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Community-Level Governance

What provision should be made in local
government legislation?

A report prepared for the NSW Independent Local Government Review
Panel, the LGA South Australia's Expert Panel on the 'Council of the Future'
and LGNZ

Prepared for LGNZ by McKinlay Douglas Ltd
July 2014

Preface

Community-level governance is a focus in much of the public sector reform occurring in the world at the moment. Interest in this topic stems from two major sources. The first is the desire to strengthen citizen engagement in local government, while the second is the need to stimulate greater interest in local democracy, especially electoral participation.

Most developed nations are facing declining voter turnout at both the local and national level, a trend that has been occurring for more than two decades. Some commentators explain this trend as a result of declining interest in traditional political processes and suggest that the solution requires a 'deepening of democracy' by decentralising decision-making and engaging more closely with citizens - in other words by investing in community-level governance.

Community engagement can also increase accountability and help ensure that services are delivered efficiently and effectively and meet the needs of the communities they are designed to serve. It can also increase opportunities for voluntary effort and enhance social capital and community trust.

These sentiments are reflected in LGNZ's public commitment to localism, which seeks a more meaningful role for councils in the governance of their regions, districts and cities. To achieve localism it is important to understand the international experience of community-level governance and be able to assess the success or otherwise of the different models in operation.

LGNZ's support for this research paper, undertaken jointly with local government organisations in Australia, falls under our overall policy priority "strengthening local democracy and the value of local government". Achieving a strong local democracy and strengthening the value proposition of local government cannot happen without good engagement between councils and their citizens. This is a topic where there is mutual interest between LGNZ and Australian colleagues, see <http://www.lga.sa.gov.au/page.aspx?u=2939> for the more information on the South Australian initiative..

LGNZ was pleased to be invited to work with the NSW Independent Local Government Review Panel and the Local Government Association of South Australia on this joint research initiative and hope it will be a forerunner of future cross-Tasman collaborations. We were also very pleased to work with MDL which undertook the research on behalf on the project partners.

LGNZ
July 2014

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Introduction

About the report

This report has been prepared by McKinlay Douglas Ltd (MDL) for the New South Wales Independent Local Government Review Panel (the Independent Panel), the Local Government Association of South Australia's Expert Panel on the 'Council of the Future' (the Expert Panel) and Local Government New Zealand (LGNZ). It has also drawn on separate but related work undertaken for the Marion City Council in South Australia, and Mitchell Shire in Victoria.

The report is in part a sequel to an earlier MDL led project undertaken for the Australian Centre of Excellence for Local Government and partners, and published as *Evolution in Community Governance: Building on What Works*¹. Among other things, that report proposed a broad ranging definition of community governance in these terms:

We have chosen to define 'community governance' as a collaborative approach to determining a community's preferred futures and developing and implementing the means of realising them. In practice it may or may not involve one or more of the different tiers of government, institutions of civil society, and private sector interests. We have taken the view that the critical issue in defining 'community governance' is not whether clear and specific boundaries can be set around it, but whether it has utility in the sense of improving understanding of how decisions which affect a community's future are best taken and implemented.

That definition is deliberately flexible, and may not sit well within a rules-driven approach which seeks to place precise boundaries around the concept.

It is worth re-emphasising this point. In the work done for this project, both desktop research, and interviews/discussions with councils and others interested in community governance, we have found wide ranging differences in the way community governance has been understood. A number thought that the appropriate scale for a community governance approach was a population in the range of 5-7000, occasionally 10,000 or a few more people, and normally centred around a local shopping/community centre, school or other significant local facility. Others thought that community governance - in this case the effective engagement of geographic communities over decisions affecting the area - was effective at a scale of up to 50,000-70,000. Typically this view was expressed in a context where the parent council was of a much larger scale again. As we will highlight through this report, what this reflects is people talking about quite different processes and objectives, but using the same terminology. In turn, what this suggests is that any legislation providing for or enabling community level governance should be sufficiently flexible to allow for a wide range of options.

¹Evolution in Community Governance: Building on What Works
http://www.acelg.org.au/upload/program1/1334208484_Vol1_Community_Governance.pdf

Thus the principal focus of this report is whether local government legislation should include provisions enabling or obligating councils to introduce or facilitate a form of community-level ('sub-council' or 'second-tier') governance. Each of the three partners is interested in this question as they consider the future role and structure of local government within their own jurisdictions. At this stage, in respect of community governance, we simply note that community-level or second-tier governance as this report is required to consider it may or may not itself be a form of community governance. Whether or not it is depends at least in part on the purpose and specifically whether or not it is based on a collaborative approach. The distinction is that community governance as a concept involves communities, either formally or informally, in decision-making. Community-level or second-tier governance may or may not involve the community in decision-making as such - local boards discussed below are an example of a second-tier form of governance which does not involve the community in decision-making (although it does involve the community in engagement), and which, as a result would not qualify as community governance.

Addressing the report's question raises complex issues including:

- Should legislation require that every council have defined community governance arrangements in place? Alternatively, should it simply make provision for community governance an option subject to some basic principles and parameters? If it takes the latter approach, should community governance be in the 'gift' of a parent council or should communities be able to trigger the establishment of community governance, or at least a process for considering it (as is currently one option for the establishment of new local councils in England).
- What powers and responsibilities should community governance bodies have? Are they simply advocates? Should they have certain local planning or decision-making powers – perhaps over 'minor' local works amongst other matters? Should they have the power to raise their own funding – perhaps, as with UK local councils, as a precept on the parent council's rate? If they do, should this be limited to community governance arrangements which are formally part of the overall council structure?
- How are they serviced? Should they have the right to determine their own support, or should they be serviced by the parent council and what would this mean for autonomy in operation? In either case, how should the cost of providing support be borne? By the parent council as a charge against its general revenues, or by the community and funded by a targeted or special rate? What powers should a community governance body have to challenge any decision of the parent council on the provision or funding of support?

Methodology

The methodology has been designed to draw out the strengths and weaknesses of each of the options under review, including the impact of 'compulsory' rather than voluntary establishment, different means of servicing the boards or councils themselves, and whether formal autonomy in terms of funding, servicing etc plays a significant role in effectiveness. It has included:

- A desktop review of experience with New Zealand’s community boards, England’s local councils (normally termed neighbourhood or parish councils), and Auckland’s local boards (where material is limited because of their recent establishment), and of practice in selected Australian local governments.
- On-the-ground interviews in Melbourne following up on developments with two of the councils which were included in the original community governance projects.
- Interviews with a cross-section of individuals with experience of New Zealand’s community boards selected in consultation with LGNZ, and designed to ensure coverage of both good and less successful experience.
- Interviews with a cross-section of people with experience of Auckland’s local boards – local board members and Auckland Council staff with responsibility for servicing local boards.
- Phone and face-to-face interviews with selected individuals with experience of England’s local councils drawing on MDL’s existing networks within English local government and local government think tanks - we were fortunate commitments for another project allowed for time in London for some critical interviews for this project.

Structure

The report begins (Part One) with a section discussing the legislative and structural arrangements in each of England, New Zealand and the three Australian states covered in this project for the establishment of sub-council governance.

In each case the discussion covers both how sub-council governance arrangements may be established, and their principal legal characteristics and powers.

For England and New Zealand this section of the report also discusses the emergence of a non-statutory approach to community governance which appears to be gaining significant impetus, which in England includes community led planning and in New Zealand, village planning.

The next section of the report (Part Two) draws on case studies and interviews to bring out the strengths and weaknesses of the different approaches used in each of the jurisdictions under consideration. Its focus is on the extent to which each particular set of arrangements facilitates or inhibits the emergence of a community governance approach.

The final section (Part Three) draws on the previous two sections, and considers the basic question addressed in this report: how and to what extent should legislation seek to require, mandate or enable the development of community governance within local government?

Part One: Legislative and Structural Arrangements for Sub-Council Governance

England

Local councils

The most obvious form of sub-council governance in England is the growing network of local councils variously referred to as neighbourhood, parish or town councils – all essentially with the same set of functions, but with town councils different from the other two in that they are headed by a mayor. The difference in title between chair for the head of a parish or neighbourhood council, and Mayor for a town council is purely symbolic. Neither the town council, nor the Mayor, have any powers which are different from those of a parish or neighbourhood council, or a chair respectively. There are, as well, a number of other initiatives, some driven by national NGOs committed to strengthening communities in their area of interest (rural communities and market towns are two prominent examples), others by local authorities themselves innovating in response to central government policy changes designed both to free up what local government may do and to reduce very substantially their available resources.

Legislative provision for neighbourhood and parish councils was first made in the Local Government Act 1894 and continues under the Local Government Act 1972 and related legislation. It is the Local Government Act which provides for the establishment of local councils, but their powers are spread through a number of different pieces of legislation (something which is also the case for principal authorities².) Currently there are some 9000³ or more councils (now collectively referred to as local councils) serving approximately 35% of the population. Together they employ approximately 25,000 staff with annual expenditure of approximately £500 million.

Their functions fall into three broad categories: representing the local community (to the principal authority among others); delivering services to meet local needs; and striving to improve quality of life in the parish or neighbourhood.

Among the services they may provide are allotments, bus shelters, car parks, community centres, community safety schemes, community transport schemes, crime reduction measures, cycle paths, festivals and celebrations, leisure facilities, litter bins, local illuminations, local youth projects, parks and open spaces, planning, public lavatories, street cleaning, street lighting, tourism activities and traffic calming - basically they are empowered to undertake a very wide range of activities of specifically local impact.

² For a listing of the main powers of local councils, see the Good Councillors' Guide available at http://www.nalc.gov.uk/Publications/Booklets_and_Resources.aspx

³ Different, apparently authoritative, sources provide different estimates of the total number of local councils.

Local councils have the power to raise their own funding through a precept on the council tax which currently averages a little under £50 for a 'D' band residential property (D is effectively the median band in an eight band distribution of property values for council tax purposes).

New local councils may be created by the principal authority either as the result of a governance review undertaken of its own volition, or in response to a petition which itself leads to a governance review. Some 200 new councils have been created over the past 30 years or so primarily as the result of reviews undertaken by principal authorities. Principal authorities are able to refuse a review if one was held within the last 2 years or they are currently running a full review of their area. They are required to go through a detailed process, including extensive consultation and the publication of recommendations with supporting reasons⁴. There is no right of appeal against the decision of the principal authority, other than the right available in respect of any decision by a public body to seek a judicial review.

Until recently there was no power to establish local councils within London, but the Localism Act has recently changed that so neighbourhoods within London may now apply for the establishment of a neighbourhood or parish council. Westminster City Council is the first to conclude a governance review following a petition from the Queens Park Community Council to be designated as a parish council. The City Council approved the application in June 2012.

The performance of local councils varies dramatically. The following are examples of what can be achieved by strong town and parish councils, even when relatively small.⁵

⁴ See Community Governance Reviews: Some Lessons from Recent Practice available at: http://www.nalc.gov.uk/Publications/Booklets_and_Resources.aspx for more detail.

⁵ Sources: Calne: James Derounian (<http://www.guardian.co.uk/voluntary-sector-network/2011/jul/22/parish-councils-save-big-society-dream>) argues for a very strong role for parish councils. Calne is among his case studies. Offerton Park and Campbell Park: *All About Local Councils*, a 2007 publication of the National Association of Local Councils and the Electoral Commission (http://www.nalc.gov.uk/Publications/Booklets_and_Resources.aspx).

Calne Town Council, Wiltshire – recreation facilities

Number of councillors 19, size of electorate 13,600

The Council initiated plans for the Beversbrook Sports Facility that now covers 54 acres and "combines state of the art facilities with stunning surroundings." Calne Council owns the recreation ground that comprises of "playing fields, cricket square, tennis courts, bowls green, basketball hoops, pavilion, children's play area and general open space." In addition there are council-provided woodlands and nature trails, a skatepark and BMX facility, allotments, cemetery, and summer playscheme.

Offerton Park Parish Council, Stockport – performance improvement

Number of councillors 10, size of electorate 2,700

The parish was created in 2002 after a campaign by local residents. A key focus for the Council has been working to provide ever better standards of service delivery for the community, winning the Council the NALC/AON Website of the Year award in 2007 followed by the award of Quality Parish status and Charter Mark.

Campbell Park Parish Council, Milton Keynes – celebrating diversity

Number of councillors 20, size of electorate 10,900

The Council has undertaken a number of spotlight events to help highlight and explore, understand and celebrate a variety of different aspects of the local community. They have directed the spotlight on the Punjab, age and ageism, Ghana, the Celtic fringe, Nigeria, Islam, multiple occupation housing, Hinduism, health and diversity. The programme was the brainchild of two Councillors and the Milton Keynes Racial Equalities Council.

One factor influencing the performance of local councils appears to be how proactive the principal council is in working with them. In the best examples, the local council will have a strong working relationship with the local ward member (often local councils are within the boundary of one or two wards), and through the ward member with the principal authority, strengthening the local council's ability to act as an advocate to the principal authority, and providing a stronger basis for partnership in delivering local services.

Many, however, appear reluctant to play a strong role. One factor is the essentially voluntary nature of the role of the local councillor⁶ but there are others. A 2007 study undertaken for the Commission for Rural Communities found that:

When asked for the barriers that made it hard to act as leaders of their communities, parish councils, and to a lesser extent principal authority councillors, most often mentioned lack of powers, lack of influence and lack of resources, lack of time on behalf of busy councillors. However, it seems that, in the case of some parish councils, lack of resources is linked to reluctance to increase a small precept. There were also some parish councils who did not want more powers as it would increase bureaucracy and demands upon councillor time.⁷

⁶ Generally, councillors on local councils are unpaid although the chair may receive a very modest honorarium.

⁷ Strengthening the Role of Local Councillors: an analysis of the written evidence arising from the CRC participation inquiry accessed on 5 June 2013 at: <http://www.bipsolutions.com/docstore/pdf/17620.pdf>

Looking at the experience of local councils on their own, it is easy to conclude that, by and large, they are relatively low key entities undertaking a small but useful range of very local activity, but, with few exceptions, not seeing themselves as playing a significant role in the governance of the local community.

However, that would be to underestimate the extent to which there appears to be a quite strong and growing move towards more in the way of effective local decision-making in England both through non-statutory and statutory processes.

Community led planning

Between them, two groups, Action with Rural Communities in England and Action for Market Towns, have over the past 30 years been involved with promoting community led planning. A recently published best practice guide for local authorities put out by the two organisations, Making the Most of Community Led Planning⁸, describes this as:

Community Led Planning (CLP) is a step-by-step process, that enables every citizen to participate in, and contribute to, improving the social, economic, environmental and cultural well-being of their local area. It relies on people coming together locally, researching local needs and priorities and agreeing a range of different actions which help to improve their neighbourhood.

Approximately 4,000 communities across England have already been involved in developing Community Led Plans since the late 1970s. These have allowed communities to take responsibility for making things happen locally, rather than waiting on others to do it for them. Their success has relied on volunteers who work closely with parish and town councils and are the driving force behind the work that takes place.

The present coalition government has placed a strong emphasis on more decentralisation, and devolution of decision-making from central government to local authorities and communities.

A 2012 presentation by an official from the decentralisation and neighbourhoods team of the responsible department, the Department for Communities and Local Government set out the principles the government was seeking to apply as:

Localism, Decentralisation, Big Society

Localism

Is the ethos ...

Doing everything at the lowest possible level and only involving central government if absolutely necessary

Decentralisation

Is the process ...

Giving away power to individuals, professionals, communities, local councils and other institutions

⁸ Accessed on 5 June 2013 at: <http://towns.org.uk/files/Making-the-most-of-Community-Led-Planning.pdf>

Big Society

Is the vision ...

A society where people, neighbourhoods and communities have more power and responsibility and use it to create better services and outcomes.

For a number of local authorities this shift in policy has been either a trigger, or a further encouragement, to look at innovative means of engaging with their local communities, and encouraging community led action.

Two examples are Made in Lambeth and neighbourhood working in Derby City Council. Made in Lambeth is an example of the use of digital media as a means of creating what is essentially an on-line community, rather than the more normal geographic approach represented, for example, by neighbourhood working in Derby. This makes Made in Lambeth somewhat more difficult to categorise within the conventional local governance framework, but a review of the various activities which Made in Lambeth has been involved with suggests it has the potential to be a very useful exemplar for councils looking to exploit new technologies as part of their sub-council governance arrangements.

THE MADE IN LAMBETH STORY*

Growing strong local collaboration communities through on and off-line platform creation: a collaboration between Lambeth Borough and Good for Nothing, a global free social action movement working through community events

Lambeth is putting the citizen at the heart of everything it does. A key challenge in this is how to engage local people volunteering their skills in developing local services.

Against this backdrop the Council is looking for fresh approaches and tools to:

- Help communicate the Council's new approaches to more people in the borough and especially people with the skills to help shape service strategy and a prototyping in a more hands on way e.g. people with experience starting and running ventures, people with design and communication skills and people with digital and web development skills.
- Develop co-production approaches that can harness local peoples' skills to identify issues, tackle local challenges bring new services to life.
- Develop co-production capacity and skills within the Council organisation.

The Lambeth and Good for Nothing teams agreed to co-develop a programme of events designed to explore new forms of on-line and off-line co-production and collaboration between the Council and citizens.

