**Can deliberative engagement practices 'revitalise democracy'?: An exploration of the *Victorian Local Government Act 2020***

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This paper is intended as a draft journal article.

Abstract

The past few decades have seen what is described as a 'deliberative wave' (OECD, 2020), with governments increasingly applying democratic innovations that putatively devolve power and encourage public participation to tackle complex policy problems. Alongside employing processes such as citizen's assemblies, mini-publics, and participatory budgeting, there has also been increased interest in institutionalising practices through regulatory frameworks, thereby embedding citizen participation in the formal structures of government decision-making. The *Victorian Local Government Act 2020* can be considered one such attempt at institutionalising practices. It mandated councils deliver 'deliberative engagement practices' for their strategic planning, with legislators suggesting this would 'revitalise democracy' by putting 'the community at the heart of council decision-making'.

This paper presents case study research findings based on this legislation's operationalisation. It found that without an agreed set of principles or standards, the interpretation of deliberative engagement practices relied on each organisation's imperatives. Furthermore, in the process of sense-making, how the legislation was implemented was shaped by both organisational drivers and dominant discourses, which rendered practices susceptible to co-option.

Introduction

Often heralded as a corrective to the limitations of elected representation, democratic innovations have burgeoned over the past few decades. Scholars and proponents alike have framed these practices as a compelling counterbalance to claims of a 'democratic deficit' (Norris, 2011), premised on the often-reported declining trust in government and the perceived capacity, or propensity, of elected representatives to genuinely champion their constituents and the public good (see Dovi, 2016; Mansbridge, 2003; Fishkin, 2011). Practices such as deliberative engagement have been championed to broaden political dialogue and legitimise

policy decisions, expanding the locus of deliberation from a select and often homogeneous group of elected representatives to a broader inclusion of the citizenry (see Gutmann & Thompson, 2009).

However, whilst the enthusiasm for democratic innovations has been expansive, for the most part, these innovations have not been integrated into the overall system of representative government or democratic institutions. In fact, most democratic innovations have been discrete initiatives delivered in response to a policy issue rather than embedded in the practices of government decision-making in an ongoing manner. Furthermore, various studies have found that the consequentiality of democratic innovations is relatively limited (Ryan, 2013; Font et al., 2018). By and large, they have not created the substantive long-term democratic change they espouse (Goodin & Dryzek, 2006; Johnson, 2015; Spada & Ryan, 2017).

Perhaps to address this, more recently, there has been an emphasis on the institutionalisation of the practices through legal and regulatory frameworks, thereby embedding greater citizen participation in the formal structures of decision-making (see, for example, Smith, 2009; Bussu et al., 2022; OECD, 2020). However, despite the prolific research about the normative ideals of democratic innovations, the conditions required for this institutionalisation remains elusive. The *Victorian Local Government Act 2020*, which mandated that councils use 'deliberative engagement practices' when developing their major strategic plans, is therefore considered a cogent opportunity to explore this under-examined area of scholarship.

Taking an institutionalist approach that examines the *rules*, *practices*, and *narratives* that emerged (Lowndes & Roberts, 2013), this paper considers how local governments in Victoria conceptualised and operationalised deliberative engagement. Through examining the incentives and constraints policy actors manage when adapting these practices, the paper also challenges the assumption that public managers will diligently and capably support democratic innovations once their benefits are better understood and mandated by the authorising environment (Nabatchi, 2010; Smith, 2009).

This paper will demonstrate that whilst the ambitions for the new legislation were

clearly to broaden community participation in local government decision-making, these aspirations were not necessarily realised in the actualisation of deliberative engagement practices. The analysis indicates some co-option of the practices, whether due to ambiguity surrounding the new legislative requirements or potential obfuscation. This paper, therefore, highlights the importance of interrogating the context within which democratic innovations are realised. It argues for a better understanding of their relationship with existing decision-making systems and a greater focus on the institutional conditions that support democratic innovations beyond discrete and isolated initiatives. In particular, the research underscores pervasiveness of existing norms and channels for public participation and how they interact with democratic innovations.

