

REFORMING OUR DEMOCRACY

Options for Renewing Democracy in Australia



—
Melbourne School
of Government

new
DEMOCRACY
FOUNDATION



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This document has been developed through a collaborative partnership between the University of Melbourne, The newDemocracy Foundation and the Susan McKinnon Foundation. The University of Melbourne has contributed by providing evidence-based policy analysis to the authors. As an independent public organisation, the University of Melbourne does not take an official position on any of the ideas listed throughout.

While different authors and signatories champion different aspects of this paper, we share the view that any steps to innovate in this area would be a positive development.

INTRODUCTION

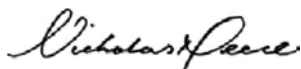
This paper provides a list of reform options to improve Australia’s democracy. We put these proposals to Australia’s political parties ahead of the 2019 election because we believe that democracy matters. Australia’s democracy has been critical to our nation’s success, but it is frayed and public confidence in our system of governance is in worrying decline.

At various points in our history Australia has led the world in democratic innovation. From the 1850s, our colonial parliaments extended the vote in radical ways and established basic ideals like the Eight Hour Day that influenced global thinking. From the 1890s, Australia led the way with the suffragettes extending democratic rights for women, literally decades ahead of other nations like the United States and parts of Europe. From 1901, our federation model of government was best-in-class, encompassing the best aspects of Britain, the United States and Europe whilst also drawing on local innovations of our own. As a young and growing nation, we need to keep renewing our democratic ideals by making reforms where necessary, and true to our history, we need to keep leading the way.

We believe that each idea in this paper will enhance trust in government decision-making and improve confidence in Australian democracy. We invite you to review the list and indicate which ideas meet with your support. Some of the proposals in this paper are easier to implement than others. Some are very modest. Some measures are far reaching, so a suggested next step is the undertaking of a trial or review. Some could be implemented through the executive, some require legislative change and therefore parliamentary support, some require constitutional change and a vote of the people.

The list of initiatives has been selected because they are practical, realistic and achievable. They will not solve all the problems of our democracy, but they are a set of good “next steps” for the next parliament. The diversity of the political backgrounds of our signatories and the experience of our experts should give you confidence that this is a list of reforms that are implementable.

The approaching federal election presents us with an opportunity to rekindle the spirit of ingenuity that once made Australia a leader in democratic innovation. We would welcome the opportunity to provide more information and evidence to support policy development on any of the initiatives contained within this document.



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KEY COMMITMENTS

1. **Commit to a review of parliamentary terms** to provide more certainty and improve government decision making.
2. Appoint a genuinely **independent Speaker of the House and President of the Senate**.
3. Undertake a **trial of changes to seating arrangements** in parliament to encourage it to operate with more civility and help to promote real, constructive dialogue.
4. Introduce more **'free votes'** in the parliament, through a new parliamentary convention or the introduction of the United Kingdom's **Three Line Whip** approach.
5. Commit to real reform on **political donations and campaign financing** that promotes a more equal opportunity for all parties and candidates to participate in the political process.
6. Implement more stringent **transparency requirements for political parties** to help improve the public's understanding of how parties operate.
7. Undertake a trial of **AEC-issued candidate information packs** that give voters more information about local candidates so that they can make properly informed choices.
8. Undertake a process after each election that gives citizens a chance to openly communicate their views on **how we can improve elections and our democracy**.
9. Commit political parties to the same standards that companies are bound by when they advertise during election campaigns to **promote better truth in advertising**.
10. Implement **comprehensive and continual professional training in policy, ethics and procedures** for ministers, members of parliament and ministerial staff.
11. Commit to **stronger regulation of lobbyists**.
12. Implement an **independent selection process for senior appointments** to the **Australian Public Service, the judiciary and major statutory bodies** that includes improved parliamentary oversight but does not limit the ability of governments to enact change.
13. Commit to a **trial of a citizen jury** which would allow a small representative sample of the community to explore a major national issue in depth.
14. Lead a national conversation to **renew Australian democracy and update the Constitution**.
15. Lead a national conversation about the operation of **the Australian Federation**.

REFORM OPTIONS FOR RENEWING AUSTRALIA'S DEMOCRACY

We, the undersigned, believe that the following **fifteen** commitments, if implemented by the next Australian Federal Government, will help to improve Australia's democracy:

THE PARLIAMENT

1. A Review of Parliamentary Terms

By world standards, Australia's three-year parliamentary terms are exceptionally short. The problems this creates are further exacerbated by their unfixed nature. The Australian Government should commit to exploring longer, fixed terms for the House of Representatives. Acknowledging the complexities that arise for Senate terms, the government should commit to a review of options for the length of Senate Terms. Extending the current three-year term in the House of Representatives would result in greater certainty and political stability and would allow governments to commit to longer-term policy making. To ensure adequate accountability during these longer terms, this reform should be supplemented by other measures that support democratic accountability and participation such as some of the measures contained in this document. This reform would require a referendum to change the Australian Constitution.

