

# POLICY Quarterly

Volume 12 – Issue 4 – November 2016

SPECIAL ISSUE

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## Editorial Note

Local government in New Zealand exists within a fairly well-defined narrative. New Zealand is the most centralised nation within the OECD. Central government is by far the dominant partner in the central-local relationship and recent innovations in local government have tended towards further centralisation, such as the amalgamation into Auckland's Super-City.

While there is, without doubt, some truth to this narrative, it is only part of the story and there is more that needs to be discussed in terms of local government and its role.

This includes recognising the genuinely innovative approaches that can be found in just about every local authority in the country, often at the community level and frequently undertaken without any great public acclaim. More thought needs to be given to the legal and constitutional foundations of local government, along with the normative debate as to what the ideal balance between central and local should be. And more attention needs to be paid to the way in which engagement and participation is fostered in local areas so that any lessons learned can be applied nationally.

Consequently we are delighted to publish this Special Issue of *Policy Quarterly* which addresses these issues and many more.

IGPS has long had an interest in local government. In 2015 it launched its 'National Dialogue' on local and community governance, which not only collected the thoughts of many of the leading commentators in the field, but also collated the latest research from around the world. We were also delighted to welcome international experts such as Tina Nabatchi and Liz Richardson to Wellington and Auckland. Promoting research and stimulating informed debate about local government is also a priority for Local Government New Zealand (LGNZ). Although local government has been providing essential public services in New Zealand for the last 175 years it is still poorly understood. This issue is a step towards filling this gap and LGNZ is pleased to acknowledge the IGPS for taking the initiative.

This issue of *Policy Quarterly*, therefore, reflects a long standing commitment to promoting debate and research into New Zealand local government, and we believe that the breadth and depth of the articles here offer a vital window into debates old and new.

Mike Reid's paper on turnout which incorporates data from the recent 2016 local authority elections, is the first of a suite of papers concerned with the nature and quality of our local democracy and opportunities for participation. Following this theme Christine Cheyne addresses the possible use of e-voting; charting the discussions so far, the risks involved and what the future might hold for this form of electoral participation. Further, Jean Drage offers us a compelling argument on the Local Government Act 2002 Amendment Bill (No 2) and argues that the huge number of responses to it demonstrates that

"local government's time has come".

Jenny Ombler, Marie Russell, and Graciela Rivera-Muñoz outline some fascinating New Zealand cases of participation not only being encouraged, but succeeding in producing a number of benefits both intended and unforeseen, while Chris Berry looks at the impact of referenda on our colleagues in Western Australia.

A number of papers examine the issue of sub-national governance starting with Peter McKinlay's introduction to the concept of community governance and discussion on some of the innovations in engagement that exist below the local level. This is followed by a paper from Jason Krupp which offers us a broader view and looks at constitutional and contractual resolutions to central-local relations, looking to see in what ways each approach could benefit the power and autonomy of local councils. On the question of how cities are governed and perform, Richard Norman addresses the evolution of Wellington over the last three decades, both in terms of its growth into digital and cultural markets but also the way in which it has been driven by New Public Management sensibilities. Grant Duncan then looks at Auckland and asks whether it is too big to fail; he asks whether or not it represents an apex in centralising forces, or whether there is still some further distance to go.

We also offer a number of papers on urbanisation and infrastructure. Frances Sullivan looks at the risks associated with infrastructure in New Zealand and offers some thoughts on strategic risk management that could be used to mitigate against them. Matt Adams and Ralph Chapman investigate the links between infrastructure costs and urban density, concluding that denser, more compact areas show in cost-efficiencies in roads and water supply. Sir Geoffrey Palmer looks at the Resource Management Act. Interestingly he lays blame for its perceived failures at the doors of both central and local governments and finishes with an important contribution on the subject of local government's (lack of) constitutional status. Finally, the question of how infrastructure and local government as a whole should be funded is addressed in Claudia Scott's paper on local government funding, which highlights the importance of providing councils with additional revenue options to incentivise growth.