## An Act to ‘improve democracy’

The reforms of the *Victorian Local Government Act 2020* posed a significant shift in Victorian local government's community engagement practices. Along with introducing a range of community engagement principles, the Act mandated that all 79 Victorian councils undertake 'deliberative engagement practices' when developing their primary strategic planning documents.

Furthermore, the *Victorian Local Government Act 2020* was explicitly framed as a means for modernising the government-citizen relationship (Savini & Grant, 2020). The legislators claimed that the reforms would 'put the community at the centre of council decision-making' (Jennings, 2019) and 'improve local government *democracy,* accountability, and service delivery for all Victorians' (LGV, n.d., emphasis added). The Act was repeatedly described as ensuring all Victorians have the opportunity to inform municipal priorities (see examples DELWP, 2021a and DELWP, 2021b). Its implicit agenda for democratic renewal can be deduced from the early stages of the Act's development with statements such as: 'As the level of government closest to the people, councils have both the opportunity and arguably the responsibility to enable participatory democracy' (DELWP, 2016, p. 60). More recently, the Victorian State Government has conveyed similar positions, stating that 'deliberative engagement practices are designed to *protect the democracy* of local government practices and decision making while ensuring the community’s voice and priorities match that of the council’ (LGV, 2022, p. 8, emphasis added). These

narratives all reveal a set of assumptions that the State Government made around institutionalising deliberative engagement practices, namely, that they would enhance councils' strategic planning processes through greater public participation.

Perhaps not surprisingly, these assumptions are aligned with the normative premises espoused by proponents of democratic innovations, prevalent claims of their emancipatory potential and the ascension of these ideas described earlier in this paper. Given the largely undisputed acceptance that democratic innovations strengthen government decision-making (Spada & Ryan, 2017) and the extensive body of empirical literature exploring initiatives that have ostensibly addressed a perceived 'democracy deficit', it is conceivable that the Victorian State Government found the promise of democratic innovations compelling. Furthermore, it is feasible that it assumed that the ideals of strengthening democracy were an intrinsic outcome of mandating 'deliberative engagement practices'.

However compelling the legislative intent, as Savini and Grant (2020) found when the reforms were at the consultation stage, the Victorian local government sector's response to introducing deliberative engagement practices can be broadly characterised as antipathetic. Although supportive of community engagement, when faced with the prospect of conducting deliberative engagement practices, many councils argued that how strategic plans are developed and the degree of engagement conducted should not be prescribed in legislation. In addition, councils maintained that deliberative engagement requirements presented an unnecessary resource impost and that, by their account, councils were already sufficiently involving their communities in decision-making. These contentions speak to the reform context and the preparedness of councils to adopt deliberative engagement practices. This contextual environment is essential to consider as it would have had a consequential impact on how the practices were interpreted and applied, which is the focus of this paper.

## Research approach

This paper focuses on the research question: How do government organisations understand and interpret deliberative engagement practices? The research presented is based on case study research of how the *Victorian Local Government*

*Act 2020* deliberative engagement requirements were interpreted and operationalised by the local government sector. Whilst designed as a single case study method, the research benefited from multiple sources of evidence and, therefore, a variety of embedded units of analysis (Yin, 2012; Creswell, 2016). These included both in-depth engagement with three councils and broader sector data such as consultant interviews and surveys. Data collection involved a mixed methods research approach, and, therefore, both qualitative and quantitative data were collected, which included interviews, observation, documents, artefacts, and surveys.

The analysis for this paper draws mainly from the thematic analysis of 45 interviews with council staff, councillors, and deliberative engagement consultants; statistical analysis of 204 survey responses; and analysis of all 79 Victorian councils' community engagement policies, deliberative engagement processes and recruitment strategies. These sought a broad understanding of how deliberative engagement practices were interpreted and applied across Victoria, in different councils, and with varying degrees of capacity and resolve. To contextualise the findings within the local government sector overall, data is also derived from a select number of artefacts and observations of webinars during the early stages of the Act's implementation. Collectively, this data presents a holistic rendering of the norms and incentives likely to have shaped or constrained councils' approaches to their legislative obligations.

