



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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**SELECT COMMITTEE ON THE 2016 ACT ELECTION AND ELECTORAL ACT**

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## Submission 20

Name –Canberra Alliance for Participatory Democracy

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## Canberra Alliance for Participatory Democracy

### Submission to the Inquiry into 2016 ACT Election and the Electoral Act

#### Executive Summary

This submission is from the Canberra Alliance for Participatory Democracy (CAPaD), which was formed in 2015 because of concerns in the Canberra community about the current operation of our democracy. We wish to explore new ways of ensuring wise decision making in the public interest and updating the relationship between citizens and their representatives so that the ACT has truly 21<sup>st</sup> century governance.

CAPaD believes that all the terms of reference of this Inquiry into the 2016 Election and the Electoral Act are critically important issues, affecting all ACT citizens, and that a simple submission process is not sufficient to explore them adequately or to build trust in, and wide commitment to, the Inquiry recommendations. We therefore strongly encourage the committee to conduct a series of participatory processes to address them. We also put forward the following specific proposals:

With respect to ToR 1, "Lowering the voting age", we recommend 1) hold a broader information sharing process about the pros and cons, which also gives school age children of all ages a say; 2) after wide public discussion has occurred, convene a citizens' jury to deliberate on the issue in order to reach a wise and informed recommendation.

With respect to Term of Reference 2, "Improving donation rules and donation reporting timeframes", we recommend stringent caps on donation amounts and the value of in-kind support; donations to be accepted only from individuals and not organizations; the barring of foreign donations; and that donation reporting occur in real time, probably weekly.

With respect to ToR 3, "Increasing voter participation in elections and encouraging political activity", we suggest, in addition to the Committee taking a participatory approach to exploring these issues, that the current Legislative Assembly should support an experimental pilot project in the use of Citizens' Parliamentary Groups (CPGs) (Dowlen 2017) with a randomly selected group of 25 constituents forming a CPG in one ACT electorate. This group would monitor the operation of the Assembly and its business over a period of 12 to 18 months, and then prepare a report to the community on how the legislature is serving the public interest. CAPaD would be willing to play a support role in the conduct of this pilot.

CAPaD's submission is structured as follows:

1. About CAPaD
2. Comments on the context and importance of the Inquiry
3. Comments on each element of the Inquiry Terms of Reference
4. Comments on the conduct of the Inquiry and scope for participatory dialogue across the community to develop 21<sup>st</sup> century governance for the ACT

## **1. About CAPaD**

CAPaD was established in 2015 following a series of “Kitchen Table Conversations” held in Canberra that identified the strong feeling that our democracy is not working and does not protect the public interest. CAPaD seeks to improve our democracy and support the ACT to move to 21st century governance by:

- developing and supporting citizen, community and civil society engagement in public decision-making;
- empowering Canberrans to engage in owning and planning for our common future and the common good;
- facilitating opportunities for citizen input to government deliberations; and
- developing citizens’ capacity to hold governments and policy makers more directly accountable.

Prior to the 2016 Election CAPaD developed a Candidate Statement (Attachment A), which included the candidate’s agreement to, or modification of, a Charter of Democratic Commitment. Fourteen of the twenty-five candidates who were elected to the Assembly had completed a Candidate Statement, which are available in a single document from <http://canberra-alliance.org.au/wp-content/uploads/2016/10/Statements-from-all-elected-candidates.pdf>. CAPaD congratulates those candidates who completed a CAPaD candidate statement (listed at Attachment B), as well as all MLAs elected, and notes that we will be repeating the process for the 2020 ACT Election. We are now in the process of following up on commitments in the Statement.

Further information about CAPaD is available on our website, <http://canberra-alliance.org.au>, or by contacting us by email at [info@canberra-alliance.org.au](mailto:info@canberra-alliance.org.au). Alternatively, CAPaD Co-Convenor Beth Slatyer can be contacted by phone on 0409 995 580.

