

SUBMISSION TO THE INDEPENDENT ELECTORAL REVIEW

November 2022

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Koi Tū: The Centre for Informed Futures

10 November 2022

1. Koi Tū: The Centre for Informed Futures is an independent think tank and research centre based at The University of Auckland. Our focus is on the long-term future of Aotearoa New Zealand. Social cohesion, the future of democracy, and human capability are central to our work.
2. We appreciate the opportunity to make a short submission and wish to make two main points, with two associated recommendations: one on the use of citizens' assemblies as a potentially powerful new democratic tool; and one on the pressing need for more funding to combat the misinformation and disinformation now impinging on democracy in Aotearoa New Zealand.

POINT ONE: DEMOCRACY WOULD BE BETTER SERVED IF DECISIONS ON CHANGES TO OUR ELECTORAL SYSTEM WERE MADE THROUGH THE PROCESS OF CITIZENS' ASSEMBLIES.

3. We believe that the current methods of seeking citizens' input and decision-making on the rules governing our democracy are, themselves, not truly democratic – or at least are not best democratic practice for the 21st century.
4. While Koi Tū appreciates the intent and openness of standard submission processes such as this, we are aware that they generally do not engage many sections of our population. In that sense, it could be said that the decisions made on this basis are not truly democratic. We acknowledge that achieving equal input across the breadth of the population is difficult. Still, the fact is that conventional public consultation, intentionally or otherwise, privileges some groups of the population – those with time, education and other resources to make their views known. For example, research on submissions made to the *Auckland Plan 2050* revealed that out of 26,000 submissions, only 310 came from Māngere-Ōtāhuhu, and that for every submission from people from that area, there were seven from people in the more affluent Rodney area.¹

¹ Newman, Kate. 2018. White noise: Some Aucklanders have more say than others. Radio New Zealand

5. Second, when decisions are being made about the electoral process, politicians will have – or will be perceived to have – conflicts of interest, as many of these decisions concern their own political and economic interests. Furthermore, recent research has shown that, in contrast to the widespread belief that electoral law-making in Aotearoa New Zealand is consensus-based and nonpartisan, the two major political parties have taken approaches to electoral reform that clearly have had a partisan interest and flavour and, in turn, undermine trust and confidence in democracy.²
6. Namely, partisan election reforms may erode confidence in the democratic approach. Election law-making that leads to lower voter participation may lead to unrepresentative governments, unrepresentative policies and increased inequality. In a country with a high concentration of executive power and a sizeable, marginalised population, it is essential to have electoral law-making that is nonpartisan and which does not suppress the participation of a wide section of the electorate.
7. Additionally, given the concerns raised about the low turnout in the recent local body elections, having new ways of engaging citizens actively in discussions about possible electoral change is a healthy and constructive way to bring more and newer voters into the democratic process. In short, it can revitalise a flagging public interest in important civic issues and our nation’s democracy.
8. “Deliberative democracy” is a field of theoretical and empirical democracy research. It starts from the empirical observation that when groups of diverse citizens are provided with the opportunity to deliberate together about policy issues, they are competent to reach sophisticated and balanced conclusions.³ When policy questions require integrating complex information and balancing normative considerations, deliberating groups of diverse citizens are likely to arrive at more considered and appropriate conclusions than the most knowledgeable individual experts.⁴

² Ferrer, Joshua. 2020. Re-evaluating consensus in New Zealand election reform. *Political Science* 72(2): 118-144.

³ Curato, Nicole et al. 2017. “Twelve Key Findings in Deliberative Democracy Research.” *Daedalus* 146(3): 28-38.

⁴ Landemore, Hélène. 2013. “Deliberation, Cognitive Diversity, and Democratic Inclusiveness: An Epistemic Argument for the Random Selection of Representatives.” *Synthese* 190(7): 1209–31.

9. In recent decades, the ideals of deliberative democracy have underpinned the increasing use of “deliberative mini-publics” as a form of citizen-led political decision-making. These are typically described as “citizens’ assemblies”, “citizens’ juries” or “citizens’ panels”. Deliberative mini-publics are constructed by inviting randomly selected members of the targeted population, from which a demographically representative sample is selected. Random selection ensures that the diversity of lived experiences and knowledge is represented in the deliberating group. Deliberative mini-publics seek to overcome the problem of inequality in democratic participation (paragraph 4) by providing support to participants during the process in whatever form needed – such as financial help, transport, and childcare. Citizens’ assemblies typically meet over several days or weekends to learn about a policy issue, investigate proposed solutions, interview experts, deliberate and formulate policy recommendations.
10. **Citizens’ assemblies** have been used widely overseas over the past few decades to investigate and make recommendations on questions related to electoral and constitutional reform. Examples include Victoria (Australia), British Columbia (Canada), the Netherlands, Ireland and many others.⁵
11. In fact, deliberative democracy was previously proposed for use in electoral reform in New Zealand.⁶ This earlier proposal was written in the aftermath of the 2011 New Zealand voting system referendum that confirmed the existing MMP system. It suggested that by guaranteeing at least proportional representation of demographic groups in the citizens’ assemblies, alongside the guiding principle of shared ground, citizens’ assemblies would work much better (than referenda) for Māori as well as for the ethnic minorities.
12. At the time, the experience with deliberative processes was relatively limited. Over the past decade, the popularity of deliberative democracy and “minipublics” has grown internationally to the point that a recent OECD report called it a “deliberative wave”.⁷ At the same time, in New Zealand, the discussion about partnership under Te Tiriti o Waitangi and

⁵ A comprehensive list of deliberative processes may be found in OECD. 2020. *Innovative Citizen Participation and New Democratic Institutions: Catching the Deliberative Wave*. OECD.

