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The Rise, Fall and Re-Rise Of Deliberative Democracy In New Zealand

Abstract

In New Zealand the last few years have seen a re-emergence of interest in processes that build on the theory of deliberative democracy. Commentary on this trend, which typically positions deliberative democracy as a novel development in New Zealand politics, ignores several decades of public agencies' democratic experimentation. In this article we describe three of the 15 identified processes displaying the critical elements of deliberative democracy: the Capital Power citizens' jury (1996); Toi te Taiao: the Bioethics Council's public deliberation on pre-birth testing (2007–08), and the citizens' advisory panel on the Newtown–Berhampore cycleway (2014). We analyse the reasons for their ostensible failure and identify lessons that current policymakers interested in deliberative democracy should draw from these historical cases.

Keywords deliberative democracy, citizens' jury, participatory democracy, participation, consultation, engagement

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In New Zealand the last few years have seen a re-emergence of interest in processes that build on the theory of deliberative democracy. This theory replaces the 'vote-centric' idea of democracy: an arena where (fixed) interests and preferences are competing via mechanisms of aggregation, with a 'talk-centric' view where interests and preferences are formed and reshaped through public deliberation (Chambers, 2003). In these processes, high-quality public discussion, among demographically representative groups of citizens, is enabled to influence decision making (Fishkin, 1991; Gastil and Levine, 2005; Elstub and Escobar, 2019).

This local upswing in interest follows what has been described as a global 'deliberative wave': a large increase in organised processes, advocacy groups and related discussions (OECD, 2020). In New Zealand, the 2022 long-term insights briefings by the Public Service Commission (2022) and the Department of Internal Affairs (2022), the Review into the Future for Local Government (2023) and Deloitte's *State of the State 2023* have all endorsed deliberative democracy as a means to both alleviate a perceived democratic 'malaise' and to inject into decision-making processes public input that is well-considered, diverse, and free from party partisanship and broader polarisation.

Table 1. Identified deliberation processes in New Zealand

Year(s)	Organisation	Topic	Process
1996	Wellington City Council	Whether to sell the city’s electricity utility	Citizens’ jury
2007-08	Toi te Taiao: the Bioethics Council	Pre-birth testing policy	Nationwide face-to-face and online deliberation
c.2007	Auckland City Council	Eastern Busway design as part of the Auckland Manukau Eastern Transport Initiative	Deliberative workshops
2009	Wellington City Council	A residents’ panel convened to help develop the Long-Term Council Community Plan 2009-19	Residents’ panel
2009-10	Otago University	The use of medical information for the post-marketing surveillance of medicine safety	Citizens’ jury
2011	Wellington City Council	Decision-making principles for the Town Belt Management Plan and a new piece of legislation, the Wellington Town Belt Act 2016	Deliberative workshops
2012	Wellington City Council	A new governance model for Zealandia and other WCC eco-attractions	Deliberative workshop
2014	Wellington City Council	A Berhampore-Newtown cycle route	Citizens’ advisory panel (see below)
2016	Otago University	To help develop a healthy eating resource for pregnant women	Citizens’ jury
2018	Otago University	Assisted dying	Citizens’ jury
c.2020-22	Ministry of Transport	The future of the land transport revenue system	Online deliberation using Pol.is and a series of deliberative workshops
2022	Watercare	The ‘next source of water’ for Auckland	Citizens’ assembly
c.2022-23	Reserve Bank	The future of cash	Deliberative workshops
2023	Auckland Council	Safe, equitable and sustainable transport	Deliberative forum
2023	Wellington City Council	To inform the Long-Term Plan 2024-34	Citizens’ assembly

Concurrently, three major deliberative mini-publics (small groups of demographically representative citizens) have taken place: one in Auckland in 2022, and one each in Auckland and Wellington in 2023 (see Buklijas et al., 2023).