Taken together we hope that these articles provide a stimulating set of discussions that cut to the heart of many debates happening right now in the local government sector. We also hope, more importantly, that they will provide a firm foundation upon which we can build. In a time of great uncertainty for the future of global democracy, we believe that many great ideas can be found at the local level.

Michael Macaulay and  
Mike Reid

# Local Authority Turnout what's the story?

While the recent local authority elections attracted their fair share of media headlines, the dominant narrative, as in previous elections, was one of declining turnout and whether or not local government has a future. Little was heard about the nature of the role councils play in their towns, cities and regions, or about the future challenges facing communities and how candidates were planning to deal with them. Typical of the headlines were the following:

- Local democracy is broken, but whose fault is it?
  - New Plymouth's voter turnout for local body elections heading toward worst ever.
  - Initial voter turnout plummets in this year's local body elections.
  - Fixing dysfunctional local government.
- These headlines come from NZ Politics Daily, a blog compiled by Bryce Edwards which was essential reading for anyone wishing to follow this year's local elections. This particular issue

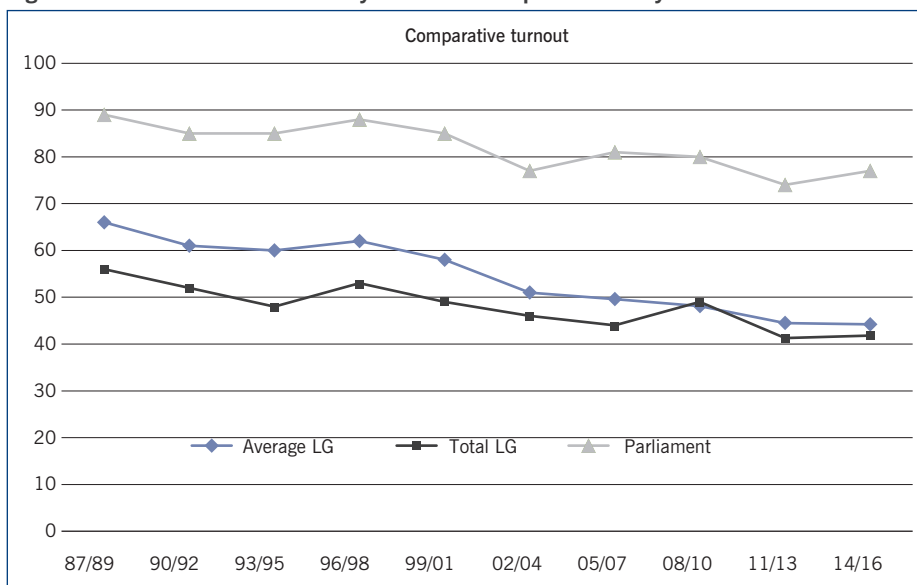
was headed with an item titled 'What's wrong with local government and can it be fixed?' The article suggested that the public are disengaged, that trust and confidence in local politicians was low and that there was a growing democratic deficit (Edwards, 2016a). A week later, in an opinion piece in the *New Zealand Herald*, Edwards provided his own ideas for solving this problem and observed that 'local government appears headed towards an existential crisis' (Edwards, 2016b).

Public concerns about the future of local democracy, let alone proclamations about its impending doom, aren't new. As long ago as 2001 the then minister of local government, Sandra Lee, was so concerned she suggested that 'when it comes to local government New Zealanders as voters are pretty switched off'<sup>1</sup> and mused on the possibility of introducing mandatory voting. (If only the current turnout was similar to the 2001 level which so concerned the minister!) A factor in the lower turnout levels in 2001 was the decision to increase the complexity of the voting process by incorporating elections for the new district health boards. The issue did not go away and, following the 2004 elections,

