff from the commissioning agency (see Appendix 7, timeline of democracyCo's work). They have advised local governments in

Australia and the Singaporean Government on the design of deliberative processes and led the design and facilitation of a deliberative mini-public in Bosnia & Herzegovina for an international peace-keeping organisation. In addition, they run training around community engagement and deliberative processes. In addition to this client-focused work, they have developed and piloted two model processes: the People's Policy and the Electorate Forum, that aim to engage citizens more deeply in policy-making.

9.4 Enabling conditions for institutional entrepreneurs

Battilana et al.'s model for institutional entrepreneurs is set out in chapter 3, Institutional Literature review. The use of this model as an analytical framework to structure the assessment of the new Democracy Foundation and democracyCo's contribution to democracy is described in chapter 4, Research Design.

Battilana et al. (2009) identify two broad enabling factors which support the emergence of institutional entrepreneurs:

1. field characteristics and
2. the actor's social status.

Whilst these two factors can support the emergence of institutional entrepreneurs, they are not predictive of the existence of an institutional entrepreneur.

They identify two specific elements of field characteristics as being relevant, although they note there are other characteristics that can impact the emergence of institutional entrepreneurs. These two field characteristics are

- the stability of the field, are 'jolts and crises' that impact the field-level consensus or acute problems which could lead to jolts or crises, and
- the nature of the institutions in the field, i.e. are the existing institutions homogeneous or heterogeneous and the level of institutionalisation in the field.

Looking at the actor's social status, they identify a range of factors that can support the emergence of an institutional entrepreneur:

- the social position of an actor can impact the actor's perception of their ability to take action to achieve change
- the social position of an actor can affect their embeddedness in the existing institutional arrangements.

Field characteristics and social status not only impact the emergence of institutional entrepreneurs but are also relevant when considering the institutional entrepreneur's effectiveness in taking undertaking institutional work to achieve divergent change.

9.4.1 Enabling conditions and the organisational cases

Field characteristics: stability of the field

In Australia, the field of democracy is relatively stable, and there are no 'jolts or crises' undermining field-level consensus. However, there are acute or perhaps chronic problems that have the potential to undermine field-level consensus, in particular declining levels of trust.

As set out in chapter 2, Democracy Literature Review, levels of trust in democracy in Australia have been declining for many years. Longitudinal data from the Australian Election Study (McAllister and Cameron, 2019) reports that in 2004 only 40% of Australians believed

the government could be trusted, with this figure dropping to 25% by 2019. Indeed, this chronic problem is of concern not only to academics but to elected representatives, with survey research showing that

elected politicians recognise these concerns and are prepared to do something about them” (Evans et al., 2019, p. 2).

However, despite concern about declining levels of trust, it would be wrong to suggest this is considered a crisis.

Nonetheless, both the newDemocracy Foundation and democracyCo recognised the potential slide towards crisis and started to take action. The newDemocracy Foundation saw the relationship of this declining trust to their work in their 2011 Strategic Plan:

The public yearns for trust and integrity in government - a government that embodies the ideas of inclusion, influence and deliberation. nDF can harness this civic passion by establishing itself as the public’s trusted advisor: by promulgating credible processes and alternatives which must be more representative and clearly deliberative. We also need to create a desire for this change among the political class with the influence to put it into practice. (newDemocracy Foundation, 2011, p. 3 - its emphasis)

However, the lack of a clear ‘crisis’ meant that both organisations had to develop their vision for change whilst working within relatively stable institutional situations.

Field characteristics: nature of the institutions

Whilst the institutions of representative democracy in Australia are fairly homogenous, there is significant heterogeneity in the area of NEP. Decision-makers, whether elected representatives or public servants, are rarely constrained in the design of citizen participation processes and are often looking for “better” or at the least new ways to get citizen input into decisions between elections. Even when some form of citizen engagement is regulated, it rarely specifies the design details for these processes.

In addition, in Australia, we have three levels of government, Federal, State and Local, all of which have different arrangements regarding NEP. This is both a positive and a negative for change agents. From a positive perspective, it provides many opportunities to test new institutional arrangements. However, it also limits the transferability of these arrangements, which are often designed specifically for a particular level of government or governmental organisation.

Whereas the newDemocracy Foundation operated at a national level, democracyCo is based in South Australia and took advantage of both the broader field characteristics mentioned above and the specific field context under the Weatherill Government. Both organisations were able to utilise the field characteristics of declining trust and the heterogeneity of NEP to work with decision-makers, who were looking for ways to improve trust and demonstrate a commitment to their constituents through innovation in NEP.

9.4.2 Actor’s social status and the organisational cases

The newDemocracy Foundation and democracyCo have significantly different social statuses. Battilana et al.’s model does not suggest that only high-status actors can become institutional entrepreneurs. Instead, they suggest that the status of the actors may interact with different field characteristics, in particular the institutional context, and require different activities (more below) to deliver support change.

As mentioned above, the actor's social position is both an enabling factor for the emergence of an institutional entrepreneur and enabling for their effectiveness in achieving divergent change.

The newDemocracy Foundation

The newDemocracy Foundation is an interesting actor because it is made up of various individuals whom each bring different social positions to the work of the Foundation. The three Board members: Belgiorno-Nettis, Carson and Kathy Jones, each brings unique perspectives and status to the Foundation.

Belgiorno-Nettis, a highly successful and well-connected businessperson and philanthropist, brings not simply financial resources but also networks and status to the work of the newDemocracy Foundation. Bellgiorno-Nettis' family company, Transfield, an engineering and infrastructure company, was valued at \$733 million when it was split between the two founding families (Turner, 2020). He continued his father's legacy by supporting the Biennale of Sydney until 2014 when an artist boycott led to him standing down from the Biennale Board. Before this, his family had contributed \$600,000 toward the Biennale's \$10 million budget (Turner, 2020). Bellgiorno-Nettis has been very public about how money can buy political influence

I think it was fairly plain that [donations] bought access in terms of the ability to simply be able to knock on the door and make the phone call and have the meeting with the political masters to voice whatever concerns that we might have or indeed just to explore further relationships and further potential opportunities. (cited in Murphy, 2016)

Bellgiorno-Nettis says that the continual approaches to funding political parties led him to set up the newDemocracy Foundation and put funds into reforming democracy instead of supporting political parties (personal knowledge). Like other Board members, ==he is passionate about reforming democracy, with the additional benefits of bringing resources and contacts to support the work of the Foundation (more below).

Another board member is Kathy Jones, a communications, engagement, and issues management businessperson with various political contacts. Jones established the business KJA in 2001, and when it was bought out, in 2018, by ERM Group, it had 75 staff across New South Wales and Victoria (KJA). Through KJA, Jones developed networks across politics, public service and business. Since selling the company, she has become Chairperson of a community engagement company in the UK and is a trustee on the board of Involve, UK (Involve, UK) Kathy sees herself as the 'voice of reason' on the board and adds value in numerous ways, including risk management (Jones - interview, 2020).

The third Board member is Lyn Carson, a well-known academic and practitioner in the field of deliberative democracy and an advocate whose knowledge and authority in this field provide expertise and legitimacy in designing DMPs. In addition to her academic and practical experience, Carson was an elected representative on her local Council for several years (Carson - interview, 2016) Carson brought acknowledged expertise and widespread respect for her experience to this role.

Iain Walker, the Executive Officer, builds on the Board's skills by bringing experience in strategy setting and marketing that aids the promotion to decision-makers of the virtue of new ways of doing democracy. He describes himself as a 'cynic' who "had a road to Damascus conversion" whilst undertaking a unit of study under Professor Carson (interview,

2017). Walker has strong communication skills and can express complex ideas succinctly. His storytelling approach will be considered further under supporting divergent change.

The diverse background of the Board members and the Executive Officer aligns with the research that “actors who are embedded in multiple fields are more likely to act as institutional entrepreneurs.” (Battilana, 2009, p. 77). The newDemocracy Board included actors with status in business, philanthropic circles, the arts, the political world, and academia, which opened doors for it. In addition, the Board members were not associated with a particular political party and explicitly included ex-elected representatives from both sides of the political divide on its Research Committee. One of the early decisions of the Board was to become a registered charity to further enhance its status as an independent organisation.

democracyCo

DemocracyCo also built on the status of its members to support its work as a change agent. Emily Jenke, one of the co-founders of democracyCo, was an experienced facilitator. She had facilitated several deliberative mini-publics in South Australia before the establishment of democracyCo. She is also a farmer in regional South Australia and has well-known in her community. Emma Fletcher, the other co-founder of democracyCo, had been the key public servant responsible for liaising with the newDemocracy Foundation around the first deliberative mini-publics run by the Premier, the Nightlife jury. She had also worked in a Ministerial office, so she was familiar with the political decision-making processes:

One of the unique things, the unique thing about democracyCo, is the combination of Emma and I. Emma’s background in public policymaking and politics is hugely insightful in everything that we do. (Jenke - interview, 2017)

The status of democracyCo was very different to that of the newDemocracy Foundation. Nonetheless, democracyCo used its status initially in South Australia to promote its vision. Over time its work extended beyond South Australia further enhancing its status.

Both organisations involved individuals who brought different skills and institutional backgrounds to the work of each organisation, which supported them to act as institutional entrepreneurs (Battilana et al., 2009).

The impact of the different social statuses of the newDemocracy Foundation and democracyCo will be considered in more detail as we look at how they have approached creating change.

9.5 Implementing Divergent Change

Battilana et al. identify two critical aspects of the work that institutional entrepreneurs undertake:

1. institutional entrepreneurs develop a vision for divergent change, and
2. they mobilise allies and resources to implement this change.

In addition, to be an institutional entrepreneur, the organisation must be actively involved in implementing the divergent change they are promoting (Battilana et al., 2009, p. 68).

Creating a vision for divergent change does not simply guide the work of an institutional entrepreneur. It must also appeal to other actors who need to be involved in implementing the change. Battilana et al. (2009, pp. 79-80) identify three forms of framing change that institutional entrepreneurs (and other change agents) can use:

- Diagnostic framing: pointing to the problems with the current arrangements
- Prognostic framing: identifying how the proposed change is better than the current arrangements
- Motivational framing: providing compelling reasons for change.

This framing of the change agent's vision also will impact on the second aspect of implementing divergent change, mobilising allies.

Under mobilising allies and resources, Battilana et al. (2009) identify the

- use of discourses (harking back to the different forms of framing),
- use of financial and other resources
- institutional entrepreneurs' social position (harking back to the actor's social status) and
- finally, re-engage with field characteristics and their potential impact on how institutional entrepreneurs can mobilise allies.

Whilst Battilana et al. focus on discourses; they note that there are likely to be non-discursive elements to implementing change (Battilana et al., 2009, p. 86). In regard to the two organisations considered here, there are significant 'non-discursive' aspects to their work, in particular, the development of specific deliberative practices, which support both the mobilisation of allies and the implementation of change. These practices have been discussed in the jurisdictional case studies and will also be considered later in this chapter.

9.5.1 Creating a Vision for Divergent Change and the organisational cases

Below I will set out each organisation's vision and address the specific framing each uses when considering their mobilisation of allies.

The newDemocracy Foundation's vision

The newDemocracy Foundation Board members are all passionate about the need for democratic reform (one Board member called themselves 'revolutionaries'), and they show a strong commitment to adopting a strategic approach to articulating and implementing their vision. The newDemocracy Foundation started with a broad vision to improve democracy, mainly how citizens participated in decision-making.

We were looking at how politics could be reformed ... and we determined a good way to improve the process would be to have better representation, better deliberation (Bellgiorno-Nettis - interview, 2018)

It was always ... what ... can we do [to] involve citizens, in making citizens trust the political process more and involve them so they see the transparency...citizens' juries are.. a tool that we used to get the profile we needed... to show how this could be successful (Jones - interview, 2020)

Our only objective is to come up with better techniques for democratising Australia, particularly allowing citizens to have more of a say in decision-making. ..This is our primary motivation and therefore, we convene deliberative methods (Carson - interview, 2016)

I would argue that the newDemocracy Foundation had two visions, one for the short to medium term and one for the longer term. Its short to medium-term vision focused on giving randomly selected citizens the authority to deliberate and make decisions, to 'show,

not tell'. Its longer-term vision is about systemic change. In its initial Strategic Plan 2011-15, the tagline was

More Representative | Clearly Deliberative | A Democracy the Envy of the World

That Plan identified its purpose as "to create public and political demand for a system that is more representative and clearly deliberative." And their overarching objective as being to

drive into the mass public consciousness a desire for change, a desire for personal involvement, an understanding that there are alternatives, and trust in the newDemocracy Foundation to present them. Get structural parliamentary reform on the public agenda. (p. 7)

This need to 'create demand' highlights the limitations that the lack of jolts or crises in the field had on the newDemocracy Foundation's ability to use the field characteristics to drive divergent change.

That Plan talks about the risks of championing a single model and identifies their strategy as multi-pronged through running a major event (a deliberative process) with a State Government, engaging high-profile individuals and groups to endorse the newDemocracy Foundation, becoming a leader in research on democratic reform and supporting change agents in the community (newDemocracy Foundation, 2011:4). It identified the following prerequisites to achieving this:

- be authorities in solutions and alternatives,
- be unassailable for people and credibility, and
- create demand for an influential state level Parliamentary reform deliberation (p. 5).

This aligns with the three arms of nDF's work identified by Jones as "advocacy, research and show by example".

The Plan refers to only one 'event' being a deliberative process with a State Government, the success of which would then generate support for a Federal event. There was a significant focus in this Plan on building supporters amongst citizens, groups, politicians and the media, with a detailed discussion of promotional and networking opportunities.

Whilst focusing much of its day-to-day work on promoting the use of, and honing the design of deliberative mini-publics, the newDemocracy Foundation and Belgiorno-Nettis, in particular, continue to strongly advocate for their longer-term vision of institutional change at the Parliamentary level, with Op-eds in major newspapers. In 2019, Belgiorno-Nettis, in the Australian Financial Review, drew attention to how deliberative mini-publics demonstrated how "a more collaborative and productive *legislature*" [my emphasis] could be established.

Contemporary politics is alienating a growing part of the population. Yet the majority, including many of those turned off, think that our democracy can self-correct to accommodate an ever-evolving electorate. That's understandable, but I don't subscribe to that view. I think our political system is sclerotic and unresponsive to the need for real change. It's captive to a mindset that free and fair elections are inviolate, even when political campaigns do little but promote puerile bickering. ...

When democracy was originally conceived, elections didn't feature. The debate was focused on issues – not personalities and/or parties. The Athenian Council was selected by lot, among rich and poor men. There was no contest for candidature. It was the jury process. Democracies in the modern era chose elections, thinking that

the transparent tournament would produce a meritocratic assembly. Politicians may start off well-intentioned, but they quickly accede to realpolitik, focusing on electoral success rather than good government.

There are promising alternatives to the groundhog day of current politics. Deliberative polls, citizen assemblies and citizen juries are showing how to constitute a more collaborative and productive legislature. For as long as we continue to elect representatives the way we do, we'll keep throwing up salesmen rather than statesmen. That's my truth filter. (Bellgiorno-Nettis, 2019)

The newDemocracy Foundation's vision was for a more representative and deliberative political system. Whilst trust in democracy was waning this was not sufficient to support an immediate change to the system of representative democracy. Rather, the newDemocracy Foundation used this declining trust to convince decision-makers to trial new approaches, whilst also pushing for system level change. This latter change was promoted by Bellgiorno-Nettis in his various opinion pieces, where he suggested that a crisis was imminent.

The newDemocracy Foundation's vision is clearly institutional work to create new institutions. In particular, their vision and associated narratives involve "advocacy", "defining", "constructing identities", and "theorizing" (Lawrence and Suddaby, 2006).

DemocracyCo's vision

DemocracyCo's vision has evolved. Initially, they focused on continuing the work of the newDemocracy Foundation in South Australia by undertaking DMPs under the Weatherill Government and the next Liberal Government, albeit less publicly.

As the organisation developed, it produced an explicit Strategic Vision (2020-2022) that states

Our vision is to be a social enterprise creating sustainable reform through communities and government working together.

In this document, they identify the following as their goal

democracyCo is committed to the work of deliberative democracy and seek large scale projects to make impact in areas such as climate change and where the increasing mistrust of government and polarisation of views is present in today's changing society.

This vision had evolved and in its 2022-2024 Strategic Plan, the focus was on broader democratic goals

We believe that together we make better decisions.

We create opportunities for all people to participate in solving the complex problems of our time.

We specialise in the design and delivery of deliberative engagement.

With the following strategic priorities:

1. Leading flagship deliberative projects - An exemplar of deliberative practice, innovative
2. Building understanding of the impact of deliberative engagement - indisputable truth / proof of concept

3. Ensuring business capacity and sustainability – partnerships & leading-edge knowledge

Recognising that achievement of these priorities will depend on its “business sustainability”.

DemocracyCo’s views have diverged from those of the newDemocracy Foundation, particularly around the role of decision-makers. DemocracyCo now believes that “improvements in democracy aren’t always going to come from decision-makers” (Jenke - interview, 2022). This view aligns with its strategic priority no.1 to conduct flagship projects, described as

exemplar[s] of deliberative engagement, innovating to find ways for deliberative democracy to have real impact in our society on the things that matter (Strategic Plan, 2022-2024)

Again, the lack of jolts or crises at the field level have meant that it hasn’t always been possible for democracyCo to engage decision-makers in significant change. For this reason, they have decided to work outside of the existing system (as well as inside it) to highlight the value of citizen input in policymaking.

democracyCo, like the newDemocracy Foundation used its vision to support its institutional work.

9.5.2 Mobilizing Allies and Resources and the organisational cases

In this next section, we will look at how each organisation mobilised allies and resources using discourses, non-discursive elements, for these cases, rules-in-use and practices, and the impact of the enabling factors on this work. The ability of these change agents to sustain the changes they are promoting will also be considered in this section.

The newDemocracy Foundation

Overall approach

Starting in its first formal Strategic Plan, 2011-2015, the newDemocracy Foundation explicitly identified a range of people and organisations they needed to target to gain their support and how they might achieve that individual by individual and group by group. This Plan also includes three pages of “Approved Talking Points” addressing tone, general audiences, government audiences, issue-specific audiences, and responses around polling, electoral reform and leadership and a two-page list of people and organisations to engage with.

From the organisation’s early days, Belgiorno-Nettis convened lunches with prominent thought leaders to persuade them of the value of deliberative mini-publics involving Carson to explain the theory and practice of deliberative democracy to his guests. Carson describes this as a ‘curious relationship’:

You (Belgiorno-Nettis) would invite me to lunch, and you would invite journalists or politicians, usually very well-known. You would do it as an advocate for these processes and would say to me, “Come along to lunch.” I had this sense that you’d push a button and say, “All right, Carson, now speak.” I would do my little “blather, blather, blather” around whatever it was, random selection or deliberation, and you’d still back proudly like you’d discovered a new audio toy. That this person could say the things you really believed in, but shows an academic, which gave it added legitimacy...I loved it. It was a neat partnership: you had the contacts and I had the intellectual arguments. (Carson et al., 2013: 16).

In the 2011 Strategic Plan, the newDemocracy Foundation explicitly identified as one of their next steps the introduction of an 'Ambassador' Programme, which would 'target 50 people of influence ...[to] become advocates'.

In addition to the Ambassadors Program, also in 2011, they formalised its links with political and other elites by establishing a Research Committee with retired politicians from both sides of politics (now ex-Premiers) and a range of other senior political figures and academics to provide advice and guide the Foundation's research agenda. The lunches continued, and in 2017 newDemocracy Foundation jointly convened the *Australian Symposium for Trusted, Long-term Decision-making*, a two-day event in Melbourne and Sydney bringing together a range of political and community leaders to deliberate on the question - *What changes can we agree upon to deliver effective long-term decision-making which earns public trust?* This event not only produced several recommendations in response to this question but also gave participants a first-hand experience of deliberating.

The Symposium referred to above was not simply a feel-good event to raise awareness, as Walker makes clear it supported the mobilisation of allies:

I'm pretty confident I can look at a hundred major organisations now who wouldn't respond like that (opposing DMP) and whether we are talking of a Coalition Government or a Labor Government because there's enough shallow critics on either side, I think either of those governments can feel confident to undertake a major topic because we can show them footage of people commenting, having lived the methodology if see how their voice gets heard and frankly how their agenda is going to get further advanced if a group of citizens look at it and say "it's fair enough" or "it's fair enough with these changes or with these limits, these constraints applied to it". So that was part of the goal.

The newDemocracy Foundation continued to focus on building support amongst elected representatives. It was crucial in establishing a Friends of Democracy group in the Federal Parliament. And in 2019 took a small cross-party group of NSW Parliamentarians on a study trip to Belgium to learn more about the various deliberative practices happening there. Walker noted the value of these approaches as "it helps the ideas to spread even if a project doesn't happen (interview, 2020).