How the legislation was interpreted and applied

As noted earlier, the Victorian State Government had expressly designed the reforms to ‘improve democracy’ and ‘put the community at the heart of council decision-making’ (Minister for Local Government, 2016). It could, therefore, be said that the outcomes and benefits derived from deliberative engagement practices were hypothesised by the legislator, who seemed to assume that more significant community influence was implicit in the application of deliberative practices.

However, the legislation did not define 'deliberative engagement practices', leaving it to each council to establish its own definition in its community engagement policy. The legislation, therefore, gave councils considerable latitude for interpreting, designing and implementing deliberative engagement practices. Councils had

authority over how the practices were actualised and, as such, the realisation of the assumed influence and outcomes.

The following section explores practices and dominant narratives that emerged while applying the new legislation. It considers the deliberative 'inputs', or who from the general public participated in the deliberative process, and how these were weighted against extant systems for public participation. This includes considering how deliberative forums interacted with the prevailing 'non-deliberative' forms of public participation and the influence granted to deliberative engagement practices.

Engagement practices and the ‘usual suspects’

To begin, a desktop review of how each of the 79 Victorian councils applied deliberative engagement practices was conducted. This review found that 63% (*n* = 50) of councils implemented processes that can generally be described as mini-publics, with many referring to them as a 'community panel'. These processes generally brought together a group of approximately 40–50 community members to 'deliberate' on the priorities of the council’s strategic plan. The remaining 37% (*n* = 29) of councils conducted processes such as town hall meetings, pop-up consultations, or conducted stakeholder consultation meetings. As such, over a third of councils' deliberative engagement practices were based on traditional consultation formats. This demonstrates that a large portion of councils did not stray too far from their usual approaches to engagement.

Beyond the methods used, examining how community members were engaged is also revealing. This is particularly important because the possibility of attracting broader descriptive involvement of community members, and therefore moving away from the 'usual suspects' to people who do not otherwise participate in council processes, was consistently highlighted as compelling by research participants.

Focusing firstly on the councils that formed a community panel, these were often described as having been established through random selection. However, only a third (*n* = 17) conducted recruitment processes that met the standards set out by the OECD (2020) of a civic lottery or sortition (see Participedia, n.d.). This process usually involves sending a direct invitation to a group of randomly selected

community members, asking them to participate in the deliberative process. Amongst this third, an even smaller number (*n* = 11) had processes that were independently conducted (i.e., where council staff were removed entirely from the selection process). As such, most of the community panels (66%; *n* = 33) were recruited with an open Expression of Interest process, and therefore, rather than receive a randomly generated invitation to participate, community members were able to self-nominate and express interest in being a part of the panel.

The remaining 29 councils that did not establish a community panel as their deliberative engagement process also relied on self-nomination, either holding open invitation consultations or drawing from existing community reference groups and advisory committees. Therefore, over 80% of deliberative engagement practices conducted in Victoria recruited participants through an open invitation process and, as such, relied on existing channels of engagement and community members self-nominating their interest.

Scholarship in the field has long established that processes that recruit through self-nomination are more likely to be over-represented by people who have more time, finances, and education, as well as greater stores of political efficacy, information, and motivation (Karpowitz & Raphael, 2016; Warren, 2009; Ryfe, 2005). Furthermore, more demanding forms of engagement, such as democratic innovations, tend to exacerbate this bias and reinforce existing socioeconomic differentials (Fung, 2003; Cooper & Smith, 2012). Therefore, since most processes in Victoria employed self-nomination processes, it is fair to assume that the deliberative engagement practices conducted were unlikely to have significantly broadened participation.

Whilst the processes undertaken are likely to have replicated usual participation trends, and therefore potentially undermined the legitimacy of the deliberative engagement practices given they are usually hinged on a plurality of views being expressed and considered, in the Victorian experience this was not necessarily the case. Interviews and survey data found that, overall, there was reasonable confidence around the descriptive representation of participants. When asked whether they thought deliberative engagement 'involves community members that

are more reflective of the general community compared to standard engagement activities', most organisational survey respondents were positive, with 84% of responses saying it achieved this 'a fair degree' or 'a lot'. Respondents to the councillor survey were less confident, with 62% responding 'a fair degree' or 'a lot'; however, this still demonstrates a relatively high confidence level in the processes. This sense that the process involved a greater breadth of community members was also seen in interviewees. At one council involved in the study, where recruitment was entirely by self-nomination, the mayor described the participants of the community panel as "a great representation" and that recruitment successfully mitigated the 'squeaky wheels'.