Example challenge: Young Lambeth Co-op: Help develop an engaging brand identity and the communication plan for the borough's youth services focused cooperative.

The results: Expert team formed around the challenge including young people, communications experts and graphic. The team developed a series of potential new identities for the young Lambeth Co-op brand and tested them with potential Co-op members over social media. The work contributed to Young Lambeth Co-op being approved by the council cabinet for establishment as an independent legal entity.

For Made in Lambeth, the challenges have attracted a wide variety of local citizens with different skills, producing strong tangible outputs with long-term benefits for the local area.

Following the first 12 months of Made in Lambeth experimentation Lambeth Council is continuing to develop the community with events in April and July 2013.

**Sourced from Digital Governance: from local data to European policies - accessed on 12 June 2013 at: http://issuu.com/bejidak/docs/epma_digital_governance*

DERBY CITY COUNCIL: NEIGHBOURHOOD WORKING*

Derby City Council has adopted neighbourhood working as a way to revitalise neighbourhoods and to engage with local people to tackle the issues that matter to them on their doorstep. At its core is an area-based management approach, with a renewed neighbourhood focus at operational level building on the success of the previous neighbourhood management model. The aims are to improve the environments where people live, look for ways of improving services to neighbourhoods across the city, responsive problem solving and building pride within communities. The Council's commitment to neighbourhood working is supported operationally by new structures and resourcing, the key elements of which are:

- **Neighbourhood Boards and Forums:** Boards are responsible for leading on behalf of the whole neighbourhood in respect of vision, priorities, budget allocations, performance monitoring and influencing decisions that reflect the views of local residents. They are made up of local councillors, residents and representatives from community organisations and public services. Neighbourhood Forums hold open public meetings.
- **Neighbourhood devolved community budgets,** approved at ward committees and managed by the Neighbourhood Boards, to support activities and projects that help address agreed neighbourhood priorities.
- **Neighbourhood charters** setting out local priorities and service standards.
- **A dedicated neighbourhood officer** for each ward, supported and co-ordinated by 4 neighbourhood managers for the city.
- **Area-based strategic management and planning.**
- **A City Neighbourhood Board** including Police and Fire Services and other partners to co-ordinate and focus resources in areas of most need, providing an intelligence-led approach for neighbourhood services to tackle problems in a strategic and co-ordinated way.

Significantly, in recognition of the increasing complexity of issues now facing local councillors, central to the Council's neighbourhood working is the objective of providing additional support for them in their community leadership roles.

* From information on Derby City Council's website <http://www.derby.gov.uk/council-and-democracy/neighbourhood-partnerships/information/>

Neighbourhood forums began as part of the Derbyshire County Council's local strategic planning structure. They were established by the county as a means of providing community based input into LSP considerations. Within Derby City they were based on ward boundaries. When government policy moved on, and local strategic planning became 'yesterday's' approach, the Derby City Council decided to retain neighbourhood forums, and the boards which provided governance for the forums, as part of its own community engagement/governance arrangements, seeing them as providing a separate but complementary structure to ward committees – in essence treating one as an expression of communities as such, and the other as a form of sub-Council structure.

Neighbourhood plans

In another significant development in the government's strategy of devolution to communities, and very relevant to the place of local councils, and for that matter community led planning, planning legislation now provides for the development of neighbourhood plans⁹.

Neighbourhood planning is described as:

A new way for communities to decide the future of the places where they live and work.

They will be able to:

- choose where they want new homes, shops and offices to be built;
- have their say on what those new buildings should look like and what infrastructure should be provided; and
- grant planning permission for the new buildings they want to see go ahead.

Where a local council is already in place, legislation provides for it to take the lead in neighbourhood planning. Where one is not, there is detailed provision for the establishment of what are termed neighbourhood forums – groups formed from within a community following a defined process and intended, among other things, to demonstrate that it is representative. The formal process is set out in the Localism Act 2011, and is specifically designed to facilitate the creation of neighbourhood forums as representative but not elected bodies. The democratic mandate to support establishment is held by the principal authority which, as the local planning authority, has the power to designate a body as a neighbourhood forum for planning purposes.

Neighbourhood planning is intended to be optional rather than compulsory – communities are being encouraged, not required, to become involved.

Neighbourhood planning must conform to the strategic planning documents of the principal authority. One local council town clerk with whom we have discussed this effectively regards neighbourhood planning as something in the nature of 'Clayton's planning'. Neighbourhoods are required to accept decisions the principal authority has made about the provision of, for example, a defined number of units of new housing, and local circumstances will make it sometimes difficult for the local council to have any real influence on how that decision is implemented.

An alternative view, and one which appears to be more widely held, is that the role of the principal authority must necessarily be to set the strategic direction for its district. On this view there is a distinction between setting the strategic framework for development, and making the individual decisions about how that is expressed locally, which is properly the responsibility of the local council. This is also really the only practical way of avoiding the NIMBY risk that if local councils could override the strategic planning decisions of a principal authority, there is a risk that essential development, for example provision of additional housing, would be frustrated because all local councils wanted those developments to go ahead somewhere else.

⁹ Departmental guidance on neighbourhood plans can be found at: <file:///G:/ALL/Community%20Governance/2013%20Project/England/Neighbourhood%20planning%20-%20Detailed%20guidance%20-%20GOV.UK.htm> accessed on 5 June 2013

A recent and important development in neighbourhood planning has been the establishment by the government of the Supporting Communities and Neighbourhoods in Planning Programme¹⁰ to provide both financial and technical assistance for groups wishing to establish a neighbourhood plan. The program is being delivered by the membership based community development NGO, Locality, in partnership with the Royal Town Planning Institute.

Locality began receiving applications for support on 1 April 2013. More than 400 have already been lodged. In a parallel with what has been the pattern with community-based planning, the lead is being taken by non-statutory groups – in areas which do not already have a local council, by neighbourhood forums or groups seeking recognition as a neighbourhood forum. In areas which do have a local council, the council is the formal applicant but it seems is usually acting as the umbrella for a group within its community which it will empower as a steering committee to lead the neighbourhood planning process.

The explanation given for the common situation that community and now neighbourhood planning is community rather than council led is that the demographics differ – typically the age and composition of the council, and of the groups involved in community and now neighbourhood planning are quite different. A further factor is the difference between the general focus across a range of local issues which is the role of a local councillor, and the specific focus on planning for the future of the community as such which is the focus of neighbourhood planning - and which has clearly encouraged people to become involved who want to be engaged specifically with that activity.

The English experience summed up

The English experience is clearly a very mixed one. Within the statutory realm – local councils formed in accordance with legislation – performance ranges from excellent with a high degree of engagement and significant activity on behalf of communities to very low impact indeed. It appears the single most important factor is the nature of the support from and relationship with the principal authority. A principal authority that wishes to encourage strong involvement by local councils with their communities will see much better outcomes than one which leaves them alone.

Outside the statutory realm, there is a very wide range of experience ranging from local authority led initiatives to initiatives such as community led planning supported by the NGO sector. This experience strongly suggests the evolution of community governance will benefit from appropriate statutory powers and frameworks, but the critical factors are a combination of visionary leadership, and the existence of formal or informal support networks able to underpin community-based initiatives.

This includes the capability to help communities leverage off the coalition government's emphasis on localism with its initiatives such as neighbourhood planning and the community right to challenge and right to buy. These give local councils or for that matter community groups the right to challenge the principal authority for the delivery of services, or to acquire council assets which might otherwise be sold. For all the uncertainty about the government's

¹⁰ See more at: <http://locality.org.uk/projects/building-community/#sthash.9A6rvgtb.dpuf>

long-term intentions, these initiatives are clearly giving a number of communities, and the NGOs (and occasionally councils) supporting them, the motivation to see the potential for greater community-based governance as very real.

One lesson for other jurisdictions from the English experience may well be that community governance thrives not so much because of explicit statutory provisions requiring or enabling it, but when communities and organisations working with them can see a real potential to make a difference, and an opportunity to attract at least a minimum level of resourcing to assist. Another may be that the approach of higher tiers of government will not necessarily be to build on local government itself as the medium through which to enable and support community governance. Although the English government has taken one initiative to enhance the role of local government by streamlining the governance review process, most of its initiatives appear designed to encourage the development of community governance outside local government itself. Examples include the community rights to challenge and to buy, and for the establishment of neighbourhood forums in areas where there are not already local councils, rather than further easing the process of establishing local councils as such. Each of these initiatives quite specifically contemplates the development of alternative community-based organisations with an on-going existence.

New Zealand

Here we first discuss New Zealand's two forms of statutorily enabled sub-council governance: community boards and local boards; and then provide a brief overview of village planning.

Community boards

The history

Local government in New Zealand underwent a major restructuring in 1989, enabled by the Local Government Amendment Act (No. 3) 1988 which provided for the Local Government Commission to "prepare such final reorganisation schemes as in its opinion are necessary to improve local government in New Zealand or any part of New Zealand".

Prior to 1989, there had been provision for the establishment within the districts of county councils¹¹ of a district community council or community council, the former with specified administrative powers and representation on the territorial authority, the latter with advisory functions and no voting rights.

The Local Government Amendment Act (No. 3) 1988, which set out the Local Government Commission's role in restructuring local government, empowered the Commission to provide for the establishment of a ward committee for any ward or combination of wards as an alternative to a community council or a district community council. The ward committee was "designed to allow for the recognition of communities within a district, to increase involvement in the local government system and permit devolution of decision-making to representatives of communities within a district on matters of particular concern to those communities" (sourced from the Commission's memorandum to assist in the consideration of final reorganisation

¹¹ Prior to the 1989 restructuring of New Zealand local government, which abolished them, county councils were the general purpose local authorities serving rural New Zealand - the equivalent of borough or city councils in urban areas.

schemes which formed the introduction to each such scheme). The Commission itself decided as a matter of general policy that it would not establish community councils or district community councils, and instead would establish ward committees as the only “sub-district” unit of territorial local government.

Separately, the Government went on to legislate in what is generally referred to as the Local Government Reform Bill (formally the Local Government Amendment Act (No 2) 1989) for the establishment of a new form of sub-district government to be known as a community board. In response, although the Commission still had the power to establish ward committees, it determined it should establish only one form of sub-district governance, community boards. As a result, no ward committees were established. The principal difference between the two options lay not so much in the powers which could be delegated to ward committees and community boards respectively, as in the fact that ward committees were to be appointed by the parent council whilst community boards were to be elected by the community.

One consequence of the situation in which the Commission found itself was limited time to consult further with local authorities on where community boards should be established. It was able to identify a number of communities where it thought this was appropriate (basically communities which had their own council, but were going to lose it through amalgamation), but clearly recognised there were other cases where, given the time and further consultation with local authorities, it would also have recommended the establishment of community boards. Instead, it noted that the need for further community boards could be considered within the procedures established under the legislation.

The role of community boards

The minimum role of community boards is defined in the Local Government Act essentially in advisory terms as:

The role of a community board is to—

- (a) represent, and act as an advocate for, the interests of its community;
- (b) consider and report on all matters referred to it by the territorial authority, or any matter of interest or concern to the community board;
- (c) maintain an overview of services provided by the territorial authority within the community;
- (d) prepare an annual submission to the territorial authority for expenditure within the community; and
- (e) communicate with community organisations and special interest groups within the community.

The legislation also provides that community boards may undertake any other responsibilities that are delegated to it by the parent authority which may delegate any of its responsibilities, duties, or powers except —

- (a) the power to make a rate;
- (b) the power to make a bylaw;

- (c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan;
- (d) the power to adopt a long-term plan, annual plan, or annual report; or
- (e) the power to appoint a chief executive;
- (f) the power to adopt policies required to be adopted and consulted on under this local government act in association with the long term plan or developed for the purpose of the local governance statement; or
- (g) the power to adopt a remuneration and employment policy.

Delegation

Practice in terms of delegation varies quite widely. A handful of councils have delegated very extensive powers, but the majority have delegated little or no power, often leaving community boards purely as local advocates. The case studies in Part Two of this report illustrate what can be done by councils which have a commitment to delegating decision-making to community boards.

Establishment

Community boards can be established either in the course of a council's representation review (New Zealand's territorial local authorities are required to undertake a wide-ranging review, six yearly, of their representation arrangements covering matters such as whether councillors should be elected at large or from wards and if so how many, the number of councillors, and whether or not to have community boards and again, if so, the number and the districts for the boards) or as the result of an application from a 'community' to the council for the establishment of a community board, which can be made at any time.

The decisions of a council on the establishment (or disestablishment) of a community board can be appealed to the Local Government Commission which has the power to review the council's decision, applying the same criteria as the council itself was required to apply.

Remuneration

An important destabilising factor in the relationship between some councils and their community boards has been the way in which New Zealand's Remuneration Authority¹² has set the remuneration for elected members. It adopted what was termed a 'pool' approach of setting a single sum to be divided amongst elected members based on the council's population size and level of expenditure. For councils with community boards, half of the remuneration of community board members was to be met from the remuneration pool, as the Remuneration Authority effectively regarded governance as a fixed amount of activity with the implication that, if there were community boards handling governance at the local level, there would be proportionately less governance work at the council level. This was both misconceived in terms of an understanding of what actually happened in the council/community board situation, and a major contributor to poor relationships between many councils and their community boards. Unsurprisingly councillors tended to see themselves as meeting half of community board

¹² An independent statutory body charged, among other things, with setting the remuneration for elected members in local government.

members' allowances out of their own pockets. For many, this amounted to an incentive to disestablish community boards.

The Remuneration Authority has recently reviewed its approach, and a new system will come into effect with the 2013 local authority elections. Council elected members' and community board members' remuneration will be separated. The Remuneration Authority itself has noted:

The long-standing tension created by councils needing to set community boards' remuneration at the expense of their own remuneration is removed, and it is hoped this will have a positive effect on local democracy.

Current situation

Over recent years, the number of community boards has been in decline, substantially because of proposals by councils in representation reviews to disestablish community boards. Often this will reflect a combination of what is seen as the relative insignificance of a community board, and a parent council not placing any particular value on continuing a community board already in existence (especially given the remuneration situation).

On the other hand, and as the case studies in Part Two suggest, a number of those community boards which remain (and their parent councils) have put very considerable effort into developing effective community governance at the local level, in some instances taking what amounts to a place-management approach.

Local boards

The history

The second form of sub-council governance in New Zealand, local boards, is a recent innovation introduced as part of the wide ranging reforms of local government in metropolitan Auckland.

The new Auckland Council came into existence on 1 November 2010. It combined six territorial authorities, including four of New Zealand's largest by population, and part of a seventh, along with a regional council (a separate form of local government with primary responsibility for environmental management) to form a single council to provide local government services for a population of 1.4 million people.

Both the Royal Commission on the Governance of Auckland, which had been established in 2007 to consider the future governance of metropolitan Auckland, and the Government which received its report, supported the establishment of a single council for the whole of metropolitan Auckland, but also recognised the need to make some form of provision for local governance/local democracy.

The Royal Commission recommended this be done by establishing six local councils which would have responsibility for a range of functions specifically defined in statute. Each would have a 'local council manager' with responsibility for ensuring the effective delivery of local council functions. Local councils would not have the power to strike a rate, borrow, own assets or employ staff. These powers would be held by the Auckland Council. The Royal Commission

proposed that authority to employ staff for activity within the responsibility of a local council would be delegated to the local council manager.

The primary focus of local councils would be on 'place shaping', local service delivery and community engagement.

The Government rejected the Royal Commission's recommendation on the grounds that it made insufficient provision for local democracy – six local councils across a population of 1.4 million being seen as each too large for effective community relationships. The Government decided instead that there should be between 20 and 30 local boards with the precise number and boundaries to be set by the Local Government Commission. Rather than following the Royal Commission's proposal that the roles of the second-tier should be defined in some detail in statute, the Government decision was that the legislation should provide in general terms for local boards to have responsibility for making local non-regulatory decisions, with actual authority to be delegated to them by the Auckland Council. The boards themselves were to be unincorporated components within the Auckland Council, with no power themselves to employ staff, hold assets, borrow or otherwise raise funds.

The following diagram sets out the different components within the Auckland Council, and the relationships among them, showing the position of the local boards as an integral element within the overall governance of the Auckland Council.



The Local Board Role

There has been a measure of confusion over the role of local boards within the Auckland Council structure, as many observers have confused them with community boards partly because prior

to the creation of the Auckland Council, previous councils had a number of community boards, and that term and set of functions is better understood. Specifically, there is not yet a full understanding the local boards are intended to be part of a co-governance arrangement, rather than a subsidiary and almost peripheral structure as was the case with a number of community boards within the predecessor councils. The Auckland Transition Authority (ATA), in its final report, *Auckland in Transition*,¹³ after reviewing the legislation observed that “In summary, therefore, the general intent of the relevant Auckland Council Act provisions is that the governing body and local boards are, with limited exceptions, autonomous within their respective areas of decision making.”

Recent research literature on co-governance highlights the importance of clarity of thinking around the concept, and ensuring that whatever arrangements are put in place are supportive of the co-governance purpose. Somerville and Haines (2008¹⁴) reporting on a detailed research project, *Prospects for Local Co-Governance*, observe:

Co-governance can occur on any one scale, and can also occur across a plurality of scales. Where different collectivities are operating on the same scale, co-governance is relatively more straightforward in that their spheres of interaction largely overlap. Where they are operating on different scales, however (for example, a neighbourhood as distinct from a town or city), there is greater potential for hierarchical governance to displace co-governance, as the governance capacity of collectivities on the ‘higher’ scale is typically much greater than that of those on the ‘lower’ scale.