⁶ Hayward, Janine. 2013. Rethinking electoral reform in New Zealand: The benefits of citizens’ assemblies. *Kōtuitui: New Zealand Journal of Social Sciences* 9(1): 11-19. See also Mansbridge, Jane. 1999. Should blacks represent blacks and women represent women? A contingent ‘yes’. *Journal of Politics* 61: 628-657.

⁷ OECD. 2020. *Innovative Citizen Participation and New Democratic Institutions: Catching the Deliberative Wave*. OECD.

co-governance has evolved too. We are now discussing the use of deliberative democracy in a very different context compared to a decade ago.

13. As a proof of concept for deliberative democracy in Aotearoa New Zealand, Koi Tū organised and ran a citizens' assembly in Auckland earlier this year. It addressed a major infrastructure topic: what the future sources of water should be for the city. It had a substantial institutional remit as Koi Tū collaborated with Watercare, whose Board made a prior commitment to consider seriously any recommendations which came out of the process. After four weekends of deliberation, the citizens made a proposal on the type of the water source, the Watercare Board received it and is now planning further steps.⁸

14. In accepting the proposal that citizens' assemblies can be a more democratic way of involving citizens in electoral reform than the current process, decisions then must be made about **when** and on **which questions this method might be most usefully deployed**:
 - (i) Could a citizens' assembly be convened after the current submissions process, as an additional engagement method?
 - (ii) Could it be convened to deliberate specifically on questions where politicians and political parties may be seen to have direct interests e.g. those discussed in Part 3 in the full consultation document: standing for election (for example, eligibility, selection, nomination); party and candidate financing; advertising and campaigning? Or could they be convened usefully to focus on questions where there are widely varying opinions among the population and political parties (such as lowering the voting age)?

⁸ Williams, C. 24 September 2022. Direct recycled water recommended as Auckland's next water source. *Stuff*. September 24 2022. <https://www.stuff.co.nz/environment/300697030/direct-recycled-water-recommended-as-aucklands-next-water-source>

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Williams, C. 9 November 2022. Auckland could be drinking recycled water by 2040 if pilot scheme goes well. *Stuff*. 9 November 2022. <https://www.stuff.co.nz/environment/300733831/auckland-could-be-drinking-recycled-water-by-2040-if-pilot-scheme-goes-well>

RECOMMENDATION: INSTEAD OF ELECTORAL CHANGES BEING MADE SOLELY ON THE BASIS OF THIS SUBMISSION PROCESS, DELIBERATIVE DEMOCRACY PROCESSES SHOULD ALSO BE UTILISED. (Our strong caveat and recommendation, however, is that a citizens' assembly should be convened ONLY if decision-makers have a serious intention to take the citizens' recommendations into account. Failure to do so would discredit the process.)

POINT TWO: SIGNIFICANT RESOURCING IS NEEDED TO MEASURE INFORMATION DISORDERS

- (1) While it is good to see that disinformation, misinformation, and foreign interference are considered within the scope of this review, the fact is that these concerns have been present in NZ for a long time. The increased use of digital technologies to disseminate information globally has intensified the speed and scale of this activity, placing additional stress on our electoral processes and systems. However, the weaknesses and fragilities in our systems are the same as they have been for decades, which are now posing an ever-increasing risk to our democracy.
- (2) The minor measures that have previously been introduced, such as restricting foreign donations, would, in our view, have minimal impact on the propagandist interference that is increasingly impacting our shores⁹. Much more significant action needs to be urgently taken to strengthen New Zealand's resilience to such attacks. Intensifying the accountability of digital platforms, strengthening the enforcement of existing laws such as the Harmful Digital Communications Act 2015, and quickly introducing Information Studies education in schools and amongst the public are all long overdue and urgently needed measures.
- (3) However, we recognise that it can be difficult to move beyond hand-wringing over the threat of disinformation, misinformation, and foreign interference, towards the critical point of establishing evidence of the real level of harm that would justify government intervention. Unlike many other countries, New Zealand does not have the depth of funding needed to monitor and measure the actual prevalence of these issues. In other jurisdictions, particularly the United States, many think tanks and non-governmental organisations are specifically funded to collect data and identify the underlying sources of information disorders. In NZ, the

⁹ Curtis R. Barnes and Tom Barraclough. 2020. Digitised Lies: New Zealand and the Globalised Disinformation Threat. In *Shouting Zeros and Ones: Digital Technology, Ethics and Policy in New Zealand* (ed Andrew Chen) 15-38. Bridget Williams Books.

Disinformation Project¹⁰ represents perhaps the most significant effort to monitor and archive evidence of disinformation and misinformation but their funding is very limited.

- (4) Given that any interventions in this space may have some impacts on freedom of speech, it is very important that governments are able to quantify and substantiate the threats in order to justify such interventions. The politicised and heated debates around individual freedoms and freedom of speech mean there are serious political and civic risks if unnecessary or potentially harmful interventions are applied without understanding the types of harm and threats to individuals or groups of citizens in NZ.

RECOMMENDATION: We strongly recommend government funding be substantially increased to responsible organisations which are monitoring and measuring the incidence of misinformation and disinformation in this country, so that citizens can see there is reliable and credible evidence on which to justify and target interventions. Such clarity and transparency will help shore up confidence in our democracy at a time when this is needed.

Thank you for your time in considering Koi Tū's submission.

We are available for further discussions on these points if it would be helpful to the review panel.

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¹⁰ <https://thedisinfoproject.org/about-us/>

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