In the context of institutionalising democratic innovations, these findings suggest that structural biases that perpetuate homogeneity and extant views can inadvertently persist even with the introduction of deliberative engagement practices. They also affirm Saward's (2006) observation that 'representative claims only work, or even exist, if "audiences" acknowledge them in some way' (p. 303). This highlights that representative claims are context-specific, not absolute. In terms of the Victorian legislation, it demonstrates that the perceived representativeness of deliberative engagement practices was informed more by decision-makers' propensity to accept them as such than the validity of their claim to be representative.

Qualified legitimacy and entrenched practices

Although the plurality of views solicited from participants was not generally questioned, interviewees did express concerns about the influence of a relatively discrete group of community members over municipal-wide strategies. In particular, there was scepticism about the community panel's authority to make recommendations on behalf of fellow constituents. Even in councils where significant legitimacy was conferred on the deliberative cohort, it did not automatically transfer to legitimating their recommendations on behalf of the broader community; some reconciliation with the wider constituency still needed to occur.

This unease can best be demonstrated through the almost blanket use of a public

exhibition[1] consultation process by local governments in Victoria. Despite the *Victorian Local Government Act 2020* removing legislative requirements to have a public exhibition stage, replacing it with the requirement to undertake deliberative engagement practices, 92% (*n* = 73) of Victorian councils decided to have their strategic plans undergo this process. In addition, a large proportion (64%; *n* = 47) amended their strategic plans following this public exhibition stage.

Reasons for continuing this practice were varied; some referred to ‘best practice’, while some inaccurately stated that the public exhibition process was ‘in accordance with the Local Government Act’. Councils involved in the research acknowledged that they no longer had to conduct a public exhibition stage; however, they decided to maintain it because they understood it to be more inclusive. This position was also identified in some council reports where it was suggested that the public exhibition process was a part of their commitment to deliberative engagement.

Therefore, drawing on existing channels of participation was understood as strengthening the decision-making process and as a way to sense-check with the broader community. Notwithstanding the fact that there would have been valid reasons to invite specific cohorts who are traditionally underrepresented in engagement practices to provide input (for example, some councils specifically engaged with youth and Traditional Owners during their public exhibition stage), a tension still needs to be recognised. Although it could be interpreted as more inclusive, the continuance of the public exhibition process was also essentially a means of perpetuating existing power structures and giving a platform to community members with political agency.

There is also clearly an incongruence between planning a deliberative process that aims to engage participants who are not usually involved in council decision-making only to then incorporate activities that privilege those with greater political agency. Furthermore, given that the public exhibition stage was essentially the 'final say', in instances where the feedback received from the public exhibition process conflicted

[1] Under Section 223, Right to make submission of the *Victorian Local Government Act 1989*, councils needed to publish a public notice and provide members of the public not less than 28 days to make a submission in response to the council plan and budget. This was commonly called the ‘public exhibition’ process.

with the deliberative engagement outcomes, the integrity of deliberative engagement practices could have been jeopardised. The public exhibition essentially provided community groups, stakeholders, and councils with a mechanism to override, edit out, and diminish the recommendations of the deliberative process. However, despite this paradox between public exhibition processes and deliberative engagement practices, much of the sector continued these practices, justifying them by suggesting they were required to make legitimate decisions.

The almost unilateral application of a public exhibition process underscored the reality that, whilst deliberative engagement practices may have attracted more descriptive representation in the deliberative cohorts that participated, more was needed to create overall confidence in their recommendations. Instead, existing channels of public participation pervaded despite them no longer being legislated and, irrespective of their known limitations and biases.