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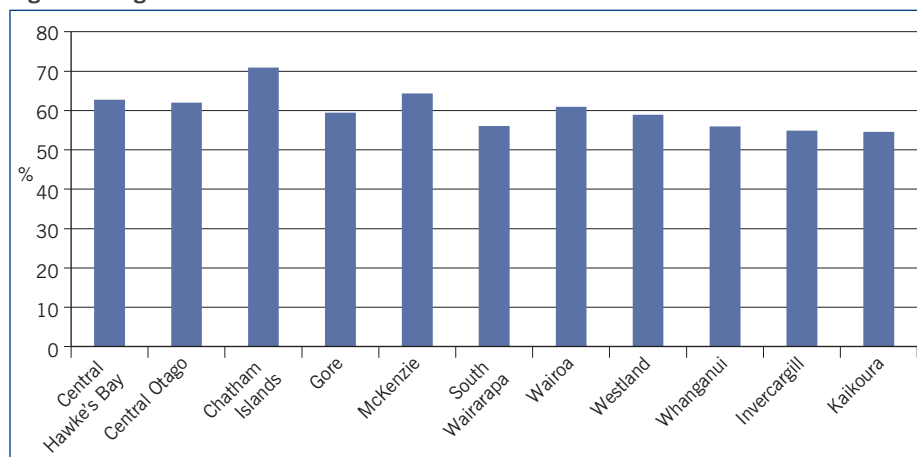
Mike Reid is a Principal Policy Advisor with Local Government New Zealand and has published on a range of local government issues.

Figure 1: Turnout in local authority elections and parliamentary elections<sup>4</sup>



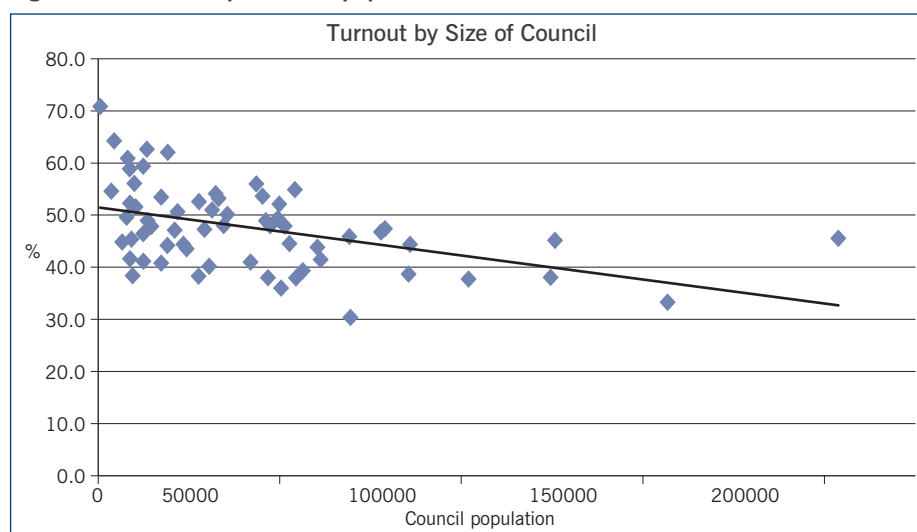
Source: Department of Internal Affairs, and Local Government New Zealand for 2016 election night counts

Figure 2: Highest turnout



Source: Provisional results provided by Local Government New Zealand

Figure 3: Relationship between population and turnout



the Justice and Electoral Committee initiated an inquiry into the way in which the elections were run. Inquiries have now occurred after every election since

2004 and a 2016 inquiry has already been signalled.<sup>2</sup>

So what is the story behind turnout in local elections? Does it reflect a

disenchantment with local government, or is it symptomatic of wider changes in New Zealand society? This article asks whether or not the extensive expression of concern is justified and, if so, where we might look for possible solutions. It is structured around two questions: why turnout in local government elections is consistently lower than in parliamentary elections, and why turnout is declining.

**Turnout**

The 2016 local authority elections took place on 8 October this year and, despite fears to the contrary, turnout increased slightly on the 2013 results, largely due to increases in Auckland and Wellington.<sup>3</sup>

Figure 1 shows a decline in both average and total turnout since 1989, although the decline has been far from uniform – dropping significantly between 1998 and 2004, and then again in 2013. (The significance of those years is discussed below.) Noteworthy for this analysis, parliamentary turnout shows a similar downward trend. Within the local government figure there is considerable variation, a fact that is not surprising given that there are 67 elections. Figure 2 identifies the ten councils with the highest turnout and Figure 3 looks at the correlation between size and turnout.