Commentary on this trend, which typically positions deliberative democracy as a novel development in New Zealand politics, ignores several decades of public agencies’ democratic experimentation. This experimentation came on the heels of the introduction of participatory democracy into New Zealand legislation – a variety of statutory mechanisms and institutions, such as written and oral submissions and public meetings, through which ordinary citizens could provide formal input on central and local government decisions, outside the narrow boundaries of representative democracy (elections) or the infrequently used direct democracy (referenda).¹ These deliberative democratic experiments were understood as a subset of participatory processes and usually regarded as unsuccessful: many were one-off processes with weak institutional grounding and

ignored by the very bodies whose policymaking they were meant to influence. Yet there is much to learn, especially concerning the obstacles to and opportunities for democratic innovation in New Zealand, when we examine why these processes were attempted, the kind of policy problems they were supposed to solve, and the outcomes they produced.²

For the purpose of this review, we focus on processes displaying the critical elements of deliberative democracy: active recruitment of diverse ‘everyday’ participants (rather than advocates); an explicit intention to allow learning, deliberation and shared decision making by the group; and an expectation for the group to produce a report or set of recommendations that influence public policy. Our research has uncovered 15 processes broadly fulfilling the above criteria, although there may well be more, and we would welcome these being drawn to our attention. Our examples all operated within the Crown’s ambit; while we acknowledge the diversity of Māori processes akin to deliberative democracy,

we feel they are best considered separately. We also note that the consideration of Tiriti issues was variable throughout the processes we examined. We list those processes above (see Table 1), before discussing in more depth three examples from the past three decades: the 1996 citizens’ jury on Capital Power; the national deliberation on pre-birth testing carried out by Toi te Taiao: the Bioethics Council in 2007–08; and the 2014 Wellington cycleways deliberative process.

The citizens’ jury on Capital Power

In February 1996, in the wake of market-based reforms to the New Zealand economy, the Wellington City Council (WCC) decided to consider fully privatising its electricity company, Capital Power, and/or merging it with the Hutt Valley electricity company, Energy Direct (Bertram, 2006).³ Capital Power, itself established in 1993 from the former Municipal Electricity Department, had had 49% of its shares sold in 1994 to the New Zealand subsidiary of the Canadian electricity company TransAlta. The WCC was now considering

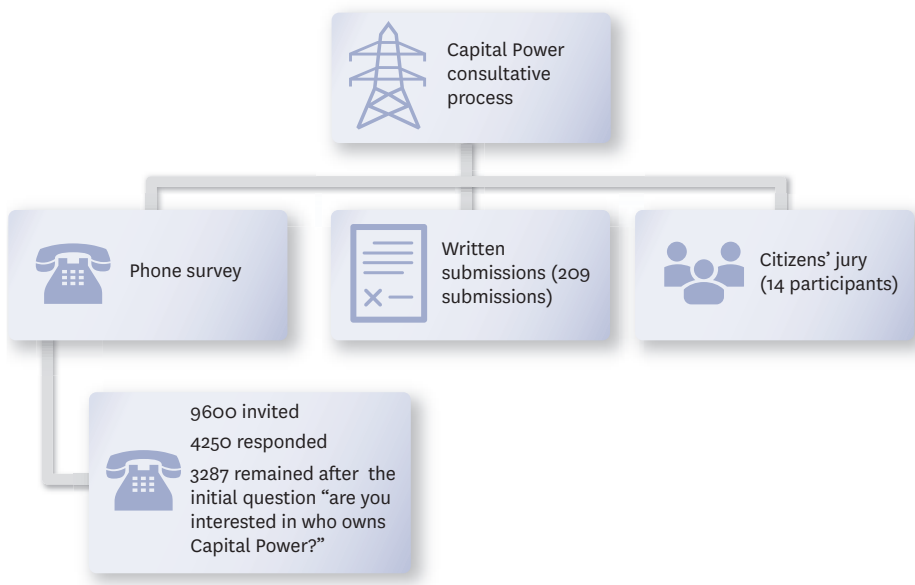
selling the remainder. In addition to written and oral submissions and a phone survey, consultation on the potential sale was to include, for the first time in New Zealand, a citizens' jury (Figure 1).