This apprehension associated with deliberative engagement practices, which inevitably comprise a select group of citizens who participate in lieu of the collective whole, is recognised in scholarship and described by Parkinson (2003) as 'deliberative democracy's scale problem'. The findings of this paper reaffirm how deliberative engagement can be interpreted as a way of delegitimising some democratic channels in favour of a privileged connection between a select few citizens and decision-makers (Parkinson & Mansbridge, 2012, cited in Courant, 2022, p. 171). Ultimately, these findings highlight that greater attention to how deliberative engagement practices were reconciled with existing channels for public participation and their respective influence was needed.

Impact on strategic planning

Based on the legislation's expressed intention of bringing communities closer to the councils' decision-making, this final section will explore how deliberative engagement practices informed strategic planning.

An examination of the definitions councils established in their community engagement policies, and therefore the formalised rules for how the practices would be realised, shows that councils were sometimes elusive, made caveats around

scope, and generally made a limited commitment to influencing council decision-making.

Only 20% (*n* = 16) of Victorian community engagement policies commit to the community having more influence over the council's decision-making through deliberative engagement practices. Instead, in some policies, the overarching authority of elected representatives was highlighted. Two examples are Baw Baw Shire Council (2021) where the definition for deliberative engagement states, '*Deliberative engagement is a form of community engagement that places people closer to the decision making of a democratic society, without taking away from the decision-making powers of the elected Council'*; and Glen Eira City Council (2021) which conceded that although '*it is one form of 'high influence' engagement, it is not an alternative to council performing its role as a statutory decision-making body*'. As these examples demonstrate, rather than greater reverence to community input, as was sought by the legislation, some definitions were explicitly defensive of councillors' prescribed role in decision-making.

This reticence can also be demonstrated through the survey, which suggests that the influence given to deliberative engagement processes was weighted more heavily towards the lower end of the IAP2 Spectrum (IAP2, n.d.). As shown in Table 1, most practices were reported to be at the Involve or Consult level. There were slight differences between the level of influence reported by councillors compared to organisations: 40% of organisational respondents said that the level of influence was at Consult level, followed by 26% at Involve, whereas councillors had a perception of more significant influence, with 41% saying it was at Involve, followed by 27% at Consult. This is consistent with data from the desktop review of council reports regarding all 79 councils' processes and what was observed at councils across the sector during data collection.

Table 1: Level of influence on strategic planning

Survey question: What level of influence do you think the deliberative engagement process had on the Council Plan?

| | | Organisational survey | Councillor survey |
|---|---|---|---|
| Inform | The recommendations were presented to council, but they didn't change the strategies in the final Council Plan either at all or very much | 15% | 14% |
| Consult | The recommendations were considered, and some changes were made. Council provided feedback to community about how their input influenced the decision. | 40% | 27% |
| Involve | Council worked with community members involved in the deliberative engagement to ensure that their priorities and recommendations were reflected in the strategies that were developed. | 26% | 41% |
| Collaborate | Council provided the community members involved in the deliberative engagement the opportunity to come up with their own solutions to issues that were discussed during deliberation and then incorporated these to the maximum extent possible. | 13% | 14% |
| Empower | Council committed to implementing whatever the community decided through the deliberative engagement process. | 6% | 5% |

When asked *why* the council decided on this level of influence, most organisational and councillor responses stated that the level of influence given to deliberative engagement practices was 'in line with their understanding of the practices and the expectations of the legislation' as seen in Table 2.

Table 2: Breakdown of rationales for each level of influence: Organisational responses

| | Empower | Collabo-rate | Involve | Consult | Inform |
|---|---|---|---|---|---|
| This was considered the most appropriate level of influence by Councillors. | 33% | 15% | 8% | 8% | 20% |
| It was line with our understanding of deliberative engagement practice and the expectations of legislation. | 67% | 54% | 58% | 45% | 40% |

| | | | | | |
|---|---|---|---|---|---|
| It was in line with what we would usually do for the development of the Council Plan. | | | 4% | 15% | 20% |
| This was the level of influence suggested by the Executive Leadership and organisation. | | 8% | 19% | 10% | 13% |
| This was what the consultant recommended as appropriate. | | 15% | 12% | 5% | |
| Did not specify why: | | 8% | | 18% | 7% |