## **2. Comments on the context and importance of the inquiry**

- The 2016 election happened at a time of global and local questioning of our current model of representative democracy and its capacity to look after the public good. Trust between the elected and the electorate has been lost. Mechanisms that create and maintain the relationship and accountability between the elected and those they represent are not working.
- Democracy is not just elections – a functioning democracy is a governance system, for finding and acting on the public interest, where decisions are made to protect and promote the public interest and the common good. The current model of representation, and approaches to governing, are not protecting the public from vested interests, who are perceived to have undue influence over decision makers.
- The test of a government and any electoral system whereby representatives are selected is whether it can maintain its social license by reaching decisions that are clearly in favour of the broad public good. Currently, even here in Australia and the ACT, that social license is being questioned because of the perceived dominance of vested interest influence on government.
- The role of government in promoting the public interest needs to be re-established so that public trust in government can re-emerge and the Inquiry provides an important opportunity to begin to design and create better governance for the ACT, particularly in mechanisms for ongoing accountability that legitimates the position of the MLAs.

- How the Inquiry goes about its work can be a model for such a mechanism for accountability and for future inquiries, and will determine its eventual impact. CAPaD has made recommendations about how the Inquiry should work in Section 4 below.

### **3. Comments on each element of the Inquiry Terms of Reference**

#### **3.1 Lowering the voting age**

- This is a question of critical importance to all ACT citizens, and a simple submission process is not sufficient to explore it adequately or to build trust in, and wide commitment to, the Inquiry recommendations.
- CAPaD therefore recommends: 1) hold a broader information sharing process about the pros and cons, which also gives school age children of all ages a say; 2) after wide public discussion has occurred, convene a citizens' jury at which the costs and benefits of this move are presented and the jury is invited to deliberate on the issue and call for further evidence in order to reach a wise and informed position. As with all public fora, of which the citizens' jury is just one model, expertise must be brought in on the jury selection process and facilitation.

#### **3.2 Improving donation rules and donation reporting timeframes**

- We agree with Fitzgerald Inquiry special counsel Gary Crook (cited in Public Health Association of Australia, 2017) that:

Keeping our democracy healthy means reducing – not increasing – the capacity for sectional interests to pressure the parliamentary process. Donations, in kind support and gift caps should be lowered to reduce this influence.

- We agree with the Public Health Association of Australia (2017, p1) that:

The problem with donations is that they set up an obligation between donor and receiver. The psychological literature is strong on this ... The donor / receiver relationship is a subtle one: a gift often only influences the receiver to regard the donor favourably rather than driving a direct response. But the implied quid pro quo of such donations is well recognised, especially in the political domain.

- A further problem of occurs when funding is used to pay for gloss and spin that draws electioneering away from discussion of substantive policy options to a superficial celebrity contest between parties. This detracts from the ability for voters to make a reasoned choice.
- In light of these points, we recommend stringent caps on donation amounts and the value of in-kind support; donations to be accepted only from individuals and not organizations; the barring of foreign donations; and that donation reporting occur in real time which in effect is weekly.

#### **3.3 Increasing voter participation in elections and encouraging political activity**

- The lack of participation and political activity in the ACT are key reasons for CAPaD's existence, and we are aware of both structural and cultural causes, and possible solutions.
- As with ToR 1, CAPaD believes that these are critically important issues, and that a simple submission process is not sufficient to explore them adequately or to build trust in, and wide commitment to, the Inquiry recommendations. As described in Section 4 below, we strongly encourage the committee to conduct a series of participatory processes to build trust in and support for implementing the recommendations.

- We believe that facilitating citizen participation in deliberative fora will have two interconnected and beneficial outcomes: wiser decision-making in the present and increased community willingness to participate (be politically active) in the future.
- As an opportunity for citizen participation beyond this inquiry, we suggest that the current Legislative Assembly should support an experimental pilot project in the use of Citizens' Parliamentary Groups (CPGs) (Dowlen 2017) with a randomly selected group of 25 constituents forming a CPG in one ACT electorate. This group would monitor the operation of the Assembly and its business over a period of (say) 3 months, and then prepare a report to the community on how the legislature is serving the public interest. CAPaD would be willing to play a support role in the conduct of this pilot, which is also being tested in the UK. A summary of Dowlen's report can be found at Attachment C.
- Another model that we believe has merit is the Wisdom Council, promoted by the Center for Wise Democracy, which aims for a systemic shift from competition to collaboration. A one-page description and list of related resources can be found at <http://www.wisedemocracy.org/page11/page18/page18.html>. CAPaD is available to discuss this and other possibilities for structuring citizen participation and political activity into the ACT's governance system.