Developing co-governance therefore crucially involves increasing capacity on the ‘lower’ scale in order to counteract this tendency to hierarchical governance.

More generally, the emerging literature on co-governance emphasises the importance of autonomy which, in the local government context, includes the power to take decisions over matters such as funding, staffing and service delivery.

Under the Auckland Council legislation, local boards are to be responsible for decisions on all local non-regulatory matters within their respective areas. The legislation requires the Auckland Council to delegate decision-making responsibility, including budgetary decisions, within parameters (including funding for local board determined decisions) set by the Council in its long-term and annual plans. The ATA in its final report set out detailed proposals for those matters which should be delegated. The Auckland Council adopted revised delegations as part of preparing its 2012-2022 Long Term Plan.

Developing these has proved complex, in part because of difficulties in determining what non-regulatory matters are inherently local (despite the statutory obligation to delegate local non-regulatory matters to local boards, the Auckland Council may retain responsibility if the matter has implications beyond the boundaries of the local board).

¹³ Available at:

[http://www.ata.govt.nz/web/cms_ata.nsf/vwluResources/ATAReport%28whole%29/\\$file/ATAReport%28wholeminmaps%29.pdf](http://www.ata.govt.nz/web/cms_ata.nsf/vwluResources/ATAReport%28whole%29/$file/ATAReport%28wholeminmaps%29.pdf)

¹⁴ Somerville, P. & Haines, N. (2008) *Prospects for Local Co-Governance*, *Local Government Studies*, 34:1, 61-79

Section 98 of the Local Government (Auckland Council) 2009 provides that the Local Government Commission may resolve any dispute between a local board or boards and the governing body regarding the delegations. This provision has not been used, but can be seen as an important measure for assuring integrity in decision-making over delegations because an objective third party agency is potentially the final arbiter.

The statutory provisions under which local boards are established include a requirement for the development of what is known as a local board agreement between each local board and the governing body of the Auckland Council. The purpose of this agreement is to set out the scope of the local board's decision-making authority, including the associated budgetary provision.

Also as part of their role, local boards prepare what are known as local board plans setting out those activities the board intends undertaking or enabling within its area, along with the associated budgetary information. These feed through to and inform the development of the Auckland Council's Long Term Plan (10 year plan). They are intended to cover all the matters over which the local board has decision-making authority and go to consultation with the board's own community. The plan's coverage will include the board's proposals for local services or, where the board is an advocate rather than a decision-maker, the representations it intends making to the responsible party - which may be the governing body of the Auckland Council itself, or it may be one of the Council's Council controlled organisations (in practice, the principal service producers).

The 2011 local board plans describe the four key activities of local boards as:

Lead: We have the decision-making responsibility for a wide range of local activities.

Advocate: Acting as advocates on your behalf with other Auckland Council entities, such as Auckland Transport, as well as external agencies, like central government agencies.

Fund: Providing funding to other organisations through community grants and other funding arrangements.

Facilitate: Engaging and working with organisations in the local board area to represent and promote their interests.

Current situation

The local boards are still very much 'work in progress'. It is as yet unclear the extent to which they have and exercise substantial authority within their individual areas. Although each local board has apparent authority for a budget in the order of \$20 million, it is still far from clear exactly how much authority the boards are able to exercise – for example, the local board used as a case study for this report appears to have responsibility for a budget with operating expenditure of \$41 million and capital expenditure of \$6.8 million for the 2012/2013 year. In practice it seems the amount over which the board is able to exercise real discretion is significantly less than \$1 million. One reason for the gap between the total amount of the local board budget, and the amount over which it can exercise real discretion, is that the Council as

the service provider will typically have in place purchasing and/or provision arrangements which cover the whole of Auckland, and thus provide relatively little discretion for local variation.

Another and, in the short term, more significant matter is the fact that much of the activity for which local boards have formal responsibility is in practice a legacy from previous councils - the on-going provision of long established services. The extent to which this limits local board discretion is spelt out in the Council's Local Board Funding Policy which, by statute, it is required to include in its Long Term Plan. It has this to say:

The bulk of the local boards' current budgets represent the costs of achieving and maintaining the identified levels of service provision for local activities presented in the LTP. They include costs related to new assets decided by the governing body, the renewal of assets and the maintenance and operation of existing assets. Local boards would receive these non-discretionary funding allocations based on budgets established through the activity management (asset management planning and LTP prioritisation) processes. Local boards have little decision-making authority over these costs.

This approach ensures each local board has sufficient funding to maintain inherited service levels and provides funding to address the different cost structures of each local board stemming from their different asset bases.

The practical reality that flows from the statement in the local boards funding policy is that, if local boards want to exercise extensive discretion over spending, it will need to be on new or enhanced services, and funded by a local board rate - and in the present climate, with its emphasis on containing costs, this is a high hurdle for any local board.

Although local board areas have a population on average of approximately 70,000, the staffing resource is only some three or four persons for each board to provide advice, and manage the board's administrative processes. Furthermore, the staff are employed by the chief executive of the governing body, the Auckland Council, raising the potential of a conflict in accountabilities if a local board wishes to adopt a different position on a significant issue from that preferred by the parent organisation. It also creates a potentially difficult situation for local boards themselves, as they do not have the normal relationship of a governing body to advisory staff in relation to matters such as performance and the ability of the governing body to direct staff.

These issues appear to be well understood by the staff of the governing body, and recognised as matters which need to be sensitively managed. Nonetheless, and especially given the nature of large bureaucratic structures, there is an on-going question about the extent to which these arrangements are the best option for facilitating autonomous decision-making at the local level.

One question which the Auckland Council is now considering is whether local boards with an average population of 70,000 are sufficient by themselves to enable the development of a community governance/place shaping approach which can fully engage Auckland's many different communities. They certainly provide an effective means of 'right-sizing' engagement on a number of major sub-Council matters - for example the development of significant local recreational and other facilities; reinforcing the character of an area (Waitakere Ranges is a good example with its emphasis on the natural character of West Auckland's forest and coastal area), and handling debate on major service related strategies, for example, transport. They

have clearly played an important role in on-going engagement between the Council, and Auckland's different communities in developing the Auckland unitary plan (the single land use planning document for the whole of the Auckland region). It's less clear that they are well suited to handle very local place shaping issues such as local area or village planning where the community of interest is typically in the order of 5000-7000 or perhaps 10,000 inhabitants.

The Council has established a Neighbourhood Planning Task Group, chaired by a local board chair, with the purpose to promote neighbourhood planning and implementation across Auckland Council, in order to enhance community-driven planning and neighbourhood self-help projects. The intention is to consider the potential of practices such as village planning (see the next section of this report) and other 'bottom-up' approaches to community led initiatives.

The objectives include creating the conditions within which community-led planning and self-help projects can thrive, including:

- Encouragement by local boards of "bottom-up" community-based initiatives.
- A culture within Council, including local boards that encourage community empowerment.
- Learning and development opportunities for elected members, Council staff and committee members at all levels, including middle managers, to support community empowerment.
- Funding support through grants programs or matched funding of community voluntary labour through local board discretionary funds, identification of other external community funding sources.

Assessment

The Auckland local board experience is still very much in its early stages – the boards themselves have had less than one full electoral cycle. The boards, the governing body, and management have all been faced with developing practice where there are few if any direct precedents.

There is clearly a strong sense within the Council 'family' that local boards are, and important part of governance. At the same time, there seems to have been a lack of focus on the essential pre-conditions for sustaining a genuine shared or co-governance model, including the extent to which local boards should have autonomy in decision-making.

As we discuss below, there are measures which could be taken administratively to reinforce significantly the potential for local board autonomy. They include giving local boards collectively, and as individual boards, more discretion over determining how to resource their administrative and advisory requirements (which, in practice, might mean making the choice to recommend a local rate if an individual board wanted more extensive provision than the standard provided for local boards generally).

Village planning

The following material is taken from the website of the Porirua City Council which, with its communities, has been a pioneer in the development of village planning in New Zealand:

PORIRUA CITY VILLAGE PLANNING PROGRAMME

The programme is a collaborative process between Council and communities with the aim of enhancing each of Porirua City's diverse local communities or 'villages' through involving local residents in planning and decision-making. The programme revolves around the development and implementation of village plans which document a community's vision and priorities for action. To date, 11 of Porirua's 16 villages have been involved in the Village Planning Programme.

The first of the four strategic priorities in Porirua City's Long Term Plan 2012-2022 is 'A City of Villages' – connected and distinctive villages, able to have their respective spaces and characters shaped by the people who live in them.

The Village Planning Programme is the core mechanism for achieving this. The objectives of the programme are:

- 1) To assist local communities in setting a strategic direction and priorities to be implemented in partnership with Council and other agencies.
- 2) To ensure Council's city-wide strategies and plans are informed by the visions and priorities of local communities.
- 3) To enable Council to provide services and fund projects which recognise and enhance the unique characteristics of the city's geographic communities.
- 4) To foster constructive working relationships between Councillors, local residents, local agencies and Council staff.
- 5) To encourage and inspire community engagement - leadership, volunteer input and action in order to achieve the community's vision for their local area.
- 6) To enhance an on-going sense of community ownership of local facilities, services etc.

The origins of the programme

The Plimmerton community (an old established and relatively self-contained seaside community) was instrumental in the establishment of the Village Planning Programme. Leveraging off the Local Government Act 2002 requirement for local government to consult with its communities, in 2003 the Plimmerton Residents Association approached Council for assistance to develop a village plan. In 2004 the first 'village plan' – the Plimmerton Village Strategy – was presented to Council. The strategy detailed residents' aspirations for their community. It was developed through an extensive community consultation process involving 23 street meetings and more than 300 residents.

Prompted by this action, Council resolved to begin the Community (Village) Plan project in 2004 as part of the Long Term Council Community Plan (LTCCP) 2004-14. The Village Planning Programme has been a strategic project in all subsequent Long Term Plans.

Australia

None of the three states being considered in this report, New South Wales, Victoria and South Australia, have any formal statutory provision for sub-council governance. All three, instead, use general provisions under their local government acts¹⁵ authorising councils to establish committees. Under all three acts, a council can establish a committee entirely of councillors, partly comprising councillors and partly non-councillors, or all non-councillors (brief details of the powers are set out in Appendix I).

Some NSW councils make extensive use of precinct committees. For a recent overview, see *Local Government Precinct Committees and Ecologically Sustainable Development (ESD) Based Urban Planning*¹⁶.

A recent pilot project, *Citizens Committees in Local Government: the Role of Committees of Management in Victoria*, provides an overview of the use of section 86 committees¹⁷.

A research project for the Local Government Association of South Australia undertaken in 2007, *Community Engagement Snapshot of Councils*, reports extensive use of section 41 committees for a variety of different purposes.¹⁸

The following table shows the range of activity:

LG Act - S41	Advisory	Impact: low, med or high	How are representatives selected?
Reconciliation	Aboriginal Forums	High	Expression of Interest
Econ/Business Development	Issues based Round Tables/Forums/Ctees	Medium to High	Nomination
Youth Advisory	Youth Advisory(YAC)	Medium to High	Self selection
	PAR Advisory	Medium to High	Invited stakeholders
	Sport and Recreation	Medium	Call for nominations
Heritage		High	Application if interested
	Residents Groups Community Forums	Medium to High	Open – encouragement
Emergency/Risk		High	Nomination – Council select
	Environmental	Medium	Self select, by invitation
	Couch/conversations	Low–Medium	Self select
	Village Manage Plan	Medium	Self select
	Ctty Development - Regeneration	Medium-High	Express interest - interview

¹⁵ Respectively section 355 in NSW, section 86 in Victoria and section 41 in South Australia.

¹⁶ Available at: <http://habittatownplanningforum.wordpress.com/2012/04/05/local-government-precinct-committees-and-ecologically-sustainable-development-esd-based-urban-planning-written-by-ray-rauscher/>

¹⁷ Available at: <http://www.newdemocracy.com.au/library/research-papers/item/132-citizens-committees-in-local-government-the-role-of-committees-of-management-in-victoria>

¹⁸ Available at: http://www.lga.sa.gov.au/webdata/resources/files/Community_Engagement_Snapshot_of_Councils_April_2007.pdf

Our overall impression, which reflects the findings from the original community governance project, *Evolution in Community Governance: Building on What Works*,¹⁹ is that there is a great deal of innovation taking place within Australian local government, most of it 'beneath the radar'.

The very fact that there is, at present, no statutory provision formally requiring or enabling sub-council governance, in our judgement has both contributed positively to the breadth of innovation, and made it more difficult than in some other jurisdictions (England; New Zealand) to quantify the extent of activity.

As the case studies which follow in the next section demonstrate, and as those in the *Evolution in Community Governance* project also do, a lot of innovation is resulting from councils reflecting on what kind of information they need in order to do their job more effectively, and at a lesser cost. Increasingly councils are seeing various approaches to community governance as a means of providing them with a better understanding of service delivery requirements, and of community preferences.

¹⁹ *Evolution in Community Governance: Building on What Works* available at:
http://www.acelg.org.au/upload/program1/1334208484_Vol1_Community_Governance.pdf

Part Two: Case Studies

Scope

Case studies undertaken for this project were a mix of desktop research, phone and face-to-face interviews.

For the New Zealand case studies, we interviewed people from a number of local authorities which have community boards as part of their governance. Interviews ranged from mayors and community board chairs to local government staff responsible for servicing community boards. For the local board component, we interviewed a number of officials involved in the governance of the Auckland Council and in servicing local boards, and interviewed the deputy chair of one case study local board.

In Australia, we revisited two of the councils which were case studies in the original community governance report, *Evolution in Community Governance: Building on What Works* (Yarra Ranges and Port Phillip), and were fortunate to incorporate work for one other Melbourne area Council, Mitchell Shire, and two South Australian councils, the City of Marion and Barossa Shire. We also include an extract from the *Evolution in Community Governance* report's case study of Golden Plains; although it was not included in the research for the current report, Golden Plains is widely recognised as an exemplar of community governance in a council with a number of geographically distinct communities.

For the English case studies we relied on a mix of desktop research, email correspondence with people directly involved with neighbourhood and parish councils, and with community led planning, and a telephone interview with a researcher specialising in neighbourhood and parish councils and in community led planning and thus able to provide an overview of the relationship between the two. We were also able to have three face-to-face interviews in London with people who have a national perspective on current developments, including one person whose responsibilities include overseeing the government funded support program for neighbourhood planning.

Victoria-Melbourne

Yarra Ranges and Port Phillip

One of the themes which came through in the *Evolution in Community Governance* report was the need for further reflection on the respective roles of elected members, management and the community. This included who should be responsible for leading a council's community governance activity, the tension between the traditional representative democracy role ("we were elected to take decisions"), and a more facilitative role of working with communities, the relationship between elected members and council management, and the capability (and legitimacy) of community groups and others engaging with the council.

Yarra Ranges provided a very good example of a council with a large number of smaller communities within its district which was seeking to work with community groups within its different townships as a basis for strengthening relationships between the Council and

communities. Port Phillip provided an example of a much more densely populated inner urban authority with a strong commitment to community governance, and seeking to involve its communities closely in decisions which affected them.

Yarra Ranges had invested in supporting community groups which met its criteria as a township group (sustainability, representativeness). This included a dedicated staff member whose job was to assist township groups, providing them with advice on how to seek funding and on capability development. The council also facilitated a regular meeting of township groups to discuss matters of common interest.

Port Phillip's commitment to working with its communities was expressed through a councillor view that engagement should be led by councillors, and implemented through the establishment of a number of reference groups as the basis for input into (and almost shared decision-making on) council decisions.

We found that each had changed its practices, partly as a consequence of turnover in council membership following the 2012 elections, and partly as the councils re-thought how best to work with their communities.

Yarra Ranges had found that sustainability of township groups was a major issue. Too often groups had been dependent on one person or a small core, and when they became less involved, the group tended to fade away. This emphasised the need for on-going resilience which a number of the groups were unable to meet.

The council still supports those groups which remain in existence, but has shifted its emphasis towards local area planning. It is at the early stage of 'community conversations', seeking to identify communities with a core group of people who are interested in being early participants, and with the prospect of establishing an on-going community based capability able, with the support of the council, to take the lead in developing a local area plan (the council is still also determining exactly what a local area plan might be in practice; drawing on earlier Victorian experience of community planning and will no doubt look at other examples such as Porirua's village planning initiative).

The Port Phillip approach worked partly because the councillors in office from 2008-2012 were able to make a full-time commitment as, for one reason or another, they did not need to be in paid employment. In 2012 four of those councillors stood down, and one was defeated, resulting in a substantially new Council. It is in a different situation (several current councillors are in paid employment) which has contributed to a different approach. Led by the Mayor, who has a strong background in corporate governance, the Council has shifted its emphasis from direct involvement by elected members, more to one of elected members setting the strategy and providing oversight of the Council's community governance and engagement practices but with the expectation that generally it is the staff who will be involved with community reference groups and other initiatives.