Archival records do not explain why the WCC decided to run a citizens' jury, although former prime minister Geoffrey Palmer speculated that the idea came from a report by a British think tank, the Institute for Public Policy Research (Steward, Kendell and Coote, 1994; Coote, 1997).⁴ However, a local newspaper article, setting the Wellington jury in the context of overseas deliberative processes, argued that it was first proposed by a Wellington city councillor, Stephen Rainbow, to demonstrate to the public 'what a difficult balancing act political decision making can be' (Murphy, 1996). The same article quoted the then mayor of Wellington, Mark Blumsky, saying that a review of a mooted Lambton Harbour project 'would have been a more appropriate subject to trial a citizens' jury locally than a commercially complex issue like Capital Power'. However, the chair of the WCC's new Communication and Consultation Committee, Sue Kedgley, noted that jury members would be deliberating on their own power bills, arguing, 'It is not some esoteric subject that they might or might not have interest in.'

The jury, comprising 14 Wellingtonians, deliberated over two full days in March 1996. Broken down by occupation, its membership was as follows: one official, one professional/service worker, two self-employed business owners, two business executives, one skilled worker, two clerical workers, one student, one beneficiary/unemployed, and three retired people. In demographic terms, half were men, half women, and all were aged 18-plus. The jury members had been selected by MRL Research Group from a pool of several hundred people who had been previously randomly selected for research projects and had agreed to participate further. The independent chair, former Auditor-General Brian Tyler, was selected by the council.

On the first day the jury heard from people advocating for the merger, the sale or both. Most represented the corporate world: the involved companies, Capital Power and Energy Direct, TransAlta, and KPMG. But the jury also heard from the

Figure 1: Capital Power consultative process



CEO of the Taupo District Council, which had sold its electricity company. These witnesses argued that the WCC did not have the capacity to look after and expand the electricity infrastructure; that a large electricity company would enjoy 'efficiencies of scale' when purchasing power from generators; and that the WCC could invest sale funds in more profitable and 'easier' to manage ventures.

On the second day the jury heard from opponents of the sale: economists, members of community groups and environmentalists. Their view was that the merger and private ownership would not necessarily provide a better service to citizens; nor would the WCC definitely find a better use for its funds. Some recalled local opposition to the sale of the first tranche of shares in 1994.

The citizens' jury decided 12–2 against the sale. Mayor Blumsky attempted to paint the jury as out of step with the wider public, citing the phone survey's finding that 62% of respondents advised the WCC to 'get the best financial return on your investment'. However, 96% of people in that same survey had said that energy efficiency, conservation and social issues were as important as financial considerations, while 68% had said that electrical utilities should be publicly owned.⁵

Furthermore, the jury's 26-page report showed that it had not only understood the presented material but also diagnosed a focus on short-term financial outcomes that was biasing the council's decisions. The jury

advised the council to concentrate on protecting people, including domestic customers but also current Capital Power staff, as a light-handed regulatory framework would not do so unaided. The jury argued that social objectives must be part of any future arrangements and contracts.

Jury members rejected the notion that voting against a merger was tantamount to voting for the status quo, and, similarly, rejected the idea that a council which had managed electricity supply for decades could no longer do so. Instead, they suggested exploring other avenues, such as co-operation with Energy Direct and investing in energy efficiency, and strongly underlined that a sale or merger was neither necessary nor urgent.⁶ Nonetheless, Blumsky and the WCC chose to ignore the jury's recommendation and proceed with the sale (Sinclair, 1996).

In the following years, New Zealand scholars wrote about the Capital Power case, but mostly used it as a 'hook' to interrogate problems in representative democracy, promote deliberative democracy, criticise public sector reforms, or query the models of public participation used in decision making post-1980s (e.g., Bostwick, 1999; Cheyne, 1999; Cousins, 1999). As time went on, the citizens' jury was mentioned less and less frequently, and by the 2020s had largely been forgotten.