### **3.4 Any other relevant matter**

- CAPaD is concerned at recent budget cuts to the AEC and calls for the review to recommend a new funding model for the AEC that protects it from the predations of Executive Government. A citizen managed and run budget may be needed.
- The electoral system needs to make it more possible for a wide range of people including small parties and independents representing a broad range of interests to be elected. Independents and minor parties are important because they broaden the range of viewpoints in the decision making processes of government, and dilute the influence vested interest can have on government. Political party dominance in selecting candidates is problematic, and is promoted by the current system.
- Voters can't readily assess whether the people standing for election have the knowledge, experience, skills and capabilities for the job. Does there need to be a community run "pre-assessment panel" like there is for many job applicants in the public service?
- There is confusion over the "job description" of representatives. Our Candidate Statements at the last election show that each MLA had a different take on how they would go about representing us. Do our MLAs have an ongoing relationship with their constituents between elections, and what is the role of constituents beyond voting?
- Does election give an MLA or a government a mandate? How broad is any such mandate and what does this mandate consist of? If there is no detailed platform or even a platform with a multiplicity of different promises on which any individual may have different views, then how does this construct a mandate? CAPaD argues that rather than giving a government a mandate, being elected creates the basis for a relationship between elected and voter, and it is that relationship which is the basis for accountability and performance assessment.
- The government needs to engage Canberrans in discussion about all this.

#### **4. Comments on the conduct of the inquiry and scope for participatory dialogue across the community to develop 21<sup>st</sup> century governance for the ACT**

- CAPaD strongly encourages the committee to adopt a participatory democracy approach to its work: a process that enables citizen participation and engagement along the lines the Chief Minister has been talking about.
- Rather than the standard process of seeking and analyzing submissions, we strongly encourage the committee to conduct a series of participatory processes to analyse and deliberate on the information presented to the inquiry, and to then develop recommendations to the Legislative Assembly for a way forward.
- CAPaD is willing to provide information and advice about what these participatory processes could be, in addition to the suggestions made in this submission, however we recommend that those processes themselves be *designed* in a manner that engages citizens. One possible model may be to invite citizens who want to participate in this Inquiry to put their names forward, and then to use a random selection technique to choose a statistically representative number from each electorate to assist the Inquiry in its deliberations. Other options are possible.
- A proper participatory approach may take longer than the committee has been allowed, and require a second phase of the committee's work or a different process to take it forward. However we argue that for the outcomes to be helpful to the maintenance of a healthy and vibrant democracy in the ACT, this slower but deeper process is the better one to follow.

#### **References**

Dowlen, O. (2017) Citizens' Parliamentary Groups: A proposal for democratic participation at constituency level. Accessed: <https://www.newdemocracy.com.au/docs/researchpapers/2017/Oliver%20Dowlen%20-%20Citizens'%20Parliamentary%20Groups.pdf>

Public Health Association of Australia (2015) Keeping the public's trust - keep the cap on political donations. Media release, 29 January, accessed: <http://www.medianet.com.au/releases/release-details/?id=820319>

#### **Attachments**

Attachment A: CAPaD 2016 ACT Election Candidate Statement

Attachment B: List of candidates who completed the CAPaD Candidate Statement

Attachment C: Summary of Oliver Dowlen report: *Citizen's Parliamentary Groups: A proposal for democratic participation at constituency level.*

## Attachment A

### *Wording of the CAPaD Candidate statement*

My name is \_\_\_\_\_ and I am a candidate for the Senate/House of Representatives in the electorate of Fenner / Canberra / ACT. Party: Liberal/National / ALP/ Greens /Independent / Other  
\_\_\_\_\_

**These are my principal qualifications for being a parliamentarian.** *(No more than 200 words – in 8pt Arial font)*

If elected, these are the issues that I see as the most important for the long-term benefit of my constituents and towards which I will be working on their behalf. *(no more than 300 words – in 8 pt Arial font)*

**I will abide by the CAPaD Charter of Democratic Commitments as follows:** *(any amendments to be in italics and underlined)*

1. I will at all times tell the truth to the citizens and voters of Australia and be honest in all aspects of my work as an elected representative of the Australian people.
2. I will fully disclose and make public the sources and value of all political funding donations, contributions, gifts public and private, towards my election campaign and political activity.
3. I undertake to be fair, ethical, compassionate and diligent in serving my electorate and the nation at all times, and to uphold the Australian value of "a fair go for all". Where possible, I will promote and support participatory and deliberative methods for policy and legislative decisions.
4. I will place the public interest (the welfare and wellbeing of the general population and the integrity of the planet) ahead of sectional, corporate, party, personal, religious or other interests.
5. I will never abuse or misuse the allowances, subsidies, concessions and privileges accorded to me by the Australian people and Parliament in my role as an elected representative.