Considering the table more closely, even at the lower levels of influence, respondents believed (or said they believed) that they understood it as appropriate. Most telling is that 40% of organisational survey responses who said their deliberative engagement practices were at the Inform level, and therefore, 'the recommendations were presented to Council, but they didn't change the strategies in the final Council Plan either at all or very much', also said it was in line with their understanding of deliberative engagement practices. Although the legislation provided broad scope for councils to adapt the practices as necessary, this interpretation, where strategic planning can essentially be carried out with little or no input from community members, is inherently contradictory to the legislation's expressed intent. Therefore, it can be inferred that some councils either fundamentally did not understand the core principles of deliberative engagement practices or they intentionally distorted them.

Whilst it is not possible to determine the level of influence community members had on stragetic plans prior to the legislation, it is fair to assume there has only been a notional change with deliberative engagement practices. Councils could legitimately argue that the open-ended nature of the legislation allowed for this relatively immaterial interpretation of influence; however, how this agnostic reality meets the ideals of the legislation and the normative and epistemic value it hypothesises should also be considered.

Co-option of processes

The data in this section highlighted how practices emerged that, perhaps inadvertently, reinforced the status quo even when they were contradictory to the stated aims of the Act and the epistemic benefits that are often associated with deliberative engagement practices. However, despite several contradictions, local government actors maintained that these approaches to deliberative engagement

were 'in line with their understanding of the practices and the expectations of the legislation'. The findings demonstrate how practices were adapted to conform to existing praxis, and therefore, whether intentionally or not, it is reasonable to infer that deliberative engagement practices were co-opted.

A product of ambiguity or obfuscation?

The paper has shown how deliberative engagement requirements of the Victorian Local Government Act were circumscribed to meet organisational norms and, in some cases, reinforce business-as-usual approaches. This section examines the factors that would have left deliberative engagement practices vulnerable to co-option.

Examining the 'principles-based' nature of the legislation and how an already ambivalent local government sector received it is helpful. As stated earlier, the Act does not define what deliberative engagement practices are, stating instead that they are what councils articulated in their community engagement policy (Victorian Local Government Act 2020, Part 1 – Preliminary). Furthermore, the Victorian State Government provided few signals for councils to infer what was expected of 'deliberative engagement practices', arguing that as 'principles-based' legislation, it was the remit of local government organisations to interpret and define it for themselves. That said, there were some instances where state government officials provided some insight; for example, at a webinar titled 'Local Government Act 2020 Explained – Embracing Community Engagement', a senior manager stated, '*deliberative engagement is about having that strong conversation with your community that is truly representative to enable your documents to be truly informed by what your community is asking for'* (VLGA, 2020). However, these expectations were never formally communicated. Therefore, whilst deliberative engagement practices and the documents they need to be applied to are explicitly dictated, and arguably tautological, the actualisation of those outcomes was ultimately at the discretion of how each council decided to interpret them.

The lack of a definition and resistance of the Victorian State Government to provide any further elucidation led to an ambiguous policy environment and meant that there were few anchor points to inform councils' practices. In addition to an absence of

guidelines around expected standards for deliberative engagement practices, there was also no apparent regulatory oversight for how councils defined and adapted them. Therefore, what could be described as a 'regulatory vacuum' surrounding the legislation meant it was wide open to interpretation. This latitude was reinforced with the consistent messaging of a 'growth mindset' from the State Government, which encouraged each council to design processes based on their contextual terms. While potentially intending to mitigate some of the expressed concerns from the sector around resources, the legislator may have unintentionally created an environment where there was no real imperative to make significant organisational shifts. Consequently, these circumstances may have given licence to councils for co-opting practices to suit their needs or the status quo.

However, much as these circumstances are likely to have led to the incongruities cited earlier in this paper, it is not certain that this resulted from resistance to deliberative engagement practices. For some councils, courses of action, however paradoxical, were in line with what they genuinely believed were acceptable standards of practice. In the latter case, deviation from what are generally considered proper practices was not the product of councils' resistance; rather, it was an indication of the uncertainty that surrounded the legislative requirements.