A range of the newDemocracy Foundation's activities fit within Lawrence and Suddaby's forms of institutional work to create institutions, in particular, "advocacy", "constructing identities", "constructing normative networks" and "theorizing".

In addition, the newDemocracy Foundation led the establishment in late 2016 of the Democracy R&D network. Democracy R&D is "an international network of organizations, associations and individuals helping decision makers take hard decisions and build public trust." This network currently has forty-seven organisational members and forty-five individual members. Its operations are funded by organisational and individual members. As well as a public-facing website, the network has a forum where members can share ideas, ask questions and generate discussions. In addition, the network meets annually, usually face-to-face.

The newDemocracy Foundation adopted primarily a motivational frame for its discourses. Appealing to elected representatives' desire to be seen as committed to listening to their constituents and reaching beyond the stakeholders who already have the 'ear of government.'

We absolutely look at politicians who might be struggling for public trust [in making a difficult decision, due to the pressures of uninformed public opinion]. I'm looking at politicians who struggle for public trust, and I don't see a flawed politician, I see a flawed system. (Walker - interview, 2017)

The newDemocracy Foundation, in particular its Executive Officer, is skilled in developing narratives and stories to support their work, which resonate with people and link to existing institutions. Some examples include

- The claim that the Mayor of the City of Canada Bay Council had better electoral outcomes than other Mayors due to his use of a DMP (Carson - interview, 2016)³
- Judges see juries as complementary to them. They don't see them as eroding their power. They say there's a mechanism the public trusts that generally gets the decision right and adds to the confidence in the justice system. (Walker- interview, 2020)

Resources

The significant financial backing for the newDemocracy Foundation comes from the Anita and Luca Bellgiorno-Nettis Foundation. This funding has allowed the employment of an Executive Officer and Project Director, irrespective of funds coming in from individual projects, and in the early days, allowed the organisation to conduct an initial project pro bono to get 'runs on the board.' This early project, for an NSW State Parliamentary Committee, involved two DMPs, one in a metropolitan area and one in a regional area, about energy generation. This project ticked off one of the key activities included in their 2011-2015 Strategic Plan and provided a launch pad for promoting the use of DMPs. In addition, the chair of the Parliamentary Committee, Jonathan O'Dea, has become a vocal supporter of the newDemocracy Foundation's work.

The financial resources of Bellgiorno-Nettis allowed him, on behalf of the newDemocracy Foundation, to offer five million dollars to fund a national conversation about how to improve our democracy. An offer that has yet to be taken up by any federal politicians.

In addition to the financial resources the Bellgiorno-Nettis family provided, the Executive Officer position has been critical in allowing the newDemocracy Foundation to design and manage around 25 DMPs. The Foundation has always taken an active role in demonstrating that the change they aspire to is viable. They design new institutional approaches to citizen participation and oversee their implementation. Walker explains it as follows.

Why newDemocracy runs projects is everyone out there is this sceptic. No one thinks people are capable. No one thinks political decision-makers want to do it. (Iain Walker, pers. comms 24 November 2017)

In addition, they have commissioned research around the processes they are involved with (Riedy and Kent, 2017; Hendriks and Kay, 2014; and Lederwasch et al., 2015). More recently, the focus has been on developing R&D notes reviewing different aspects of deliberative processes in conjunction with other scholars and advocates to understand what works and doesn't. They incorporate the learnings from that research into their project design.

Social position: formal authority and social capital

Whilst the newDemocracy Foundation and its board members have no formal authority to implement their vision of change, the status of individual board members and their networks has supported its work. Bellgiorno-Nettis has both social status and significant

resources to support the work of the newDemocracy Foundation. It is estimated that the Anita and Luca Bellgiorno-Nettis Foundation have, as of 2020, contributed \$4 million to the newDemocracy Foundation (Turner, 2020). In addition, in 2013, Bellgiorno-Nettis offered \$5 million to any government prepared to run a national DMP to consider how to improve democracy in Australia (this offer has yet to be taken up).

Carson was, until recently, an academic for over 30 years who researched, wrote, and taught about democracy and DMPs. She combined her academic work with significant practical experience designing and delivering DMPs and other innovative approaches to citizen engagement. As well as being a Board member, she is also the newDemocracy Foundation's Research Director. In this role, she produces Research & Development notes, alone or in collaboration with others, to explain and support deliberative practice. Her knowledge and experience have been utilised to support the newDemocracy Foundation in mobilising allies and supporting the implementation of its vision. More detail is below under Areas of Activity.

The newDemocracy Foundation has utilised the combined social status of its Board members to engage with thought leaders, speak at conferences, produce opinion pieces for national newspapers and appear on radio, television and podcasts promoting its message (more detail below). Battilana et al. suggest that an actor's social status can influence their perceptions of the field, which could explain nDF's initial focus on engaging with thought leaders and other elites. Bellgiorno-Nettis, as both the founder and figurehead of the newDemocracy Foundation and a well-respected businessperson, has significant influence and is experienced in using it. By extension, his advocacy for DMPs is likely to be received by political elites more favourably than, say, the activists of Extinction Rebellion marching in the streets and demanding, amongst other things, citizens' assemblies to look at climate change.

The newDemocracy Foundation does not hold formal positions of authority and so cannot initiate change themselves. However, the status of Bellgiorno-Nettis and the other board members plus support it to position itself as a neutral agent, a non-partisan, independent, not-for-profit research group with a particular focus on best-practice citizen engagement and innovations in democratic structures. This positioning, combined with its charitable status, enhances the Foundation's status as an organisation committed to improving democracy with no ulterior motives. The newDemocracy Foundation articulates its role in the following terms:

newDemocracy explores and tests engagement methods that include a substantial role for a representative sample of the community to deliberate and seek common ground.

By combining the three elements of random selection, the provision of time and access to a diverse range of information, and independently facilitated forums for dialogue, newDemocracy believes that a much more robust and publicly-trusted outcome can be obtained, which can assist governments in achieving public acceptance of hard trade-offs.

newDemocracy's research and advocacy is focused on identifying less adversarial, more deliberative and more inclusive public decision-making processes. The goal of democracy is social cohesion, not division, so we need to design a democratic process that better delivers that.

newDemocracy is not a think tank and holds no policy views. newDemocracy also commissions 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.

[Extract from The Byron Model of Democracy Process Design, 2019]

This commitment to non-partisanship combined with Bellgiorno-Nettis' status has allowed him to engage other political elites in supporting the newDemocracy Foundation, with two ex-State Premiers, from opposite sides of the political spectrum joining the nDF's Research Committee.

In addition, the commitment of the newDemocracy Foundation to only be involved in processes that extend knowledge in the field, either by new designs or the commissioning of research, demonstrates a level of integrity to their vision of improving democracy.

Practices

The newDemocracy Foundation is clear on the value of being hands-on in the design and delivery of DMPs

Because we've run more and larger and more robust projects than many people, so, people start to take a look. So, you earn credibility to take the next step.

That's why we keep doing it. You've got to know how to deliver; you can't just be a theoretician. So, that remains the major focus. (Walker - interview, 2020)

This design and conduct of DMPs have also allowed the newDemocracy Foundation to develop practices, many of which have become rules-in-use for other actors designing and conducting DMPs. Since 2013 it has published all its process designs on its website to support others to understand better how DMPs work and how to design and operate them. In addition, more recently, they worked with the Institute for Sustainable Futures, University of Technology Sydney, to develop two online courses for decision-makers, operational staff, and facilitators to build skills in designing and delivering deliberative mini-publics.

When choosing deliberative projects to design and manage, the newDemocracy Foundation, the test is "new and novel" (Walker - interview, 2020). This approach supported its positioning as a neutral organisation interested only in reforming democracy and holding no policy position. Despite positioning itself as a research foundation (website), Walker sees running projects as a crucial element of the Foundation's work.

You've got to run projects, you've got to go out there and test this thing in the real world, in live situations. It's not something that can be purely explored as a theory. (Walker - interview, 2020)

In addition, it utilised the status and contacts of its founder, Bellgiorno-Nettis, as Walker explains

[Luca] was at an event, and he said to a couple of UN Democracy Fund staff, 'all you guys do is elections; it's garbage. You should be doing juries. You're wasting your time'.

The keynote speaker at this event was Kofi Annan, and he mentioned juries positively in his speech. So UNDF people come back to Luca wanting to know more. newDemocracy Foundation was then encouraged to put in a grant application, which they got and used to develop the Democracy Beyond Elections Handbook (Walker - interview, 2020)

In its 2017-2020 Strategic Plan, it explicitly decided not to adopt a franchise model as a way of expanding and sustaining its influence. Instead, it focused on “an active scale-out move into disseminating principles” (2017, p. 13). As mentioned earlier, the newDemocracy Foundation has developed informal and formal international networks, which have supported this goal. In particular, they identified the value of working with standard-setting bodies, such as the OECD, to spread good practice without having to be directly involved themselves:

So, you embed that in standards, and then you let larger organisations wash that through ... this absolutely helps us (Walker - interview, 2020)

The newDemocracy Foundation has used its status and the contacts of its Board and Research Committee members to mobilise allies and engage elected representatives from both state and local government to conduct DMPs.

The newDemocracy Foundation has given other advocates of democratic reform a language and approach to reform to use when advocating directly to governments or through thought pieces in media and blogs.

Examples include two organisations and one individual who have provided funding to support the Evidence-Based Policy Research Project and three organisations to support the Public Interest Journalism Initiative, one organisation that has funded the Innovation in Public Opinion Polling project and another that has supported the MP and Citizen Attitudes to Democratic Reform research. The newDemocracy Foundation characterises these partnerships as follows

It's an effective way to keep getting our name in front of MPs. It's a means to an end: what we care about is citizen deliberation, but we get a hearing by continually delivering content which is relevant and practical to the problems MPs face, so where outside funds want to support something, we take it on. The key is to always ensure a link back to citizen deliberation in each case. (Walker - email communication, 2022)

The newDemocracy Foundation has also been an active participant in the design of participatory institutions internationally, institutions that move closer to their vision. For example, the Ostbelgian Model in Belgium - where a randomly selected Citizens' Council sits 'alongside' the elected politicians - has been given the authority to identify topics to be considered by up to three separate Citizens' Assemblies (deliberative mini-publics) per year, whose recommendations will then go to the parliament (Belgiorno-Nettis, 2019).

Sustaining change

Whilst there were DMPs run in Australia before the establishment of the newDemocracy Foundation, their use has expanded significantly since that time, with an estimated 70 DMPs conducted across Australia since 2013 (Participedia and OECD). Although there has been no research demonstrating a direct causal link between the work of the newDemocracy Foundation and the expansion in the use of DMPs, anecdotally, it is clear that nDF's work and, in particular, its ability to promote its work to decision-makers and facilitators effectively has been a critical driver.

Unfortunately, the growth in the use of individual DMPs in Australia has not been matched by their institutionalisation, i.e. sustained use by the same decision-maker.⁷ Even in cases where the newDemocracy Foundation was working with decision-makers who indicated a commitment to the ongoing use of DMPs, in particular two of the jurisdictional case studies

considered in this thesis (South Australia and Noosa Shire Council), neither institutionalised these processes into their community engagement. After the contentious second Nuclear Jury in South Australia, the Weatherill Government did not run any more DMPs²⁸ Despite the inclusion in nDF's proposal to use the first three DMPs in Noosa as a pilot to institutionalise these processes in the future, only two DMPs were conducted in 2014, and no more have been run since.

In both of these two cases, the newDemocracy Foundation attempted to 'push the envelope' with a proposal to set an automatic trigger for the commissioning of future DMPs in the South Australian Nightlife proposal and the Noosa proposal, the suggestion that if a DMP's recommendations were made by consensus, they would automatically be adopted. Neither of these elements of the proposals was taken up.

Their work has likely been the impetus for the inclusion of the requirement to use 'deliberative engagement practices' in the Local Government Act 2020 (Victoria). However, the newDemocracy Foundation was not involved in drafting this new legislation, and the jury is still out on whether this legislative requirement will drive improved deliberative practice.

A more recent newDemocracy Foundation project with the Byron Shire Council aimed to develop a new local model of democracy that 'incorporates the deliberations of community members, stakeholders, and councillors in a two-year trial (newDemocracy Foundation, 2018). This project started in 2019 and concluded in 2021. After this trial, Bryon Council decided, amongst other things, to establish a Citizen Lottery²⁹, to engage residents, who can join the Lottery and then could be randomly selected to be involved in different types of processes around specific topics.

There has been some institutionalisation of DMPs beyond those established by the newDemocracy Foundation, for example

- the City of Kingston Council's Ward Committees, covered in chapter 7,
- the mini-publics to monitor the implementation of GVW's pricing plan, covered in chapter 8,
- Wyndham People's Advisory Panel is a large group of randomly recruited citizens who are drawn on for various DMPs as well as other engagement processes (personal knowledge) and
- Mornington Peninsula's Citizens' Panel³⁰ is a standing group to monitor the delivery of Council plans and input on other important issues.

Unlike in Australia, the international developments, many of which the newDemocracy Foundation has been involved with, have established ongoing deliberative mini-publics: Ostbelgian and Paris Council to name a few.

²⁸ It could be argued that as the next State election was only 16 months away, no government would commission DMP so close to an election. An election which Labor lost.

²⁹ <https://www.byron.nsw.gov.au/Council/About-Byron-Shire-Council/Engaging-with-our-community>

³⁰ <https://www.mornpen.vic.gov.au/About-Us/News-Media-Publications/News-Media/Join-our-2022-Citizens-Panel>

A challenge facing the newDemocracy Foundation, as explained by Carson, is the short-term focus of many elected representatives due to the electoral cycle

So, until it's entrenched in the way governments of all persuasions [work] then it's going to be an uphill battle because you have to keep convincing a new crowd every time. (Interview, 2016)

DemocracyCo

Overall strategy

The social status and resources of DemocracyCo have led to this organisation adopting a very different approach to implementing the change they envision than that of the newDemocracy Foundation.

In addition, its practice of engaging with government and non-government stakeholders through an advisory group when conducting a deliberative process (referred to in more detail in chapter 5, South Australia Case Study) demonstrates its commitment to working collaboratively. This approach also develops networks for democracyCo to utilise when developing other projects.

As stated in its latest Strategic Plan, democracyCo explicitly recognises the need to work with other facilitators and associated consultancies to deliver Flagship projects. DemocracyCo also promotes its work and vision via newsletters, blog posts, media coverage, and speaking at public events and on podcasts.

It has also developed close ties with international democracy advocates, including the Jefferson Centre, the Deliberative Democracy Consortium, and the Kettering Foundation. Jenke recently attended the Jefferson Centre's week-long Deliberative Democracy Exchange, working with others from around the world to "better understand how to address the myriad challenges defenders of democracy face." (Kettering Foundation, 2020.

DemocracyCo recognises the importance of decision-makers and uses the fact that one of its founders was a senior public servant to generate trust with other public servants

It wouldn't be unusual to find Emma telling her story to a group of public servants.... she started by telling them her story and how she came to be really interested in deliberative democracy....That resonates with them because they see her as one of them. (Jenke - interview, 2017)

It also focuses on motivational framing focusing on the benefits for decision-makers in using deliberative processes:

It is easier for governments to achieve complex reform if they meaningfully involve citizens and stakeholders (DC website: <https://www.democracyco.com.au/team>)

Resources

The Co CEOs of democracyCo identify the resources they bring to support their vision as being

their combined skills in deliberative techniques, communications, policy-making and group facilitation to bring governments and the communities they serve closer together.

Unlike the newDemocracy Foundation, democracyCo does not have a benefactor and so self-funds its work to achieve its vision through paid work in the deliberative space. Despite this resource limitation, it is clear that it won't take on whatever work comes its way

We won't work on projects where these values are compromised. We view this as critical to our organisation and critical to build trust in our processes (democracyCo)

It uses the funds obtained from client work to support the conduct of pilot processes either at cost or pro bono to demonstrate the value of new approaches (more detail on these below).

[Social position: formal authority and social capital](#)

Similar to the newDemocracy Foundation, democracyCo holds no formal position through which to implement its vision of change. Unlike the newDemocracy Foundation, democracyCo does not have the status and networks; instead, they work with others who have the status or formal authority.

DemocracyCo took advantage of its local field characteristics to build its status as an expert and innovator in the deliberative space in various ways:

- supporting the development of the Better Together policy and delivering training to public servants to support the implementation of this policy
- designing and delivering two out of the six DMPs included in the South Australian case study
- facilitating the first Nuclear Jury and leading the facilitator team that ran the second Nuclear jury
- designing and conducting several low-key deliberative processes in addition to those above.³¹
- designing and conducting a panel involving community members and stakeholders to develop a Community Engagement Charter for South Australia (2016) and
- designing and conducting a deliberative process with private and public sector housing providers to redesign the supported housing program in South Australia.

This work has enhanced its status and resulted in it conducting deliberative processes around Australia and in the Asia-Pacific region. In addition, using these local field conditions to build its social position has allowed it to undertake the two flagship projects outlined below.

The piloting of its flagship processes: the People's Policy and the Electorate Forum, demonstrate how they have built networks and relationships with elected representatives and peak organisations to enhance the social positioning of its work.

The People's Policy model was developed to engage citizens in policy formation outside of government³². This model operated outside government, partnering with various peak bodies to engage citizens in developing policies (Jenke - interview, 2017). This approach was

³¹ For example, in 2014, they designed and ran a citizens' jury on Kangaroo Island, SA, about the future of the Island and in 2015, they designed and ran a deliberative panel for the SA Attorney-General on community-based sentencing.

³² democracyCo is not the only organisation that promotes community-based deliberative processes, e.g. the Coalition of Everyone runs similar processes.

tested in the area of child protection policy in South Australia in 2018/9. The aim was to impact the upcoming South Australian state election, where “it had some impact but not as much as we would have hoped for” (Lawson - interview, 2022). Another example of a new approach being trialled is the Electorate Forum. The outcomes of the People’s Panel on Child Well-being, whilst not having as much impact in the lead-up to the State election as was hoped by democracyCo and the other organisations involved, have proved influential in stakeholder thinking and advocacy around this issue (Jenke - interview, 2022).

The Electorate Forum process arises from democracyCo’s view that citizens need to be brought closer to democratic decision-making:

We think that deliberative democracy can be applied not only to support governments but to enhance our system of representative democracy.

We want to demonstrate that deliberative democracy can be used by Members of Parliament to improve how they represent their electorates.

As a consequence, we have developed a new deliberative method that brings constituents of an electorate together to deliberate and agree on what matters and how the most important issues in their electorate should be addressed by their Member of Parliament. (DemocracyCo, website)

The Canberra Forum is the pilot for this process. It is being run in partnership with the Canberra Alliance for Participatory Democracy and Alicia Payne, Federal Member for Canberra. At the launch of the Canberra Forum, Payne said

My hope is that The Canberra Forum will open stronger communication channels between myself and constituents, helping me to better represent the views of our community within the Labor Party and in the Parliament. (Canberra Weekly, 7 July 2022)

Of relevance to the democratic functions considered in the jurisdictional case studies, Payne has decided to give agenda-setting authority to the Forum members. She has also given a strong pre-commitment as follows:

I am deeply committed to this project and pledge to pursue action in respect of the Forum’s recommendations. This will involve me:

- making representations to the Federal Parliament about the Forum’s work;
- advocating for our community through to the Federal Labor Party Caucus;
- publicly publishing the Forum’s advice – in full and unchanged; and,
- writing to the relevant Minister/s to advise them of the views of my electorate on specific recommendations. (DemocracyCo, website)

Practices

DemocracyCo has used its paid work to enhance its reputation and to promote the use of deliberative practices through designing and running numerous deliberative processes. In addition, a significant component of its work has been focused on building the capacity of other individuals and organisations to use deliberative processes, through developing deliberative and general engagement policies for decision-makers, running training programs, and designing deliberative processes and mentoring facilitators. This focus on training aligns with the institutional work of ‘education.’

The design and piloting of flagship projects is a critical element of its work towards implementing its vision of change; more detail is below on these flagship projects.

Sustaining change

In addition to working to implement its vision, democracyCo is part of the ecosystem of facilitators sustaining the change initiated by the new Democracy Foundation. Since its work for the Weatherill government, democracyCo has worked in other parts of Australia and the Asia-Pacific region.

As mentioned earlier, a significant proportion of democracyCo's work has been in areas of capacity building through the development of engagement policies and training and mentoring. Here are a few examples of this work are:

- deliberative training and design clinics for public servants in Singapore about citizens' juries and supporting Ministries to trial citizens' juries (2016-ongoing)
- working with the Water Trust Australia to develop their understanding of deliberative processes and running demonstration projects (2021-ongoing), and
- developing deliberative frameworks in consultation with the community and stakeholders for the City of Port Adelaide (2012) and Unley Council (2021).

DemocracyCo was able to continue to design and run deliberative processes during the period of the Liberal Government in South Australia despite the Liberal Premier having been stridently and publicly opposed to Weatherill's use of DMPs when he was in opposition. These projects were not referred to as Citizens' Juries, the process associated with Premier Weatherill, but involved mini-publics and deliberative processes (Jenke - personal communication, 2020).