Toi te Taio: the Bioethics Council

In the late 1990s, global public concern mounted over the use of genetic

Figure 2. Examples of pre-birth testing

Pre-birth testing
Includes:
<i>Before Pregnancy</i>
Pre-implantation genetic diagnosis (PGD)
<i>During Pregnancy</i>
Pregnancy test
Blood pressure
Urine test
Foetal heartbeat
Blood tests
Triple screening test
Ultrasound
Amniocentesis
Chorionic villus sampling

technologies in agriculture and food production (Wynne, 2001). In New Zealand, a royal commission on the subject was established in 1999 by the newly elected Labour/Alliance government (Rogers-Hayden and Hindmarsh, 2002; Eichelbaum et al., 2001; McGuinness, White and Versteeg, 2008). The royal commission concluded that existing agencies could not adequately deal with the ‘big picture’ issues raised by biotechnology, and recommended the government establish Toi te Taiao: the Bioethics Council to ensure that cultural, ethical and spiritual issues were properly considered, and to reduce the likelihood of public opposition to biotechnology.

Toi te Taiao’s membership and its focus on dialogue were, however, significant departures from the royal commission’s call for an expert, consultative body (Eichelbaum et al., 2001). Its membership included figures from the humanities and social sciences, experts in tikanga and mātauranga Māori, medical experts and members of civil society. Appointed as a non-statutory advisory body in December 2002, and reporting to the minister for the environment, Toi te Taiao was nonetheless independent and free to set its own work programme. It had a \$1.5m annual budget and a full-time secretariat of two to five people (McGuinness, White and Versteeg, 2008). It had a significant Māori membership, starting with its first chair, Sir Paul Reeves, and a standing Māori working

group. Tikanga and mātauranga Māori were explicitly considered, there were tailored Māori engagement processes and Māori-specific recommendations developed by the Māori working group, and research was commissioned for and by Māori – for instance, on tikanga and biotechnology.

Toi te Taiao saw dialogue as an ‘opportunity to explore new ways of holding conversations about cultural, ethical and spiritual aspects of biotechnologies, and to move beyond the adversarial approach that came to dominate much of the public debate around genetic modification’ (Toi te Taiao, 2004, p.36). Between 2002 and 2009 it organised two national dialogues as well as a national deliberation.

Initial dialogues (2003–05)

Toi te Taiao’s first two national dialogues were on the use of genetic technologies to put human genes into other organisms (2003–04) and animal-to-human (xeno) transplantation (2005) (Toi te Taiao, 2004, 2005). For the human genes project, 28 face-to-face facilitated dialogue groups were convened around the country, including several for people from specific communities (e.g., Māori, Pacific, youth and rural areas). Toi te Taiao also ran a public submissions process and convened some of New Zealand’s first moderated online spaces for open policy dialogues.

Toi te Taiao reports noted that the use of ‘dialogue’ had deepened participants’

understanding of their own and others’ views and, in some cases, improved relationships between parties that had been strongly antagonistic during the royal commission process. However, policymakers felt that Toi te Taiao’s nuanced reports did not help them understand the trade-offs or actions people might support. Toi te Taiao’s response was to use ‘deliberative dialogue’ for its next major project.⁷

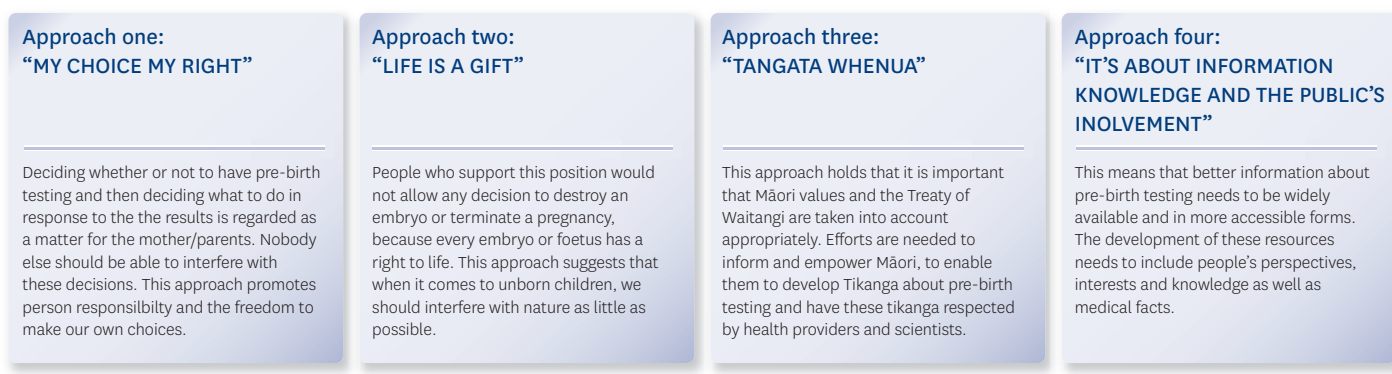
Deliberation on pre-birth testing technologies, 2007–08⁸