2. A Truly Independent Speaker and President

The office of Speaker and President should be turned into a quasi-judicial office with the holders of the office being seen as truly independent and not attending party room meetings. The Speaker or President should be appointed for set terms of service and not easily removable by the government of the day. The Speaker or President would be sworn to conduct their role in an impartial way to ensure clear and fair debate that is readily accessible and understood by the general public. This includes insisting on the facts and clarifying the argument, as occurs in a court of law. Appointments would be awarded to people with expertise and understanding of parliamentary practice and procedure. One option would be for the role of Speaker and President to be made up of a small panel that are chosen by a bi-partisan parliamentary committee.

3. New Seating Arrangements in The House of Representatives and The Senate

The current fixed seating plan in parliament promotes a hostile and at times unhelpful form of parliamentary debate which divides parliamentarians along party lines. Several measures could be trialled or introduced to improve the dynamics in the chamber and promote more constructive and civilised debate:

- a) The Australian Government should run a trial of a ballot system that randomly allocates an MP or Senator's seat across the various sitting weeks, so MP's are not always seated

alongside party members. The trial could be run for one sitting session: either Autumn, Winter (Budget) or Summer; and

- b) Run a one-week trial wherein, during Question Time, ministers answer questions from a lectern located to the right of the Speaker rather than across the dispatch box directly opposite their opponents.

4. More 'Free Votes' in the Parliament

All votes by parliamentarians should be free except those relating to pre-election commitments. Parliament is often at its best when 'issues of conscience' are debated and MP's can cast a 'free vote'. Parliament could operate in this way more often if the parties committed to allowing a 'free vote' on a broader range of issues. Of course, electors vote for parties because they like their policies, and electors need to have confidence that these policies will be supported by their local member. However, a new convention could be developed that broadens the kind of questions a member could vote freely on, particularly when the issue is not clearly covered by the party's manifesto. Australia could consider the system used in the British Parliament, with single, two-line and three-line whips for party member MP's. A single line is guidance. A double line requires attendance and is expected to be adhered to. A three-line whip is serious and any MP who doesn't adhere to it risks their position being questioned. The British system still provides for party discipline, but also formally allows for more freedom in the voting of MPs.

ELECTIONS AND POLITICAL PARTIES

5. Campaign Finance and Political Party Funding Reform

Campaign finance and political funding in Australia has been widely criticised for the lack of transparency it affords the electorate, the disproportionate level of influence it offers to those who have the financial resources to pay for it and the way it disadvantages some political participants. The Australian Government should commit to one or more of the following measures to enhance the integrity of campaign financing and political funding:

- a) Political donations above \$1,000 are disclosed as close to real time as the AEC deems reasonable and achievable (current public disclosure trigger is \$13,800 the following year);
- b) Setting an annual maximum limit for political donations; and
- c) Placing limits on campaign spending applying to candidates, political parties and other political organisations. This could be coupled to a new requirement that commercial electronic media operators provide time without charge for political messages.

6. Greater Reporting Transparency from Political Parties

The Australian Government should commit to implementing greater transparency requirements for all political parties in Australia. Political parties are not bound by the same robust transparency requirements that companies, community organisations and charities are. This limits the level of knowledge and understanding that the public has about how parties operate. As a first step, a

commitment to greater transparency could see political parties begin to publish their membership numbers and financial details annually, as well as details of their governance structures.

7. Candidate Information Packs at Elections

Good democracy depends on citizens being able to make informed decisions when voting on election day. Therefore, the Australian Government should undertake a trial at a by-election or in a single electorate where citizens receive candidate information packs that are administered by the Australian Electoral Commission (AEC). These packs would be disseminated online, mailed to homes and be available at the ballot box on voting day. Contained within them would be a formal policy manifesto document from each party/candidate, a candidate statement, the candidate's business interests and affiliations and a simple disclosure ballot that compares the level of donations received by each candidate and the source of those donations.

8. Citizen Input into Elections and Our Democracy

At its simplest, democracy is government of the people, by the people, for the people. We call on the next government to undertake a process that gives "the people" more input into how elections are run and how our democracy operates. After every election, the Parliament through the Joint Standing Committee on Electoral Matters (JSCEM) reviews the conduct of the last election with a view to seeing if any of the rules and regulations need to be updated. After the 2019 Election the Australian Government should run a parallel process to ask citizens their view of the election and '*How can we do democracy better?*'. This could be done through a Citizen Panel or series of Citizen Panels, with a commitment that their report(s) is(are) the subject of a free debate in the parliament, with a formal response from the government within 90 days.

9. Truth in Advertising During Election Campaigns

The standard Australians are used to about truth in advertising is set in the Competition & Consumer Act 2010 (formerly the Trade Practices Act) which prohibits communication with the "*intent, or likely effect, to mislead or deceive*". That is a standard Australians have the right to expect during Federal election campaigns. Our courts have been able to identify appropriate balancing remedies for companies breaching this rule, so the Australian Government should have equal confidence that courts would be able to identify proportionate penalties through litigation following an election if a

political party is found to have breached this standard. Such a move would act as a deterrent for those parties willing to breach this standard.