As they are currently undertaking a pilot of the Electoral Forum, we will need to wait to assess whether this model is successful³³ and sustainable. Sustainability in this context has two aspects. Firstly, will elected representatives and citizens see these processes as legitimate and support their continuation and expansion? Secondly, will resources be available for these processes, which are unlikely to be able to be continued or expanded on a pro bono basis?

9.6 Contributing to improving the quality of democracy

For Battilana et al., an individual or organisation does not need to be successful in implementing or sustaining divergent change to be considered an institutional entrepreneur (2009: 70). For this research, the contribution of these change agents to improving the quality of democracy, not simply their intention to do so, is of interest.

We will now consider what the work outlined in this chapter tells us about their contribution to improving the quality of democracy. The South Australian and Noosa jurisdictional case studies also address these two organisations' contribution to designing processes that address the five democratic functions.

³³ DemocracyCo is designing an evaluation framework for this process in conjunction with the Canberra Alliance for Participatory Democracy.

The newDemocracy Foundation

The newDemocracy Foundation has two visions, one for the short-medium term and one for the longer term. The short-medium term vision demonstrates that citizens can deliberate on complex issues. The longer-term vision is to replace or supplement representative democracy with a Parliament or Upper House selected by sortition. These two visions, whilst complimentary, are quite different and require different strategies to achieve. However, by demonstrating that citizens can deliberate (its short-medium term work) does support its longer-term vision. The challenge for the Foundation is that without a field-level crisis it is unlikely that decision-makers will be interested in moving to introduce a Citizens' Senate or similar body.

The newDemocracy Foundation is associated strongly with DMPs, despite its stated objective being about broader democratic reform and runs the risk of being seen as a 'one-trick pony' (a risk that was identified in the 2011 Strategic Plan). The organisation potentially walks a tricky tightrope between Walker's approach of being sympathetic to the challenges elected representatives face and Bellgiorno-Nettis' critique of politicians.¹² However, there is no evidence that these two approaches to framing the problem and solution have created any issues in practice for the newDemocracy Foundation. Its focus on DMPs is likely the result of the difficulty in generating interest in Parliamentary reform, despite some interest in engaging around local democracy in the Geelong Citizens' Jury. Walker believes that the work the Foundation has done sets them up not to replace the Senate but to run a trial of adding a chamber comprising randomly selected citizens:

I'm not saying fire the Senate today and bring in these randomly selected everyday people, but I feel very confident to stand behind let us run a two-year trial. If we are looking at the big issues of how we earn public trust, we should be able to try things, and that's a trial worth running, and it's entirely consistent. (Walker - interview, 2017)

In addition, the 'help leaders lead' approach mentioned above tends, in practice, to support an instrumental approach to the use of DMPs. In decision-makers' minds, this can justify using DMPs only when they are helpful and stopping using them when they are not. The link with the nDF's overall normative goal of making democracy more representative and deliberative can be lost in this approach. The newDemocracy Foundation would probably argue that this softly-softly approach is necessary for the short term to gain the support of decision-makers who are the only ones who can commission DMPs in the current system.

Finally, there is one area in which the newDemocracy Foundation has been more rhetoric than action until recently, and that is in engaging with citizens, an essential element of any democratic system.

In its 2011 Strategic Plan, an overarching objective was to

drive into the mass public consciousness a desire for change, a desire for personal involvement, an understanding that there are alternatives, and a trust in nDF to present them. Get structural parliamentary reform on the public agenda. (newDemocracy Foundation 2011, p. 7)

However, looking at nDF's work between 2011 and 2017, it would appear that its main focus was designing and managing deliberative mini-publics (see Appendix 6, a timeline of nDF's work). Whilst media coverage was always an element of their project designs; there is no evidence that this coverage made it into the 'mass consciousness.'

In its 2017-2020 Strategic Plan, the newDemocracy Foundation acknowledged the need to take action to build citizen support for their work, noting that other organisations use the “power of numbers ... to suggest democratic legitimacy.” (newDemocracy Foundation, 2017, p. 6). In addition, under the heading ‘Purpose’ it states, amongst other things

We will change the structure of how we do democracy by showing citizens that viable alternatives exist. (newDemocracy Foundation, 2017, p. 9).

In 2020 the newDemocracy Foundation appointed a Director of Engagement and Outreach. This role has been responsible for developing the Change Politics campaign and

Building a large group of support (signatures) and targeting specific electorates to reach the MPs that we now have influence. We’ll use this public support and speak with these MPs to demonstrate that there is a better way.” (Change Politics website)

The Change Politics campaign has four elements

- Educate people about DMPs
- Support people to take action to support the use of DMPs
- Create a mailing list of interested individuals
- Encourage people to donate money to support their work.

newDemocracy Foundation’s skills in mobilising allies are demonstrated in the Change Politics campaign, where they offer interested people the opportunity to meet with like-minded people through Active Democracy, a group that “encourages and supports voters in every federal electorate to connect and form electorate action groups” (<https://activedemocracy.org.au/>). This organisation partners with several others, in addition to Change Politics, to promote democratic reform.

The Change Politics website identifies three steps in its plan for change:

1. Crawl: continue to run DMPs on key issues to “raise awareness of a better way to make decisions in our country.”
2. Walk: aim to get Parliaments and Councils to establish permanent review bodies either at the Committee level or as a key element of NEP
3. Run: the goal is permanent structural changes “that embed deliberative processes into Parliament as a complementary method to make political decisions.”

The third step returns the Foundation to its original focus on achieving Parliamentary reform, identifying the pathway from individual DMPs to structural reform.

In the Change Politics FAQs, in response to the question: *Who or what is Change Politics?* The answer includes the following

Overall, the broad aim for both organisations is to see citizens’ assemblies permanently incorporated into how we do politics in Australia. You can think of newDemocracy as the “practical project and direct advocacy” to elected representatives arm of this - working to show and convince politicians that this is a complementary mechanism that can help decision-makers.

Change Politics is the people-facing arm that is focused on awareness-raising and education - the more people that know and endorses the use of citizens’ assemblies, the more natural their use will feel to the communities involved and the politicians using them.

This takes us back to the nDF’s vision being somewhat messy, with some statements like the above referring specifically to their goal being institutionalising the use of DMPs and, at

other times, talking more broadly about improving representation and deliberation without limiting the vehicle for these improvements.

DemocracyCo

DemocracyCo's ability to achieve its vision is limited by the resources available to the organisation. For example, the current Canberra Forum is being run pro bono, with unpaid work provided by democracyCo and other organisations.

Finally, it is likely that the Canberra Forum, if successful,¹³ will generate interest in using this model by other Parliamentarians. The critical challenge regarding sustainability is that this pilot is being run pro bono, and it is unlikely that either democracyCo or other consultancies could support the ongoing conduct of these processes for no remuneration.

Whilst the limited resources available to democracyCo have limited its ability to achieve its vision, it has continued to push for change and achieve at least temporary change through its pilot flagship projects.

9.7 Conclusion

Institutional entrepreneurs are one type of change agent, and it shouldn't be assumed that they are in some way better than other change agents. As Battilana et al. note, traditional thinking about institutional entrepreneurs saw them as "heroes" who could move beyond the challenge of embedded agency when others couldn't (2009, p. 67). In developing their model of institutional entrepreneurs, they identify institutional entrepreneurs as more than change agents in two key ways:

- they initiate divergent changes and
- actively participate in implementing these changes (2009, p. 68).

Applying Battilana et al.'s model of institutional entrepreneurs to the newDemocracy Foundation and democracyCo demonstrates that institutional entrepreneurs come in different sizes and use different approaches to their work.

The case study of the newDemocracy Foundation demonstrates the value of financial and small 'p' political resources in achieving institutional change. It is unlikely that the newDemocracy Foundation would have achieved what it has in Australia and around the world without the financial resources and social/political status of Luca Belgiorno-Nettis.

DemocracyCo's social status is not as 'strong' as nDF's, and it doesn't have the same financial resources; nonetheless, it has been able to promote its vision and sustain the development and trialling of new models, primarily through training and coaching support.

An issue that these two cases identify is the importance of legitimacy. In addition to taking a more normative stance when communicating with decision-makers, legitimacy needs to be viewed as a two-sided (or three-sided) coin; democratic institutions must be considered legitimate to decision-makers, citizens, and stakeholders.

In the early stages of both organisations, their narratives around legitimacy were aimed at decision-makers and tended towards instrumental arguments for using deliberative mini-publics or other deliberative processes. As has been demonstrated in the case studies involving these organisations, there are risks associated with this approach, primarily where the processes do not deliver the outcomes the decision-makers wanted.

CHAPTER 10 DISCUSSION CHAPTER

In the jurisdictional case study chapters of this thesis, I apply the analytical framework from Chapter 4 to the deliberative mini-publics, the embedded units of analysis, included in each case. I assessed the deliberative mini-publics against each of the five democratic functions to identify their strengths and weaknesses. I also assessed the institutional design elements in play – that is, the institutional modes of constraint – and how these contributed to the strengths and weaknesses, as well as the institutional work of various actors.

In this chapter, I will compare and contrast the four jurisdictional case studies using the same analytical framework to identify these cases' overall strengths and weaknesses against the democratic functions. In comparing and contrasting these case studies against the democratic functions, I will identify the rules, rules-in-use, practices and narratives that work in each case to either strengthen or weaken the ability of the DMPs to fulfil the democratic functions. For each democratic function, I will discuss how the design of deliberative mini-publics might be enhanced to fulfil each function better.

Finally, I will consider the additional democratic function of legitimacy I am proposing and explore how it could be applied to democratic innovations – particularly deliberative mini-publics.

In the following sections of this chapter, I will look at each democratic function to identify the similarities and differences between each case study, the roles those institutional modes of constraint play, and the overall strengths and weaknesses. I will also include a short discussion of how deliberative mini-publics could be (re-)designed, or areas for further research to enhance the ability of deliberative mini-publics to fulfil these functions.

10.1 Inclusion

a. Who is invited to participate?

Across all of the cases, participants' invitations were distributed randomly to households – and, in some cases, businesses – mainly in hard copies delivered to letterboxes, or sometimes via email. Where invitations were delivered to letterboxes, the invitation and often the envelope was carefully designed to catch people's attention and generate interest in being part of the DMP. Email invitations for the foreseeable future are likely to be skewed to younger and more economically secure people, limiting the pool of people who have an opportunity to participate.

This approach to deciding who is invited to participate could be considered a rule-in-use as it is a reasonably standard approach applied by different actors across jurisdictions. My personal experience suggests that some people who would not attend a public meeting or put in a submission to a government agency will register their interest in being part of a DMP in response to a personal invitation.

In the Goulburn Valley Water case study, additional targeted recruitment of younger participants was undertaken to bolster the ability of the final DMP to reflect the diversity of the community.

An essential aspect of democracy is political equality (Beauvais, 2018; Leydet, 2019). Sortition processes do not approach political equality in the same way as, say, universal suffrage does. Instead, they offer equal opportunity to be invited to register to participate (Leydet,

2019). There are some who would also argue that there should also be an equal chance of being selected (Flanigan, et al., 2021). However, to do this could result in embedding existing inequities in participation.

A number of questions should be considered when identifying ways to fulfil the inclusion function:

- Can the idea of equality be balanced with seeking inclusion of those likely to be most affected by a decision and is so how?
- Can random distribution be effective in reaching all of those most impacted by a particular topic or decision, or is this best achieved via the stratification process?
- If citizens with particular characteristics are targeted, how does this affect the concept of random selection and the integrity of the process?
- What type of people are not volunteering to be part of DMPs and what perspectives do we miss as a result?

b. How are barriers to participation identified and addressed?

Random distribution of invitations aims to reach people who would not normally be aware of government activities and consultation processes and who would be unlikely to participate if they did know of them. In conjunction with this random distribution, invitations are designed to capture people's attention and encourage them to register to be part of the DMP.

In the majority of cases, the key barrier the invitations sought to address was financial. All the DMPs provided a per diem/honorarium to participants. Over time decision-makers moved from simply mentioning this payment in invitations to explicitly stating the amount. In addition, to removing any financial barriers or offsetting costs arising from participation, these payments also served as incentives to participate – and designers explicitly saw them that way.

In the City of Kingston council case, other barriers were addressed after selecting participants using the practice of personal contact with participants to understand their particular needs. Making personal contact with participants to explain the process to them and answer any questions they might have can address some barriers, particularly lack of confidence; however, at this stage, the organisers are only dealing with people who have sufficient confidence to register.

The case studies demonstrate that there is scope for significant improvement in identifying and addressing barriers to participation, through both research and practice. For example:

- some barriers are generally known and can be addressed, e.g., language barriers, physical barriers, scheduling barriers;
- we have a general idea of other barriers that may be more difficult to address, e.g., illiteracy, lack of confidence in public forums;
- there are also likely to be barriers that fit under the phrase 'we don't know what we don't know', as there is little known about why people don't volunteer to be on a DMP.

This final barrier is one that would benefit from further research, albeit it can be a difficult area to design effective research around.

c. How do the selection criteria reflect the characteristics of the affected community?

The four case studies used only minimal stratification criteria for most deliberative mini-publics. All processes used age, gender and location in the relevant community. Over the period for these case studies, additional criteria were added. In particular, housing tenure – homeowner versus tenant – was used as a proxy for socio-economic status. For this particular criterion there is evidence to suggest that housing tenure is not the most appropriate proxy for socio-economic status. In Australia, educational attainment is strongly correlated with socio-economic status, although the causal relationship runs from socio-economic status to educational attainment and not the other way (Hall & Thomas, 2019; Pham, 2019).

Strong narratives from the newDemocracy Foundation supported this limited number of stratification goals for the processes it designed and managed.

For other cases, the practices evolved to consider additional stratification goals relevant to how the commissioning body saw its community and specific goals related to the specific topics. However, the case studies demonstrate a general failure by decision-makers and designers to specifically consider who are the most affected and how they should be engaged.

In developing selection criteria, there is a balance to be achieved between including relevant criteria and not overwhelming volunteers with long registration forms. Some considerations when identifying relevant criteria:

- socio-economic status is generally considered a relevant criterion, and housing tenure is the usual proxy used for this in Australia; however, it is unclear whether this was ever an appropriate proxy, and as housing markets have changed, it is unlikely that this is now an effective proxy (Hall & Thomas, 2019);
- asking questions about household income can be considered intrusive, so other proxies need to be identified, such as educational attainment;
- in developing process-specific criteria, commissioning bodies and recruiters should consider characteristics that will allow selection to include people most impacted by the likely decision/s; and
- where attitudinal criteria are used, these need to be linked to objective information about the spread of those attitudes in the community, as in the UK Climate Assembly.

d. To what extent does the mini-public reflect the intended diversity, i.e., does it achieve the demographic?

In the early DMPs considered in this thesis, no details about the demographic make-up of the mini-public were provided to either the commissioning body or the public. Over time, and with the commercialisation of mini-public recruitment, this practice changed. Commissioning bodies expect to be provided with information about the demographics of the mini-public compared to the stratification goals. In addition, this information was made public for some of the later DMPs. None of the cases considered included a comparison between the mini-public demographics and the demographic goals. However, some recruiters, such as the Sortition Foundation, currently provide this comparison.

While some DMPs achieve the stratification goals they determined in advance, personal experience suggests that this can be difficult, particularly for younger age groups. Of course,

this can be hidden if the youngest age group identified is 18–34 rather than 18–24 years of age. With limited stratification goals, it is impossible to be sure that the actual diversity of the relevant community has been selected. This is a particular challenge around participation by marginalised groups. Not including stratification goals that identify those groups who face structural inequalities results in DMPs facing some of the failures of representative democracy. Decision-makers may see a broader, more diverse group of people at a DMP meeting than a public one, but is this a satisfactory outcome for a democratic innovation (Beauvais, 2018)?

Looking back to question b. – *How are barriers to participation identified and addressed?* – the selection criteria for all the DMPs considered in this thesis were designed around demographics rather than discourses (Dryzek and Niemeyer, 2008). As a result, our lack of knowledge about the people who don't register to be part of a DMP means we don't know what perspectives or discourses are missing from these processes and whether the lack of these might impact the recommendations.

Individual local governments or government agencies have limited ability to address some of the challenges around inclusion. So, it would be valuable if central governments established independent agencies that could support specific councils or government agencies to design DMPs that meet the specific needs of the commissioning body and the topic, as well as undertaking research and development around improvements in fulfilling specific democratic functions.³⁴

10.2 Collective agenda-setting

a. Who determines the topic or issue for the DMP to address?

In all the case studies, bar Noosa Shire Council, the topic or issue was determined by the decision-makers. In the case of Noosa, there were various topics on the table for the DMPs, and the final topics weren't determined until after the invitations were distributed.

Proponents of DMPs often use instrumental arguments related to the choice of topic when advocating the use of DMPs to decision-makers. A standard line of argument is that DMPs can deal with difficult issues where trade-offs need to be considered and addressed in any recommendations. While this is likely true and is an element of deliberation, it can limit the topics or issues presented to DMPs. In particular, it focuses attention on the needs of decision-makers and not the interests of citizens. Citizens may well have different views on what important topics they want to have a more direct say in.

While citizens did not choose any of the topics or issues addressed by DMPs in these cases, recently, DMPs have been given an agenda-setting role; for example, in the Ostbelgian model, one DMP sets the agenda for other DMPs; and the City of Paris Council has given an agenda-setting role for annual participatory budgeting processes to a city-wide DMP.

The current limits on citizen-set agendas for DMPs are artificial and could be addressed in a number of ways. For example:

- allowing citizens to identify issues of concern, and when a certain threshold is met, such as numbers of signatures on a petition, the issue can be referred to DMP; or

³⁴ This is not an original idea, however unlike the government agency in Ireland that runs Citizen Assemblies, the idea here is for more a think tank and advocacy body.

- establishing a standing citizen advisory group, either modelled on a DMP or set up more traditionally, which can refer matters to DMPs on a particular roster, such as once or twice per year, like the Ostbelgian model.

The intention here is not to preclude decision-makers identifying topics for DMPs, rather to provide an avenue for collective agenda-setting.

b. Who sets the remit?

In these case studies, the decision-makers set the remit, usually in consultation with the process designers or consultants, except in the case of the GVW Customer Forum, where the topics considered by the mini-public were based on broader community input – in this case, customer input – as prioritised by the decision-makers.

The wording of remits is not a simple process, as the example of South Australia's Dogs and Cats Jury demonstrates. The newDemocracy Foundation has produced a Research Note (Carson, 2020) about how to craft a remit, which runs over ten pages and concludes that “this is not a science. There are not hard and fast rules. There are not necessarily instructions that should be followed because of the highly context-dependent nature of framing a remit” (p. 5).

In the discussion below on the scope of the remit, I suggest a number of ways to give citizens a greater role in setting the remit.

c. Is the remit too broad or too narrow?

This question is not a simple one to answer, as the breadth or narrowness of a remit is partly a matter of personal judgement. Some of the remits in place in these case studies addressed a narrow topic area, and the remit for the Noosa Organic Waste Community Jury required the jury to focus on organic waste only. In contrast, the River Jury allowed the jury to consider the broad issue of river management.

Process designers usually argue that remits are open-ended questions, explicitly arguing against yes/no questions as remits. This is not simply a matter of style. Considering the remit for the second Nuclear Jury, we can see that it could be considered a yes/no question, or at the least a very narrow question: *Under what circumstance, if any, could South Australia pursue the opportunity to store and dispose of nuclear waste from other countries?* The majority of the jury answered ‘under no circumstances’. The narrowness of this question backfired on the government, which sought to improve the state’s economic situation after the closure of various manufacturing plants. A broader question may have allowed the jury to address relevant ‘adjacent’ issues that improved the state’s economic situation.

The value of broader remits is that they allow participants to address the remit more flexibly. While DMPs can sometimes go beyond their remit, it is likely that if they do, decision-makers will not adopt those recommendations, or will undertake further investigation outside of the DMP process, like the Dogs and Cats Jury recommendations around changes to tenancy laws.

At the moment, unless a DMP is designed by an advocate such as the newDemocracy Foundation, it is up to individual consultancies engaged by decision-makers to work with these decision-makers to craft remits. While these consultancies may be aware of the benefits of broader rather than narrower remits from a normative perspective, many decision-makers use deliberative mini-publics for instrumental reasons. They do not want to allow them to go outside of a very specific area that they need to be resolved.

There would be value in studying the impact of differently worded remits to build an understanding of what works from the perspective of participants and facilitators who are using the remit to develop a set of recommendations on remit development, although I agree with Carson (2020, p. 5) that this isn't "a science". Research considering the following factors could nonetheless contribute to understanding how to draft an effective remit:

- Did the DMP struggle to understand their remit (because it was too broad/big)?
- Did the facilitator struggle to keep the DMP on topic because the remit was too narrow and didn't allow them to address relevant adjacent issues?

d. Can the deliberative mini-public amend or interpret its remit?