**Signed**  
**Witnessed**  
**Date**

Please send a scanned copy of your statement to [info@canberra-alliance.org.au](mailto:info@canberra-alliance.org.au) desirably before Monday 27 June, when a summary of those who have submitted a statement and their statements will be placed on the website at [www.canberra-alliance.org.au/requests/](http://www.canberra-alliance.org.au/requests/)

## Attachment B

### *These candidates submitted a Candidate Statement to CAPaD*

<b>Electorate:</b>	<b>Ginninderra</b>	<b>Brindabella</b>	<b>Yerrabi</b>	<b>Murrumbidgee</b>	<b>Kurrajong</b>	<b>Total (% candidates in party)</b>
<b>Liberal Party</b>	Vicki Dunne Denise Fisher Paul Sweeney	Ed Cocks Nicole Lawder Mark Parton	Jacob Vadakkedathu	Jeremy Hanson Peter Hosking	Candice Burch Brooke Curtin Elizabeth Lee	<b>12/25 (48%)</b>
<b>ALP</b>	Chris Bourke Tara Cheyne Gordon Ramsay	Angie Drake Karl Malfoum Taimus Werner-Gibbings	Meegan Fitzharris Suzanne Orr	Jennifer Newman Chris Steele	Andrew Barr Richard Niven Rachel Stephen-Smith	<b>13/25 (52%)</b>
<b>Greens</b>	Indra Essguerra	Michael Mazengarb	Veronica Wensing Andrew Braddock Tobias Holm	Caroline Le Couteur Emma Davidson Jennifer Faerber	Shane Rattenbury Rebecca Vasarotti	<b>10/15 (67%)</b>
<b>Like Canberra</b>	Richard Harriss	Richard Tuffin Tim Friel				<b>3/10 (30%)</b>
<b>Australian Sex Party</b>						<b>0/5</b>
<b>Animal Justice Party</b>						<b>0/7</b>
<b>Canberra Community Voters Party</b>	Geoff Kettle				Richard Farmer Lucinda Spiers	<b>3/8 (38%)</b>
<b>Liberal Democrats</b>					Mark Ellis	<b>1/17</b>
<b>Community Alliance</b>						<b>0/2</b>
<b>Sustainable Australia</b>	Martin Tye Geoff Buckmaster	Claude Hastir Melissa Kemp	Violet Sheridan Paul Gabriel	Mark O'Connor Jill Mall	John Haydon Oliver Tye	<b>10/10 (100%)</b>
<b>Independent</b>	Leigh Watson Vijay Dubey Ian Coombes	Joel McKay Andrew Holt	David Pollard	Brendan Whyte	Marea Fatseas Peter Robinson Graham Strachan	<b>10/17 (59%)</b>
<b>(% total announced candidates in electorate)</b>	<b>14/33 (42%)</b>	<b>13/28 (46%)</b>	<b>9/24 (38%)</b>	<b>10/29 (34%)</b>	<b>16/27 (59%)</b>	<b>62/141 (44%)</b>
<b>Total Candidates</b>	<b>33</b>	<b>28</b>	<b>24</b>	<b>29</b>	<b>27</b>	<b>141</b>

## **Attachment C**

*Citizen's Parliamentary Groups: A proposal for democratic participation at constituency level.* A feasibility study funded by the newDemocracy Foundation

Author: *Oliver Dowlen (Political Research Centre of Sciences Po, Paris)*

*Published by the newDemocracy Foundation, March 2017*

*Summary by: Kelly Ireland*

*The full text of the feasibility study can be viewed at:*

<https://www.newdemocracy.com.au/research/research-papers/396-citizens-parliamentary-groups>

While the study explores the feasibility of the scheme from a wider political perspective, this summary deals primarily with its main structures, procedures, powers and objectives.

### **Aims and Objectives and the Three Main Tasks**

The research is a feasibility study for a scheme for using randomly-selected *Citizen's Parliamentary Groups* (CPGs) at constituency level to work closely with their Member of Parliament or Assembly Member. Each CPG would hold office for one year only. The study is based on the Westminster systems of government in Australia and the UK. The main role of the CPGs is to defend the integrity of the political process. This involves three main tasks:

- 1) To ensure that the MP adheres to an agreed code of parliamentary conduct.
- 2) To strengthen the links between the MP and the wider constituency.
- 3) To ensure that issues of grave public concern that threaten the integrity of the political system receive parliamentary attention and remedial action.