It could be argued that not enough about deliberative engagement practices was understood when the legislation was passed. This was a prominent position expressed by the local government sector, and significant apprehension surrounded the legislation when it was first announced. The inadequate understanding of deliberative engagement practices would also have been compounded by the absence of agreed industry standards. When examining the sense-making processes councils engaged in to understand deliberative engagement practices, the research found that rather than draw on industry standards and expertise; local government actors predominantly made sense of their legislative requirements by looking to fellow councils for signposts for action. Consequently, not only was there a lack of benchmarks that could be enforced, but experts in deliberative engagement practices, such as consultants, were generally excluded from the sense-making process.

Finally, the continuance of the public exhibition stage may be related to the institutionalist concepts of 'path dependency' or 'logics of appropriateness' whereby policy actors privilege their instinct to legitimise actions over responding to situations with new and bespoke solutions. The inherent need to seek stable conditions leads policy actors to employ trusted templates and fit problems into pre-existing solutions that they have used in the past (Lowndes & Roberts, 2013, p. 115). This might explain why the public exhibition process continued, even though it was no longer legislatively required and despite the fact it demanded both extra resources and time, neither of which councils reported having. Therefore, while rationales for continuing the public exhibition process were often positioned around inclusion, it is also possible that council staff had not considered an alternative to managing existing stakeholders. Council staff may not have had enough confidence to justify why the council should discontinue a public exhibition process in favour of prioritising the outcomes of the deliberative engagement practices. This framing suggests that courses of action councils had applied in the past most likely continued because, within their organisational context, the perceived risk of changing practices was considered untenable.

As can be seen from this section, there were several factors that are likely to have informed how deliberative engagement practices were interpreted and applied. These not only constrained action, but they potentially incentivised maintaining extant public participation approaches.

Reform to institutionalise deliberative engagement practices

While the Victorian State Government potentially foresaw these adaptations and indeed encouraged adjustments based on organisational constraints, it is questionable whether the extent of the variations applied by councils was either desirable or defensible. Considered in light of the impetus for democratic innovations and the assumed normative and epistemic benefits that underpin arguments for their institutionalisation, the potency of their transformative appeal is founded on their consequentiality. This raises questions such as: Can practices that are a moderate extension of existing norms be considered 'enough'? What is the value of such endeavours? Whilst the legislation indisputably nudged the sector forward with community engagement practices, it is essential to also consider: if deliberative

engagement practices become co-opted by local government and therefore lose their 'larger critical potential' (Parkinson, 2010), has the assumed public value generated from institutionalising the practices also lost relevance?

While the scope of this research does not allow for contemplating whether, from the legislator's perspective, what has occurred in Victoria was 'enough', some crucial questions emerge regarding institutionalising democratic innovations through regulatory reform. Principally, had the legislation been more prescriptive, or what constitutes deliberative engagement been more apparent, would it have made a difference in how it was implemented?

Speculatively, prescriptive legislation is likely to have been received with antagonism, especially considering the response to deliberative engagement requirements when the legislation was in draft (Savini & Grant, 2020). Putting aside this assumption, the Tuscany Regional Participation Policy (Participedia, n.d.), which was developed to encourage more deliberative engagement practices, indicates some limitations to more prescriptive legislation. This policy was developed through a participatory process where a broad range of stakeholders contributed to defining its goals, contents, and features. In addition, an agency was established to provide both financial incentives and methodological support for local administrators. Nonetheless, some suggested that the legislation was too rigid and imposed unreasonable explications on local authorities (Ravazzi, 2007; Bherer et al., 2017). This indicates that whilst more explicit measures might address ambiguity, they are unlikely to combat obfuscation. In addition, whatever standards the Victorian State Government may have prescribed could have been challenging to justify, given that no singular construct of the practices exists. Indeed, it can be argued that there is a great deal of conceptual ambiguity around what should qualify as a democratic innovation. In a field where it has been suggested there are 'as many definitions of deliberation as there are theorists' (Mutz, 2008, p. 525), it is unclear who decides which approach to progress for each context. Specifically, in the case of the *Victorian Local Government Act 2020*, this standard-bearer was notably absent.