In the case studies, the ability of DMPs to amend or interpret their remits depended totally on the approach taken by the facilitator, and in most cases, this allowed no room for amendment or interpretation.

democracyCo supports allowing deliberative mini-publics to interpret their remit, although not specifically to amend it. In my personal experience of the first DMP, I observed that the facilitators allocated time on the first day of a multi-day process to support the DMP participants to work together to understand their remit and agree on what it was asking of them. This was done to minimise problems down the track due to clashing assumptions about what the DMP had been asked to do amongst the participants. While this approach doesn't explicitly address agenda-setting, it does give a DMP the ability to set the parameters within which it will approach its remit.

There are a number of ways in which a DMP could be involved in amending and/or interpreting its remit, which would be worth testing in practice:

1. democracyCo and other facilitators could become a rule-in-use to run a session early in the deliberative process so the DMP can agree on how they will interpret the remit; or
2. decision-makers could be involved in a session with the DMP, either on the first day or after the presentation of background information, to deliberate on whether the remit 'works'; or
3. a short-form deliberative process could be conducted, in which a cross-section of people who registered for the long-form DMP and weren't selected for that DMP, could come together to revise a draft remit and present that to decision-makers with their reasons.

Where the scope of a DMP, and resources available for it, don't support this type of activity, the independent body mentioned in the Inclusion section (10.1) could also develop expertise in the wording of remits to optimise outcomes for decision-makers and citizens.

10.3 Collective will-formation

a. Does the design of the deliberative process align with deliberative principles?

In the cases considered in this thesis, two of the four were designed by organisations with a clear commitment to and understanding of deliberative processes and principles. The other two cases involved facilitators with experience in deliberative processes.

All the case studies were conducted before the release of the various guides for designing deliberative processes referred to in Chapter 2. Given the growth in the use of DMPs and the small number of experienced facilitators in Australia, these guides are likely to be

valuable in supporting the design of deliberative mini-publics to fulfil this operationalisation of collective will-formation. Again, the government could also offer support by establishing an independent body to advise on deliberative principles and practice.

b. Is the implementation of the deliberative process robust?

As mentioned in the case study chapters of this thesis, the robustness of the in-the-room deliberative process was not part of this research. A great deal of valuable research exists in this area to guide facilitators when designing and delivering these processes.

However, personal experience and discussion with other researchers examining international DMPs suggests that inexperienced facilitators can deliver sub-par processes by failing to address inclusion in the room (Leydet, 2019) or leading participants to outcomes rather than supporting them to develop their own recommendations.

Regarding equality of voice for participants, a design choice applied in all the DMPs considered in this thesis is to eschew table facilitators when a DMP breaks into small groups for discussions and deliberation. Not all DMPs in Australia adopt this approach; however, as the newDemocracy Foundation endorses this, it has effectively become a rule-in-use. This adds another layer to the important role that facilitation plays in supporting political equality in the operation of DMPs (Beauvais, 2018).

c. How is the will of people outside of the mini-public incorporated?

In all the deliberative mini-publics considered in this thesis, engagement with the broader community was a key element of the process. The DMPs considered in this thesis were usually designed to be the end point of a broader public engagement process, where the community's input was provided to the DMP to consider³⁵. In all the longer-form deliberative mini-publics, witnesses presented to the DMP – sometimes only experts, and sometimes also stakeholders. When the DMP was designed by the newDemocracy Foundation or by facilitators who had worked with the newDemocracy Foundation, participants were allowed to identify people they would like as witnesses. This is usually only possible in long-form processes, although the Noosa juries were both held on evenings rather than full days and included witnesses of the DMP's choice.

For a DMP to truly fulfil the collective will-formation function, its participants need to understand the broader community's views on the topic they are considering. The newDemocracy Foundation has adopted a practice of engaging with stakeholders to explain the DMP process and ask for their suggestions on key witnesses for the DMP. DMP participants also need to be able to get answers to their questions, not simply be fed information from decision-makers and people with a strong interest in the topic or issue. While I recognise that deliberative processes do not need to be long-form, that is, four or more days in duration, it should be acknowledged that the ability of short-form deliberative processes to fulfil this aspect of the collective will-formation function would be limited by a lack of broader input.

³⁵ With the exception of the first Nuclear jury and the Kingston Planning Community Panel and the Kingston Libraries Panel.

d. Does the deliberative mini-public reach consensus?

A key aspect of DMPs is the narrative that they are making recommendations not based on each individual's interest but on behalf of the broader community. The focus on consensus in all the cases arises in part from this narrative and partly from the nature of deliberation.

In three of the four cases, a decision rule was set, pre-determining the level of support required for a recommendation to be considered a consensus from the DMP. In most DMPs designed by the newDemocracy Foundation, that decision rule was an 80% super-majority; other facilitators set the decision rule at 75%.

The decision rule is an important component of the design of a DMP and can have a significant impact on the outcomes. For example, the River Jury had a majority and a minority report; however, the majority report did not reach the 80% decision rule. This could have allowed the council to ignore the majority's recommendations had they wished to. The South Australian DMPs designed by the newDemocracy Foundation all explicitly set the super-majority at 80%, except for the two Nuclear Juries. While this wasn't an issue for the first Nuclear Jury, the majority recommendation in the second Nuclear Jury was supported by only 66% of the jury. Had the 80% rule been in place, this jury would have been considered not to have reached a consensus.

In all the cases where a decision rule was set, this was done by the overall process designer or the facilitator. When considering collective will-formation, it could be argued that the DMP should have a significant role in setting the decision rule that applies to its work. This could be considered in an early session of the DMP when participants address how they understand their remit, learning about cognitive biases and critical thinking.

Finally, the relationship between the stratification criteria and stratification goals and the decision rule should be considered, because if:

1. the people most affected by a decision are also in a minority on a DMP, an 80% supermajority could effectively render them voiceless;
2. highly educated and articulate people are recruited in a higher proportion than their numbers in the community, this group could effectively, if not intentionally, use their numbers and influence to create an 80% supermajority, while the other 20% of participants would not have the confidence to put together a minority report.

e. Does the deliberative mini-public provide reasons for its recommendations?

From a democratic functions' perspective, there are three reasons why it is important for the DMP to provide reasons, in addition to recommendations:

1. it supports decision-makers in responding to the DMP's recommendations and makes it harder to reject recommendations that may be unclear;
2. it encourages decision-makers' responses to be equally clear which supports accountability; and
3. it allows the DMP to address its own accountability to the broader community.

In most cases, the deliberative mini-publics considered here provided reasons for their recommendations, and these recommendations and reasons were made public. The only case where this did not happen was Goulburn Valley Water, where the recommendations of the mini-publics were not made public separately to their incorporation into GWV's price submission.

By applying a democratic functions lens, the value of DMPs providing reasons is clearer and the value of providing sufficient time for the DMP to do this is likely to be clearer to designers. The accountability of the DMP to the broader community also impacts on the additional, sixth democratic function proposed in this chapter of democratic legitimacy.

10.4 Collective decision-making

a. Did decision-makers commit upfront regarding how they would respond to the deliberative mini-public's recommendations?

Most decision-makers gave a commitment upfront, usually in the invitation, setting out what the decision-makers would do with the DMP's recommendations. The wording of this commitment – or, as the newDemocracy Foundation often calls it, the “authority” – was more explicit when either the newDemocracy Foundation or democracyCo designed the process. In other processes, despite suggestions from consultants to provide strongly worded commitments, to my personal knowledge the commitments were general or vague.

The newDemocracy Foundation's narrative around the pre-commitment/authority is that it needs to be strong enough to justify the time people spend on the DMP. This narrative goes more to the democratic function of inclusion than to collective decision-making.

The use of the term ‘authority’ suggests that decision-makers are giving, in advance, a level of authority to the DMP's recommendations. However, this was never the intention in any of the cases examined here, unlike the authority set in the very first DMP conducted by the newDemocracy Foundation, the Canada Bay Citizens' Panel, which stated, “The Panel will set the level of service to be provided for in the 2014–18 Delivery Plan, subject to the final approval of Council” (newDemocracy Foundation, 2013, p. 3). This commitment explicitly addresses the council's responsiveness to the DMP's recommendations.

The pre-commitments in the cases in this thesis ranged from clear and detailed, in the South Australian case study, to vague in the City of Kingston case. Where clear commitments were provided, they straddled the two democratic functions of collective decision-making and accountability – which I will address in the next section on Accountability. The SA commitments mention submitting the DMP's recommendations to cabinet and tabling them in parliament. Both of these commitments *imply* that as a result, the cabinet and parliament will consider the recommendations, although this is not explicitly stated. The terms ‘submitting’ and ‘tabling’ do not guarantee that the recommendations will be considered in any detail, if at all.

The wording that references ‘responding’ to a DMP's recommendations does provide a clear intention to consider the DMPs' recommendations and advise the DMP of the decision-makers' views about those recommendations. The implication is that the response will indicate which recommendations were accepted and which weren't. In the South Australian case study, this was done for three of the six DMPs with detailed written responses indicated which recommendations would be adopted and which the ones wouldn't be adopted and why, and which ones would be further investigated. In the Noosa case study, the council response was significantly less fulsome, referring recommendations being adopted ‘in principle’ or ‘noted’ only.

There was either no clear commitment, or only a vaguely worded one, for the Kingston and Goulburn Valley Water cases. Nonetheless, in both cases, decision-makers used the recommendations from the DMPs to develop council policies and GVW's price submission, respectively. In the Kingston case, members of the DMPs or other interested people would

need to compare the DMPs' reports against the final policies, and/or search through the council minutes for the relevant decisions, to determine the extent to which the council's final decision/s aligned with the DMPs' recommendations.

The ambiguity of the commitments provided in these case studies demonstrates the value of using democratic functions to guide thinking about DMP design. By separating collective decision-making and accountability, decision-makers' commitments can be more clearly articulated to address both functions. For example:

- when considering collective decision-making, the focus is on the relationship between the collective will-formation of the DMP and how decision-makers respond to that collective will-formation;
- also, in regard to the collective decision-making function that would be a commitment to automatically implement all recommendations made by consensus; and
- when considering accountability, the focus is on providing reasons why some recommendations are accepted and others aren't accepted.

I will address the commitments related to accountability in more detail below.

b. To what extent did decision-makers meet their upfront commitment?

Where a clear commitment was given to either meet with and/or respond to a DMP, this was met. Where a commitment included submitting or tabling recommendations, it is harder to know if this was met. Indeed, neither I nor members of the public can know if something was submitted to cabinet, due to cabinet confidentiality. Members of the DMP would rely on decision-makers to let them know that a recommendation was to be tabled in parliament or council or had been. In the Noosa case, the DMPs were invited to attend the council meetings where their recommendations were tabled. This also happened for the Kingston panels, who were invited to attend the council meetings where their recommendations were presented.

Again, clarifying the difference between collective decision-making and accountability commitments would make it easier to determine whether decision-makers' commitments were met.

c. Is a decision made, and by whom?

Following all the DMPs considered here, a decision was made by the elected representatives – or the appointed board, in the case of GWV. However, while the recommendations of the Kingston Customer Charter and Library panels were presented to Council, these were also referred, respectively, to a staff panel to address implementation, and an external consultant to develop the final strategy.

d To what extent do the decision-makers adopt the deliberative mini-public's recommendations?

In all the cases considered in this thesis, the majority of the DMPs' recommendations were adopted. The relationship between the decision and the DMPs' recommendations was more explicit in the South Australian cases, because for three of the DMPs the pre-commitments stated that decision-makers would present their decisions and reasons to the DMPs. For most other cases where the deliberative mini-publics' recommendations were adopted, it is difficult to find clear evidence of this without undertaking significant research and document comparison.

For the GVW case study, the regulator reviewed the price submission to determine whether or not GVW had incorporated customer feedback into their submission.

The only DMPs where the recommendations weren't adopted were the South Australian Drains Panel, where the recommendation was something the minister had advised the DMP he would not accept, and the Shire of Noosa's River Panel, where the recommendations were 'noted' only. In both cases, these decisions were made public: by the minister directly to the DMP; or at a public council meeting and then recorded in the council minutes.

There is disagreement in and outside of academia about the extent to which the recommendations of DMPs should be adopted:

- some scholars argue against giving any decision-making authority to DMPs for various reasons (Lafont, 2020).
- the legal frameworks in which decision-makers operate often preclude devolution of decision-making beyond elected representatives, or appointed public servants;
- elected representatives themselves generally see their role as being to make the final decision; and
- some community members wonder why a DMP is doing what they expect their elected representatives to do – a sentiment found in various online discussions about media coverage of deliberative mini-publics.

When considering collective decision-making regarding non-electoral participation (NEP), it is worth considering how decision-makers usually consider citizen input before they make a decision. Traditional participatory approaches use a range of tools: public meetings, requests for submissions, surveys and focus groups, to name a few. Then public servants review this input and identify a recommended option which is then considered by the decision-makers.

Using this approach, the function of collective will-formation is effectively undertaken by public servants based on consideration of citizen and stakeholder input, the public servants' own understanding of the issues, and their biases. The preferred option is then approved – or amended or rejected – by the relevant authorities in the public service or by the elected representatives, and so the collective decision is made.

When DMPs are involved, the DMP considers community and stakeholder input, develops a recommended option or options through a process of collective will-formation, which elected representatives then approve – or amend or reject. When public servants are replaced in the role of assessing community and stakeholder input and identifying a preferred option, in favour of a group of citizens who reflect the demographics of their community, it opens up this assessment process to the light – particularly as mainly DMP processes allow people to observe their meetings.

10.5 Accountability

a. Did decision-makers give a commitment upfront regarding accountability?

As I have mentioned, some of the commitments regarding the democratic function of collective decision-making and the democratic function of accountability overlap. In particular, the overlap occurred where the wording of some commitments indicated that the decision-makers would give reasons to the DMP about their decisions:

- The premier commits to discuss and respond to the final recommendations of the Jury (SA Nightlife Jury);

- The minister commits to meet with the Community Panel to discuss your final recommendations (SA Drains Panel);
- Both the recommendations and the government's response will be tabled in parliament (SA Cycling Jury);
- The minister will respond to all of the Jury's recommendations in public and in writing (SA Dogs and Cats Jury);
- The recommendations will be carefully considered, and both the recommendations and the council's response will be tabled at a council meeting (Noosa Waste and River panels).

There were no references to accountability in the Kingston or Goulburn Valley Water commitments. Although those deliberative mini-publics' recommendations were used to develop the policies, the detail of how this was done wasn't made clear to the DMPs or the broader public. Since this time Kingston council have improved the reporting back on how they respond to DMPs' recommendations.

b To what extent did decision-makers meet their upfront commitment?

Where the invitation to participate in a DMP included a commitment to provide feedback to the DMP, this was done. In this sense, the decision-makers acted as if this commitment to be accountable was a rule-in-use by which they abided.

The GVW case study demonstrates the value of independent assessment of the implementation of decisions – in this case, their price plans, by the regulator.

Without a clear commitment upfront, it is easy for decision-makers to avoid being accountable for their decisions and the implementation (or not) of these decisions. In considering the standard set by the newDemocracy Foundation around accountability, a quick look at the project pages on their website demonstrates little if no attention to what happens after the DMP has made its recommendations and presented them to decision-makers.

c. Do decision-makers make public their decisions and reasons?

Following most deliberative mini-publics, decision-makers only made their reasons public when they had given an explicit commitment to do so, as in the list above under point a. The only other case study where the decision-makers made their decisions and reasons public was Goulburn Valley Water, which was required by the regulator to do so.

This "giving an account" (Warren, 2014) is an important element of the accountability function for DMPs. The empirical findings in this thesis, mentioned above, highlight the importance of either formal rules or informal rules-in-use to deliver accountability from decision-makers to DMPs and sometimes to the broader community.

d Do decision-makers publicly report on the implementation of their decisions?

Without making commitments addressing ongoing accountability, the decision-makers in three South Australian deliberative mini-publics chose to provide public updates on implementation. This demonstrates decision-makers' power to determine whether or not to be held to account. In the South Australian case, the overarching narrative of democratic reform promoted by the premier and the two policy documents issued under his leadership supported decision-makers to exceed their stated commitments regarding accountability.

The only other case where the implementation of decisions was reported publicly was Goulburn Valley Water. The ESC's regulatory framework, PREMO, requires water authorities

to produce an annual public report on the implementation of their price plans. GVW chose to go beyond this minimum requirement and continued to use mini-publics to monitor and provide feedback on the implementation of its price plan. In part, this was motivated by the competitive nature of the PREMO framework, where water authorities get ratings for their price submissions. GVW was very proud of being the only water authority in the 2018 pricing round to get a 'Leading' rating. This was a strong narrative across all the decision-makers from GVW I interviewed.

e Does the deliberative mini-public have a role in monitoring the implementation of the decisions?

As set out above, the only case where the DMP, or in this case, mini-public, had an ongoing role was Goulburn Valley Water. GVW generated a rule-in-use for itself by including its intention to use mini-publics to monitor its overall implementation of the price plan and its carbon reduction work, specifically in its price submission.

The use of DMPs for ongoing monitoring is growing, to my knowledge mainly among other water authorities in Victoria. The two international examples of agenda-setting DMPs I referred to earlier also allow these groups to monitor the implementation of the decisions made in response to the recommendations from DMPs and PB processes.

When considering the role that a DMP might play in monitoring the implementation of the recommendations that decision-makers have accepted, there would be value in asking whether it is appropriate to use the existing DMP as the agent representing the broader community for this function, a form of mediated accountability (Warren, 2014). The existing DMP participants are familiar with their recommendations and so are in an excellent position to assess the 'account' given to them by decision-makers; however, this experience could see them lose their impartiality regarding the decision-makers (Damgaard and Lewis, 2014). Goulburn Valley Water used the existing DMPs, supplemented by additional, newly recruited participants. In addition, the ESC regulator also played a role in holding water authorities to account.

10.6 Legitimacy

The research undertaken in this thesis has highlighted the need to add an additional democratic function of legitimacy. There are a wide range of approaches to defining and identifying democratic legitimacy. (Buchanan, 2002; Saward, 2003; Fabienne, 2007; Lafont, 2015; Weßels, 2016; Schoon, 2022; and Werner & Marien, 2022). For the purposes of defining legitimacy as a democratic function, I recognise two aspects to this concept:

- a procedural one – based on how well an individual DMP contributes to the other five democratic functions, and
- an empirical one – based on the relationship between the thing seeking legitimacy and the audience for that thing and how they perceive the thing (Schoon, 2022).

I would argue that the other five democratic functions address the procedural aspects of democratic legitimacy: input legitimacy, throughput legitimacy and output legitimacy (Harris, 2019). Based on this line of argument, a particular democratic institution could do well in an assessment against the five democratic functions and yet not deliver legitimacy from the perspective of either decision-makers or citizens.

The empirical aspect considers the legitimacy of DMPs (the thing) based on how the audience (members of a DMP, citizens, stakeholders, decision-makers and others) perceive

the thing. This approach to legitimacy has been developed by Schoon (2022) and conceptualised as a dyad.

One of the reasons I suggest that the democratic function of legitimacy focus on the views of decision-makers and citizens and others, is that this aligns it with one of the key factors justifying democratic innovations: the growing distrust in democratic government, which is not solely related to procedural 'illegitimacy'.

The two institutional entrepreneurs considered in this thesis acknowledge this approach and the importance of legitimacy, even if they do not explicitly use this term. Both organisations focused initially on demonstrating the legitimacy and value of these processes to decision-makers, as the case study chapters detailed. They also recognise it is important that citizens consider DMPs legitimate.

From the first process design for the SA Nightlife Jury, the importance of both decision-makers' and citizens' support for the DMP was a critical narrative for the newDemocracy Foundation (2013). Under the title "Project Objective", it outlined:

The related questions to be researched are whether there is greater public trust in the recommendations and any subsequent decision taken by elected representatives and whether there is media acknowledgement of the community's capacity to solve its own challenges ...

The values to focus a deliberative process upon are fairness, long-term viability and public trust. (p. 2)

Under the heading "Rationale: Growing Trust through Public Accountability and Transparency", the newDemocracy Foundation (2013) states:

This proposal contends that if the public was told that 50 of their fellow citizens had reached consensus for change after studying detailed information and hearing from subject-matter experts of their own choosing, then the community is more likely to trust this process than the announcement of the exact same outcomes delivered by a Premier, a Minister, a Department or an individual expert ...