The pre-birth testing project was a response to concerns about the use of pre-implantation genetic diagnosis (PGD), which could be used to create ‘designer babies’ and ‘saviour siblings’ and had become a major issue internationally. However, rather than focusing only on PGD and its regulation, Toi te Taiao decided to broaden the scope to include all pre-birth testing – that is, all embryo, foetal and maternal testing (see Figure 2) – increasing its relevance to a wide range of New Zealanders. This framing also allowed many long-standing issues to be considered, including biases against people with disabilities and concerns about abortion.

In a three-stage process (see Table 2), key issues were first identified through 11 semi-structured interviews with experts and summarised in a short booklet. This booklet informed the second stage: six one-day framing workshops held in Auckland, Wellington, Christchurch and two regional centres. The combined outputs from stages one and two were used to create a ‘choicebook’ that informed and structured the facilitated public deliberations of stage three. The choicebook was designed to ensure all participants had a baseline of subject knowledge before joining their facilitated deliberation group.

Stage three involved three-hour face-to-face workshops, including four for Māori and one for Pacific peoples, held in 18 locations across the country. Toi te Taiao also ran three asynchronous three-week online deliberative forums for up to 20 people each. Various strategies were used to ensure diverse participation, including recruiting through partner organisations such as kindergartens, a kōhanga reo⁹ and

Figure 3: The four pre-birth testing approaches set out in the choicebook



a women’s refuge, and advertising the online deliberations on TradeMe. The outputs of all three stages fed into the final report. Across the three stages of the process, roughly 700 citizens had participated.

In both the face-to-face and online deliberations, participants explored the four approaches to pre-birth testing set out in the choicebook (see Figure 3), before searching for areas of common ground and developing their policy recommendations. Contrary to received wisdom, Toi te Taiao found that the quality of the online deliberations was at least as good as that of the face-to-face workshops.¹⁰ The extended time frame for the online deliberations may have helped, as it allowed participants to develop relationships based on reciprocal sharing of experience, knowledge and reasoning, to conduct their own research, and to reflect more deeply on what they were learning.

The process resulted in 11 recommendations to government. Most of them were practical suggestions – such as the publishing of improved public information, and the recruiting and training of more genetic counsellors and geneticists – that could be, and in some cases were, implemented without legislative change. An independent process evaluation found that participants rated the deliberative events highly, and that approximately 30% had changed their thinking and become more tolerant of people with opposing views. The process was also highly rated by stakeholders such as the New Zealand Catholic Bioethics Centre (Nathaniel Centre, 2008) and by the International Association for Public Participation and the OECD.¹¹

Nonetheless, a new, National-led government, elected in 2008, disestablished

Table 2. Summary of the process for the pre-birth testing project

Stage	Method	Output
1. Issue identification	11 semi-structured interviews with diverse experts	Issue booklet
2. Framing	Six 1-day framing workshops	Choicebook Online choicebook Printable version of online choicebook
3. Deliberation	18 3-hour workshops 3 20-person, 3-week online groups	Report Personalised participant report

Toi te Taiao the next year, claiming that ‘other government agencies were doing the same work’ (Smith, 2009), although this was refuted by multiple church groups which then mounted a campaign to have Toi te Taiao reinstated (McCabe, 2009; Interchurch Bioethics Council, 2009). Similar calls have been made sporadically over the years; in 2022, GE-Free New Zealand pushed for a new Toi te Taiao to be established to consider biotechnology and related issues (GE-Free New Zealand, 2022).