This highlights one of the dilemmas faced by councils with relatively high representation ratios – the Port Phillip Council has seven elected members for a population of 90,000. One of the

previous councillors referred to Jeff²⁰ Kennett's comment that councillors should be steerers not rowers. In his experience that was not what the community wanted; they wanted to see their councillors present and they wanted that to be in their time and their space.

The result, at least for elected members who believe they need to be personally engaged with their communities, is a very real dilemma. With as many as 13,000 or more residents for each elected member, it is simply not possible to be closely involved with the affected community on each significant council decision - one decision alone could involve scores if not hundreds of hours of time taken to work through an issue and finally arrive at a decision all parties are prepared to accept.

Foreshadowing the discussion in the next section, this does raise the question of how issues are 'owned' and developed. The Port Phillip case in 2008-2012 was one of a council wanting to involve its communities in council decisions which would affect them. Although not exactly a 'top down' approach, this is one which does require a major commitment of council time, including councillors if they believe they need to be involved. The alternative, exemplified by cases such as Porirua's village planning, or the best examples of Victorian community planning, is one of a relatively minimal demand on councillor time. Typically it is the community which will have ownership of the issue through a village planning group or similar body, and the principal council input will be a facilitator who will work with the group, make the necessary connections with council expertise, and ensure the work feeds into the council's own planning.

Mitchell Shire

The third example from Melbourne is Mitchell Shire. The real interest in this case study is the challenge for a council managing an area which not only has a number of different communities, but communities which face very different drivers. Mitchell Shire combines a fast-growing part of the Melbourne growth area with a more rural/small township area. These areas have very different needs in terms of infrastructure and social services, and very different lifestyle preferences.

Mitchell Shire is far from being the only Australian local authority facing this dilemma. For the purposes of this report, the question which the Mitchell experience raises is whether councils with this kind of diversity and difference in pressures across its district should nonetheless try to function as a single tier council, or whether they should quite consciously adopt a two tier approach so that issues specific to different parts of the district can be dealt with and decided within the affected locality, rather than by the council as a whole. Among the implications this raises, is how the different parts of the district should be serviced - from a single central council office as is the case for Mitchell Shire at present, or through local area offices able to build a much closer and more community specific focus?

Frankston City

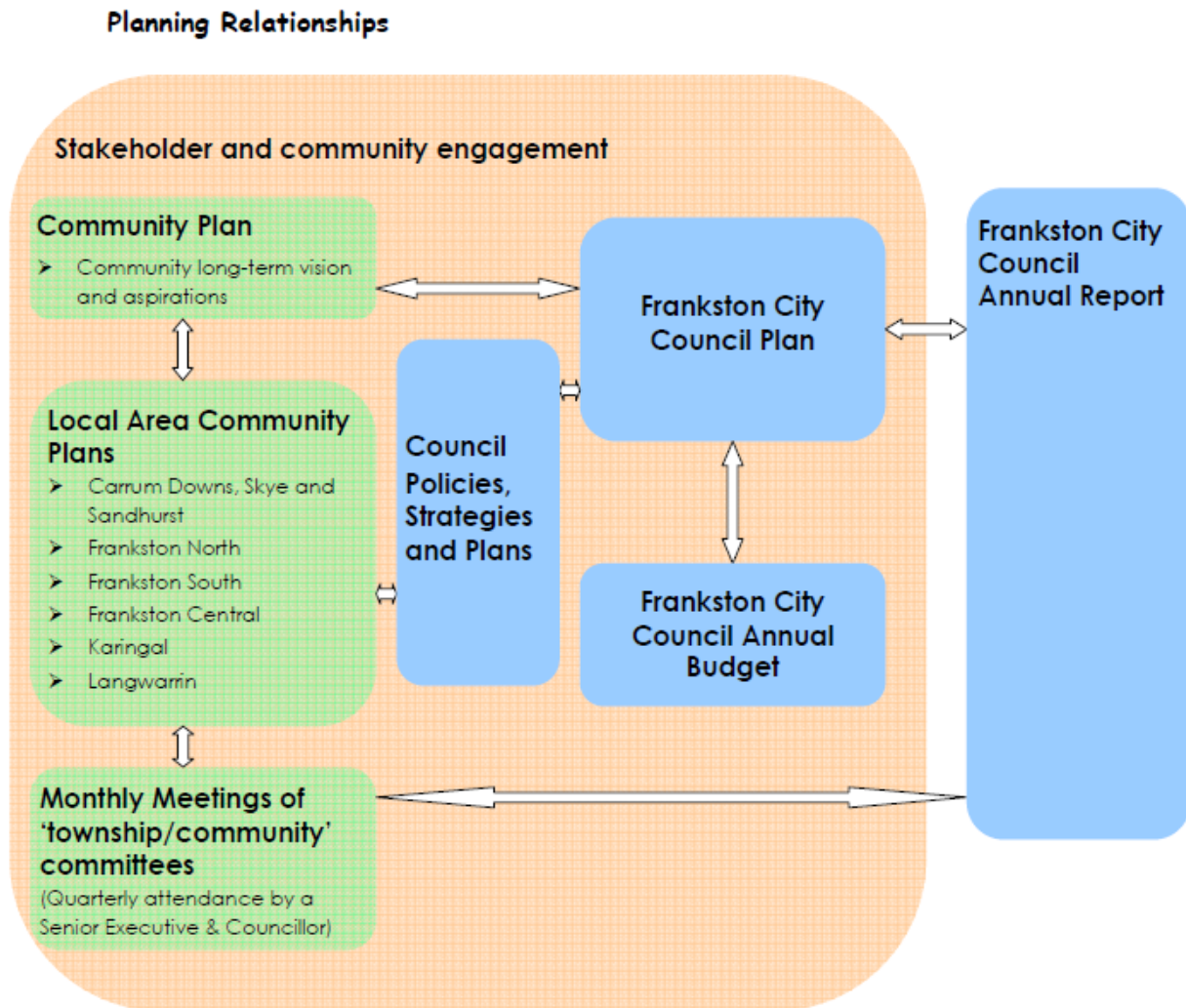
Frankston City Council provides an example of emerging practice with the approach it is taking to local area planning. The Council's work with the communities across its district has led to an acceptance it has six relatively distinct communities with which the Council should build a strong relationship as the basis for its own planning. It's adopted a local area planning approach,

²⁰ The Victorian State Premier who drove the restructuring of local government in that state in the 1990s.

working with township/community committees which are established largely through a process of self-nomination to work together to set priorities for the individual communities, and to feed through into council wide planning including the Council’s “community conversation” informing its own long-term planning.

The following diagram sets out the planning relationships and shows how local area community plans feed through into council policy strategies and plans.

Integrating Community Planning:



The following two examples, taken from recent council minutes, illustrate the types of issues which currently come up through local area community plans:

- The Seaford Local Area Plan reflects the high level of participants’ enthusiasm and commitment to their local area. In particular the community wishes to establish a local ‘Voice’, have a focus on connectedness, establishing a music festival, safety cleaning up Kananook Creek and maintaining the village atmosphere.

- The key things that Karingal wishes to prioritise are establishing a newsletter and using the Karingal Committee as the 'voice' of the community with a focus on improving safety and public transport in the area, establishing a 'Karingal Pride Day', leash free areas for dogs, a community garden in the Gretana Reserve and a mentoring program for young people.

An important feature of this case study, which comes through in a number of other case studies where local area planning, village planning or community led planning is a feature, is the importance which is attached to sequencing as between community-based planning and council planning. Community-based plans should be seen by councils as an important source of input into their own plans, and a source which is ideally available prior to their preparation - in other words it informs council plans themselves as they are developed, rather than being presented during the consultation phase on an already substantially finalised document.

Victoria-Golden Plains

The Shire's Council plan recognises 35 separate communities, 22 of which have established community planning groups (formally, they are constituted as section 86 committees of the Council, with members appointed from the local community). These groups are becoming an integral part of council decision-making.

The Council not only has a requirement that staff should report on what community consultation they have undertaken when recommendations are made to the Council; it also has an established cycle for regular communication with community planning groups. Each group presents to a Council meeting once every 12–18 months which means that virtually every Council meeting has a community planning group presenting. In addition, Council staff prepare a six-monthly report to Council picking up on generic issues from across different community plans, and a synopsis of community plans for consideration at the annual council retreat.

How the Shire's community planning has evolved

Community plans began as a means for individual communities to identify relatively small local issues which were of immediate concern – and could be something like the positioning of a pedestrian crossing, or parking outside the local school.

Over the years, the planning process has moved much more to become the basis of a community governance approach both at the local community level, and for generic issues of Shire-wide impact.

At the community level, the community plan is an important input for the Council's own planning documents, and community planning groups are an integral part of the Council's consultation arrangements.

The Council has recently made the decision to grant \$5000 to each community planning group to be applied to implementing one or more of the objectives in its community plan. Many groups are using the funding to leverage additional funding from other funding sources.

At the 'whole of Shire' level, community plans have proved an important tool for identifying major gaps which need to be addressed. The first was public transport within the Shire. Here the

issue was that many families had only one car which was typically used for commuting to work, leaving the rest of the family with no transport. The Council was able to use the information in community plans to negotiate funding from the state government under a local transport initiative.

The next major gap was access to health services. Community plans showed the need for a medical facility in the northern part of the Shire. The Council brought a range of stakeholders (providers, government departments, community leaders) together to look for a solution. This led to the establishment of the Golden Plains Health Planning Forum which meets three times a year to look for solutions to identified health needs within the Shire. Achievements include the establishment of additional health facilities, substantially improving access for residents.

South Australia - City of Marion

Marion is a city of approximately 85,000 residents within the Adelaide metropolitan area. It is a mix of residential and commercial/industrial, with an attractive coastal frontage.

The city is rethinking its approach to engagement with its communities, seeing effective engagement not just from a community development/place shaping perspective, but also as an important contributor to the Council's core roles in areas such as infrastructure and economic development. It's a real focus on understanding the 'value add' for a council of having better information on its communities' priorities, including willingness to pay.

The Council has established an asset management steering group, one of the roles of which will be to focus on service level standards based on community input. It regards economic development and community development as mutually supportive – “the synergies between economic development and community development are very important - people like to run businesses in places which are safe and attractive which means bringing in the wider community.”

It is experimenting with ways of developing “bottom-up” approaches. As one example, it is looking at how to turn IAP2²¹ “on its head”. Its reasoning is that for all its emphasis on engagement and participation, the IAP2 spectrum is actually top down, especially the first three stages of “inform, consult, involve”. In a council context, this can risk running the council's agenda at the community, rather than seeking to understand what the community's agenda might be.

One example will illustrate the approach the Council is now taking. It is handling a development planning application for a very major mixed residential, retail and commercial development on a former industrial site which faces a number of complex issues including the need to remediate a former council tip, manage significant traffic flows and integrate the development with the surrounding residential area. The scale of the development site can be seen from this overhead photo:

²¹ IAP2 is an international member association which seeks to promote and improve the practice of public participation or community engagement, incorporating individuals, governments, institutions and other entities that affect the public interest throughout the world. It promotes a five stage spectrum for engagement and participation which has been widely adopted by councils throughout Australia.



The adjoining residential area could be significantly impacted. The developer had made it clear that at least part of the development would be relatively high density. The community reaction against this, with concerns such as potential loss of views, was considerable.

The approach the Council took was that it should facilitate dialogue about possible options, with the objective that before getting into the formal consultation and submission process, there could be substantial agreement on how the development would proceed.

It convened a first public meeting as an on-site interactive discussion with council officers present to assist people from the community put their views forward using four separate charettes. Representatives of the developer were present but purely as observers.

The council had also engaged a cartoonist who had originally trained as an urban designer. He was present to observe the dialogue and get a sense of what were the major matters concerning residents as part of preparation for a second meeting which the Council convened to provide feedback to residents on what they had put forward at the first meeting, including implications and possible solutions.

The cartoonist led the feedback using a series of vivid and humorous illustrations which proved to be a very effective tool for enabling people to understand options. A good example was the way he was able to deal with concerns about intensification; the real worry that multi-storey development on the site would block views. With some very good cartoons it was possible to show how the site's variable levels would allow development at different heights, up to 8 stories, without interrupting views from surrounding properties.

It also enabled the council to illustrate a number of the potential benefits for the surrounding area, including the establishment of needed services not currently available (for example a medical centre), and better control of traffic.

It's a good example of an innovative approach to dealing with potential conflicts before they become bound into formal statutory processes with their much more adversarial culture. However, it also raises the question of how councils best manage this type of major community shaping process. In Marion's case, the Council needed to build connections with the local community as part of preparation for considering a major development planning application, rather than having an existing structure available through which it could work - which could have been the case if there were some kind of community governance arrangement in place. It also faces the on-going question of how it continues to manage relationships with the community as the project evolves.

An issue which this raises for councils generally is thinking about specific experiences of community engagement as a form of investment. If a council has made the significant effort which Marion has done in handling this development proposal, then it makes sense to build on the goodwill and community networks which have resulted, rather than risk letting them die away. In this particular instance, an obvious opportunity would be to encourage the establishment of a local community governance group to work with the council and the developer throughout the development (and possibly afterwards) as a means of ensuring that the community's priorities are well understood, and can be addressed in a timely manner (and potentially to pick up on any other issues of concern to that particular community).

New Zealand

We look first at community boards and then local boards.

Community boards

The experience with community boards varies markedly across the local government sector, reflecting the lack of prescription in the Local Government Act leaving councils wide discretion to determine the scope for community boards. Notably:

- Of New Zealand's 61 territorial local authorities only 41 have community boards. Some of these have community boards covering the whole geographical area, while a majority have partial coverage, or just one community board for a particular community.
- Further, their roles vary significantly. Most simply have the minimum advisory role set out in the Local Government Act (see page 17 above). A minority have a more fully devolved role with significant delegated responsibilities, their councils regarding their community boards as an integral and influential part of community engagement and decision making.

For case study purposes, we selected three district councils, all examples where community boards play active roles in the governance of their districts. Each is a combination of urban (small towns) and rural settlement.

The three councils are Otorohanga, Southland and Thames-Coromandel District Councils.

In all three councils, community boards have delegated authority, within budget, over all local expenditure. In each case the parent council has consistently taken the view that local matters should be decided locally. This includes recommending local rates. Councils may not delegate the power to strike a rate, but these three councils almost invariably accept community board rating recommendations without question, so that the boards themselves generally have what in practice is budgetary autonomy, subject to the constraint that they themselves are accountable to the communities for their decision making on the level of the local rate.

All three councils see working through community boards (and in Southland's case, in addition, 'community development area committees') as not just consistent with local democracy, but also a very effective way of understanding just exactly what services people want and are prepared to pay for, and of mobilising community support.

Also in each case the community boards have a high level of support from council staff, which has been important for administrative and policy capability, and ensuring a good flow of information and mutual understanding of their respective accountabilities, aspirations and constraints.

Community Boards in Thames-Coromandel District

The Thames-Coromandel District Council has gone the furthest of the three councils, adopting a new community governance model in 2012 as a key part of the Council's moves to empower communities and community boards, and allow more local self-determination to occur. In doing so, the Council consciously took into account directions being taken nationally and to some extent internationally in devolved governance.

Led by the current Mayor, elected in 2010, the Council has as a key objective local empowerment at both governance and management levels. Sitting behind this has been an intent to adopt some of the features of the two tier system of governance introduced to Auckland with the amalgamation of Auckland councils, and the Council's belief that devolving more decision-making to community boards, and basing key staff locally, would reduce the Council's operating costs, eliminating the time and cost for the Council and for people dealing with it generated by the distances people and information otherwise had to travel. A third consideration – and achievement – has been the scope for more cost-effective outcomes as a consequence of taking decision making closer to the community, and bringing more local knowledge and resources into decision-making.²²

New delegations to the five community boards, adopted in August 2012, "give effect to a new partnership approach to the governance of the district that will be delivered primarily through the five community boards", and extending to the boards the roles of providing local leadership.

²² By way of example, in one community board-led initiative, and in partnership with the Ministry of Education, the Council recently signed off a \$100k capital contribution to a swimming pool located on school premises, along with an annual operating grant, with an agreement for public use. This was a cheaper solution to the provision of a public swimming pool and avoided having the Council duplicate facilities.

A report to the Council proposing the new delegations sets out the clear intent to “delegate authority and, as far as possible, responsibility to Community Boards to allow the five Community Boards to effectively govern and determine issues associated with their local areas.” The report is quoted in Appendix II.

The delegations speak for themselves as an indication of the proactive process through which the Council has devolved decision-making authority to the community boards. Of particular note are provisions covering the authority granted to community boards to make governance decisions relating to a wide range of activity, along with the transfer of decision-making functions including developing community board plans and proposing budgets “that would generally be approved by Council subject to affordability and Council being satisfied it is meeting its overall accountability requirements”, decisions on leases associated with Council owned property (associated with local activities) in their jurisdiction, approval of all local activity levels of service and developing and approving local policies such as Reserve Management Plans.