It should be noted that traditional models of community engagement do not contribute substantially to acceptance of the final decision: those with a specific interest and the loudest voices tend to dominate. nDF will encourage all these interest groups to make their cases to the policy jury so that these panels are heard without having a disproportionate influence. (p. 3)

In addition to these narratives, the newDemocracy Foundation's (2013) practice is to promote media coverage of DMPs so that

the community should have the chance to see and identify with the people involved: an evoked response of 'people just like me made the decision' will see the recommendation earn widespread trust. (p. 7)

These narratives and practices were consistent in the nDF's promotion and design of DMPs in South Australia. For the final DMP, the second Nuclear Jury, nDF's website page on this project states:

Our goal for success is singular: does the wider public look back and think 'That was fair enough. Whether or not I agree with the decision, the process was open and my voice was heard.' (newDemocracy, 2016)

However, despite the narratives around citizen trust in DMPs, the newDemocracy Foundation hasn't undertaken research regarding how the broader community views the DMPs it designs and manages. The research on the SA Nightlife Jury was undertaken to

investigate to what extent the broader aims of the citizens' jury were met, to provide a summary of the experiences and shifts in perception of four key stakeholder groups involved in the process (namely citizen jurors, bureaucrats, experts and special interest groups, and facilitators). (TACSI, 2012, p. 4)

The newDemocracy Foundation commissioned research about stakeholder views for the City of Sydney Nightlife Jury (Lederwasch et al., 2015). The foundation also includes samples of media coverage on the project pages for each DMP on its website, demonstrating the importance it places on this aspect of DMP publicity and promotion.

democracyCo also recognise the value of legitimacy from the perspective of citizens and stakeholders. In a short report titled *Why was the Dog and Cat Citizens' Jury Successful?* the focus was on support from jury members, stakeholders, the media, the broader community, the nature of the decision and the minister (democracyCo, 2015). Details set out below:

- 100% of jury members said they would join a jury again and recommend the process to others;
- positive feedback from stakeholder groups, even when not supportive of all recommendations;
- positive media coverage in print and television coverage of the jury;
- positive comments from community members on social media; and
- seven high-level recommendations with 100% support for three and more than 85% for the other seven.

Research on citizen support for public participation generally, and democratic innovations and deliberative mini-publics in particular, demonstrates that there is no clear view from citizens about the value of these processes (Johnson, 2015, Koskimaa & Rapeli, 2020; Lundell et. al., 2016; Rojon et al., 2019; van der Does et al., 2021).

Various design choices could likely impact citizens' views on the legitimacy of DMPs as a democratic institution. For example, if marginalised groups are targeted through the distribution of invitations and/or the selection processes, would this impact citizens' views on legitimacy?

Finally, considering the operationalisation of this democratic function, in regard to DMPs, I would propose:

1. Regarding a specific DMP:
 - a. Did the decision-makers value the recommendations they received from the DMP?
 - b. Did the broader community and stakeholders accept the use of the DMP's recommendations by decision-makers?
2. Regarding DMPs, generally:
 - a. Have decision-makers used DMPs for other topics or issues, particularly ones that aren't mandated?
 - b. Have citizens or stakeholders advocated for the use of DMPs for other topics or issues?

The legitimacy of DMPs from the perspectives of decision-makers and citizens is vital when considering whether or not these institutions contribute to improving the quality of democracy and reducing the democratic deficit. If these institutions aren't seen as legitimate, their ability to contribute to reducing the democratic deficit will be limited.

10.7 Institutional Modes of Constraint

The role of institutional modes of constraint in regard to each of the democratic functions has been considered in earlier sections of this chapter. Here I provide an overview how these modes of constraint worked together to enhance democratic quality or the reverse.

Narratives

In three out of four of the jurisdictional case studies the narratives were primarily instrumental, focusing on the benefits of using DMPs to decision-makers with some broad narratives about democracy. This focus on the benefit of DMPs to decision-makers supported those decision-makers to ignore or cherry pick the recommendations of DMPs when they did not 'benefit' those decision-makers.

Some of the narratives of both designers and decision-makers around who participated in DMPs e.g., "people like us" and "people we haven't seen before" supported a lack of critical consideration in regard to the detail of the stratification criteria to include relevant criteria to either a topic or a community.

Practices

Where practices were determined by external designers there was generally an uncritical acceptance by decision-makers that these designers were using the best possible practices. However, despite the focus on building critical thinking skills for participants in DMPs, the case studies included here suggests that some designers on some occasions take an uncritical approach to their own practices.

Rules-in-use

The case studies included in this thesis demonstrate that a number of aspects of the design of DMPs had become rules-in-use, in particular the use of stratified random sampling to create the mini-public; the provision of time and information to support the development of recommendations; and independent facilitation. The publication by the nDF of their process designs likely supported this development. Since these cases the development of rules-in-use has expanded with the publication of various authoritative guides to designing and conducting DMPs (Curato et al., 2021; nDF, 2018; OECD, 2020).

Rules

There is only one case study here where there were clear rules requiring customer engagement, albeit with no specific reference to DMPs. The impact of the rules set by the Essential Services Commission, demonstrate that even performance based rules, with clear guidance alongside review, monitoring and incentives have delivered significant change in practices for GVW and other water authorities.

Looking at another situation where a new rule has been implemented i.e., the requirement for Victorian councils to apply 'deliberative engagement practices' (Local Government Act, 2020) anecdotal evidence that this rule has led to some the expansion in the use of DMPs. However, without any formal review or monitoring of how the 79 Councils across Victoria

have interpreted this rule, it is not possible to compare its impact to that of the ESC's rules for water authorities.

10.8 Conclusion

This comparison of the case studies demonstrates the value of using institutional modes of constraint in supporting the design of deliberative processes that contribute to fulfilling the five democratic functions.

For inclusion, the rules-in-use for recruiting a DMP, and the associated narratives around why this approach was appropriate, have produced only incremental changes to how inclusion is addressed in the recruitment of DMPs. Both the rules-in-use and these narratives have limited consideration of who should be involved and how they should be supported to be involved. These rules-in-use and supporting narratives are generally taken for granted and not challenged as to whether they are fit for purpose.

The strong and consistent narrative that agenda-setting is the responsibility of decision-makers has limited the ability of any of the cases considered here to contribute to the collective agenda-setting function. The often instrumental focus of decision-makers when commissioning DMPs and setting their remits has also limited the ability of these DMPs to amend or interpret their remits, as the decision-makers are usually very committed to the remit they developed.

Two crucial aspects to ensure when considering collective will-formation are that the voices of people who aren't on the DMP are considered, and that all the people on the DMP can express their views. These two aspects are also related to inclusion and face some of the same challenges around individuals and groups who are traditionally marginalised and seldom have their voices recognised by individuals and groups who don't share their experiences.

The lack of clear pre-commitments around collective decision-making significantly limits the ability of many of the DMPs in the cases considered in this thesis to fulfil this democratic function. A key challenge here relates to the appropriate level of responsiveness that decision-makers should apply to DMPs. This also relates to how legitimate decision-makers consider DMPs to be.

Similarly, to the collective agenda-setting function, a common narrative holds that it is for the decision-maker to determine after receiving the DMP's recommendations whether to adopt all or any of them. While the newDemocracy Foundation did attempt to get a commitment from the Noosa Shire Council to implement all recommendations that achieved consensus, this wasn't allowed by law at the time, and the council had no interest in adopting this approach.

Where decision-makers gave clear pre-commitments, and even though the narratives around these were usually referred to as giving a commitment around 'authority', the majority are actually related to accountability. When decision-makers gave a pre-commitment to advise the DMP on their response to the DMP's recommendations, this usually happened, so this pre-commitment could be considered a rule-in-use that decision-makers see themselves as obligated to comply with.

Regarding GWW, the one case where formal rules exist and are related explicitly to collective decision-making and accountability, we see solid outcomes for these two democratic

functions. We see stronger outcomes than the rules require for the collective will-formation and accountability functions due to regulatory incentives to demonstrate good practice.

I would argue that the current limits on the democratic functions that DMPs can fill are based on limiting, usually instrumental, narratives, rather than the impossibility of designing practices that either give DMPs agenda-setting functions or couple them with other citizen agenda-setting processes to better fulfil democratic functions. I acknowledge that electoral system and their associated incentives may also encourage decision-makers to take an instrumental approach.

The next and final chapter of this thesis will bring together the various strands of this research to identify its contributions to theory, methodology, empirical understandings and practice in democratic innovations – specifically, deliberative mini-publics and their contribution to democracy.

CHAPTER 11 CONCLUSION

11.1 Introduction

The focus on democratic innovations to improve democracy has been a part of academic scholarship for some years (Adenskog, 2018; Elstub & Escobar, 2019; Geißel & Newton, 2012; Mattijssen et al., 2015; Newton, 2012; Smith, 2005; 2009). Not only have democratic innovations been defined in various ways, but a variety of approaches have also been taken to assessing those innovations' value to citizens, decision-makers and democracy. In this thesis, I have chosen to apply the conceptual framework of democratic functions because I want to know how deliberative mini-publics can contribute to the quality of democracy broadly. I have used democratic functions in combination with institutionalism to support a deeper consideration of institutional elements of deliberative mini-publics beyond the current focus on practices.

Considering deliberative mini-publics' functional strengths and weaknesses and using an institutional lens to examine their institutional modes of constraint along with their strengths and weaknesses, enabled me to paint a more nuanced picture of how they contribute to democracy. It also opens up new ways of considering how deliberative mini-publics might better fulfil democratic functions, and how current weaknesses could be addressed.

My goal for this thesis was to contribute to the thinking about and practice of deliberative mini-publics to enhance their contribution to democracy. My case studies address this goal in two ways:

- considering four jurisdictional case studies of governments and a government enterprise that conducted multiple deliberative mini-publics, identifying the rules, practices and narratives in place and evaluating how these rules, practices, and narratives either strengthen or weaken the fulfilment of democratic functions; and
- looking at two organisations (actors) within these case studies and focusing on their role as institutional entrepreneurs, promoting and designing deliberative mini-publics for government agencies.

In this final chapter of my thesis, I will summarise how these two types of case studies answered my research questions before considering their generalisability and original contribution to knowledge, discussing the limitations of this research, and suggesting areas for further research.

11.2 Research findings

In this section, I will set out how my case studies have addressed the four research questions:

1. What are the strengths and weaknesses of deliberative mini-publics in fulfilling democratic functions?
2. What aspects of the institutional design (institutional modes of constraint) of deliberative mini-publics contribute to these strengths and weaknesses?
3. What role do decision-makers (elected representatives and public servants) and designers of deliberative processes play in enhancing or reducing the ability of deliberative mini-publics to improve the quality of democracy? and

4. How could the institutional design of deliberative mini-publics be improved to strengthen their contribution to democratic functions?

My four jurisdictional case studies demonstrate that the institutional design of deliberative mini-publics significantly impacts their ability to fulfil democratic functions. Expectations about what democratic functions are relevant to deliberative mini-publics can also impact their design. The two case studies of institutional entrepreneurs who advocate and design deliberative mini-publics also demonstrate the value of an institutional lens.

In turn, I will work through each of the democratic functions to highlight how my case studies addressed these questions.

11.2.1 Inclusion

The operationalisation developed for deliberative mini-publics under the inclusion function is:

- a. Who is invited to participate?
- b. How are barriers to participation identified and addressed?
- c. How do the selection criteria reflect the characteristics of the affected community?
- d. To what extent does the mini-public reflect the intended diversity? That is, does it achieve the demographic?

The case studies demonstrate that deliberative mini-publics can contribute to inclusion, although there is significant scope for strengthening their contribution to this function.

In considering who to invite, the standard practice is to distribute hard-copy invitations to randomly selected households or email invitations to randomly selected individuals. This approach delivers the wider community equal opportunity to receive an invitation, although the use of email databases is more constrained by who is on that database. For example, the VoxPop database provides access to people with interest in politics as this database comes from people who have completed the VoteCompass election survey; and ratepayer or customer databases are limited to people who have email addresses and have chosen to share those with their council or water authority or similar organisation. However, some design decisions are made not on normative grounds but due to time or budget constraints, which is seen mainly in how invitations are distributed.

When looking at barriers to participation, the main barrier considered in the cases in this thesis is financial. This is usually addressed via payment of a per diem (or honorarium) for participating on the deliberative mini-public and, where relevant, reimbursement of travel and accommodation costs. However, there are likely to be other barriers to participation beyond the purely financial. The scheduling of the meetings of deliberative mini-publics is likely to impact who volunteers for instance, meetings on Saturdays are likely to exclude part-time and casual workers, particularly young people who work on those days, as well as excluding parents of young children who are involved in sporting activities, to name a few. There are no 'perfect' times to hold deliberative mini-public meetings; however, considering these types of barriers and the relevance of the people affected by them to the topic being considered would contribute to the inclusion function.

Another aspect of inclusion not well addressed is how to engage with individuals and groups who lack the confidence to participate in public forums, such as people who don't speak English well or at all, people with low levels of literacy, and people who lack

confidence in their ability to express their opinion. The usual narratives are that careful design of invitations to be part of deliberative mini-publics will maximise the number of people who volunteer; however, there is no evidence that well-designed invitations break through these specific types of barriers. As only 1–10% of people who receive invitations volunteer for the deliberative mini-public, it is unclear who the people not volunteering are, and to what extent their views would be important to the particular topic being considered.

The standard practice for stratification criteria of age, gender and socio-economic status – or, more usually, proxies for SES – provides a solid start to delivering inclusion and creating a mini-public that reflects the community's diversity. However, I would argue that these criteria are insufficient to deliver the diversity of the relevant community. Narratives supporting limited stratification goals are not evidence-based and are more likely based on common thinking errors such as optimism bias, hindsight bias and base rate fallacy, among others (Flyvbjerg, 2021).

There is some evidence that more recent processes are including additional stratification goals, such as educational attainment, people with a disability, people who identify as Aboriginal and Torres Strait Islander, and cultural and linguistic diversity, as well as characteristics relevant to the particular process, for example, a type of water user, or views on a particular issue. However, the case studies in this thesis show little evidence that detailed thought is given to the relevant diversity of the affected community.

Finally, publishing the demographic mix of the final deliberative mini-public would contribute to the inclusion and accountability functions. As seen in the case studies considered in this thesis, there has been a move to publicise the demographics of deliberative mini-publics. This information is usually published on the commissioning body's website. A more recent development shows the stratification goals and the stratification outcomes together.

11.2.2 Collective agenda-setting

The function of *collective agenda-setting* has received significantly less attention, it has even been suggested this isn't even a function deliberative mini-publics should address. The operationalisation this thesis developed for deliberative mini-publics under the collective agenda-setting function is:

- a. Who chooses the topic?
- b. Who sets the remit?
- c. Is the remit too broad or too narrow?
- d. Can the deliberative mini-public amend or interpret its remit?

Evidence from these case studies supports the widespread view that deliberative mini-publics or broader publics aren't usually part of the collective agenda-setting process. These case studies revealed strong narratives and practices that the decision-makers should be the only ones to select the topic and set the remit – albeit with advice from process designers. However, more recent innovations in the design of deliberative mini-publics, as in the Ostbelgian and Paris models, demonstrate that there can be a role for deliberative mini-publics in determining their remits. In addition, citizens can fulfil collective agenda-setting outside of the deliberative mini-public, for instance, in Citizen Initiative Reviews where citizen-initiated referendum topics are referred to DMPs to assess.

Despite the narratives and practices that decision-makers should be the ones to set the remit, there is a common view that the remit should be worded as openly as possible: the wording of the remit should not frame the issue in such a way as to lead to only one answer. Building on this idea, remits can be worded broadly or narrowly, broadly giving the deliberative mini-public more scope around agenda-setting. Finally, opening up the ability of deliberative mini-publics to interpret and perhaps even negotiate their remits with decision-makers could provide them with a collective agenda-setting role – albeit a small one.

11.2.3 Collective will-formation

The ability of well-run deliberative mini-publics to meet the democratic function of *collective will-formation* is well accepted. The operationalisation this thesis developed for deliberative mini-publics under the collective will-formation function is:

- a. Does the design of the deliberative process align with deliberative principles?
- b. Is the implementation of the deliberative process robust?
- c. How is the will of people outside of the mini-public incorporated?
- d. Does the deliberative mini-public reach consensus?
- e. Does the deliberative mini-public provide reasons for its recommendations?

Most cases considered here used facilitators with experience designing and running deliberative processes. As the case study chapters mentioned, this research did not focus on how well the deliberation side of the deliberative mini-publics went. Other than for the Noosa Organic Waste Community Jury, I was not present for the deliberations. However, that the initial facilitator for the Noosa Waste Jury had to be replaced after one day demonstrates the importance of skilled facilitation for these processes. In Australia, there are only a handful of experienced deliberative facilitators. Furthermore, in Victoria, where legislative change required 79 local councils to design and conduct deliberative processes over six or so months, it is likely that many of those processes were designed and facilitated by inexperienced people.

As Chapter 2 discussed, three guides on designing deliberative mini-publics were recently published; and there has been additional growth in deliberative facilitation guidance, such as the *Facilitating Public Deliberations* podcast, the UTS-created *Doing Deliberative Democracy* online course, and MosaicLab's *Facilitating Deliberation: A Practice Guide* (White et al., 2022). All these resources support the design and implementation of deliberative processes. For these guides to be valuable, their existence needs to be known to people commissioning deliberative mini-publics and those facilitating them. There is a strong possibility that people who are already interested in and knowledgeable about deliberative mini-publics are the primary users of these guides. The extent to which decision-makers and facilitators who have little to no experience with deliberative mini-publics know of their existence is unknown.

In all the case studies included in this thesis, decision-makers paid significant attention to obtaining broader community input on the issues before the deliberative mini-publics met. These views were provided to the deliberative mini-publics to consider. In addition, expert witnesses and stakeholders could present to the deliberative mini-publics. For longer-form deliberative processes, the deliberative mini-public was allowed to identify people or organisations they wanted to hear from. In addition, looking at the two Nuclear Juries in the South Australian case study we can see that broader community input was obtained

between the two juries, with the work of the first jury providing guidance for the public consultations. In Australia and other parts of the world, broader citizen engagement has been invited in response to a DMPs draft recommendations (Victorian Local Government, personal knowledge) or has been organised by DMPs (British Columbia Citizens' Assembly on Electoral Reform). The outputs of DMPs commissioned to consider specific referendum topics in Oregon has been shown to have a direct impact on the thinking of members of the public ahead of voting in a referendum, particularly where the DMP reaches a consensus position (Warren & Gastil, 2015).

The link between the collective will-formation and inclusion functions points designers to consider the principle of 'most impacted' again to ensure that not only are those most impacted by an issue included on the deliberative mini-public, but also that they are invited to present to the deliberative mini-public. It would be mistaken to assume that because, say, an Aboriginal and Torres Strait Islander is on a deliberative mini-public, that this group's views don't also need to be brought into the process as a witness.

Consensus was the approach by which the deliberative mini-publics considered in this thesis were expected to reach their recommendations. However, what consensus means in any particular case can affect whether or not a deliberative mini-public is considered to have 'reached a decision'. For example, the newDemocracy Foundation usually sets an 80% supermajority as the requirement for a decision to be considered a consensus. However, as we saw, the two South Australian Nuclear Juries did not set any decision rule, making it unclear whether a two-thirds majority constituted a consensus decision.

11.2.4 Collective decision-making

The ability of deliberative mini-publics to contribute to *collective decision-making* is an area that has received a lot of attention. Responsiveness is a important feature of democracy and yet it is unclear exactly how this should work in practice.

The operationalisation this thesis developed for deliberative mini-publics under the collective decision-making function is:

- a. Did decision-makers commit upfront regarding the deliberative mini-public's recommendations?
- b. To what extent did decision-makers meet their upfront commitment?
- c. Is a decision made and by whom?
- d. To what extent do the decision-makers adopt the deliberative mini-public's recommendations?

The case studies analysed in this thesis demonstrate the value of a pre-commitment around responsiveness to the deliberative mini-public's recommendations. In the South Australian and Noosa cases, decision-makers offered a pre-commitment, albeit often narrowly worded, and in most cases, they met their pre-commitment. Where pre-commitments were provided in the deliberative mini-publics considered here, they were limited to stating that the recommendations would be considered or tabled in a public setting, such as parliament or a council meeting, and this was done.

No clear pre-commitment was given in the Kingston and Goulburn Valley Water cases; however, the lack of a pre-commitment did not limit the commissioning organisation's ability to adopt a deliberative mini-public's recommendations. Instead, the take-up of deliberative mini-publics' recommendations related to the extent to which the decision-

makers found those recommendations acceptable and, in the case of South Australia, in line with an overall commitment to being more responsive to citizen input.

The Noosa Shire Council case study demonstrates clearly how the changing narratives of decision-makers and the changing context in which they operated weakened the ability of the two deliberative mini-publics conducted there to contribute to collective decision-making. The mayor who led the narrative of “giving Noosa residents their voice back” as part of the de-amalgamation campaign demonstrated in his interview that over his long history as a councillor and occasional mayor at Noosa, he took a very pragmatic approach around when to ‘allow’ residents to drive decision-making and when not to. The narratives of the two mayors and the CEO interviewed for this research changed once the de-amalgamation was bedded down, and the pressure to deliver something new abated. The recommendations from the Noosa DMPs were either adopted ‘in principle’ or ‘noted’ only.