Rather than necessarily prescriptive measures, some might argue that the State Government could have been more explicit about the principles that underpinned the

legislation and provided clarity about the *values* being promoted (and challenged). This is the opinion of the newDemocracy Foundation (2022), which, in its learnings report on the *Victorian Local Government Act 2020*, stated that 'it was evident that *many* examples of work undertaken breached the two most fundamental principles of deliberative engagement practices' (p. 2, emphasis in original), and if there had been clearer 'deliberative principles or essentials' communicated, it would have 'resulted in numerous changes to the rollout.' While clearer articulation of the principles is likely to have generated benefits, it may still have been insufficient to inspire more ambitious practices. This is perhaps most clearly demonstrated in how the principle of inclusion was realised. While many interviewees expressed that they wanted to reach beyond the 'squeaky wheel' and engage with the 'silent majority, ' they nevertheless utilised recruitment and public exhibition processes that were antithetical to these intentions. Notably, despite some practices being at odds with the apparent principle of inclusion, they did not necessarily impact the perceived legitimacy of the processes. Therefore, it is possible that articulating the principles may also not be sufficient to make a material impact on resultant practices.

Given more prescriptive requirements or clearer principles may have generated similar outcomes, perhaps the emphasis should be on organisational change. Whilst much of this paper has alluded to relatively moderate adjustments around community engagement practices, interviewees and survey data suggest that the legislation did catalyse change. Interviewees reported that the legislation created a higher profile for community engagement in their organisations; it enabled more supportive authorising environments and prompted councils to deliver more ambitious processes than they might have otherwise undertaken. As such, although the first attempts at applying deliberative engagement practices may have had discreet outcomes, it is feasible that more ambitious processes will be pursued in the future as councils increasingly become familiar with deliberative engagement. Whether practices begin to align more closely with the generally held principles of deliberative engagement, or they slowly become indistinguishable from other forms of consultation remains to be seen.

## Conclusion

This paper demonstrated some of the complexities around operationalising the

deliberative engagement practices legislated by the *Victorian Local Government Act 2020*. It outlined how the State Government's expectations for the legislation aligned to dominant discourses about the epistemic and normative value of democratic innovations; however, those tasked with operationalising the legislation were not necessarily driven by these and were perhaps more cognisant of the pragmatic constraints. Whilst democratic innovations are often championed as a means for improving democratic decision-making, founded on the belief that through public participation, governments become better informed and more likely to make decisions based on the 'common good', the findings from this paper suggest that policy actors also need to be aware of the commonly rooted demands for efficiency and effectiveness in public administration (Dean, 2023). This is particularly the case for local government, where functions are usually 'couched less in terms of citizenship rights and more in terms of instrumental utility' (McDonnell, 2021, p. 241).

The data consistently underscored how the ambiguous compliance obligations of the legislator to 'improve democracy' did not compel substantial change to existing practices; instead, the obligations were allowed to be circumscribed to meet organisational norms and, in some cases, reinforced business-as-usual approaches. The findings also show that, in the absence of clear guidelines, despite the incongruity of some of the emergent practices, they were legitimised with narratives that rationalised policy actors' choices. The paper highlights that deliberative engagement practices and their institutionalisation are vulnerable to co-option where the impetus for change is not strong enough to shift the dominant paradigms.

As governments continue to set intentions through policy positions and legislative reforms, this paper has shown how practices must be reconciled with existing processes and institutional decision-making structures. Therefore, an increased understanding of how reform intentions translate to embedded practice in government organisations is critical.

These findings provide a more nuanced understanding of how democratic innovations are institutionalised, highlighting the need for a more concerted examination of the norms, dominant paradigms, and motivations of policy actors responsible for actualising democratic innovations. This understanding is critical to

underpinning the cultural shifts needed for deliberative engagement practices to be operationalised in a manner that is more likely to achieve the normative and epistemic aspirations they were conceived to address; without it, their practical application will inevitably contend with pragmatic constraints.

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