Critical to the implementation of the new governance model is a new ‘place-management’ structure of area offices with area-based Council teams working with the community boards. Area managers have been appointed at second tier management level²³ with increased responsibility to deliver local services and budgetary authority for expenditure within their areas; budgetary authority for expenditure within their areas; community development roles have been introduced to work with communities on local projects and initiatives; and project engineers report through area managers. The area managers coordinate among themselves to ensure reasonable consistency across the Council’s five community boards. Changes have also been made to the reporting lines for other Council staff positions. The effect is to bring together the relevant skills and responsibilities around the local area.

While it is still early days, and work on implementation of decentralised decision-making continues, substantial components are in place. These include:

- Specified delegations for the management of local activities by the community boards, alongside the specification of district services that remain within council management (see Appendix II).
- Community Board Plans developed and adopted by the community boards working with their communities. These are a key tool in the Council’s refocused planning and budgeting processes, setting out and representing each community’s priorities and reflecting the distinctive character of each. These were trialled in the 2013/14 Annual Plan²⁴ process with the intention that they feed into the preparation of Council planning documents, rather than being part of the public submission process on Council’s draft plans. They provide structure to the annual work programme, consultation and a strategic approach to planning initiatives and priorities for board areas. The Council will generally accept Community Board Plans within reasonable affordability.
- Active involvement of community boards in council decisions on district services. The Council has specifically agreed through the delegations to seek community board input before making significant decisions relating to district activities. Community

²³ This makes them part of the Council's executive management team.

²⁴ For detail see the Council's 2013-2014 Annual Plan at [http://www.tcdc.govt.nz/Download/?file=/Global/3_Our%20Services/FINAL_2013_2014_Annual_Plan_Low_Res_For_Web\[1\].pdf](http://www.tcdc.govt.nz/Download/?file=/Global/3_Our%20Services/FINAL_2013_2014_Annual_Plan_Low_Res_For_Web[1].pdf)

boards may make formal recommendations to the Council and may be represented at every council meeting.

- Progressive implementation of changes to organisational, staffing and budget arrangements to align with community board governance and local management.

The new governance model is expected to result in greater cost effectiveness for the Council and its communities, building as it does on existing community board structures and bringing with it new possibilities for resourcing community services such as through funding sourced from within the community.²⁵ The intent throughout has been to deliver greater local decision making and leadership by looking for opportunities in existing legislation and in the directions emerging more widely in local government in New Zealand and elsewhere.

Community Boards in Southland District

Southland District has long been recognised for the success of its devolved governance arrangements. The Mayor of the past 20 years came on to the District Council at the 1989 local body elections, the year that saw the introduction of legislative provision for community boards. She sees community boards as fundamental to effective decision making and to community development in the region.

As well as being the Council's 'eyes and ears', the community boards, along with the network of community sub-committees, have been the means by which small towns and individual communities have done everything from building a debt-free events centre (milling their own timber) to museums, pools, walkways and mainstreet upgrades. In another example, some 10 years ago one community board (Te Anau) got behind the planning and implementation of a \$7.5 million airport funded by a combination of local rates, land development and land sales.

Along the way has grown a great sense of community ownership and community participation.

With extensive delegations, the 12 community boards are empowered to make decisions on water supply, sewerage, drainage, reserves, footpaths, street lighting, camping grounds, traffic management, waste management and many other local activities. They are also involved in the preparation of and recommendations on local rates. Approximately 30% of the Council's rates take comes from 'community rates' and 70% from 'district rates'.

The boards do their own long term (10 year) community plans, asset management plans for their community infrastructure and activity management plans for reserves and other activities.

The Council has taken its commitment to delegating decision-making the additional step of creating community development area (CDA) sub-committees – currently numbering 16 – which are sub-committees of the Council, and can have the same delegated powers as those enjoyed by the community boards. They are formed when a request is received from a community, and local support can be demonstrated. CDA sub-committee members are elected at public meetings following the three-yearly council elections.

²⁵ For example, making greater use under the new governance model of an approach taken some ten years ago to establishing a community library that is operated and partly funded by a community group, with a contribution from the local Community Board and Council. The library is achieving the purpose of meeting community needs at a lower cost than fully Council-operated and funded libraries.

CDA sub-committees were established to further encourage local representation in assessing the needs of communities and to promote local input into decision-making. A further factor was the Council's concern to provide a means of representation for communities that were not within a community board area. The CDA option is used also within community board areas where there is a community interest in establishing a governing body for a specific local facility, often recreational.

Operating at a lower level than community boards, some CDAs are responsible for all activities in their communities, while others are responsible only for recreational facilities. CDAs can make recommendations to community boards and/or Council.

Taking devolution even further, the Council has also created a community trust "to provide leadership and governance" for one community, and other sub-committees with delegated responsibility for very local water supply services, for managing harbour and jetty facilities and in one case for making grants and loans.

Two examples illustrate the sorts of outcomes achieved by such extensive sub-governance: first, the Te Anau community's acceptance of higher rates to fund the community's preference for enhanced library services; and second, the huge amount of community support and volunteer resources mobilised behind the Tuatapere Hump Ridge Track, an important scenic walkway and tourist attraction largely built by the local community in the Tuatapere Community Board area.

Among key factors that account for the success of Southland's community boards and the sub-committees are full access to Council staff support, the regular collaborative communication, formal and informal, between the Council, boards and sub-committees and the interaction between boards and sub-committees and their communities.

Community Boards in Otorohanga District

Like Southland, Otorohanga's community boards go back to the 1989 local government reforms, when two community boards were established based on its two principal settlements which were seen as being sufficiently distinct to have a separate layer of representation. They are the township of Otorohanga itself (with a population of 2,700), and the more distant coastal settlement of Kawhia (with a population of 380, rising to over 3,000 at the peak of the holiday season). Kawhia has the rather special feature that to allow representation for the very small settlement of Aotea (35 residents), a nearby also coastal settlement, with its own interests and aspirations, a community boundary was created and provision made for a community board member to be elected from Aotea.

Unusually, the majority of the district by population – the large rural area – does not have community board coverage. The Council has found that, in practice, the rural population has a fairly consistent set of interests, mainly roading (60% of the Council's total expenditure), and that its needs for engagement on policy and planning issues are well met at Council level.

A belief in breaking down decision making to the smallest possible unit and community of interest has led the Council also to striking rates on properties within the defined areas of 8

rural halls, the funds being passed on to the hall committees to use as they see fit for maintenance of the facilities.

The two Community Boards have delegations enabling them to take decisions on local matters, empowering them to act as though they were the parent Council, with the same powers and authorities. The Council's Governance Statement expresses this as delegation of "all of the Council's functions, duties and powers" in respect of each community, relating to:

- | | |
|--|---------------------------|
| ≈ refuse collection and disposal | ≈ swimming pools |
| ≈ water supply operation and maintenance | ≈ security patrols |
| ≈ sewerage treatment and reticulation | ≈ housing for the elderly |
| ≈ flood protection | ≈ community property |
| ≈ storm water drainage | ≈ medical centres |

The Community Boards each put forward the levels of service their communities require. These are formally reviewed and negotiated with the Council every three years. They also recommend local rates.

The cost allocations as between each community and the Council for a substantial number of Council-level activities (around 28 or 29) are negotiated on the basis of community access and benefit.

These provisions are complemented by the way the Council manages financial matters, described in its Long Term Plan thus:

Three financial divisions [within Council] recognise the three areas of the District with Community Boards (Otorohanga Community and Kawhia Community) and the Rural area. The existence of financial divisions ensures that activities not benefiting the whole of the District or impacting areas of the District differently are considered in an appropriate forum and that identifiable areas of benefit pay for the benefit received. Activities that are considered to benefit all areas of the District are included in the District wide rate and/or UAGC and are not allocated to the three financial divisions.

The rates received within each financial division are generally spent in that area. The Community rating areas are under the control of a Community Board.

Devolved responsibility is accompanied by devolved risk taking. In one example, the Council has facilitated the Otorohanga Community Board undertaking a significant residential and industrial subdivision within the township, under specific agreement that any surplus will be held to the credit of the Community Board, and any loss would need to be recovered by it.

One important consequence of assigning a high level of autonomy and responsibility to the Community Boards is the ability to attract good people to serve office – in the words of the present Mayor, "influential movers and shakers". People see it as a serious role and an opportunity to make a real difference. Elections are well contested.

Of particular note is a strong culture of community representation within the district. That people have been happy to wear the cost of the Community Boards is demonstrated by the affirmative response to the Council putting the question with consultation on each Long Term Plan. A high value is placed on representation with full engagement, and on rates being spent where they are raised rather than on priorities set elsewhere. Over the years residents have come to look to the Community Boards to make decisions they know won't be overturned by the Council, and to manage local affairs without being second-guessed. The Council, for its part, has been willing to see the boards exercise significant control over council activities in each of those communities.

Common themes

In each of these New Zealand case studies, we have looked for common themes which might explain why community boards in these districts have evolved with significant authority and standing, whilst those in other areas have remained relatively low key, lacking both much influence with their parent council and real support within their communities.

There appear to be three critical factors:

- The first is geography, or terrain. In our three council examples, each district encompasses communities that by virtue of geography have distinct identities and communities of interest. The 12 community boards in Southland reflect the district's multiple settlements, covering a large, spread-out rural district made up of a number of small townships and their rural hinterlands. Otorohanga has two principal settlements, the township of Otorohanga itself; and the seaside settlement of Kawhia nearly 2 hour's drive away. Councillors for the then (1989) newly established Otorohanga District Council quickly decided that delegating functions to community boards was an effective way of managing the problem of distance. Thames-Coromandel is an extremely rugged peninsular with five significant areas of coastal settlement each distant from the others over relatively challenging terrain divided by the spine of the Coromandel Range.
- The second factor is leadership. In each case the councils have been led by people with a strong commitment to community engagement and belief in the benefits of decisions that impact locally being taken locally. Thames-Coromandel is a good recent example of the importance of this, with the present Mayor leading the drive for the greater empowerment of community boards. Also important is the leadership that comes from communities themselves, with people encouraged to 'step up' because of the level of community engagement offered by active community boards.
- Third is the factor of the relationships between councils and community boards. As one Mayor put it, this starts with a genuine intent on the part of the Council to delegate decision making and to follow this through consistently across council functions and with the necessary resourcing. It also depends on a culture of mutual respect, well understood roles and responsibilities and regular two-way communication. In Thames-Coromandel this extends to a willingness on the part of Councillors to budget for significantly higher remuneration for community board members than is typical.

One question is whether these approaches to community boards will survive changes in leadership. Certainly the three councils would argue that they now have processes in place, and an organisational culture, built on recognising the real value it brings – including better

knowledge resulting in service level standards much more directly related to local priorities and to what people are prepared to pay, and a high sense of ownership of local projects.

This suggests that an important element in effective sub-council governance is the creation of supportive processes, explicit recognition of the value that comes through better knowledge, the ability to get community support for activity locally, and the development of a supportive organisational culture, all matters which should be part of the role of elected members, especially the Mayor, and of the chief executive.

It is much less clear that specific statutory provisions have much influence, other than providing a legislative framework enabling councils to develop sub-council governance arrangements which meet the interests of their communities.

Local boards

A question arising from the case study work on local boards, and which is central to the focus of this report, is whether local boards serving an average population of some 70,000 residents can themselves be an effective vehicle for community governance/engagement, especially when the representation ratio (the ratio of residents to elected local board members) exceeds 10,000:1. In terms of preserving local democracy in the context of mega-authorities such as Auckland (or the mega-authorities of Sydney, Liverpool and Parramatta which could result from the proposed restructuring of metropolitan Sydney), there may in practice be two quite distinct functions: a means for effective engagement with communities around the nature and scope of more formal types of local planning and delivery of 'traditional' services – essentially about issues such as cost, service level standards, the location of major local infrastructure and the like – and a separate means for engagement with communities in more of a genuine 'place shaping' mode focused on the quality of places at a very local level.

This is a point which goes to the heart of the issues being discussed in this report. It's not just about the nature of 'place shaping' itself - which arguably is an approach which should apply in large and small communities alike, but reflecting the difference in scale. It's also about the demands which 'place shaping' can impose. A number of the case studies undertaken for this report, and a lot of the other research considered, highlight that 'place shaping' at a very local level can be very time intensive precisely because decisions at a very local level have much more intimate and personal impacts on residents than decisions across large areas. As a consequence, a local governance structure of the type seen in Auckland's local boards may theoretically be able to facilitate a community governance approach to decision-making within its various communities, but in practice simply be unable to handle the time commitment involved.

The local board structure is unique in local government within the English-speaking world, with its combination of apparently significant responsibilities for quite large populations, and its lack of any direct authority to act on its own volition – delegations come from the parent Council; local board servicing is provided by the parent Council; and the processes they follow in planning and consultation are developed and delivered by the parent Council which is also responsible for local service delivery including the employment of staff and/or the hiring of contractors.

Commentary in the course of the case study work highlights a number of issues which would need to be thought through carefully by any other jurisdictions considering adopting the same or a similar model. They include:

- Whether local board areas are themselves too large for effective community engagement, especially in a place shaping manner – the fact the Auckland Council is considering an equivalent of Porirua City’s village planning model is significant. Alternatively, is it that place shaping as an approach which can apply at a number of different scales; the small and intimate around the local neighbourhood, the sense of locality which distinguishes one part of a major district from another - West Auckland from North Shore?
- How much discretion really exists within the model? It is clear the delegated authority to make decisions on non-regulatory local matters is not absolute. The parent Council remains responsible for service delivery, whether by itself or by third parties, and clearly makes service delivery decisions looking at efficiencies and economies of scale across the Council as a whole, rather than giving individual local boards discretion to decide on by whom and how services should be delivered.
- The apparently limited ability of local boards to build up their own significant local board servicing capability. In practice they are limited by the extent to which the parent Council is prepared and able to allocate resources. One area in which this has been an issue is the availability of planners to assist local board form a view on planning matters, especially with the on-going development of the unitary plan which will establish a single statutory land use plan for the entire Auckland area.

Regardless, it does seem clear that in an authority the size of Auckland it is important to provide the public with ‘bite sized’ opportunities for engagement in formulating council proposals which may affect the places where they live or where they work. Auckland’s 21 local board plans provide this opportunity. That, of course, is an argument for some form of sub-council arrangement within the larger councils, and not necessarily for the specific arrangements in place in Auckland.

As a separate matter, there are strengths in the staff being an integral part of the overall Council organisation rather than being separate from it and developing local board-centric practices. They include the information exchange which takes place informally when people are part of the same organisational structure, and share the same physical location. On the other hand we have been told that there are instances of tension when local board advisers may be required by a board to take a different line on an issue – on occasion, colleagues have questioned whether local board advisers are part of the bigger council team, or part of the opposition. This can be seen as a healthy expression of contestability where different views do need to be tested, but can also create an awkward working environment (there is some relevant experience within the scrutiny process for English local authorities, where the staff responsible for supporting the scrutiny function are employed by the local authority. On occasion, where scrutiny staff have been responsible for reports critical of council activity, the consequences have been adverse for the staff themselves.)

A further issue with the organisational arrangements comes from the imperative, within a large organisation, to develop standardised practices and processes oriented around efficiency. Local board plans, local board agreements, and local board procedures have generally been

developed as templates, carrying with them something of a 'one size fits all' effect. Although generally this works well, our understanding is there are cases where the template approach is seen as limiting the discretion of local boards to reflect differences in the way that they and/or the community they represent want to handle any particular matter. If it doesn't fit the template, it's just that much harder.

The resourcing question seems to have been considered as a choice between two options which could be seen as extremes: all staff employed by and accountable to the chief executive of the Auckland Council, and servicing local boards within guidelines established by the chief executive; or staff employed by and directly accountable to individual local boards. A further option, establishing a separate entity as a collective of the local boards in order to employ staff, and focused especially on generic policy issues (including the form of local board plans and local board agreements), does not seem to have been considered.

London Councils which represents the interests of the 32 London boroughs provides a rough parallel illustrating the benefits of a collective approach, and creating an employment structure which avoids potential conflicts between the objectives of the employing authority, the Auckland Council, and the objectives of the bodies for which the staff undertake their work, the local boards. Its role includes developing policy positions which are common to all or a number of boroughs, and to negotiate with the Greater London Authority and other public sector stakeholders on 'whole of London' matters.

England

The English experience is not strictly speaking a case study as we have had only a limited opportunity for interviews with people involved with sub-council governance in England. These interviews were complemented by Internet searching, and email exchanges exploring developments in the role of neighbourhood or parish councils, and community led and neighbourhood planning.

The English situation is in a state of flux for reasons which include:

- The extreme reductions in central government funding for local government coupled with an expectation that local government will maintain service levels.
- The on-going localism project which now includes the 'community right to challenge' (take over local authority delivered services) and the 'community right to bid' (to purchase local authority owned assets), as well as other extensive provisions for devolution.
- A new emphasis on neighbourhood planning²⁶ as part of the statutory planning process, including the right for communities to establish neighbourhood forums in areas where there are not neighbourhood or parish councils able to undertake the neighbourhood planning role (where those councils exist, they have a statutory monopoly over neighbourhood planning).

²⁶ For an overview of neighbourhood planning, see the article What is Neighbourhood Planning on the website of the Department for Communities Local Government available at: <https://www.gov.uk/neighbourhood-planning>

One experience which looks particularly significant in terms of thinking about sub-council governance in Australian jurisdictions and New Zealand is the now well-established practice of community led planning. This is described as:

Community Led Planning (CLP) is a step-by-step process, that enables every citizen to participate in, and contribute to, improving the social, economic, environmental and cultural well-being of their local area. It relies on people coming together locally, researching local needs and priorities and agreeing a range of different actions which help to improve their neighbourhood.