Decision-makers often use narratives to interpret practices regarding particular functions. For example, the newDemocracy Foundation narrative that deliberative mini-publics “make decision-makers’ job easier” can support the legitimacy of not accepting recommendations when these recommendations would make the decision-maker’s job harder: for example, in the SA Drains Panel the deliberative mini-public recommended the one thing the relevant minister did not want to and was not prepared to accept. The narratives of decision-makers can also impact how they respond to deliberative mini-publics’ recommendations: for example, the SA premier’s narrative in his 2017 interview that deliberative mini-publics “preserve the function and role of the politician, the collective representative” supported his initial response to the second Nuclear Jury where, unlike all the previous deliberative mini-publics he commissioned, he was not satisfied with the jury’s recommendations and wanted to continue the debate.

The rules set by the Essential Services Commission (ESC) for water authorities like Goulburn Valley Water require them to demonstrate, to the ESC’s satisfaction, how they incorporated their customers’ input into their price submission. This highlights the value that rules can play. While GVW could demonstrate it had incorporated its customers’ input – and not just from the mini-publics – other water authorities were unable to convince the ESC of this.

Good practice around collective decision-making suggests ways to improve pre-commitments in this area. Decision-makers could additionally support a more transparent link between collective will-formation and collective decision-making by committing to publicise and table a deliberative mini-public’s recommendations and making a clear commitment to advise the deliberative mini-public and the public on which recommendations are accepted, which are not, and the reasons for acceptance or not. This would also support ongoing accountability regarding the recommendations that decision-makers accept.

11.2.5 Accountability

As mentioned in chapter 10, there is a significant overlap in the cases considered in this thesis between collective decision-making and accountability. If DMPs were designed around fulfilling (as much as possible) the democratic functions, the distinction between these two functions could be easily addressed.

The function of *accountability* is not explicitly addressed in the cases considered in this thesis, except for Goulburn Valley Water, where there is a regulatory requirement around

accountability. The operationalisation this thesis developed for deliberative mini-publics under the accountability function is:

- a. Did decision-makers give a commitment upfront regarding accountability?
- b. To what extent did decision-makers meet their upfront commitment?
- c. Do decision-makers make public their decisions and reasons?
- d. Do decision-makers publicly report on the implementation of their decisions?
- e. Does the deliberative mini-public have a role in monitoring the implementation of the decisions?

As noted above, the design of deliberative mini-publics has generally ignored accountability as such. This is probably because the South Australian and Noosa cases focused on encouraging the use of deliberative mini-publics and on the value they added for decision-makers, rather than pushing for additional constraints on decision-makers in terms of reporting on the implementation of decisions and including citizens in monitoring this implementation.

Despite this, a number of the decision-makers in the four case studies considered here chose to hold themselves to account. South Australia provided detailed responses to the deliberative mini-publics' recommendations and some published implementation reports. GVW's regulatory requirement for annual monitoring and public reporting against the approved price plan strengthened its accountability function, although it chose to use its mini-publics to support the implementation monitoring. Other water authorities have followed suit, using a range of deliberative processes to get customer input on this annual monitoring requirement.

11.2.6 Institutional modes of constraint

In looking at the institutional modes of constraint discussed in this the jurisdictional cases studies, it is clear that

- Particular modes can undermine other modes, e.g., narratives that are developed to encourage decision-makers to use DMPs can result in reduced commitment to a DMP's recommendations where those recommendations are not in line with decision-makers' preferences;
- Sometimes narratives developed to explain certain practices can result in practices becoming ossified with little improvement over time; and
- The establishment of rules and processes to ensure compliance can support organisations to move beyond business-as-usual and innovation even by smaller organisations.

Attention to institutional modes of constraint can support advocates and designers to achieve their goals more effectively and maximise the achievement of democratic functions. Rather than focusing the majority of their attention on practices and turning practices into rules-in-use, they should consider how their narratives support their overall goals and democratic functions and not simply see them as 'spin' to win support for the conduct of DMPs.

If advocates and designers adopt democratic functions as a way of conceptualising the value of DMPs then these individual functions can provide guidance for all institutional modes of constraint.

11.3 Generalisability of research findings

By using the democratic functions and operationalising them for deliberative mini-publics, this thesis supports a deeper normative approach to understanding their strengths and weaknesses, and current and potential design choices. This focus on normativity, combined with an institutional lens, allows this research a better understanding of how good practices can be undermined by negative narratives and a lack of supportive rules or rules-in-use.

This research demonstrates the importance of looking beyond practices including other modes of institutional constraint – rules and narratives. This thesis illustrates how each of these modes of constraint can operate individually and in combination to strengthen or weaken deliberative mini-publics' ability to fulfil democratic functions. For example, rules can produce on-the-ground innovation, even without reference to specific practices such as deliberation, when they are combined with compliance requirements and incentives to demonstrate good practice.

Rules without clearly articulated practices or supporting narratives can potentially undermine good intentions – although this tendency was not explicitly addressed in this research. An example is the *Local Government Act 2020* (Vic): because the legislation is 'principle based', the specific provisions related to deliberation are not defined, and there is no accountability for performance. While there have been strong narratives around 'democratic renewal', there were few narratives specifically about the content of deliberative engagement practices. This has created a broad range of institutional arrangements which individual councils claim fit under the general requirement for 'deliberative engagement practices'. However, many of these are unlikely to deliver even on the one democratic function, collective will-formation, usually considered the key strength of deliberative mini-publics.

11.4 Original contribution to knowledge

This research contributes to the ongoing discussion of the role that democratic innovations and deliberative mini-publics, in particular, can play in democratic systems and address the democratic deficit. In this section, I will identify the contribution of this thesis in four areas: theoretical, methodological, empirical and normative.

11.4.1 Theoretical contributions

This thesis combines takes a unique approach in combining the two theoretical lenses of democratic functions and institutionalism. The democratic functions lens provides a theoretical approach that moves beyond considering how well deliberative mini-publics deliver against deliberative theory to evaluate how well they deliver for democracy. The institutional lens provides a theoretical framework for considering the design of deliberative mini-publics beyond practices.

This thesis demonstrates the value of combining the two theoretical lenses of institutionalism and democratic functions, and how these two theoretical approaches work together to improve our understanding of how democratic innovations can contribute to the quality of democracy, or not, in practice.

The application of an institutional lens when assessing DMPs provides a more nuanced approach to considering how these institutions operate. Using institutional modes of constraint and the role of agents (through the concepts of institutional work) support a deeper consideration of what institutions are (rather than equating them with practices

alone) and how they are designed, formed and evolve over time. It also allows scholars and practitioners to understand how different aspects of institutions can interact in ways that either enhance each other or undermine them. This can shed light on why seemingly good practices don't lead to good outcomes if the associated narratives or rules don't support those practices. The institutional lens developed and applied in this thesis illuminates a richer picture of how different aspects of institutions can shape DMPs and their democratic functions.

When considering democratic functions, this research has demonstrated the value of democratic functions as a theoretical lens. It has demonstrated how democratic functions can be operationalised for specific democratic innovations, in this case, DMPs. In addition, the empirical research has demonstrated the value of including accountability as a democratic function and proposed legitimacy as an additional democratic function. Combining this institutional lens with democratic functions, supports a close consideration of individual institutions, using each of the institutional modes of constraint, in regard to each democratic function. The application of these combined lenses in this thesis has demonstrated the value of understanding institutional theory, in particular institutional modes of constraint, when researching democratic innovations.

Many scholars use a model-based approach when considering how to improve democracy and the design of democratic innovations. This thesis demonstrates, using real-world case studies of DMPs, how democratic functions can be used to identify how to improve the design of democratic innovations as well as their evaluation. Whilst Warren (2017) suggests that a key benefit of the concept of democratic functions is that it allows the identification of the strengths and weaknesses of particular institutions (he uses the term practices) which can support the combination of institutions to deliver an overall improved democratic system, my research demonstrates that applying democratic functions to a specific institution, i.e., DMPs can open up opportunities to improve their contribution across all democratic functions.

11.4.2 Methodological contributions

In applying these two lenses to the case studies, this thesis operationalised the five democratic functions being used – inclusion, collective agenda-setting, collective will-formation, collective decision-making and accountability – specifically for deliberative mini-publics. This operationalisation supported a clear comparison between the four jurisdiction cases.

This operationalisation of the democratic functions was based on Warren's (2017) definitions of democratic functions, and the scholarly work around these functions and related concepts, combined with my personal experience in designing and implementing deliberative mini-publics.

Operationalising democratic functions for deliberative mini-publics provides a model that scholars could use to assess how other democratic innovations contribute to enhancing the quality of democracy. Using democratic functions to assess various democratic innovations provides a methodological tool to compare the strengths and weaknesses of different democratic innovations and also to investigate how they might be used together to enhance the quality of democracy further.

11.4.3 Empirical contributions

The research described in this thesis provides an in-depth perspective on the design and delivery of 14 separate deliberative mini-publics conducted in four different jurisdictions. It considers the broader context in each case, the design of each deliberative mini-public, and the associated institutional modes of constraint.

The four jurisdiction case studies included interviews with decision-makers and designers to understand how they think about and conceptualise deliberative mini-publics within representative democracy. The two actor case studies look at the work of two organisations that promote and design deliberative processes over time, and against an institutional entrepreneurship framework.

11.4.4 Normative contributions

This research focuses on the strengths and weaknesses of the design and delivery of the 14 deliberative mini-publics regarding democratic functions. Using democratic functions to assess these deliberative mini-publics supports a normative view on the value these democratic innovations offer to democracy broadly.

In particular, this research has shown how instrumental narratives aimed at encouraging decision-makers to use deliberative mini-publics can undermine the practices and overall impact of these deliberative mini-publics. Without a normative approach to the design and use of deliberative mini-publics, decision-makers can continue to argue that deliberative mini-publics are simply another 'tool in the toolbox' of public participation.

This thesis proposes an additional democratic function – legitimacy. In this context, it considers legitimacy from the perspective of the people in the democratic system: do decision-makers and citizens view deliberative mini-publics as a legitimate institution within the system of democracy?

Advocacy in support of deliberative processes and, in particular, deliberative mini-publics is a growing field. Many new organisations are being established to promote deliberative mini-publics and, in some cases, are pushing to replace representative democracy with decision-making based on numerous deliberative mini-publics. Advocates need to convince decision-makers to use these processes in the short term. In the longer term, advocates need to convince citizens that these processes would be more legitimate than the current, distrusted institutions. By recognising the need for democratic innovations like deliberative mini-publics to be seen as legitimate by both decision-makers and citizens, this thesis justifies its claim to add legitimacy as an additional democratic function.

11.5 Research limitations

As set out in Chapter 4, Research Design, a particular limitation of this research is the period during which it was undertaken. The four jurisdictional cases operated between 2013 and 2020, and most of the deliberative mini-publics being considered occurred between 2013 and 2017. Since then, the use of deliberative mini-publics has 'exploded', both in Australia and worldwide. In addition, the design of deliberative mini-publics has evolved significantly over this time. However, I am unaware of any design based on Warren's (2017) or Jäske and Setälä's (2020) democratic functions.

Not only has the use of deliberative mini-publics expanded since these case studies were undertaken, but the various guides to deliberative mini-publics discussed in Chapter 2 were not yet published when the deliberative mini-publics in these cases were designed and

delivered. The impact of these guides on the design and delivery of deliberative mini-publics in Australia to date is unknown, but it is likely that they will support this work over time.

However, none of these guides considers democratic functions as a framework for guiding good practice; instead, they focus on deliberative norms. I am not arguing that such an approach is invalid, but rather that taking a broader perspective on how deliberative mini-publics can contribute to democracy can open up new considerations for their design.

Throughout this thesis, the term 'decision-makers' includes elected representatives and public servants. It is likely that, in practice, these two groups of actors operate quite differently (Reisland & Vabo, 2020). I have identified the difference between the South Australian and Noosa case studies with the City of Kingston council because, in the first two, the elected representatives were the main actors. In the latter case, it was the public servants. Other than that particular distinction, I have not dealt with the similarities and differences between these two groups in detail.

My other case studies focus on two particular agents who promote and design deliberative mini-publics. Although these two organisations are similar in some ways, they are also different in that democracyCo is also a facilitator of deliberative processes, whereas the newDemocracy Foundation isn't. There would be value in considering the broader ecosystem of deliberative mini-publics using the combined democratic functions and institutionalism framework.

The interview protocols for this research were developed before Warren's (2017) democratic functions paper was published and so were not designed with democratic functions in mind. They were, however, designed with Smith's (2009) democratic goods in mind, which was a precursor to Warren's democratic functions model, and has much in common with it.

The jurisdictional case studies included all involve multiple embedded units of analysis. Data from one-off deliberative mini-publics is missing from this thesis. It would be worthwhile to consider how the combined analytical framework developed and used in this thesis would apply to a series of one-off deliberative mini-publics.

Finally, this thesis did not engage with the deliberative process, either through observations or interviews with participants. As acknowledged earlier, as a result this thesis can't assess some aspects of the operationalisation questions under collective will-formation. Engagement with participants from deliberative mini-publics and the broader community would also support a better understanding of the proposed legitimacy function.

11.6 Recommendations for future research and design

In this thesis, the five democratic functions have been operationalised specifically for deliberative mini-publics. There would be value in subjecting this operationalisation to rigorous review by others working in this field, both as scholars and practitioners. In particular, do the operationalising questions address key elements of each function? Could they be worded differently? Should additional questions be included in the operationalisation of each function?

Operationalising the democratic functions specifically for deliberative mini-publics may be a helpful approach to apply when considering other democratic innovations. For example, what would the operationalisation of the democratic functions look like for participatory budgeting, or referendums? And would applying these operationalised functions to assess

particular institutional arrangements provide additional clarity on the effectiveness of these participatory democratic institutions, or on the design choices for them?

There would be value in testing what deliberative mini-publics would look like if they were designed to maximise the strengths and minimise the weaknesses, using democratic functions as a guiding framework, with an eye on how the three institutional modes of constraint can support these strengths alone and in combination.

In addition, operationalising democratic functions for deliberative mini-publics brings to the foreground particular aspects of deliberative mini-public design we need to know more about to maximise their strengths. Table 27 below sets out some of the questions scholars and academics could turn their minds to, to maximise the democratic quality of DMPs, from an institutionalism perspective.

As addressed in Chapter 10, the legitimacy function needs to be further developed and operationalised for deliberative mini-publics and other democratic innovations.

Research to address some of the limitations mentioned in the previous section would be valuable, such as:

- developing interview protocols explicitly around democratic functions;
- applying the combined framework to cases with only one deliberative mini-public; and
- applying the combined framework to include data collection from participants and observation of deliberative processes.

There would also be value in looking for ways to enhance the contribution of deliberative mini-publics to delivering each of the five democratic functions. Examples of areas that require additional study to support strengthening their contribution are listed in the table 28 below under each democratic function.

Finally, I believe there would be value in considering Goodin's (2008) suggestion that accountability can also apply to non-government organisations. In particular, in the area of democratic innovations, there would be value in further theory development and empirical work around the democratic accountability of actors outside of the formal systems of democracy who undertake institutional work to design and redesign democratic institutions.

Table 27: Democratic functions and institutional modes of constraint

Democratic Functions	Institutional modes of constraint and improving democratic quality
Inclusion	<ul style="list-style-type: none"> • What are the narratives around the ‘relevant’ diversity, and how do we determine this ahead of knowing the recommendations that will be made and who they will impact? • What should the rules or rules-in-use be regarding the stratification characteristics that should be used to reflect the ‘relevant’ diversity of the community for each deliberative mini-public? • From a practice perspective, how do we balance the need to reflect the relevant diversity with the limitations around how many personal questions people will answer and how to stratify for multiple characteristics? • What practices would address non-financial barriers to participation, to maximise the diversity of the volunteers for each deliberative mini-public and maximise the diversity of the final deliberative mini-public?
Collective agenda-setting	<ul style="list-style-type: none"> • What rules could be established to link other venues for citizen agenda-setting to be combined with deliberative mini-publics to strengthen this function? • What practices can provide a role to citizens or other DMPs in determining remits? • How can practices in the deliberative process provide a role for a deliberative mini-public to interpret its remit? • How can narratives encourage decision-makers to accept a role for deliberative mini-publics in interpreting their remits?
Collective will-formation	<ul style="list-style-type: none"> • How can good practice in deliberation be supported, considering the growth in the use of deliberative mini-publics and the small number of experienced facilitators? • How can good practice in deliberation be supported, considering the growth in the use of deliberative mini-publics and the small number of experienced facilitators? • What narratives can contribute to ensuring that the input from the broader community includes people and groups who are most affected or potentially most affected by the issues being considered? • Should the guides to deliberation described in Chapter 2 be considered and promoted as rules-in-use to deliver improved practice?
Collective decision-making	<ul style="list-style-type: none"> • How responsive should decision-makers be to the recommendations of DMPs? • How might the practice of providing pre-commitments around decision-making be improved? • What narratives resonate with decision-makers and convince them to provide robust pre-commitments?

	<ul style="list-style-type: none"> • Are rules and accountability to a regulator necessary to strengthen this democratic function?
Accountability	<ul style="list-style-type: none"> • Can good examples of reporting back to deliberative mini-publics on decision-makers' responses to the deliberative mini-public's recommendations be promoted to guide practice? • What narratives work best to ensure decision-makers hold themselves accountable for implementing the deliberative mini-public's recommendations that they have accepted? • From a practical perspective, how can the community, directly or via a deliberative mini-public, deal with failures to implement agreed recommendations? • Are rules and accountability to a regulator necessary to strengthen this democratic function?

Table 28: Democratic functions and DMPs: areas for additional study

Democratic functions	Questions to answer to improve democratic outcomes
Inclusion	<ul style="list-style-type: none"> • Are we only missing those who don't want to be involved, or are we also missing people who can't make the timing of the deliberative mini-publics and/or don't feel confident to participate? • In what ways are these people different from the people who do volunteer to be part of a deliberative mini-public? • What impact might this difference be having on the outputs from deliberative mini-publics? • Should we be considering additional or different approaches to selection to generate greater diversity relevant to the role of deliberative mini-publics, such as discourses and values?
Collective agenda-setting	<ul style="list-style-type: none"> • How might citizens be given a role in agenda-setting, in both selecting topics and designing remits? • Should this role be given to a deliberative mini-public or similar, or to the wider community? • To what extent should deliberative mini-publics be able to amend or reinterpret their remits?
Collective will formation	<ul style="list-style-type: none"> • How can we ensure that the process of collective will-formation is undertaken effectively? • Should standards be set for the design and facilitation of these processes? • Should there be independent and/or government-auspiced evaluation of design and facilitation? • How should the outputs of deliberative mini-publics be dealt with if evaluation finds the process to have been lacking?
Collective decision-making	<ul style="list-style-type: none"> • To what extent should deliberative mini-publics' recommendations be considered binding on decision-makers?

	<ul style="list-style-type: none"> • Is there value in drafting the commitment to ‘consider’ the deliberative mini-public’s recommendations as a contract between decision-makers and the deliberative mini-public? • Should this contract be formally negotiated between the deliberative mini-public and the decision-makers?
Accountability	<ul style="list-style-type: none"> • How can deliberative mini-publics be held to account by the broader community? • Is there value in drafting the commitment to be held to account – by reporting back – as a contract between decision-makers and the deliberative mini-public? • Should this contract be formally negotiated between the deliberative mini-public and the decision-makers? • Should the deliberative mini-public be involved in monitoring the implementation of decisions? And if so, what role does the broader public play?

11.7 Concluding comments

One of my aims in undertaking this research was to demonstrate that deliberative mini-publics could be designed and assessed from a broader democratic perspective than the traditional focus on deliberation or innovation alone. The evaluation of deliberative mini-publics against democratic functions focuses attention beyond their compliance with deliberative principles to consider their strengths and weaknesses in contributing to democracy via these democratic functions.

This research also demonstrates that combining the democratic functions lens with institutionalism supports a better understanding of why good practice sometimes doesn’t deliver good outcomes. From a design perspective, using democratic functions encourages a deeper consideration of how deliberative mini-publics could address each of the five democratic functions considered in this thesis. Designers of deliberative mini-publics make decisions on many aspects of the design based on common thinking errors, such as optimism bias, hindsight bias and base rate fallacy, among others (Flyvbjerg, 2021). I note my own tendency to make some of these thinking errors in my practice as a mini-public recruiter.

Consciously operationalising democratic functions for deliberative mini-publics can open up designers’ thinking and challenge their existing assumptions about what works and doesn’t. Considering how the design of individual deliberative mini-publics could contribute to fulfilling each democratic function encourages new thinking, and there is a range of literature to support this, as Chapter 10 has discussed. I have already identified how these research results will influence my own practice.

Finally, my research demonstrates that at least until recently, the two organisations I considered that advocate for the use of deliberative mini-publics have focused primarily on convincing decision-makers to see the value of these types of processes. This has led to some unintended consequences. The narratives encouraging the use of deliberative mini-publics have supported instrumental approaches: to use deliberative mini-publics primarily to solve decision-makers’ problems.