OPERATIONS OF GOVERNMENT AND PARLIAMENT

10. Professional Training of Ministerial Staff, Members of Parliament and Ministers

In modern Australia, senior executives or managers are required to undergo a high level of management and skills training. On company and charity boards stringent requirements apply in relation to training and skills development. Strangely, no such requirement substantively applies to ministerial staff, government ministers or members of parliament. Orientation training for new MPs as it currently exists does not go far enough to educate those who represent us in critical management, financial analysis, governance and behavioural areas. An Australian politician, who has responsibility for matters affecting the interests of millions of his or her fellow citizens, should be assisted by receiving a comprehensive level of training about their duties, responsibilities and the technical knowledge required for the role. This can be achieved through the introduction of comprehensive, professional training for members of parliament and ministers. Given their influence in the political process, ministerial staff would also receive this sort of training.

11. Stronger Regulation on Lobbying

The Australian Government should commit to ensuring that lobbyists (both in-house and commercial) are subject to stricter regulation by disclosing information relating to fundraiser activities and the publication of summaries of meetings with ministers and ministerial staff.

12. Executive Appointments

The next Australian Government should implement an independent process for senior appointments to the Australian Public Service, the judiciary and major statutory bodies as well as improved parliamentary oversight. Appointments should continue to be made by the responsible minister and/or cabinet, respecting the fact that governments are elected to deliver change. However, appointments should be made after a rigorous independent process has been carried out and parliament should be given the opportunity to scrutinise and comment on the appointment.

A NATIONAL CONVERSATION TO BUILD CONSENSUS AND 'GET THINGS DONE'

13. A Major Trial of a Citizens' Jury

Citizens' juries allow a small representative random sample (roughly matched to the Census profile) of the community to explore a major issue in considerable depth and assist with the co-design of public services. Politicians are regularly accused of being too focused on their immediate political ends and this mechanism helps government to earn trust by injecting an informed common-ground position that comes from Australians of all walks of life who are willing to share the decision. A

diverse group of citizens, like a jury, spend several months exploring the issue and developing a report that explains where common ground can be found. This is then tabled to government and parliament for all parties to respond to. The Australian Government should test the use of a Citizens' Jury on a major national issue such as tax reform, health funding or fair levels of welfare.

A more radical innovation in this field could be for the next Australian Government to randomly-select 76 citizens from across Australia to perform the Senate function without any party alignment and simply allow their common ground views to be public, with a view to seeing how this shapes public debate. The Citizens' Senate could sit in Old Parliament House and could be run for a short period to trial its ability to review and suggest amendments to legislation.

14. Updating the Australian Constitution

It is widely accepted that Australia's Constitution is outdated and needs change. It is also widely accepted that it is very hard to succeed in a referendum vote which is needed to change the wording in the Constitution. This does not mean that we should not try. The Australian Government should start a national conversation about our Constitution by committing to a two-year community-led Constitutional Convention Process which explores how we could create a stronger, clearer and fairer Constitution that Australians can identify with. Throughout this process it should consider but not be limited to:

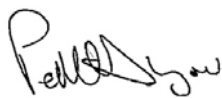
- a) Removing provisions from the Constitution that are potentially racially discriminatory by amending or removing section 25 and section 51(xxvi). We acknowledge the legal debate about alternative interpretations of these sections. We believe that when it comes to Australia's foundation document, these matters should be put beyond debate. The Constitution must be amended so it cannot be used to discriminate against Aboriginal and Torres Strait Islander Australians or any other race;
- b) New measures to ensure proper recognition of Aboriginal and Torres Straits Islander peoples as the First Nations of this continent, such as those articulated in the Uluru Statement;
- c) Amending section 44 to narrow the grounds laid out in the Constitution for disqualifying citizens from election to parliament; and
- d) Although in theory the doctrine of responsible government applies in Australia, the system is not functioning as it should regarding the ability of the opposition to scrutinise the executive. This is because there is nothing that either house of parliament can do to force the executive to provide the full information necessary for that scrutiny. Putting executive accountability to the legislature on a *constitutional*, rather than a conventional, footing, and making the application of penalties no longer a function of political majorities, would dramatically strengthen the doctrine of responsible government in Australia.

AUSTRALIAN FEDERATION

15. A Commitment to A Better Federation

The next Australian Government should commit to reforming the Council of Australian Governments (COAG) in such a way as to mitigate the problems of federalism and, more importantly, exploit the advantages of federalism. This could start with one simple step: a properly funded and independent secretariat charged with developing an agreed forward agenda.

These policy reform options have been written, reviewed and endorsed by the following individuals and organisations:



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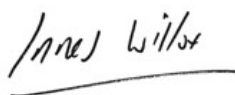
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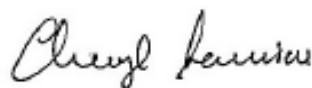
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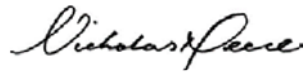
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