Two NGOs, Action with Rural Communities in England and Action for Market Towns, have between them provided support for the development of some 4000 community led plans. In their published best practice guidance, they argue community led planning is best undertaken in close collaboration with the community's neighbourhood or parish council, or if there is no such council, the principal local authority. The point being emphasised here is that even where there is an effective form of sub-council governance in place (a neighbourhood, town or parish council), community led planning has a role to play and is better led by the community with the support of the council, rather than undertaken as a council led activity.

Similar inferences can be drawn from the experience of community planning in Victoria, and village planning in New Zealand. Essentially, what the experience overall points to is that community led planning needs to be exactly that. This suggests the role of councils (or for that matter sub-council structures such as local boards wanting to encourage community led planning in the part of the district for which they are responsible) is to act as a facilitator/enabler.

The experience also supports the view the use of sub-council structures as a means of advancing community governance is likely to work better when the decision to establish one results from a community interest, rather than a decision that there needs to be a network of sub-council structures across the district of a parent council. This is reflected in the voluntary nature of neighbourhood planning in England, the Southland District Council's policy on the establishment of community development area subcommittees, Porirua City Council's approach to village planning (now being considered for Auckland's local boards) and Australian examples such as Golden Plains.

There is a further implication as well; the effectiveness of sub-council governance structures depends very much on whether the responsibilities they have are of a nature which will attract genuine commitment from people within the community - typically involvement in sub-council governance is either voluntary in the sense of unpaid (England's local councils), or remunerated at a relatively nominal rate in relation to the time involved (New Zealand's community boards). Community led planning, village planning, neighbourhood planning are all examples of roles which clearly appear meaningful and are thus able to attract real commitment. This compares with what seems all too often to be the case with statutory sub-council governance arrangements which either have limited authority, or a broad span of responsibility with no particular focus. They can be good but their quality may be highly variable. As James Derounian (op. cit.) observes in respect of England's local councils, "But there is a basic problem, and that is the variability of local councils; just like the old adage, when they are good they are very very good, and when they are bad they are terrible."

Part Three: How and to what extent should legislation seek to require, mandate or enable the development of 'sub-council' governance within local government?

The purpose of this section is to address directly the central question posed in the Introduction: whether local government legislation should include specific requirements allowing or obligating councils to introduce a form of community-level ('sub-council') governance.

The NSW Independent Panel uses the generic term 'local boards' and suggests that they would carry out functions delegated by a council or County Council (regional body) and could be established:

- To replace small rural or remote councils that lack the capacity to undertake a full range of local government functions – as a general rule, the Panel considers that conversion to Local Board status would be appropriate for councils with current or projected populations of less than 5000.
- To provide representation and some delegated service delivery at suburb or district level within very large metropolitan councils.
- As a transitional measure to ensure continued community identity and representation when several existing small-medium councils are amalgamated into a much larger local government area.

The Local Government Association of South Australia, in its just released discussion paper *Towards the Council of the Future*²⁷, anticipates:

A range of structures [will be] utilised to facilitate improved community governance including local and/or community boards and relevant Council committees are established with independent people appointed to these committees based on the skills and experience they bring to the tasks at hand.

The changing role of local government - and the need for community governance

The work we have done reviewing current and emerging practice in New Zealand, the three Australian states which are the subject of this study, in England, and the New South Wales and South Australian Panels' own consideration of the future of local government all suggest a widening scope resulting from the way thinking about the role of local government is changing.

It is becoming much more common to envisage local government as working in partnership with state (national) government agencies and other stakeholders, and with its communities to deliver their preferred outcomes. This can be seen in the work of the South Australian expert panel on the 'Council of the Future', in the way in which both the New South Wales Independent Panel, and the associated Local Government Acts Task Force describe the role of

²⁷ Available at:
http://www.lga.sa.gov.au/webdata/resources/files/LEPanelDiscussionPaper_CounciloftheFuture_30Aug2013closingdate.pdf

local government, and in developments in New Zealand, including the work of the social sector trials²⁸ which involves collaborative working at a local level.

This way of thinking about local government envisages it acting not just as a coordinator bringing parties together, but as a conduit for channelling information, and building networks so as to better enable ‘on the ground’ delivery by quite a wide variety of different parties. We already know that the typical council is not the governance of a single homogenous community, but of a variety of diverse communities with different circumstances, needs and preferences. Necessarily this means that if councils are to be effective conduits for information about the needs and preferences of their individual communities, they themselves will need effective means of assembling information community by community, and building the networks which will both provide that, and have the capacity to partner in the activities needed to deliver the outcomes being sought.

Experience from all the jurisdictions considered in this report suggests doing this requires some form of community governance mechanism – not just good engagement mechanisms operated by a council, but some form of infrastructure at the community level capable of delivering an on-going involvement and involving individual communities in decisions about their preferred futures, including local place shaping.

A further element which has come through in the work for this report is the value a number of councils are placing on some form of community level planning, not just as consistent with the principles of local democracy, but as an important input for council decision making. It may be useful information on service level standards and willingness to pay which will lead a council to rethink its service level standards and the levels of investment it should be making in infrastructure. It may be a better understanding of the priorities individual communities have for local enhancement works, or addressing local social or economic issues.

Approaches differ

How to provide for these different forms of community involvement appears especially challenging if there is a view that the answer should be a broadly similar approach to apply across the whole of a given jurisdiction’s local government sector. Wellington City Council (the council for New Zealand’s capital) has put forward a proposal for restructuring local government in the Wellington region which places a strong emphasis on the need for flexibility in community governance arrangements. It seeks the creation of a single unitary council uniting itself and four other councils, and assuming the environmental and other functions currently discharged by the Wellington Regional Council. One of its key objectives is to provide for “genuine, responsive representation of local communities and genuine support for their wishes and aspirations – not

²⁸ Local government plays an integral part. See <http://www.msd.govt.nz/about-msd-and-our-work/work-programmes/initiatives/social-sector-trials/> The Social Sector Trials involve the Ministries of Education, Health, Justice and Social Development, and the New Zealand Police working together to change the way that social services are delivered. The Trials test what happens when a local organisation or individual coordinates cross-agency resources, local organisations and government agencies to deliver collaborative social services. All levels of government and NGO support were described as enabling Trials success, specifically:

- Local government helped elicit community engagement and local buy-in to the Trials.

“... This gives responsibility to us and is not dictated from on high so the enthusiasm generated is ours, we are helping our own.” (Local Government interviewee)

a fixed, inflexible structure that purports to represent local needs without having the power to do so effectively.”

The Council proposes this be done by the use of community boards where and for what purposes communities may prefer. Its proposal is, among other things, a rejection of the use of a Wellington equivalent of Auckland’s local boards. Its reasoning is:

Crucially, community boards offer a level of granulation not possible with other approaches such as local boards. Community boards instead enable the formation of communities that may be as small as Ohariu-Makara with fewer than 10,000 residents concerned or as large as Tawa at around 25,000 residents.

Regardless of the populations, those community boards are self-determined and reflective of an almost neighbourhood to neighbourhood approach rather than arbitrary areas with populations of around 65,000 residents as may be the case with local boards.

The Wellington approach is clearly based on a view that local communities are entitled to their own democratically elected means of contributing to decision-making on matters which primarily affect their place. It is complemented by an emphasis in the proposal on the use of other tools including direct democracy.

In a different approach, Brisbane City Council relies on staffed ward offices as a principal means of working with its communities, providing residents and ratepayers a point of contact in their locality. This is supplemented by extensive use of social media, but from reviewing the Council’s website does appear to be very much a council driven rather than a community driven approach to determining how to engage, what issues should be priorities, and how decisions affecting individual communities are taken. As an example, the Council has developed a number of neighbourhood plans but its website is quite explicit that it is the Council that decides when and how a neighbourhood plan should be developed.

It is difficult to judge how effective this approach is in terms of facilitating genuine community involvement as there does not appear to have been any independent evaluation. Paradoxically, this may be because the approach has been in place for a number of years (Brisbane City Council was established in 1925 as a ward-based council), and so has long been part of the ‘taken for granted’ way the Council does business, rather than something that should be regularly reviewed in the light of changing conditions.

The ‘large metropolitan’ case

Next, and picking up on the question of what may happen in large metropolitan councils, is the practical issue of how large councils consult with their ‘communities’ on the priorities they should be establishing in areas such as service delivery and the development of physical and other infrastructure. A council with a population of several hundred thousand or more residents faces a very real challenge in getting meaningful feedback if all it does is put out a discussion document – say a draft community strategic plan – dealing with the whole of the council’s district.

One of the benefits the Auckland local board structure brings (as a function of smaller scale, rather than of the particular structure) is that public engagement over most services, and over 'whole of Council' strategies and plans, is broken down to a relatively 'bite-sized' scale, rather than the public being forced to cope with documents dealing with the city as a whole. The Council's development of its Unitary Plan (the single land use plan for the entire Auckland region) provides a good example. Local boards have been very active in working with their individual communities, and presenting their views to the governing body.

The advantage of this approach is not just for individual communities, making it easier for them to engage; it is also for large councils themselves, especially elected members. Inherent within current understandings of how councils work with their communities is that key strategic documents (land use plans, long-term and annual activity and funding plans) should go to public consultation, with the right for people who make submissions to appear in person before the council. In the absence of the opportunity of appearing before a local board, if even only one in 1000 residents in a city the size of (say) Auckland chose to exercise that right, the council would be faced with hearing more than 1400 submissions.

The same issue of 'bite sizing' engagement will arise if there is any significant consolidation within either metropolitan Sydney, or metropolitan Adelaide. Auckland's scale is an extreme example, but the growing emphasis on community engagement and participation in choices about the nature of the places in which people live and work suggests the need for 'right sizing' engagement will be equally important for much smaller, albeit still large, councils.

What makes for successful 'bottom up' approaches?

A further matter to consider, arising from experience in the jurisdictions we have been looking at, is what makes for successful "bottom-up" community governance and neighbourhood planning. Provision in statute does not seem to be sufficient, and may not even be a necessary precondition. New Zealand's community boards range from superb, and an integral part of the parent council's governance of its communities, through to virtually irrelevant. England's parish and neighbourhood councils seem similarly to cover a very broad spectrum. Some will be actively involved in working with their communities in determining their priorities and how best to achieve them, but both in New Zealand and in England they appear to be the minority.

Of particular interest is that community led planning as it has developed in England, although operated in collaboration with local councils where they exist, is largely driven by non-statutory arrangements outside of council, something which, according to observers with whom we have discussed this, is now being repeated with neighbourhood planning (with local councils typically working through steering groups from the community, rather than undertaking the neighbourhood planning role themselves). In each case the explanation appears to be the different composition of the typical elected body on the one hand, and the emerging neighbourhood/community groups on the other – it's partly a matter of demography, partly a matter of neighbourhood or community planning bringing together people with an explicit interest in the outcomes of that process as compared with elected members on local councils who have responsibility for a broader range of activity (and themselves typically are volunteers in the sense that they are unpaid). A number of the more interesting initiatives in Australia, including the emergence of local area planning, although working closely with councils and typically with council support, are also non-statutory.

Those comments, of course, go to the issue of what is now described as bottom-up planning. They do not apply to the separate issue of how a large metropolitan council manages local democracy and decision-making, including consultation and engagement with its communities. A structure such as Auckland's local boards or Brisbane's ward offices looks necessary for this purpose, but not necessarily for bottom-up engagement.

Two separate elements

In considering how best sub-council governance may be enabled, we recommend, as this section has already signalled, recognising there are two separate but important elements involved.

Facilitating local democracy and decision-making in large metropolitan councils – the first element

Facilitating local democracy and decision-making (including engagement – information flows) within large metropolitan councils does need some form of statutory framework as part of councils' on-going planning and reporting requirements. It's about how to create the essential building blocks for overall council plans when scale dictates that effective management of the information flows and engagement to support democratic decision-making means operating at a sub-council level. It recognises, also, that community governance as a process for communities to share in decision-making about the future of 'their' place will need to take different forms at different scales and for different purposes.

Considering the Auckland experience with local boards, we hypothesise that an arrangement such as local boards for 'bite sizing' consultation between a very large council and the population of its district on the content of its major planning and operational documents, especially in terms of service delivery, and the priorities which should be established for this in different parts of the Council's area, should not also be burdened with an expectation that it is the primary means for delivering the localised 'bottom up' aspect of community governance. In Auckland this appears to have been recognised, with the Council's initiative to explore the potential for local boards to facilitate an equivalent of Porirua City's village planning – where the planning activity is undertaken at a community level, but with some facilitation/resourcing from the Council (presumably in the Auckland instance provision in the budgets of individual local boards), and the plans themselves then feeding into local board plans, and the parent council's planning.

In essence there appears to be a need to manage the potential for a conflict between, on the one hand, the demands of efficiency and administrative simplicity around the planning and engagement processes through which agreement is reached on budgetary and service delivery issues for individual local board areas, and how their planning processes feed up into the council's own plans, and on the other, the way local 'bottom up' community governance works. The former requires consistency, and leads towards a template approach; the latter is very much about arrangements that meet local circumstances and may differ from community to community. The former requires a minimum uniform level of activity and performance (if local boards are the means for taking decisions on a defined range of matters, and providing input into the parent council's own planning, then all local boards need to work to a common timetable). The latter requires the flexibility to design arrangements that meet local circumstances, and work to a timetable that meets local needs. This seems so even if one intention, ultimately, is that each local arrangement within a single council should ultimately

feed into the same set of council processes – as with the Frankston City schema at page 31 above.

'Bottom-up' governance - the second element

How well sub-council governance may be enabled to best facilitate the 'bottom up' process of communities identifying their needs and priorities, and being able to feed those in (when appropriate) to the council's own planning, is the other element. From the practice we have reviewed, one important factor is that, almost regardless of the size of the council itself, communities in the sense of neighbourhoods, and local communities of interest, will often be little larger than 5000-7000 in population, will seldom exceed 12-15,000²⁹, and will be centred around very local facilities such as a primary school, church or a local shopping centre.

Next, it is clear that the development of 'bottom up' community governance is not something that can easily be rolled out across an entire district simultaneously, at least if what is being sought is a genuine and strong commitment from the community itself. Finding the right timing is a function of a number of factors, including the skill and empathy of the council or other enabler, the council's own resource constraints (part finance, part people), the existence of local leadership potential, and ideally an immediate issue or two which people in the local community want to get engaged with.

Experience shows councils have a pivotal role to play in enabling 'bottom up' community governance. Typically this will be delivered through a combination of democratic leadership within the council, which could be the Mayor, a ward councillor where there are wards, or ordinary elected members. In larger councils, it may best be delivered through elected sub-council bodies such as Auckland's local boards. It is councils as organisations which have the capability and the resource to undertake the on-going role of enabling and supporting this type of community governance at least until it becomes self-sustaining (which will typically be a combination of developing capacity/capability, and attracting adequate resourcing - which may often involve a council through, for example, striking a special rate).

Experience also shows there is a clear need to present engagement, and more broadly working with communities, as something that adds very real value for a council in terms of its own organisational objectives. As one example, engagement policies should recognise the very real benefits for councils in having a better understanding of their communities' priorities in terms of infrastructure development and maintenance, and willingness to pay. There is evidence that doing this well can substantially reduce the level of commitment councils need to make in the provision and upkeep of infrastructure services.

It's important, finally, to highlight the virtual certainty that effective sub-council governance arrangements will be a prerequisite to local government being able to act on behalf of its communities in bringing together state (national) agencies and other stakeholders, and its communities, in seeking their preferred outcomes.

²⁹ But may do so significantly where there is a clear and distinct, often geographic, community of interest. Tawa within Wellington City provide such an example - an area geographically separate from the rest of the council and generally regarded as having its own distinct set of needs.

Our proposals

We deal first with the ‘large metropolitan council’ case, and then with ‘bottom up’ community governance. This latter will cover a range of different circumstances, including recognising different communities within an existing council, providing for some on-going representation for communities whose councils have been merged, and addressing the specific situation of councils which may be too small to be viable.

The ‘large metropolitan council’ case

Our assessment of the Auckland experience is that the option of adopting an equivalent of Auckland’s local boards has merit as a means for enabling large councils to ‘bite size’ their council/community relationship with residents across the whole council district. Almost inevitably local boards themselves will be constrained by the administrative imperatives of the parent council and in all likelihood need to work to some extent within well-established templates which may limit the extent of local discretion³⁰. Nonetheless, there is a case to be made for a mechanism which is manageable and accessible at a sub-council level for the publics of large metropolitan councils who want to engage about council activity within their local area without being caught up with ‘whole of council’ planning and other procedures. As already noted, this is equally important in terms of managing the burden the Council itself would otherwise face in dealing, for example, with submissions on major initiatives including annual and long term plans.

For large metropolitan councils, there are at least three choices for sub-council governance, each with different characteristics (Brisbane’s use of staffed ward offices could be seen as a fourth choice). These are:

- the equivalent of Auckland’s local boards;
- community boards as in New Zealand; and
- the use of council committees.