Wellington City Council’s 2014 citizens’ advisory panel for the Berhampore–Newtown cycleway

In 2014, the Wellington City Council used a representative deliberative mini-public process to help identify a cycleway route through the suburbs of Berhampore and Newtown. This was to be the second stage of the Island Bay to city centre route, following the Island Bay section itself.

In 2014, councillor Andy Foster, the chair of the council’s Transport and Urban Development Committee, argued that work would be relatively straightforward in Island Bay ‘where the road is wide and good improvements can be made fairly easily’. However, the next stage, through

Berhampore and Newtown, was ‘a lot more complicated ... [with] many possible routes and different ways improvements could be made, all with different pros and cons’.

Although the Island Bay section would be publicly consulted on before construction, the WCC considered that it could be constructed relatively quickly. For the Berhampore–Newtown stage, however, a representative citizens’ advisory panel would ‘look in depth at all the options and hear a wide range of perspectives’ before ‘help[ing to] narrow those options down to a more manageable number for wider consultation’ (Wellington City Council, 2014b). Issues needing consideration included the loss of parking, encroachment on the Town Belt reserve, and impacts on businesses and on walking and bus infrastructure.

While there was support for the cycleway as a whole (see, for example, Generation Zero, 2015), by December 2014 significant opposition to the Island Bay section had mobilised, as debate polarised city councillors and parts of the local community.¹² Construction on the Island Bay section finally commenced in September 2015, although opposition to the cycleway has continued into the 2020s (Campbell, 2021).

Figure 4: The panel's recommended routes



Source: Citizens' Advisory Panel (2014) and Wellington City Council (2014a, 2014c)

The panel process¹³

The citizens' advisory panel's 18 members were originally supposed to demographically match the Wellington population, with people from the area in question and neighbouring suburbs over-represented. The panel was to hear presentations from interested parties, to deliberate, and to make recommendations on a staged cycling network plan, using a package of routes, measures and mitigations that fitted the WCC's criteria and a generally agreed matrix of the acceptable trade-offs. Panel members would receive a modest koha and expenses would be reimbursed. It was decided to use the terms 'advisory' and 'panel' (rather than a verdict-rendering 'jury') because neither councillors nor officers thought the process could be decisive: its recommendations would be further developed by officers and later rounds of public consultation.

The initial design was changed, however, when various interest groups demanded representation on the panel. Despite concerns that such representatives might exert undue influence in favour of their particular interests, and would normally have presented to the panel rather than being on it, the membership was changed to include two people representing Island Bay, Newtown and Berhampore residents, two representatives of Newtown and Berhampore business owners, one Town Belt user and one person who cycled. The remaining 12 'public' members were randomly selected to make the overall

panel broadly representative in terms of age, gender, ethnicity, place of residence and attitudes towards cycling.

The six representative members were determined through discussions between the various stakeholder groups and the WCC. Stratified random selection was used to select the 12 public members from a pool of people who had indicated interest via a council survey. Even though candidates did not initially know details such as the number of panel sessions or dates, one in two agreed to participate; a significant number noted the Island Bay situation and said they wanted to help solve the cycling issue.

The panel met nine times; city councillors were invited to attend all sessions but only attended the first and the final one. Six of the representative and ten of the 12 public members attended all the sessions.

Significant efforts were made to ensure panellists were well-informed. The first Saturday session comprised a field trip around Berhampore and Newtown. The panel also had access to 40 reports on route options, road design and international practice. It received briefings from WCC experts and presentations from 25 stakeholders. Additionally, three panel members investigated potential routes by cycling around Newtown and Berhampore.

The panel's recommendations were well received by the WCC; one senior transport expert said he could not have done better. The panel proposed two main route options, both of which would

provide a spine from which a more comprehensive cycle network could later be developed. The panel envisaged that both would eventually be built, along with a third, lower priority, route (see Figure 4). The panel argued that cycleways on these routes would encourage city commutes as well as cycle trips within and between suburbs, including by children and their families.