That I decided to add a sixth democratic function of legitimacy to Warren's (2017) and Jäske and Setälä's (2020) suggested functions highlights the need for the field of deliberative mini-publics to be democratised. At the moment, those advocating for the broader use of deliberative mini-publics – and sometimes the eventual replacement of representative democracy – are an elite movement, much as old-school representative democracy was before the push for more participatory democracy. There would be value in including citizens in the design of DMPs and other democratic innovations.

An essential component of my proposed additional democratic function of legitimacy is that decision-makers support and value the role of deliberative mini-publics. However, decision-makers are not the only ones who determine the legitimacy of a participatory democratic institution. Citizens, too, need to consider particular institutions and their outcomes to be legitimate to justify the continuation of those institutions. The tension between what decision-makers and citizens view as legitimate is a critical issue for designing democratic institutions. To the extent that particular institutions are used to address a democratic deficit that exists in the minds of citizens, then citizens' perspectives on legitimacy should be given as much, if not more value than the views of decision-makers

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APPENDICES

Appendix 1 Interview protocols

SEMI-STRUCTURED INTERVIEWS WITH POLITICAL ELITES AND CHANGE AGENTS

Before undertaking these interviews, I will research to gain an understanding of each interviewee's history relevant to my area of interest and to save time in interviews by gaining the basic information about the interviewee. This is likely to be reasonably easy for elected representatives but perhaps not so easy for others.

A. Elected representatives

1. Tell me about your early years as a Member of Parliament/Councillor - how did you approach your role as an elected representative for X electorate/X ward/X Council?
 - 1.1. did this change when you became a Minister/Premier/Mayor?
2. How do you approach engaging citizens in your portfolio/Council?
 - 2.1. has this changed over time?
 - 2.2. are there any particular constraints around how you engage citizens?
3. Can you tell me about your experience with citizens' juries?
 - 3.1. why did you choose (or not choose) to use the new Democracy Foundation to design and oversee X citizens' jury?³⁶
 - 3.2. what was your overall impression of the process and outcomes of the citizens' jury/ies you have been involved with?
 - 3.3. on what basis would you choose to use a citizens' jury rather than another approach?
4. Where do you see citizens' juries fitting within our system of representative democracy?
 - 4.1. are there any obvious benefits to using citizens' juries?
 - 4.2. are there any specific challenges to using citizens' juries?
5. What do you think are the strengths and weaknesses of representative democracy in Australia?
6. What is your vision for an ideal Australian political system?
 - 6.1. what is keeping us from achieving this vision?

³⁶ This question was only asked for the South Australian and Noosa case studies

6.2.what could move us towards it?

B. Senior public servants

1. Can you tell me about your experience, as a public servant, with citizen engagement?
 - 1.1.how are decisions made about which approach to use in which circumstances?
 - 1.2.who made the decision to use the new Democracy Foundation to design and oversee X citizens' jury and why?³⁷
2. From your perspective, what motivates politicians to use new approaches to citizen engagement, such as citizens' juries?
 - 2.1.what role do external advocates and public servants have in these decisions?
3. How do these new approaches compare with the usual consultative mechanisms used by the Government?
 - 3.1.what are the strengths and weaknesses of citizens' juries compared to other approaches?
 - 3.2.when do you think citizens' juries should be used, and why?
 - 3.3.when should other approaches be used and why?
 - 3.4.are there features of citizens' juries that might benefit other approaches, and why?
4. What do you think are the strengths and weaknesses of representative democracy in Australia?
5. What do you think would be the features of an ideal Australian political system?
 - 6.3.what are the barriers to achieving these?
 - 6.4.what would support achieving these?

C. Change agents/institutional entrepreneurs

1. Can you tell me about your experience with new approaches to citizen engagement?
 - 1.1.what is your organisation's approach to promoting new approaches to citizen engagement?
2. From your perspective, what motivates politicians to use new approaches to citizen engagement?
 - 2.1 what role do public servants play in these decisions?
 - 2.2 how are decisions made about which approach to use in which circumstances?

³⁷ This question was only asked for the South Australian and Noosa case studies

- 2.3 what are the barriers to the use of citizens' juries?
- 2.4 what motivates them to use citizens' juries more than once?
- 3. What are the strengths and weaknesses of citizens' juries compared to other approaches?
 - 3.1 when should citizens' juries be used, and why?
 - 3.2 when should other approaches be used and why?
- 4 This research is looking at citizens' juries conducted by the South Australian Government/Noosa Council, which your organisation had some involvement with – what do you think were key features of the political situation in these places which supported the use of citizens' juries?
- 5 What do you think are the strengths and weaknesses of representative democracy in Australia?
- 6 What is your vision for an ideal Australian political system?
 - 6.1 what is keeping us from achieving this vision?
 - 6.2 what could move us towards it?

Appendix 2 SA deliberative mini-public invitations

Nightlife Jury invitation

<p>The Premier of South Australia, The Hon. Jay Weatherill and The Research Committee of The newDemocracy Foundation</p> <p>Invite you to participate in an innovation in public decision making The Citizens' Policy Jury for a Vibrant and Safe Adelaide</p>		 <p>Office of the Premier of South Australia</p>	
<p>Topic</p> <p>How can we ensure we have a vibrant and safe Adelaide nightlife? The jury is asked for a minimum of five specific reform recommendations.</p>	<p>You have been randomly selected to be involved. This invitation has been sent to over 20,000 citizens in the greater Adelaide area. From acceptances to this invitation the Foundation will conduct a stratified random selection to finalise a Jury of 43 citizens. This is similar to a criminal jury selection, but attempts to approximately match the population profile from the Census. For this reason you will be asked your age and gender when you register. No names are associated in the random draw and your personal privacy will be protected. Selection will be conducted by newDemocracy.</p>	<p>Selection</p>	<p>The Premier commits to submit to Cabinet the outcomes of the Jury's deliberations. The Premier commits to meet with the Jury and personally receive the final recommendations. The Premier commits to table the recommendations in Parliament.</p> <p>Authority</p>

*** This is a unique opportunity for everyday Australians to become decision makers. ***

<p>You will be provided with access to information and experts and given the time to reach an informed, consensus style decision in a process designed by newDemocracy to allow the group to make its own decisions. The final selected community representatives will be sent a comprehensive schedule and explanatory kit of pre-reading. Meals will be provided and a small payment made to cover expenses.</p>	<p>How</p>	<p>In person for five meetings from 9.30am-4.30pm: - Saturday 20th July, - Saturday 10th August, - Saturday 31st August, - Saturday 21st September, - Saturday 12th October. (A private online discussion environment will also be available. A part day session with the Premier on Saturday October 26th is also planned)</p>	<p>When</p>	<p>Adelaide Town Hall (King William Street) and Adelaide Convention Centre (North Terrace)</p>	<p>Where</p>	<p>Register before Wednesday 19th of June by clicking on the RSVP button at newdemocracy.com.au</p>	<p>RSVP</p>
<p>Further information: Contact newDemocracy on 0467 066 185 or PremiersProjectHelp@newdemocracy.com.au</p>							

The newDemocracy Foundation is a non-partisan, non-issue based research organisation exploring less adversarial and more representative modes of public decision making.

The Foundation does not receive funding from government or any political parties.
More information is available at www.newdemocracy.com.au



Government of
South Australia

newDEMOCRACY

The Hon. Minister Ian Hunter MLC,
The South East Natural Resources Management Board
and
The Research Committee of the newDemocracy Foundation

INVITE YOU

to participate in an innovative, randomly-selected jury-style process

Help us decide how to pay

Agreeing **if** and **how** we fund the infrastructure of the South Eastern Drainage Network

newDEMOCRACY

Topic:



Natural Resources
South East

How should we pay for maintaining our largest local infrastructure asset - the South East Drainage Network?

The State Government will commit \$2.2m p.a.

Do we want to spend more than that, and if so, how do we fairly share this cost across the region?

Just like a jury model, you will hear evidence from all interested parties regarding different options for funding arrangements for you to consider, question and discuss.

Authority:

- The Minister commits to meet with the Community Panel at the commencement of the Panel's deliberations.
- The Minister commits to meet with the Community Panel to discuss your final recommendations.
- The Minister commits to submit to Cabinet the outcomes of the Community Panel's Deliberations
- The Minister commits to table the recommendations in Parliament unedited

Government of
South Australia



Meeting Dates:



Natural Resources
South East

Meetings are for three weekends with all meals provided. Accommodation is provided free for those who require it for any or all of the meeting dates. *A one off payment of \$400 will also be made to cover travel expenses and incidentals.*

Saturday January 31st – Sunday February 1st
9:30am - 4:30pm both days *Settlers Café, Naracoorte*

Saturday Feb 21st – Sunday Feb 22nd
9:30am - 4:30pm both days *Lakes Resort, Mt Gambier*

Saturday March 14th – Sunday March 15th
9:30am - 4:30pm both days *Keith Institute, Keith*

RSVP:

RSVP close date: **December 5th**

For further information or to RSVP by phone please contact newDemocracy on 0467 066 185 or email DrainageProjectHelp@newdemocracy.com.au

Why Do This?



Natural Resources
South East

You should do it because this is the single best opportunity to inform the government on a tough and controversial problem which affects everyone.

There is no draft plan which the government has prepared and is engaging with the community just to tick that box. The result is uncontrolled - what you recommend will be public and taken to the Parliament.

Many decisions taken by the Minister or the Department are open to criticism by someone. The only 'good' policy decision is one which the community agrees is fair. That's subjective, and the people best to decide it are those in the everyday community.

A process like this won't turn the Community Panel members into subject matter experts, in much the same way that criminal trials do not turn people into forensic experts, but after 50 hours of learning and discussing you'll be well placed to make an informed decision and give the Minister an unambiguous recommendation.

This group will specifically include those engaged in agriculture, those from the more urban areas, a geographic spread around the region and a mix of ages. You will be asked a few questions when you register, and we then do a random stratified selection which approximately matches the Census profile of the region.

Government agencies, expert groups, interest groups, community groups and lobbyists will be invited to make their case, but making recommendations is in the hands of you the randomly selected panel - not organisers, facilitators or the Government.

The newDemocracy Foundation is a non-partisan, non-issue based research organisation exploring less adversarial and more representative modes of public decision making. The Foundation does not receive funding from government or any political parties. More information is available at www.newdemocracy.com.au

The Premier of South Australia, The Hon. Jay Weatherill

Invites you to participate in an innovation in public decision making The Citizens' Jury
What can we trial in Adelaide to make ours a bike friendly city?



What can we trial in Adelaide to make ours a bike friendly city?

The Jury is asked for recommendations which would provide insight into reform.

Topic

The names have been randomly drawn. This invitation has been sent to over 6,000 citizens in the greater Adelaide area.

From acceptances to this invitation the Foundation will conduct a random selection to finalise a Jury of approximately 35 citizens. No names are associated in the random draw and your personal privacy will be protected. Selection of the Jury will be done independently by the newDemocracy.

Selection

The Premier commits to submit to Cabinet the outcomes of the Jury's deliberations.

The Premier commits to meet with the Jury and personally receive the final recommendations.

The Premier commits to table the recommendations in Parliament.

Authority

This is a unique opportunity for everyday Australians to become decision makers.

You will be provided with access to information and experts and given the time to reach an informed, consensus style decision in a process designed by newDemocracy to allow the group to make its own decisions.

The final selected community representatives will be sent a comprehensive schedule and explanatory kit of pre-reading.

Meals will be provided and a small payment made to cover expenses.

How

In person for five meetings:

- Sat 27 Sep** 9:30am - 4:30pm
- Thurs 9 Oct** 5:30pm - 9:00pm
- Sat 11 Oct** 9:30am - 4:00pm
- Thurs 16 Oct** 5:30pm - 9:00pm
- Sat 18 Oct** 9:30am - 4:30pm

When

The Pavilion – Veale Gardens
 7455 Veale Gardens
 cnr South Terrace & Peacock Road
 Adelaide SA 5000
adelaidepavilion.com.au

Where

Please register before 1 September at newdemocracy.com.au/adelaide

RSVP

Further information: Contact newDemocracy on **0467 066 185** or PremiersProjectHelp@newdemocracy.com.au

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Government of South Australia

Dog and Cat Management Board

The Hon Ian Hunter MLC, Minister for Sustainability, Environment and Conservation invites you to participate in a Citizens Jury.

Last year in South Australia over 10,000 unwanted dogs and cats were put down.

The State Government recently announced some reforms to dog and cat laws.

What further measures can we introduce or trial to reduce the number of unwanted pets?

Selection

This invitation is being sent to over 4,000 people from Adelaide and regional South Australia.

You are invited to register your interest to be part of the Jury by Sunday 31 May.

[Please follow this link to RSVP](#)

Or copy and paste the URL below into your internet browser:

https://survey.qualtrics.com/WRQualtricsSurveyEngine?Q_DL=86cyhkFepsVYzCB_8172wc7gKlSmVko_MLRP_2oCHfWfozBFaooB&Q_CHL=email

Everyone who accepts this invitation will be entered into another random selection process to finalise a Jury of up to 35 citizens, from across South Australia, to broadly match the community's demographics. This process is managed by the newDemocracy, an independent, non-government organisation. Your registration of interest and contact details will remain private.

Authority

The Jury's recommendations will be carefully considered by the State Government and tabled unedited in Parliament.

The Minister will consider all the recommendations of the Jury, and seeks the Jury's verdict on the specific matter of whether desexing should be mandatory.

The Minister will respond to all of the Jury's recommendations publicly and in writing.

How it works

Each member of the Jury will need to attend all four meetings in person.

The citizens selected for the Jury will be given a comprehensive schedule and explanatory kit of reading materials. The Jury will be provided with access to information and experts of their choosing to deeply understand the issue. Jurors will have access to a secure online portal which will assist in discussions between sessions. The Jury will be supported by independent facilitators to reach a consensus decision on the topic and produce a written report to be tabled in Parliament.

When

Jury members will attend a total of four meetings to be held at the following times:

Saturday 27th June: 1pm – 5pm
Sunday 5th July: 9.30am – 4.30pm
Saturday 18th July: 9.30am - 4.30pm
Saturday 1st August: 9.30am - 4.30pm

Jurors will receive a one off payment of \$300 in recognition of your time and to cover travel expenses and incidentals.

Where

Figtree Room
The Adelaide Zoo
Frome Road
Adelaide SA 5000
www.adelaidezoo.com.au

RSVP

Please register your interest in being selected for the Citizens Jury by Sunday 31 May.

[Please follow this link to RSVP](#)

Or copy and paste the URL below into your internet browser:

[https://survey.qualtrics.com/WRQualtricsSurveyEngine?
Q_DL=86cyhkFepsVYzCB_8172wc7gKlSmVk9_MLRP_2oCHfWfozBFaoB&Q_CHL=email](https://survey.qualtrics.com/WRQualtricsSurveyEngine?Q_DL=86cyhkFepsVYzCB_8172wc7gKlSmVk9_MLRP_2oCHfWfozBFaoB&Q_CHL=email)

Citizens who are in paid political employment are ineligible for selection.

For further information contact newDemocracy on 0467 066 185 or
DogandCatHelp@newdemocracy.com.au

Why do this?

You should do this because it is the single best opportunity to inform the government on a tricky and controversial problem which impacts on the whole community.

There is no draft decision that the government has prepared and is engaging with the community just to tick that box. The result is uncontrolled - what you recommend will be public and taken to the Parliament.

Many decisions taken by the Minister or the Dog and Cat Management Board are open to criticism by someone. The only 'good' policy decision is one which the community agrees is fair. That's subjective, and the people best placed to decide it are people from the general community.

A process like this won't turn the members of the Citizens' Jury into subject matter experts, in much the same way that criminal trials do not turn jurors into forensic experts, but after 35 hours of learning and discussing you'll be well placed to make an informed decision and give the Minister an unambiguous recommendation.

This group will specifically include people who own dogs and cats as well as people from metropolitan and regional areas of South Australia and a mix of ages. You will be asked a few questions when you register, and we then do a random stratified selection which approximately matches the Census profile for South Australia.

Government agencies, expert groups, interest groups, community groups and lobbyists will be invited to make their case, but making recommendations is in the hands of you - the randomly selected jury - not organisers, facilitators or the Government.

newDEMOCRACY

The newDemocracy Foundation is a not for profit research foundation exploring less adversarial and more representative methods of taking public decisions. NDF is non-partisan and non-issue based and will conduct the random selection process independently of government.

You are receiving this e-mail because you consented to be contacted for future studies when using Vote Compass, an initiative of [Vox Pop Labs](#). This e-mail was intended for [xxx](#). Vox Pop Labs does not send unsolicited e-mails.

Our mailing address is:
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Should you wish to opt out of future studies you can [click here to unsubscribe](#).

Have a nice day!



Office of the Premier
of South Australia

**The Premier of South Australia
Jay Weatherill**

Invites you to take part in

**The Citizens' Jury for the
Nuclear Fuel Cycle Royal Commission's Report**

Supported by the Research Committee
of the newDemocracy Foundation

Topic:

What are the parts of the Nuclear Fuel Cycle Royal Commission's Report that everyone needs to discuss?

On 8 February 2015, the South Australian Government announced the establishment of a Royal Commission to conduct an independent, comprehensive investigation into the potential for increasing South Australia's role in the nuclear fuel cycle. On 9 May 2016 the final report was released.

The Jury is asked to produce an independent guide to help every South Australian understand the recommendations raised by the Royal Commission's Report.

Selection:

You have been randomly selected to be involved. This invitation has been sent to over 25,000 citizens right across South Australia.

From acceptances to this invitation, newDemocracy will conduct a stratified random selection to finalise a Jury of 50 citizens. This is similar to a criminal jury selection, but attempts to approximately match the population profile from the Census. For this reason you will be asked your age and gender when you register. No names are associated in the random draw and your personal privacy will be protected. Selection will be conducted by newDemocracy. No contact information is provided by newDemocracy to the South Australian Government.

***This is a unique opportunity for everyday South Australians to be a part
of an important conversation about the future of South Australia.***



Office of the Premier
of South Australia

newDEMOCRACY



newDEMOCRACY

Authority:

You are the producers of a short independent guide to help every South Australian understand the recommendations raised by the Royal Commission's Report.

Your unedited and unchanged report will be made available to all South Australians.

As well as your participation in this initial Jury in June/July, you will also be invited to a second Jury in October which will deliver a recommendation to the Premier of South Australia.

The Premier commits to submit to Cabinet the outcomes of the Jury's deliberations.

The Premier commits to meet with the Jury and personally receive the final recommendations.

The Premier commits to table the recommendations in Parliament.

How:

You will be provided with access to information and experts and given the time to reach an informed, consensus style decision. The final randomly selected community representatives will be sent a background kit of pre-reading early in June.

Meals will be provided and a payment of **\$500 made out of respect for your time and to cover expenses.** If you live over 60kms away from Adelaide, you will receive travel assistance which may include air travel and accommodation.



newDEMOCRACY

When:

In person for four days meeting together:

Saturday June 25th from 9:30am – 4:30pm

Sunday June 26th from 9:30am – 2:30pm

Saturday July 9th from 9:30am – 4:30pm

Sunday July 10th from 9:30am – 5:00pm

The Premier of South Australia Jay Weatherill will address the first and last day of the Jury.

(A private online discussion environment will also be facilitated over the course of the Jury period.)

Where:

South Australian Health and Medical Research Institute (SAHMR), North Terrace Adelaide 5000

RSVP:

Register before **Friday 27 May 2016** by clicking on the RSVP button at newdemocracy.com.au or call **0467 066 185** if you'd prefer to speak to a person to do this.

Further information:

People in paid political employment are ineligible for selection.

Contact newDemocracy on **0467 066 185** or PremiersProjectHelp@newdemocracy.com.au

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Office of the Premier
of South Australia

**The Premier of South Australia
Jay Weatherill**

Invites you to take part in

**The Citizens' Jury for the
Nuclear Fuel Cycle Royal Commission's Report**

Supported by the Research Committee
of the newDemocracy Foundation

Topic:

What are the parts of the Nuclear Fuel Cycle Royal Commission's Report that everyone needs to discuss?

On 8 February 2015, the South Australian Government announced the establishment of a Royal Commission to conduct an independent, comprehensive investigation into the potential for increasing South Australia's role in the nuclear fuel cycle. On 9 May 2016 the final report was released.

The Jury is asked to produce an independent guide to help every South Australian understand the recommendations raised by the Royal Commission's Report.

Selection:

You have been randomly selected to be involved. This invitation has been sent to over 25,000 citizens right across South Australia.

From acceptances to this invitation, newDemocracy will conduct a stratified random selection to finalise a Jury of 50 citizens. This is similar to a criminal jury selection, but attempts to approximately match the population profile from the Census. For this reason you will be asked your age and gender when you register. No names are associated in the random draw and your personal privacy will be protected. Selection will be conducted by newDemocracy. No contact information is provided by newDemocracy to the South Australian Government.