In part, the choice of option will be governed by the extent to which sub-council governance is seen as an integral part of the parent council’s own planning and service delivery activity, so that there is a need for comprehensive coverage and a consistent set of responsibilities.

In contrast with the other two options, local boards would need to be adopted across an entire council district, and their activities will be tightly integrated with those of the parent council, as they are an integral part of the parent council’s own planning and service delivery arrangements, including annual and long term plans. What they provide is an elected sub-council forum as an alternative means for the community within the local board district to debate the local non-regulatory activities of the council within the area, and put forward their priorities for consideration, via the local board, by the parent council.

Community boards, and council committees, could be put in place across the whole of the district of a council, but need not be. Both are options which a council could offer to make available for any interested community or communities. In another contrast with local boards,

³⁰ Note the Wellington City Council’s concern discussed above regarding the apparent inflexibility of local board arrangements.

the question of what role they would have can be decided on a case-by-case basis (at least above a baseline of local advocacy in the case of community boards).

There are two significant differences between community boards and council committees as a means of providing for sub-council governance. The first is that community boards are elected, but council committees are appointed (note there is a growing body of experience, especially with neighbourhood forums in England, in how to appoint legitimate and representative bodies). The second is the establishment (or disestablishment) of community boards, if the New Zealand practice is followed, is a quite formal process involving public consultation, and the Local Government Commission or equivalent as an appellate body. In contrast, all that is required to establish (or disestablish) a council committee is a resolution of council.

There is also evidence community and local boards do indeed provide effective local representation – elected members who are relatively accessible as compared with members of the governing body (e.g. the Auckland Council). This includes strong advocacy of local issues to the principal authority. It can also include civic duties. In Auckland there is a growing practice for the local board chair to be invited to officiate at events within the local board area which in other districts would normally involve a mayor (four example, officiating at citizenship ceremonies).

Legislation should, as one option, provide for the establishment of local boards within very large councils broadly following the Auckland approach³¹ but explicitly recognising that community governance is a separate function which local boards themselves may be less well placed to deliver directly, but could foster and support as part of their role. Appendix III provides an overview of the New Zealand process for establishing local boards and community boards, including the role of the Local Government Commission. This may be a useful precedent (the New Zealand Government is currently considering some changes to legislation, including removing the 400,000 population a council must exceed if local boards are to be an option).

Not all jurisdictions have provisions similar to those in New Zealand establishing the role of the Local Government Commission. Introducing a statutorily based provision or provisions for sub-council governance in jurisdictions which currently have no such provision should include measures setting out a process or processes for the establishment of sub-council governance. This should include the respective rights and responsibilities of councils and communities, and a means for oversight/implementation, possibly following the New Zealand Local Government Commission model.

‘Bottom up’ community governance

An important issue, not always taken into account when thinking about options for sub-council governance, is a fundamental difference between most parent council activity, and most activity undertaken at a sub-council governance level. Parent council activity is typically (although not always) in the ‘must do’ category - local infrastructure, regulation, delivering on the requirements of higher tiers of government.

In contrast, most sub-governance activity – developing local non-statutory community or village plans, acting as an advocate to the parent council, organising or facilitating local community

³¹ Appendix V summarises the legislative provisions under which Auckland's local boards operate.

activity – is inherently discretionary. It may be important, but there is not the same imperative that it must be undertaken as applies with parent council activity (Auckland’s local boards are an exception because they have a number of explicit statutory obligations, which are integrated with the parent Council’s planning and other processes).

Typically this is coupled with a difference in resourcing; even under today’s financial constraints which face most local government jurisdictions councils tend to be relatively well resourced and staffed, whilst most sub-governance arrangements are significantly under-resourced (sometimes admittedly because of a reluctance to seek sufficient funding through a precept on a council tax, or a recommended local rate).

In turn, this leads to a fundamental difference between the governance roles at the council and sub-council levels. It’s probably not too much of an exaggeration to say that council business generally would continue more or less in a business as usual frame regardless of the extent to which individual elected members actively involved themselves in governance, or simply act as passengers. The situation is very different at the sub-council level; it’s the governance level that drives most activity, and unless people in the governance role are actively engaged, little or nothing will happen. They simply do not have the equivalent, even allowing for the difference in scale, of the organisational and other resources which are taken for granted at the council level.

In practice this creates a context in which often sub-council governance structures significantly under-perform because the people involved with them simply do not have the combination of incentives, resourcing and statutory or other obligations, which encourages or requires them to perform. It is noteworthy from the different arrangements considered in the preparation of this report that the best performing sub-council governance arrangements were ones where the people involved had a real motivation to deliver. The commonest examples are cases where the sub-governance entity had as its main focus developing a community, village or local area plan and the belief the resultant plan would help shape the community they wanted.

The inference we draw from this is that statutorily mandating a requirement to put sub-council governance in place across a local government sector is, by itself, unlikely to produce the desired result. Instead, it needs to be accompanied by measures for facilitating and enabling the development of community governance (sub-council governance), including ensuring that there are in place incentives which will encourage people to want to be involved (the incentives need not necessarily be financial; instead they should come from creating an environment in which people understand that being involved will provide the opportunity of obtaining outcomes they want to see for their community).

Both in New Zealand and in the three Australian states included within this project, there is already broad-based statutory power for councils to create sub-council entities with very real flexibility in terms of their power and their membership. What is lacking is any requirement or guidance, statutory, or non-statutory, encouraging councils to use the power they have to facilitate or enable sub-council governance. Each of the three Australian states can establish committees with few or no council members – membership could be drawn entirely from a discrete community within the council area, and be delegated a very wide range of powers (other than powers such as to strike a rate, borrow or employ staff). Understandings between a parent council and such a committee could extend to accepting recommendations on matters outside a committee’s formal delegations. Basically the same situation applies in New Zealand

except that any committee must have at least one councillor amongst its membership. New Zealand local authorities, of course, also have the power to establish community boards as a statutory form of sub-council governance.

An immediate question in using the council committee approach is how the membership of such a committee would be constituted, as council committees are appointed, not elected. Councils using this alternative have, in our view correctly, not seen trying to establish some form of electoral process as an appropriate means. Instead there is a body of emerging practice for using a combination of self-selection, and recommendations from sources such as elected members, staff with knowledge of the area, and local leaders. Experience suggests this is generally an effective process – and something that should be covered in the council policy on community governance suggested below. Note also that the precedent of the designation of neighbourhood forums under the provisions of the English Localism Act 2011 provides a very useful, if somewhat detailed, precedent for a statutory framework for establishing a largely self-selected but essentially representative body (see Appendix IV). It is a precedent that could also be drawn on for use in drafting the proposed council policy on community governance.

In our judgement, considering the material which has been reviewed in the course of preparing this report, statutory provisions dealing with sub-council governance could deal with all three of the ‘bottom up’ situations identified, recognising different communities within an existing council, providing for some on-going representation for communities whose councils have been merged, and addressing the specific situation of councils which may be too small to be viable.

The specific case of small non-viable councils

However, we also note the specific situation that exists in both New South Wales and South Australia of groups of inherently small non-viable councils which by virtue of their geographic scale, small population, and often limited rating base (often leaving them overly reliant on grants) may find it difficult to survive as stand-alone entities, but have communities which are very attached to their local identity. The option of being merged into a larger council, and becoming instead a form of sub-council governance – perhaps a community board, perhaps a council committee – may not be very palatable.

The New South Wales legislative provisions for the establishment of county councils offer an interestingly different option which may provide an acceptable solution. Under the legislation it would be possible for a group of councils (or the Minister) to propose the establishment of a county council, which could assume most if not all of the functions of the individual councils. They would retain their identity as elected councils. They would also appoint the members of the governing body. This offers the opportunity both of preserving local identity and democratic accountability, and of creating a more viable structure for undertaking council activity (both back-office and customer facing).

South Australia lacks provisions equivalent to the New South Wales legislation on county councils, but the provisions in its Local Government Act relating to the Boundary Adjustment Facilitation Panel may provide an alternative. The South Australian legislation sets out the principles which the Panel is required to apply. They include:

- the importance within the scheme of local government to ensure that local communities within large council areas can participate effectively in decisions about local matters.
- a scheme that provides for the integration or sharing of staff and resources between two or more councils may offer a community or communities a viable and appropriate alternative to structural change options.

Proposals must be initiated either by councils (all of whom must agree) or by defined numbers of electors.

These provisions may offer the possibility, without legislative change, both of putting in place statutorily enabled requirements for sub-council governance, and the option for creating a statutorily enabled collective means for delivering defined services.

Part Four: Options

Our recommendations are set out below. They include discussion of implications and possible options and variations that might be considered to allow for different circumstances and preferences.

1. Legislation for 'local boards' for large metropolitan councils

For large metropolitan councils, legislation should provide for the equivalent of Auckland Council's local boards as a means of 'right-sizing' arrangements for engagement with communities on council strategies, policies and service delivery. This would need to include the development of local board plans –plans spelling out preferences/priorities for service delivery and other activity within the area of the local board. The question of what decision-making authority local boards should have remains complex. The Auckland arrangements are still in a settling down phase, with differing views on how effective local boards can be in taking and ensuring the appropriate implementation of decisions on local non-regulatory matters. Rather than providing for broad delegation as a matter of right (but with some difficulty in interpretation), as with the Auckland Council, it may be better to provide that the parent council have discretion to delegate, and rely on the political/democratic process to deliver an acceptable level of delegation (if the preference is to follow the Auckland delegation practice, Appendix IV provides a summary of what would be required).

On the assumption that, as with the Auckland Council, other large councils would be the sole employer, asset owner and solely responsible for service delivery, there would nonetheless be merit in providing explicit power for local boards to determine their own administrative arrangements, subject to any cost above a baseline funded from the council's general revenues being met by a local rate.

In Australian jurisdictions – New South Wales with Sydney, and South Australia with Adelaide – it seems unlikely that any equivalent of the Auckland Council as the single local authority for an entire metropolitan area will emerge. This means the question of whether or not to establish local boards, and how they fit into a hierarchy of decision-making from the relatively local, to the metropolitan, will be substantially different, at least to the extent that local board processes address matters on which their decisions will ultimately feed into decision-making at a metropolitan level. This may suggest both that decisions on whether or not to establish local boards should be coordinated at a metropolitan level (perhaps by an equivalent of New Zealand's Local Government Commission), and that decisions by individual councils on what to delegate to local boards should be constrained in some way. One option would be for an equivalent of the Local Government Commission to have a role in promulgating general principles for delegation, and to mediate in any disputes between local boards and a parent council on the extent of delegation. In practice it would be hoped that these powers would not need to be exercised, but would have effect simply because they could be used.

2. Obligation on councils to promote community (neighbourhood) governance

Legislation should include an obligation on councils to promote community (neighbourhood) governance, with the right of 'communities' to trigger the process of setting up community governance in their area. Councils should be required to develop a policy on community governance spelling out matters such as the nature of the support which the council would provide. It should include the conditions under which the council would facilitate the establishment of a community governance body by using the committee provisions in the relevant local government act as an alternative to any statutory provisions for a specific type of sub-council governance body such as a community board. The criteria for the recognition of 'communities' should be spelt out in legislation. There are precedents both in New Zealand legislation on community boards and English/Welsh legislation on neighbourhood forums (see the material in the appendices to this report).

For councils which have the equivalent of Auckland style local boards, legislation should require the policy on community governance to be written on the basis that it is the local boards, rather than the parent council, which would play the lead role in enabling/facilitating community governance. The policy would need to include provisions regarding delegations to and funding for community governance entities, and giving local boards the power to put those delegations and funding arrangements in place. If local government legislation in an individual jurisdiction presented barriers to sub-delegation, or any other decision which a local board might otherwise take in implementing sub-council governance, the policy should make it clear that generally the parent council would accept any recommendations from a local board on those matters.

The proposed policy on community governance should also include the council's proposals for working with communities in furtherance of the emerging new role expected for local government in working in partnership with state (national) and other stakeholders.

3. Generally sub-council governance should be an option not a requirement

The experience we have reviewed leaves open the question of whether the legislation should provide explicitly (and solely) for a formal statutory sub-council governance structure similar to (say) New Zealand's community boards, or whether it should provide for both statutory and non-statutory options. The latter would require councils to recognise entities which were outside the formal council structure, and the legislation would need to include criteria and a process governing recognition. The one example we have found of statutory expression of this approach is the Neighbourhood Forum option in the English Localism Act.

We are more confident in arguing that the establishment of sub-council governance entities should generally be optional with the purpose of ensuring that there is a strong community commitment to ensuring their success. It is an option which could be triggered either by a council itself proposing the establishment of an entity or entities, and taking that through a consultation process (as required, for example, in New Zealand with the establishment of a new community board), or by a proposal/petition

from a community – as is the case for both New Zealand community boards and English/Welsh neighbourhood forums.

4. Provision for sub-council governance entities where two or more councils are merged

There may be a case for providing that where two or more councils are merged provision should be made for a sub-council governance entity for the area of each former council. Alternatively, reliance could be placed on the public consultation process to identify a wish for such an entity as residents of an about to be merged council would have the opportunity to put this forward. There would not be a need to make explicit statutory provision if the status of a small non-viable council is changed (as would be the case with the New South Wales Independent Panel’s proposal for smaller councils to become local boards under a county council), as, by definition, the former council would be reconstituted as a local board (in the generic sense)

5. Tie community governance into long-term and annual strategic and operational planning frameworks

The promotion of community governance should be tied into a council’s long-term and annual strategic and operational planning framework recognising that this should be based on the needs and aspirations of individual communities, rather than on an homogenous ‘one size fits all’ statement of aspirations for the entire district. Any guidelines should spell out an expectation community strategic plans would where possible be based on input from sub-council governance bodies established in accordance with these proposals.

6. Develop and promulgate a good practice understanding of community engagement/community governance

Finally, local government sectors should develop and promulgate a good practice understanding of how community engagement/community governance can contribute to better decision-making within councils themselves. The purpose of this recommendation is to ensure council management in particular is encouraged to understand that the purpose of community governance is not just enabling ‘local democracy’ but also ensuring the council itself has better and more detailed information about the needs and priorities of its different communities, both for its own planning purposes and to support its work with state agencies and other stakeholders on behalf of those communities.

APPENDIX I: PROVISIONS FOR ESTABLISHING COUNCIL COMMITTEES IN NEW SOUTH WALES, VICTORIA AND SOUTH AUSTRALIA

NEW SOUTH WALES

Councils in New South Wales rely on a very simple provision in section 355 of the Local Government Act 1993 in order to establish committees:

355 How does a council exercise its functions?

A function of a council may, subject to this Chapter, be exercised:

- (b) by a committee of the council, or

Section 359 sets out a Council's powers of delegation. Only service functions may be delegated to committees with non-councillor members.

VICTORIA

Section 86 of Victoria's Local Government Act 1989 sets out the path councils to form committees as:

86 Special committees of the Council

- (1) In addition to any advisory committees that a Council may establish, a Council may establish one or more special committees of the following—
 - (a) Councillors;
 - (b) Council staff;
 - (c) other persons;
 - (d) any combination of persons referred to in paragraphs (a), (b) and (c).

The power of delegation in the same section is:

- (3) Except as provided in subsection (4), a Council may by instrument of delegation delegate any of its functions, duties or powers under this or any other Act to a special committee.
- (4) A Council cannot delegate to a committee the following powers—
 - (a) this power of delegation;
 - (b) to declare a rate or charge;
 - (c) to borrow money;
 - (d) to enter into contracts for an amount exceeding an amount previously determined by the Council;
 - (e) to incur any expenditure exceeding an amount previously determined by the Council;
 - (f) any prescribed power.

SOUTH AUSTRALIA

Section 41 of the Local Governance Act 1999 provides that a Council may establish committees to:

- (a) assist the council in the performance of its functions;
- (b) inquire into and report to the council on matters within the ambit of the council's responsibilities;
- (c) provide advice to the council;
- (d) exercise, perform or discharge delegated powers, functions or duties.

Committees may consist of or include people who are not members of the Council.

Councils have extensive powers of delegation with limitations primarily relating to financial matters, council strategic plans, establishment of subsidiaries and the making of bylaws.

APPENDIX II: THAMES-COROMANDEL DISTRICT COUNCIL COMMUNITY BOARD DELEGATIONS

DATE

13 July 2012

Purpose of Report

The purpose of this report is to provide a draft set of Community Board delegations for adoption by Thames-Coromandel District Council as one part of implementing the wider Community Governance Project in the District.

Background

The delegations will give effect to a new partnership approach to the governance of the district that will primarily be delivered through the five Community Boards. This approach was confirmed by Council in its adoption of the report *"Getting Closer to the Community - Opportunities for New Approaches to Community Governance and Service Provision in the Thames Coromandel District"* and the 23 associated recommendations on the 18th of April 2012. Some of the relevant decisions are provided below:

Resolved

At the 18 April 2012 Thames-Coromandel District Council meeting the Council adopted the Community Governance report with the following recommendations.