Panel members were mostly positive about the experience, and while some of their recommendations were criticised, little opposition was publicly voiced, even as the conflict in Island Bay was intensifying. However, despite public assurances that the panel's work would be further developed and publicly consulted on, it took until 13 December 2023 – some seven years later – for the WCC to approve a Berhampore–Newtown cycle route for construction.¹⁴ The approved route is one that the panel considered and would have recommended but for bus-related safety concerns. At the time of writing, it is unclear whether construction will proceed under the new government.

Conclusions

There are many ways to measure the effectiveness of a deliberative process, but one of the most commonly used is its policy impact. In all of the three examined cases, the direct impact was at best limited. In the case of Capital Power, the WCC sold the shares against the jury's recommendation. With respect to Toi te Taiao, the government failed to formally

respond to any of its recommendations, and public-focused methods of dialogue and deliberation were not used again by a central government agency for 13 years. Senior public servants either ignored Toi te Taiao's work or, in private meetings with its members and secretariat, occasionally dismissed it as 'not real policymaking' and unnecessary. And while the Berhampore–Newtown cycleway panel recommendations were ostensibly well received by the WCC, progress to develop the cycleway stalled for many years. These are cautionary tales deserving consideration by all who embark on trialling deliberative processes today.

In our view, one major reason for these ostensible failures is the lack of clarity regarding the relationship between representative, deliberative and participatory democracy, and, indeed, the lack of understanding of the difference between these forms. When the WCC trialled a citizens' jury, it did so as part of a new wave of participatory democracy underpinned by the amendments to the Local Government Act 1989 and the Resource Management Act 1991. This 'participatory' thinking, however, was influenced by new public management theory, which emphasised consumer responsiveness and the involvement of users ('customers') in the design and delivery of public services. Public 'participation' was regarded as a way to enhance the legitimacy of decisions but, seen through this market-oriented lens, did not necessarily guarantee actual participation in democratic decision making, as it is understood by theorists of participatory democracy (Cheyne, 2015; Innes and Booher, 2004).

Moreover, dissatisfaction over the new statutory framework arose among both elected representatives and citizens (Cheyne, 1999). The latter, when they had been invited to participate in deliberative processes, expected their views to carry weight, and were critical of the lack of transparency regarding the use of their input. Yet for many elected representatives, such processes were akin to 'consultation', and the resulting input was little more than they got informally from their constituents. As Mayor Blumsky reportedly said, when rejecting the Capital Power jury's decision,

'Consultation is not the decision-making process. It's the council that sits down and considers a complex issue. Isn't that the purpose of having a council?' (Sinclair, 1996). A similar viewpoint is reflected in the use of the terms 'advisory' and 'panel' for the cycleways mini-public.

Blumsky's use of the term 'consultation' to describe the citizens' jury was emblematic of a wider confusion. It was not clear then, and indeed is still far from resolved now, whether deliberative processes should have decision-making rights (delegated, in essence, from the relevant public body), or whether their input should be regarded as merely a superior way to deliver 'the public consensus' to elected representatives, so that the latter can continue to make

a protracted fall. The country's two main political parties have been either indifferent or openly critical (Büdler, 2022). There was, in addition, little support from public officials, a dearth of academics with relevant expertise and interests, and no equivalent of, say, the influential Australian not-for-profit newDemocracy Foundation. In Australia, by contrast, deliberative democracy was championed by influential politicians such as Prime Minister Julia Gillard and South Australia Premier Jay Weatherill (Boswell, Niemeyer and Hendriks, 2013; Ryan, 2023).

On a more positive note, our case studies reinforce some of the key arguments for making greater use of deliberative processes. Notably, the citizens participating

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decisions themselves. This tension will need to be resolved if deliberative processes are to make headway in New Zealand; in particular, attention will need to be paid to the fact that elected representatives can often be hostile to processes that they see as impinging on their decision-making rights and legitimacy, an issue that has hampered countless deliberative processes globally. Although it has been claimed that local government cannot legally delegate decision-making authority to a group of citizens, the recent Future for Local Government report argued that nothing in legislation prevents the use of deliberative or participatory mechanisms (Review into the Future for Local Government 2023).