***This is a unique opportunity for everyday South Australians to be a part
of an important conversation about the future of South Australia.***



Office of the Premier
of South Australia

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Office of the Premier
of South Australia

newDEMOCRACY

Authority:

You are the producers of a short independent guide to help every South Australian understand the recommendations raised by the Royal Commission's Report.

Your unedited and unchanged report will be made available to all South Australians.

As well as your participation in this initial Jury in June/July, you will also be invited to a second Jury in October which will deliver a recommendation to the Premier of South Australia.

The Premier commits to submit to Cabinet the outcomes of the Jury's deliberations.

The Premier commits to meet with the Jury and personally receive the final recommendations.

The Premier commits to table the recommendations in Parliament.

How:

You will be provided with access to information and experts and given the time to reach an informed, consensus style decision. The final randomly selected community representatives will be sent a background kit of pre-reading early in June.

Meals will be provided and a payment of **\$500 made out of respect for your time and to cover expenses.** If you live over 60kms away from Adelaide, you will receive travel assistance which may include air travel and accommodation.



Office of the Premier
of South Australia

newDEMOCRACY

When:

In person for four days meeting together:

Saturday June 25th from 9:30am – 4:30pm

Sunday June 26th from 9:30am – 2:30pm

Saturday July 9th from 9:30am – 4:30pm

Sunday July 10th from 9:30am – 5:00pm

The Premier of South Australia Jay Weatherill will address the first and last day of the Jury.

(A private online discussion environment will also be facilitated over the course of the Jury period.)

Where:

South Australian Health and Medical Research Institute (SAHMRI), North Terrace Adelaide 5000

RSVP:

Register before **Friday 27 May 2016** by clicking on the RSVP button at newdemocracy.com.au or call **0467 066 185** if you'd prefer to speak to a person to do this.

Further information:

People in paid political employment are ineligible for selection.

Contact newDemocracy on **0467 066 185** or PremiersProjectHelp@newdemocracy.com.au

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Appendix 3 Noosa Council deliberative mini-public invitation

**Community
Jury**

Mayor Noel Playford and Councillors
invite you to participate in a community jury

newDEMOCRACY

Your opportunity to participate in an innovative public
decision making process representing your community



The topic is likely to be one of the following:

- What is the best option for minimising waste sent to landfill?
- Should Noosa take over management of the Noosa river from the State?
- Should Noosa invest in a free electric bus service?

Topic

This invitation has been sent to 3,000 people across the Noosa Shire. Your address has been randomly selected from the electoral roll.

You are invited to register your interest to be part of the Jury. **Please register before 5 December 2014 by clicking on the RSVP link at newDemocracy.com.au.**

From those who responded to the invitation, up to 24 residents will be selected to be jury members by newDemocracy; an independent, non-government organisation.

Your registration of interest and contact details will remain private.

Selection

The Mayor and Councillors will meet with the Jury and personally receive the Jury's final recommendations.

The recommendations will be carefully considered, and both the recommendations and the Council's response will be tabled at a Council meeting.

Authority

This is a unique opportunity for everyday Noosa residents to have a real influence on the future of the Noosa Shire

The people selected for the Jury will be sent a comprehensive schedule and explanatory kit of pre-reading materials.

Each member of the Jury will attend up to six meetings in person.

The Jury will be provided with access to information and experts, and will be given time to reach a consensus decision.

Meals will be provided and Jury members will receive payment to cover expenses.

How it Works

Jury members will attend up to six meetings to be held at the following times:

Sat 7 February	9:30 am - 4:30 pm
Wed 4 March	6:00 - 9:00 pm
Wed 1 April	6:00 - 9:00 pm
Wed 6 May	6:00 - 9:00 pm
Wed 10 June	6:00 - 9:00 pm
Wed 8 July	6:00 - 9:00 pm

When

Noosa Council Chambers
9 Pelican Street,
Tewantin QLD, 4565

noosa.qld.gov.au

Where

Please register your interest in being selected for the Community Jury before 5 December by clicking on the RSVP link at newdemocracy.com.au

Residents whose primary employment is with a political party are ineligible for selection.

RSVP

newDEMOCRACY

Further information: Contact newDemocracy on **0467 066 185**
or NoosaProjectHelp@newDemocracy.com.au

The newDemocracy Foundation is a non-partisan, non-issue based research organisation exploring less adversarial and more representative modes of public decision making. The Foundation does not receive funding from government or any political parties. More information is available at www.newdemocracy.com.au

Appendix 4 Kingston deliberative mini-public invitations

Customer Charter Panel invitation



***Kingston Council wants
to hear from you.***

Kingston Council wants to deliver great customer service. We need to find a balance between meeting diverse community expectations and budget constraints.

How can we do this?

You are invited to participate in a Community Panel to discuss this question.



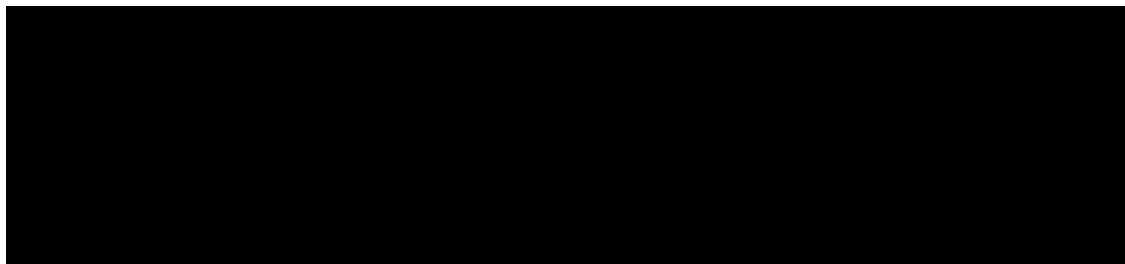
City of
KINGSTON

A Community Panel is being established to advise Council on the development of a new Customer Service Charter.



The aim of the Customer Service Charter is to define Council's commitment to customers and set the customer service standards for Council to meet.

Being part of the Community Panel is a chance for you – along with around 30 residents and business operators from across Kingston – to get together, understand the issues, share ideas and make recommendations to Council on the content of the new Customer Service Charter.



It is important that members of the Community Panel are available to attend all four meetings. Meals will be provided at the panel meetings and you will receive \$250 in recognition of your time and to cover any costs associated with participating.

Interested? Please register.

If you (or anyone at your address) would like to join the panel, please register interest by midnight Sunday 27 August at **deliberatelyengaging.com.au/kingston**

Questions?

Recruitment of the Community Panel is being managed independently of Council, if you have any questions or need assistance please call Nivek Thompson from Deliberately Engaging **m** 0472 761 324 **e** info@deliberatelyengaging.com.au

Read more about this exciting project at **yourkingstonyoursay.com.au**



Customer Charter Panel envelope



You're invited!

Help improve Customer Service at Kingston Council by joining our Advisory Panel

IF UNDELIVERABLE RETURN TO
PO BOX 1000 MENTONE VIC 3194
T 1300 653 356

POSTAGE
PAID
AUSTRALIA



**The City of Kingston
wants to hear from you!**



We're inviting a random selection of residents to participate in a Community Panel to help us explore issues around housing and neighbourhood character in Kingston.

Specifically, we want you to help us explore the challenge:

How can Council manage change within the City of Kingston while protecting what we love about where we live?

Joining the Panel is a chance for you, along with around 45 other residents, to work with us to understand the issues, share ideas and draft a set of community principles for Council to consider in future decisions relating to housing and neighbourhood character.



About the project

Planning for our future housing needs and preserving the character of our neighbourhoods is complex.

Council is currently preparing a Housing Strategy & Neighbourhood Character Study for the municipality that will seek to address this challenge. The Housing Strategy will provide a long-term plan to manage housing growth within our city. The Neighbourhood Character Study will involve a detailed assessment of design and development and an analysis of Kingston neighbourhood character.



[Read more about the project at \[kingston.vic.gov.au/planningforourfuture\]\(http://kingston.vic.gov.au/planningforourfuture\)](http://kingston.vic.gov.au/planningforourfuture)

Your involvement

To date we've sought feedback from the broader community on the issue of housing and neighbourhood character.

The Community Panel is an opportunity to test and validate these findings with a representative sample of the Kingston community, and to explore the big issues and ideas in more detail.

The Panel will meet face to face on four occasions:

Tuesday 24 July, 6pm – 9pm

Saturday 4 August, 10am – 1pm

Thursday 16 August, 6pm – 9pm

Saturday 25 August, 10am – 1pm.

It's important that everyone on the Panel is available to attend all four meetings.

Meals will be provided, and if you attend all meetings you will receive \$250 in recognition of your time and to cover any costs associated with participating.

Are you interested? Register now.

Register your interest in participating before midnight on Sunday 8 July 2016 by visiting kingston.vic.gov.au/communitypanel

Panel members will be independently chosen to achieve a representative mix of the Kingston population.

Questions?

If you have any questions regarding the recruitment process or need assistance in registering, call Daniel Ong from Capire Consulting Group on 9285 9000 or email dan@capire.com.au.

Have your say! Join the Kingston Libraries Community Panel



The City of Kingston want to deliver a library service where our community can be connected to information, knowledge, resources, creativity and each other.

We're inviting a random selection of residents to participate in a Community Panel to help us create libraries that meet the needs of our community.

Specifically, we want you to help us explore the challenge:

What key principles and priorities should guide Council in the delivery of its library services, to meet the current and future needs and interests of our diverse community?

Being part of the Community Panel is a chance for you – along with around 25 residents from across Kingston – to work with us to understand the current services that Kingston Libraries deliver, consider other library services, share ideas and make recommendations on how we best target our services and activities to meet the changing needs of our diverse community.



About the project

In recent years, traditional book collection-based library services have expanded to include technology and digital resources, digital literacy support and literacy events for all ages to support lifelong learning.

A Community Panel is being established to help Council develop a Library Strategy that will ensure Council can deliver relevant, contemporary library services and facilities that will continue to meet the evolving needs of the community.

The Community Panel will meet on four occasions:

- Day 1:** Saturday 16 March 10am – 1pm
- Day 2:** Saturday 30 March 10am – 1pm
- Day 3:** Tuesday 9 April 6pm – 9pm
- Day 4:** Tuesday 16 April 6pm – 9pm

It is important that members of the Community Panel are available for all four meetings. Meals will be provided at the panel meetings, and you will receive \$250 in recognition of your time, and to cover any costs associated with participating.

Are you interested? Register now.

If you (or anyone at your address) would like to join the panel, please register interest by Sunday 24 February 2019 at deliberatelyengaging.com.au/libraries

Once the registration period closes, a process will take place to ensure the Community Panel represents a cross-section of the Kingston community.

Questions?

Recruitment of the Community Panel is being managed independently of Council. If you have any questions or need assistance please call Nivek Thompson from Deliberately Engaging: **m** 0472 761 324 or **e** info@deliberatelyengaging.com.au

You can read more about this project at yourkingstonyoursay.com.au



Kingston Ward Committees invitations

Note: invitations identical except for name of Ward on front of invitation



Help shape the future of Kingston



Your Council is keen to work closely with the community to make sure we are making decisions, delivering services and planning for the future with you in mind.

Our new Council Ward Committees

Kingston Council is launching three new ward-based community committees to give residents a strong voice directly to Council. Starting in February 2019, the ward committees will take part in strategic discussions and provide advice to Council on key issues. These committees will match the Council term and continue until February 2021. We're looking to put together representative groups that broadly reflect our diverse community to give their views on local projects and plans.

Are you keen to have your say?

Committee members would be required to attend three ward committee meetings plus one combined meeting per year. Each meeting will start with a bite to eat from 5.30pm before meeting from 6pm-8pm. To acknowledge your time commitment, committee members will be paid an annual \$200 allowance for attending all meetings.

Register your interest

If you (or anyone at your address) would like to join this committee, please register interest by midnight Sunday 9 December at deliberatelyengaging.com.au/kingston. A representative group will then be selected to form each 21-person Ward Committee.

Recruitment of the Ward Committees is being managed independently of Council. If you have any questions or need assistance please contact Nivek Thompson from Deliberately Engaging on 0472 761 326 or info@deliberatelyengaging.com.au

Read more about the committees at kingston.vic.gov.au/wardcommittees

The City of Kingston is divided into three wards:

NORTH WARD

Moorabbin, Highett, Oakleigh Sth, Heatherton, Clarinda, Clayton Sth, Dingley Village

CENTRAL WARD

Cheltenham, Mentone, Parkdale, Moorabbin Airport, Mordialloc, Braeside

SOUTH WARD

Aspendale, Aspendale Gardens, Waterways, Edthwaite, Chelsea Heights, Chelsea, Bonbeach, Carrum, Patterson Lakes



Appendix 5 Goulburn Valley Water mini-public invitations

GVW is seeking customer participation



REGISTER YOUR INTEREST

Dear Customer,

As a valued customer of Goulburn Valley Water (GVW), we are seeking your advice and input into the future of water and wastewater services in our region.

GVW is putting together the 2018 - 2023 Price Submission. Every five years we are required to submit a plan to the Essential Services Commission (ESC) that outlines our prices, service levels and infrastructure investments. To better understand the views of our customers and their communities, we have hosted discussions in over 50 towns and an online survey to obtain feedback regarding water and wastewater services.

Now GVW would like to work with a cross section of customers to review the input received so far and provide any further advice and feedback for consideration by the GVW Board. The Board will consider the draft Price Submission for approval and submission to the ESC.

The Customer Forum event will be held

on **Saturday 13 May**

from **9am - 2pm**

at **La Trobe University, Fryers St, Shepparton**

Morning tea and lunch will be provided and **participants will receive \$100** in recognition of their time and commitment. Participants who live outside of the Shepparton and Mooroopna area will receive travel assistance.

To register your interest in being part of the Customer Forum click on the link below and register before midnight on **Sunday 23 April 2017**. Participation is open to anyone in your household.

I WANT TO REGISTER MY INTEREST IN THE CUSTOMER FORUM

From the pool of people who register their interest we will randomly select around 40 people who match the demographic profile of GVW's service region.

Recruitment for this group is being managed independently of GVW. If you have any questions or need assistance to register please call Nivek Thompson from Deliberately Engaging on 0472 761 324.

Regards

Peter Quinn, GVW Managing Director

[Preferences](#) | [Unsubscribe](#)

Appendix 6 newDemocracy Foundation timeline

Year	Activities
2004	originally called newRepublic
2005 - 7	
2008	obtained ARC grant to run ACP
	temporary CEO appointed
2009	Australian Citizens' Parliament
2010	
2011	NSW Government's review of the state's planning system submission
	Research Committee established
	Executive Officer appointed
2012	Citizens' Juries on Energy Generation
	City of Canada Bay Community Panel
	Participatory budgeting - the Australian way publication, 2012
	Electoral Reform in Queensland submission
2013	A Vibrant and Safe Nightlife for Adelaide Citizens' Jury
	Project Director appointed
	City of Sydney Safe and Vibrant Nightlife Jury
	Joint Standing Committee on Electoral Matters - Review of the 2013 Federal Election submission
	Policy Paper for Political Parties: Building Trust in Government
	The Australian Citizens' Parliament and the Future of Deliberative Democracy, 2013
	A study of responses to citizens' juries embedded in the NSW Parliament's Public Accounts Committee, 2013
2014	South East Drains Citizens' Jury
	Noosa Community Juries: waste and river

	Marrickville Infrastructure Jury
	City of Melbourne People's Panel
	Cycling in the City Citizens' Jury
	Moorebank Intermodal Citizens' Jury
	City of Canada Bay Policy Panel
	Darebin Participatory Budgeting Citizens' Jury
2015	Victoria's Citizens' Jury on Obesity
	Stakeholder Perceptions of Deliberative Democratic Process, 2015 (Sydney Nightlife Jury)
	Penrith City Community Panel
2016	City of Greater Bendigo Citizens' Jury
	Nuclear Fuel Cycle Citizen's Jury
	Democracy in Geelong Citizens' Jury
	Eurobodalla Citizens' Jury
	Infrastructure Victoria Citizens' Jury
2017	Yarra Valley Water Price Submission Process
	Research and Design Program Manager appointed
	Advice on Project Design and Operational Design for the City of Madrid's Citizens' Council
	Symposium on Trusted, Long-term Decision Making in Melbourne and Sydney
	Systemic Impacts of Mini-publics publication, 2017(Noosa, Penrith and Infrastructure Victoria juries)
	Citizens' Parliamentary Groups - publication
	The macro-impacts of citizen deliberation processes - publication
2018	ACT Government Housing Choices
	Byron Shire Trialling community solutions panel
	Evidence Based Policy Research Project

	Public Interest Journalism Initiative
	Inquiry into the conduct of the 2018 Victorian State Election submission
	Reforming our Democracy: Options for Renewing Democracy in Australia
	Contributed to Design Proposal for a Permanent Citizen Model (Ostbelgien Model)
	Victorian Government Gender Equality Bill Citizens' Jury, advice and support
	Deliberation Process for Rural Councils Advice to Ararat Rural City Council
2019	City of Sydney Planning for 2050
	The Byron Model of Democracy
	Evidence Based Policy Research Project
	United Nations Democracy Fund: Democracy beyond Elections
	Consultation on tightly contentious bills for the NSW Parliament submission
	Senate Inquiry into Nationhood, National Identity and Democracy submission
	Inquiry into the Administration of the 2019 NSW State Election submission
2020	Evidence Based Policy Research Project
	Director of Engagement & Outreach appointed
	Senate Standing Committees on Finance and Public Administration submission
	OECD: Innovative Citizen Participation and New Democratic Institutions contribution
2021	WaterNSW Rural Water Pricing process
	UK Parliament Future Governance of the UK Inquiry submission
	Evidence Based Policy Research Project
	Inquiry into constitutional reform and referendums submission
	An introduction to deliberative democracy for members of Parliament, with WFD
	Innovation in Opinion Polling
	New Options for Parliamentary Committees paper
	OECD Evaluation Guidelines for Representative Deliberative Processes contribution

2022	Western Sydney University Students' Panel
	Council of Europe Beyond elections explanatory memorandum incorporates nDF work

Appendix 7 democracyCo timeline

Year	Activities
2013 - 2017	Better Together: delivered over 30 training programs for public servants
2014	Citizens' Juries: Kangaroo Island Governance
	Citizens' Jury: Sharing the Roads Safely, South Australia
	Citizens' Jury: Reducing the numbers of Unwanted Dogs and Cats, South Australia
2015	Improving Justice and Support for Young Victims of Crime, South Australia
	DemocracyCo was formally established by Emily Jenke and Emma Fletcher
	Community-Based Sentencing, South Australia
2016	Working Together: A Joined-Up Policy Guide, South Australia
	Deliberative Training and Design Clinics, Singapore (ongoing)
	SA Power Networks Deliberative Panel
	Better Together Policy update and refresh, South Australia
	Nuclear Waste Storage Citizens' Juries, South Australia
	Supportive Housing program, South Australia
	SA Planning Together Panel
2017	My Home Hospital Co-Design, South Australia (to 2018)
	Supported Housing Reform, South Australia
	People's Policy: Children's Wellbeing, South Australia
	Community Engagement Charter, South Australia
	Palmerston Community Plan, Northern Territory
	Happy Kids Menu Taskforce, South Australia
2018	Wellbeing Community Panel
	ANZSOG deliberative training courses and presentations, in Australia, New Zealand and Singapore (ongoing)

	Living Darwin 2030 Strategic Plan, Northern Territory (deliberative panel)
	Reactivating the repat, multi-faceted community engagement process
	Better Suburbs, Australian Capital Territory (participatory budgeting style process)
	Reactivating the Repatriation General Hospital, South Australia
	Citizens' Jury on Compulsory Third Party Insurance, Australian Capital Territory
	Towards Zero Homelessness, South Australia
	Carers' Strategy, ACT
2019	Citizens' Jury, RACQ Queensland
	Youth Action Plan
	Dementia and Palliative Care 'Models of Care' Calvary Health
	City of Palmerston Community Panel
2020	Covid-19 Online Multicultural Forums, South Australia
	Coorong Infrastructure Investigations, South Australia
	My Home Hospital co-design project
	Youth Action Plan, South Australia
	Bangsamoro Citizens Assemblies on Covid19 Recovery, Philippines
2021	City of Mitcham: future of Hawthorndene Oval, South Australia
	Water Trust Australia: Knowledge transfer workshops to assist policymakers adopt deliberative engagement
	Coorong Infrastructure Investigations, South Australia
	The City of Port Adelaide, community-led development of a deliberative framework for Council
	Shaping Unley, deliberative policy for dealing with complex issues
	Unley Parking Community Panel
	Riverland and Murraylands Resilience Plan, South Australia
2022	Canberra Forum

	Citizens Assembly on Responsible Social Media Discourse, Bosnia & Herzegovina
	GRDC RDE Plan engagement
	SA Power Networks Community Panel

Röcke, A. (2014). *Framing citizen participation: Participatory budgeting in France, Germany and the United Kingdom*. Springer.