The research explores the powers and procedures that might be needed to undertake these tasks and how those powers should be focused and limited.

### **Task One and the Special Duty Provisions**

For each month or similar period two members of the CPG would be on "special duty". This means that they would be in closer contact with their MP. This could include attending meetings, visiting the constituency office or attending debates. Their involvement would amount to about two days per week. Not all of that time would be spent with the MP. They would also have access to the MP's official correspondence. This provision is envisaged as both a preventative and an educational measure.

In the event of an allegation of a breach of the code, two members of the CPG would have oversight of the investigative process undertaken by the commissioner or similar agency. They would have the power to demand further investigation where they thought necessary. The CPG as a whole could also demand further investigation at the conclusion of any investigation. The CPG could not challenge the findings, but could comment on the results and the process in the public domain.

## **Task Two and the “Monthly Meeting”**

The main structural feature for dealing with this task is the “monthly meeting” between the CPG and the MP. This would involve a question and answer session and reports from the MP and those completing special duty. A report of this would be presented on a special website. The CPG would have the power to make public criticisms of the MP but only on certain ground such as misleading the public or the abuse of public time and money. The CPGs would also act as a link between the MP and the wider constituency: receiving petitions, making visits and other similar activities.

## **Task Three**

Should the CPG become aware of an important issue that might directly threaten the integrity of the political process, then, if agreed by a 75% majority, they could demand specified parliamentary action from their MP. To do this they would have to have approval from the *Independent Regulatory Body* (see below) and endorsement by two other CPG groups (75% majority in all cases.) If the demand was not met, then, subject to similar endorsement, recall proceeding could be instigated and a by-election ordered.

## **Further aspects of the scheme**

### *The Status and Size of CPGs.*

CPGs should be *Parliamentary Office Holders*, i.e. neither employees of the Parliament nor separate autonomous organisations. They would need to be independent of partisan interests and pressures. The size of the CPG would be determined by the number of members needed for special duty during the year plus the officers. This would suggest a figure of between 18 and 22 for most administrations.

### *The Independent Regulatory Body*

The system would need to be administered by a separate body. In the UK this might take the form of an *Independent Regulatory Body* (IRB). This would be a Parliamentary body made up of independent appointees and former members of CPGs. It would be charged with overseeing the selection, training and general conduct of CPG members and the efficient running of the system as a whole.

### *Reviewing and improving operation of the CPGs*

An annual conference of CPG delegates would be held to discuss the effectiveness of the scheme and make recommendations. Working groups from conference could then be formed to take issues forwards.

### *CPG officers and selection*

Once training has been conducted, each CPG should elect a secretary and a chairperson. All correspondence to and from the group would then be addressed through the secretary. Random selection should be made from equal divisions of the constituency and equally from male and female pools. Members of political parties would have to renounce their membership whilst in office.

### *Behaviour of CPG members*

To prevent corruption and misconduct, a code of behavior (including sanctions) should be established. Strict guidelines would need to be established about what current or past members could disclose about their work.

### *Remuneration*

CPG members should be paid for their services, with those on special duty paid for two day's work per week. A fixed fee should also be available for monthly meetings, and for CPG conference attendance. All travel and accommodation expenses should be met. The scheme should be financed so that it is as independent as possible from executive or parliamentary control.

### *Voluntary or compulsory participation?*

This is a difficult question. Voluntary participation would leave sectors of the population under-represented, whilst compulsion might produce unwilling conscripts. Understood (on a par with jury service) as a responsibility or duty undertaken on behalf of society, however, compulsory participation for those chosen would seem to be the best option.

### **Feasibility**

The study suggests that the scheme would be feasible if sufficient members of the public recognised its potential value. It is a scheme that sets out to bridge the gap between professional politicians and the citizenry in a positive way and to establish what the study calls the *common ownership of the political system*. It is also a scheme designed to support and enhance the electoral process by creating new forums for political discourse and a new partnership between elected members and the citizenry.

The study also suggests how the scheme might work in multi member constituencies (such as those of the Australian Senate, Tasmania, the ACT and the devolved national assemblies of the UK). There is also discussion of the problems of distance and of timetabling CPG activities to coincide with different parliamentary arrangements.