Indeed, the failure of political elites to support deliberative democracy in New Zealand is probably the main reason why the brief – and weak – rise was followed by

in our case studies produced recommendations that were at least as good as those made by elected politicians. As time has shown, 'economies of scale' and private ownership have not delivered cheaper electricity, just as the Capital Power citizens' jury predicted. The quality of the advice in the cycleways case, meanwhile, was confirmed by transport experts. This should not surprise us: deliberative democracy combines, by design, the positive features of representative democracy (e.g., deliberative spaces, dedicated time for deliberation and access to experts) with a freedom from party political (and indeed lobbying-related) ties. Deliberation and learning are further enhanced by a diverse mix of lived experiences, something seldom found either in local and central government or in the 'traditional' participatory spaces

(public meetings and consultations), often dominated by advocates and highly resourced and confident citizens. In short, our three case studies confirm what has been shown many times in the international literature: that so-called ordinary citizens are both willing and able to take on the burden of solving society's most complex problems.

The failure to support deliberative democracy in New Zealand, beyond the few experiments noted above, will therefore have had opportunity costs, notably the failure to develop capabilities and processes able to address complex and potentially divisive issues. Under different circumstances, such processes could, in the last decade or so, have been used to address many challenging issues seen by politicians as 'too hot to handle'. These issues range widely across fields such as climate mitigation and adaptation, gene-editing technologies, and assisted dying, where the use of a citizens' assembly or other such deliberative mechanisms might have led to a significantly better debate than the highly polarised one that actually occurred.

Beyond simply providing better quality advice or decisions, citizens' juries and assemblies, and other deliberative processes, could also have contributed to reducing polarisation and (re)building trust between the public, experts and institutions. This

promise remains open: deliberative processes, we believe, would be a good fit for still-live issues such as hate speech reform or the funding of political parties. Such issues, which involve complex trade-offs with no scientifically 'correct' answer, and which in the latter case invoke the 'rules of the game' that bind parliamentarians, would benefit immensely from the considered input and, potentially, decision making that deliberative processes can provide.

As noted above, we are at the beginning of a new 'deliberative wave' in New Zealand. The early signs are promising. Deliberative processes are understood as qualitatively different from participatory ones, and at least in one case so far, the Watercare citizens' assembly on the future of Auckland water, the citizens' recommendations have been implemented. Whether the wider potential of deliberative democracy will be fully realised, however, is another question.

full ownership of this company. A few years later it exited New Zealand, selling the power company to United Networks, which then sold it to Vector. Wellington Electricity is currently owned by an international company.

- 6 The two dissenting jurors voted for the merger. They agreed that the social objectives must be protected, but they did not think that the council holding onto the controlling interest was the best guarantee of this goal.
- 7 Toi te Taiao secretariat members completed the postgraduate diploma course entitled 'Dialogue, deliberation and public engagement' in 2006/7 and 2007/8. The course provided a theoretical and practical basis for moving from dialogue to deliberation and was jointly offered by the University of Sydney and the US Fielding Graduate University with support from the Kettering Foundation.
- 8 Key references for this section are Toi te Taiao, 2007 and 2008.
- 9 Toi te Taiao had developed a relationship with a kohanga reo in Auckland before the pre-birth testing project and facilitated a number of dialogues with that community.
- 10 See sections 2.3 and 3 of the *Who Gets Born* report (Toi te Taiao, 2008). Most of the participant quotes and examples of deliberation were from the online deliberations.
- 11 The pre-birth testing project received special recognition in the 2008 IAP2 (International) Core Values Awards for Project of the Year (<https://www.iap2.org/page/32>) and was noted by the OECD in its report *Focus on Citizens: public engagement for better policy and services* (2009).
- 12 See report 2 and minutes for the WCC Transport and Urban Development Committee meeting of 3 December 2014.
- 13 Key references for this section are Citizens' Advisory Panel (2014) and Wellington City Council (2014a, 2014c).
- 14 See the agenda, papers and minutes of the WCC Regulatory Processes Committee, 13 December 2023.

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