That the Thames-Coromandel District Council:

1. Adopts a proactive initiative to facilitate community empowerment and a new partnership approach to the governance of the District that will primarily be delivered through the five Community Boards.
2. Whilst noting that it has overall accountability and responsibility under the Local Government Act 2002 for the governance of the District, Community Boards be granted authority to make governance decisions relating to the following activities/sub activities and as represented in Appendix F of the Thames Coromandel District Council Community Governance Report:
 - Harbour Facilities
 - Parks and Reserves
 - Halls
 - Libraries
 - Airfields
 - Swimming Pools
 - Public Conveniences
 - Cemeteries
 - Local Transportation

- Local Strategic Planning
 - Community Grants
 - Local Economic Development
 - Local Bylaw Levels of Service
3. Determines that for all other activities (generally referred to as District Activities) Council will adopt the partnership approach where it seeks Community Board input prior to making significant governance decisions, including:
 - Wastewater
 - Water Supply
 - Solid Waste
 - Storm Water/Land Drainage
 - District Transportation
 - District Economic Development
 - Bylaws
 - Land use Planning and Land use Management
 - Strategic Planning
 - Emergency/Hazard Management
 4. Notes that it supports Community Boards to provide local leadership and develop relationships with the Council, the community and community organisations in developing local solutions within community board areas.
 5. Determines that an agreement setting out responsibilities and roles for Council and Community Boards be developed to record the new governance arrangements.
 6. Empowers Community Boards to develop Community Board Plans (CBPs) using the principles of the Auckland Local Board Plans and directions from the proposed Nelson Tasman District Council community board structure as a basis (but not limited to these) for inclusion in the Council's Ten Year Plan review process.
 7. Determines that while not exhaustive, some additional decision-making functions that Council will transfer to community boards are:
 - a) Developing Community Board Plans and proposed budgets for local activities that would generally be approved by Council subject to affordability and Council being satisfied it is meeting its overall accountability requirements.
 - b) Decisions on leases associated with Council owned property.
 - c) Developing and approving local policies such as Reserve Management Plans.
 8. Determines that with the increased governance role being delegated to Community Boards, that Council reviews the existing Council committee structure in relation to the role of its existing committees, particularly the Policy and Planning Committee and the Service Delivery Committee. Some of these committee functions could be delegated to Community Boards and the remaining functions addressed by Council or by Council established issue-specific committees.

The strengthened delegations are a key component in the delivery of a number of the recommendations by providing Community Boards increased decision making authority.

Issue

The issue being addressed in this report is the development and adoption of new community board delegations. As part of adopting new Community Board delegations amendments are also required to some existing Council committee delegations. To ensure clarity between new Community Board and Council committee responsibilities, revised committee delegations are also provided for adoption by Council as **Attachments B and D** to this report.

Discussion

The intent of the new delegations is to delegate authority and, as far as possible, responsibility to Community Boards to allow the five Community Boards to effectively govern and determine issues associated with their local areas.

Some key changes from the existing to proposed Community Board delegations include:

1. Community Boards assuming decision making authority for all local activity governance decisions.
2. Local activities have been expanded to include parks and reserves, harbours, cemeteries, public conveniences, community centres (halls), libraries, airfields, swimming pools, local transportation (including footpaths, streetlights and town centre upgrades), local social development (community grants), local economic development (including information centres and other local initiatives), local strategic planning (including community planning) and local bylaw levels of service.
3. Approval of all local activity levels of service.
4. Authority to exercise all Council's authorities under the Reserves Act 1977 (where these may be delegated to Community Boards).
5. Development and approval of local activity policies including reserve management plans, general management plans and development plans for local activities.
6. Decision making authority for all leases, licences or concessions associated with all Council property within the community board area excluding Council administration land and buildings.
7. Authority to determine the additional expenditure of up to \$20,000 per annum.
8. Approval of all local activity project definitions (previously this was restricted based on financial amount).
9. The introduction of Community Board Plans.
10. The ability to make recommendations on all Council property acquisitions and disposals.

In establishing the new delegations, Council ultimately retains legal responsibility for the governance of the district and therefore the draft delegations provide the ability for Council to review Community Board decisions if necessary. Similarly a new process has been established to confirm the process where a community board may refer decisions to Council for determination.

Legal restrictions exist particularly within the Local Government Act 2002 that place some restrictions on the activities of community boards.

The introduction of Community Board plans is intended to provide a structured approach and greater involvement for community board input into the Annual Plan and Ten Year Plan process, including budget setting.

It is proposed that the exercise of the delegations be monitored over the next 12 months to inform any potential changes to the delegations when delegations are adopted post the October 2013 elections.

Suggested Resolutions

That the Thames-Coromandel District Council:

1. Receives the report.
2. Adopts the draft Community Board delegations to apply from the 8 August 2012.

Adopts the revised Service Delivery Committee and Judicial Committee delegations to apply from 8 August 2012.

APPENDIX III: OVERVIEW OF THE NEW ZEALAND PROCESS FOR ESTABLISHING LOCAL BOARDS AND COMMUNITY BOARDS, INCLUDING THE ROLE OF THE LOCAL GOVERNMENT COMMISSION

Local Boards

New local boards may be created by the Local Government Commission (the independent statutory body with responsibility for overseeing local government reorganisation) as part of a reorganisation proposal, exercising powers under clause 15, schedule 3 of the Local Government Act 2002 provided that:

- The Commission has determined that the preferred option for local government of an area is a unitary authority; and
- The area will be urban or predominantly urban in nature; and has, or is predicted to have within a period of 5 years after public notice of the draft proposal, a population that exceeds 400 000.

In preparing a draft proposal in relation to the affected area, the Commission may include provisions for local boards if it considers that good local government of the district of the unitary authority would be best promoted by providing for local boards.

Community Boards

New community boards may be established either as the result of a community initiative, or as part of a reorganisation proposal. Schedule 6 of the Local Government Act 2002 sets out the process for a community initiative. The process itself is relatively straightforward. The detailed provisions in the schedule are:

Community Initiated

3 Proposals to establish community

(1) Not less than 10% of the electors of a continuous area, having a population of 1,500 persons or more and being within the district of a territorial authority, may propose that the area be constituted as a community.

(2) Not fewer than 100 electors of a continuous area having a population of fewer than 1 500 persons and being within the district of a territorial authority, being electors present at a meeting called by public notice by any elector or electors and being the majority of the electors present at that meeting, may propose that the area be constituted as a community.

Compare: 1974 No 66 s 101ZI

4 Requirements for proposal

(1) A proposal to constitute a community must be accompanied by a plan or other description sufficient to identify the area.

(2) Each signatory to the proposal must, against his or her signature, state his or her full name and the address in respect of which he or she possesses a qualification as an elector.

(3) The proposal, or a copy of it, must be delivered or sent by post to the chief executive at the principal office of the territorial authority affected by the proposal.

(4) The chief executive of the territorial authority must—

(a) check whether or not each signatory to the proposal possesses a qualification as an elector; and

(b) not later than 1 month after receiving the proposal, forward the proposal to the territorial authority, together with a certificate specifying the number of signatories to the proposal who are qualified as electors.

(5) In the absence of proof to the contrary, the certificate of the chief executive is final.

(6) The territorial authority must then consider the proposal and determine whether or not to constitute the community.

5 Proposal seeking constitution of communities

(1) A proposal seeking the constitution of a community by means of a resolution must be—

(a) submitted to the territorial authority; and

(b) considered by the territorial authority at its next meeting or subsequent meeting.

(2) If a territorial authority has considered a proposal, it must—

(a) resolve to give effect to the proposal and invite public submissions on it; or

(b) reject the proposal and give public notice of the rejection.

(3) If a territorial authority has resolved to give effect to a proposal and to invite public submissions on it, it must give public notice of the intended resolution, and a copy of the proposal and a copy of the plan showing the boundaries of the proposed community must be prepared and deposited in the principal office of the territorial authority and in any other place or places that it considers necessary.

(4) Each proposal and associated plan must be open for inspection by the public without fee for a period of 28 days following public notice of the proposal, and public notice must be given of the times and places where the proposal and plan are available.

(5) A person or group of persons may make a written submission on the proposal within that period of 28 days or any further period that the territorial authority may allow, and each submission must be considered by the territorial authority, which must resolve to—

(a) adopt the proposal; or

(b) reject the proposal.

If a local authority declines a proposal to establish a community board, any signatory to the proposal may then appeal to the Local Government commission. The appeal provisions in schedule 6 provide:

Appeal against refusal to constitute community

(1) If, following a proposal to constitute a community, a territorial authority resolves not to constitute a community, a signatory to the proposal may appeal to the Commission.

(2) The Commission has all the powers of the territorial authority in respect of the constitution of the community, and may determine the functions of the community board for a period of up to 3 years.

(3) Nothing in subclause (2) prevents the territorial authority from conferring further responsibilities on the community board.

As part of a Reorganisation Proposal

The Local Government Commission, in preparing a draft proposal or a reorganisation scheme under schedule 3 of the Local Government Act 2002 may consider whether good local government of any affected district would be best promoted by—

(a) a system of communities and the responsibilities, duties, and powers of the community boards in the district; or

(b) an alternative to an existing system of communities; or

(c) a change in the responsibilities, duties, and powers of the community boards in the district.

APPENDIX IV: ESTABLISHMENT OF NEIGHBOURHOOD FORUMS

Schedule 6 of the Localism Act 2011 sets out the following process for the establishment/recognition of neighbourhood forums:

61F Authorisation to act in relation to neighbourhood areas

(1) For the purposes of a neighbourhood development order, a parish council are authorised to act in relation to a neighbourhood area if that area consists of or includes the whole or any part of the area of the council.

(2) If that neighbourhood area also includes the whole or any part of the area of another parish council, the parish council is authorised for those purposes to act in relation to that neighbourhood area only if the other parish council have given their consent.

(3) For the purposes of a neighbourhood development order, an organisation or body is authorised to act in relation to a neighbourhood area if it is designated by a local planning authority as a neighbourhood forum for that area.

(4) An organisation or body may be designated for a neighbourhood area only if that area does not consist of or include the whole or any part of the area of a parish council.

(5) A local planning authority may designate an organisation or body as a neighbourhood forum if the authority are satisfied that it meets the following conditions—

(a) it is established for the express purpose of promoting or improving the social, economic and environmental well-being of an area that consists of or includes the neighbourhood area concerned (whether or not it is also established for the express purpose of promoting the carrying on of trades, professions or other businesses in such an area);

(b) its membership is open to—

(i) individuals who live in the neighbourhood area concerned,

(ii) individuals who work there (whether for businesses carried on there or otherwise), and

(iii) individuals who are elected members of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned;

(c) its membership includes a minimum of 21 individuals each of whom—

(i) lives in the neighbourhood area concerned,

(ii) works there (whether for a business carried on there or otherwise), or

(iii) is an elected member of a county council, district council or London borough council any of whose area falls within the neighbourhood area concerned;

(d) it has a written constitution, and

(e) such other conditions as may be prescribed.

(6) A local planning authority may also designate an organisation or body as a neighbourhood forum if they are satisfied that the organisation or body meets prescribed conditions.

(7) A local planning authority—

(a) must, in determining under subsection (5) whether to designate an organisation or body as a neighbourhood forum for a neighbourhood area, have regard to the desirability of designating an organisation or body—

(i) which has secured (or taken reasonable steps to attempt to secure) that its membership includes at least one individual falling within each of subparagraphs (i) to (iii) of subsection (5)(b),

(ii) whose membership is drawn from different places in the neighbourhood area concerned and from different sections of the community in that area, and

(iii) whose purpose reflects (in general terms) the character of that area,

(b) may designate only one organisation or body as a neighbourhood forum for each neighbourhood area,

(c) may designate an organisation or body as a neighbourhood forum only if the organisation or body has made an application to be designated, and

(d) must give reasons to an organisation or body applying to be designated as a neighbourhood forum where the authority refuse the application.

(8) A designation—

(a) ceases to have effect at the end of the period of 5 years beginning with the day on which it is made but without affecting the validity of any proposal for a neighbourhood development order made before the end of that period, and

(b) in the case of the designation of an unincorporated association, is not to be affected merely because of a change in the membership of the association.

(9) A local planning authority may withdraw an organisation or body's designation as a neighbourhood forum if they consider that the organisation or body is no longer meeting—

(a) the conditions by reference to which it was designated, or

(b) any other criteria to which the authority were required to have regard in making the designation;

and, where an organisation or body's designation is withdrawn, the authority must give reasons to the organisation or body.

(10) A proposal for a neighbourhood development order by a parish council or neighbourhood forum may not be made at any time in relation to a neighbourhood area if there is at that time another proposal by the council or forum in relation to that area that is outstanding.

(11) Each local planning authority must make such arrangements as they consider appropriate for making people aware as to the times when organisations or bodies could make applications to be designated as neighbourhood forums for neighbourhood areas.

APPENDIX V: SUMMARY OF LEGISLATIVE PROVISIONS FOR AUCKLAND LOCAL BOARDS

Summarised from the Local Government (Auckland Council) Act 2009

- A local board must be established for each local board area for the purposes of—
 - enabling democratic decision making by, and on behalf of, communities within the local board area; and
 - better enabling the promotion of the social, economic, environmental, and cultural well-being of communities within the local board area, in the present and for the future.
- A local board consists of between 5 and 12 elected members, and is elected in accordance with the Local Electoral Act.
- **Status of local boards**
 - A local board is an unincorporated body.
 - A local board is not a local authority, a community board, or a committee of the governing body.
 - A local board may not (a) acquire, hold, or dispose of property; or (b) appoint, suspend, or remove employees.
- Unlike other local authorities, both the governing body and the local boards are responsible and democratically accountable for the decision making of the Auckland Council. Whether responsibility for making any particular decision rests with the governing body or 1 or more or all of the local boards depends on the nature of the decision being made.
- Each local board is responsible and democratically accountable for:
 - the decision making of the Auckland Council in relation to local non-regulatory activities that are allocated to it in accordance with the principles set out below
 - identifying and communicating the interests and preferences of the people in its local board area in relation to the content of the strategies, policies, plans, and bylaws of the Auckland Council; and
 - identifying and developing bylaws specifically for its local board area, and proposing them to the governing body
 - the agreement reached with the governing body (local board agreement) in respect of local activities for its local board area.
- **Principles for allocation of decision-making responsibilities of Auckland Council**
 - Decision-making responsibility for any local non-regulatory activity of the Auckland Council must be allocated by the governing body after considering the views and preferences expressed by each local board.
 - Decision-making responsibility for a local non-regulatory activity should be exercised by local boards unless the nature of the activity is such that decision making on an Auckland-wide basis will better promote the well-being of the communities across Auckland because the impact of the decision will extend beyond a single local board area; or effective decision making will require alignment or integration with other decisions that are the responsibility of the governing body; or the benefits of a consistent or co-ordinated approach across Auckland will outweigh the benefits of

reflecting the diverse needs and preferences of the communities within each local board area.

- The Long Term Plan and each annual plan must identify the local non-regulatory activities of the Auckland Council for which decision-making responsibility is allocated to local boards.
- **Local boards funding policy**
 - To provide predictability and certainty about levels of funding for local boards, the Auckland Council must adopt a local boards funding policy as part of its long-term plan.
 - The local boards funding policy must set the formula by which the total funds allocated by the Council for meeting the cost of funding local activities are to be allocated to each local board; and the formula by which the total funds allocated by the Council for meeting the cost of funding the administrative support to local boards are to be allocated to each local board.
 - The local boards funding policy must also identify any funding (except funding dedicated to particular purposes) that may be available to local boards for local activities and the criteria or process by which it may be allocated to them.
 - The formula must allocate funds between the local boards in a way that provides an equitable capacity for the local boards to enhance the well-being of the communities in each of their local board areas; and in a way that provides equitable resources and support to each local board.
- **Local board plans**
 - Each local board must adopt a local board plan in the year immediately after the year of each triennial general election.
 - The purpose of a local board plan is: to reflect the priorities and preferences of the communities within the local board area in respect of the level and nature of local activities to be provided by the Auckland Council over the next 3 years; to identify and describe the interests and preferences of the people within the local board area; to provide a basis for developing the local board agreement for each of the next 3 years; to inform the development of the next long term plan, particularly in relation to the identification of the local non-regulatory activities of the Council for which decision-making responsibility should be allocated to the local board; to provide a basis for accountability of the local board to the communities in the local board area; and to provide an opportunity for people to participate in decision-making processes on the nature and level of local activities to be provided by the Council within the local board area.
 - A local board plan must include a statement of the levels of services proposed for the local board area, if any; and an indicative local board budget.
- **Local board agreements**
 - For each financial year, the Auckland Council must have a local board agreement (as agreed between the governing body and the local board) for each local board area.
 - A local board agreement must set out how the Auckland Council will, in the year to which the agreement relates, reflect the priorities and preferences in the local board's plan in respect of: the local activities to be provided in the local board area; and the responsibilities, duties, or powers delegated to the local board.

- The long term plan and each annual plan of the Auckland Council must include the local board agreement for each local board area.
- **Monitoring and Reporting**
 - Each local board must monitor the implementation of the local board agreement for its local board area.
 - Each annual report of the Auckland Council must include, in respect of local activities for each local board area, an audited statement that compares the level of service achieved in relation to the performance target or targets as stated in the local board agreement for that year; specifies whether any intended changes to the level of service have been achieved; and gives the reasons for any significant variation between the level of service achieved and the intended level of service.
 - Each local board must comment on those matters in respect of its local board area and the Council must include those comments in the annual report.