Looking at the councils which have the highest turnout figures for 2016, we find a concentration of largely smaller councils with populations of under 10,000, as well as councils based in the South Island. The relationship between council population and turnout is highlighted in Figure 3.<sup>5</sup> As Figure 3 shows, smaller councils tend to have higher turnout levels than larger councils. Possible explanations for this correlation are discussed below.

**The theory**

A range of theories have been advanced to explain why people choose to vote or not, the dominant, at least in economics, being the rational voter model; but other factors, such as the level of social capital and political efficacy, also affect turnout (Gludovatz, 2014). The rational choice perspective generally assumes voters have selfish preferences: that is, people unconsciously apply a cost-benefit test when deciding to vote or not and take

into account the degree to which their utility is maximised (Edlin, Gelman and Kaplan, 2005). Voting has an opportunity cost, such as the cost of the time involved identifying candidates and assessing the efficacy of their various promises.

Recent research into voting behaviour shows that the rational voter is not concerned simply with personal utility but also with ‘social utility’, which is the degree to which the benefits from voting are likely to accrue to the community as a whole (ibid.).<sup>6</sup> Voters’ willingness to consider social utility may be seen to be positively correlated with levels of social capital, and/or the presence of shared civic values (Webster, 2016), an assumption that aligns well with post-election survey results which show that nearly a third of respondents voted because they believed it was their democratic duty and because of their belief in democracy (Local Government New Zealand, 2004; Auckland Council, 2013).

When applying a rational calculus (whether for personal or social utility reasons), potential voters consciously or unconsciously assess the benefits of voting against the costs. The relevant factors are likely to be:

- the amount of time taken to search for information on candidates;
- the complexity of the voting process;
- the direct ‘cost’ of the sphere of government: that is, the amount spent in tax;
- the degree to which there is confidence in the integrity of the voting system;
- the salience of the sphere of government subject to the election. (Department of Internal Affairs, 2010; Local Government New Zealand, 2013)

In addition, there are also contextual and institutional factors with the capacity to influence turnout; for example:

- media interest, often created by local issues and a competitive mayoral race;
- the level of social capital, as localities with higher social capital vote more (Webster, 2016);
- demographic characteristics, as voting varies by age: an older community should vote more than

**Table 1: Central and local government turnout (recent elections)**

Country	National/federal	Local (average)	Difference
New Zealand	74%	47%	27%
Italy	75%	67%	8%
Switzerland <sup>7</sup>	45%	49%	-4%
Norway	78%	63%	15%
Canada	61%	41%	20%
Ireland	71%	46%	25%
United Kingdom	66%	33%	33%

Source: Federal and central government figures sourced from the International Institute for Democracy and Electoral Assistance

a community with a younger age profile;

- diversity, as turnout is influenced negatively by the degree of heterogeneity in a community, such as the proportion of residents who are recent migrants (ibid.).

Both sets of factors help throw light on two frequently asked questions: why turnout is consistently below that of parliamentary elections and why turnout has been declining.

#### Explaining turnout

Figure 1 showed that since 1989 local government turnout has been consistently about 30% below the turnout at parliamentary elections, a difference often interpreted as indicating a democratic deficit. The difference, however, is not uncommon: see Table 1.

Other than Switzerland, where the decentralised model places most public responsibilities at the sub-national level, it appears the norm that turnout in national and federal elections will be higher than for sub-national governments. Employing the perspective of the rational voter, three explanations stand out: the level of salience; the level of elected member discretion; and the related issue of taxation levels.

Given that central government in New Zealand spends 89.4% of all public expenditure (the highest proportion in the OECD along with the Republic of Ireland and Greece), it has significantly more salience than local government, which is responsible for the remaining 10.6%. In comparison, local governments in Norway and Italy spend considerably larger shares of public expenditure, and, not surprisingly, citizens in those

countries have a stronger incentive to invest in the time and cost of voting.

The situation is similar with regard to personal taxation. On average New Zealand local government taxes are approximately 2.5% of household income, whereas central government taxes – that is, income tax, GST and levies – consume between 30% and 40% of household income. If approached from a rational voting perspective the incentive to vote for central government is much greater than for its local counterpart.

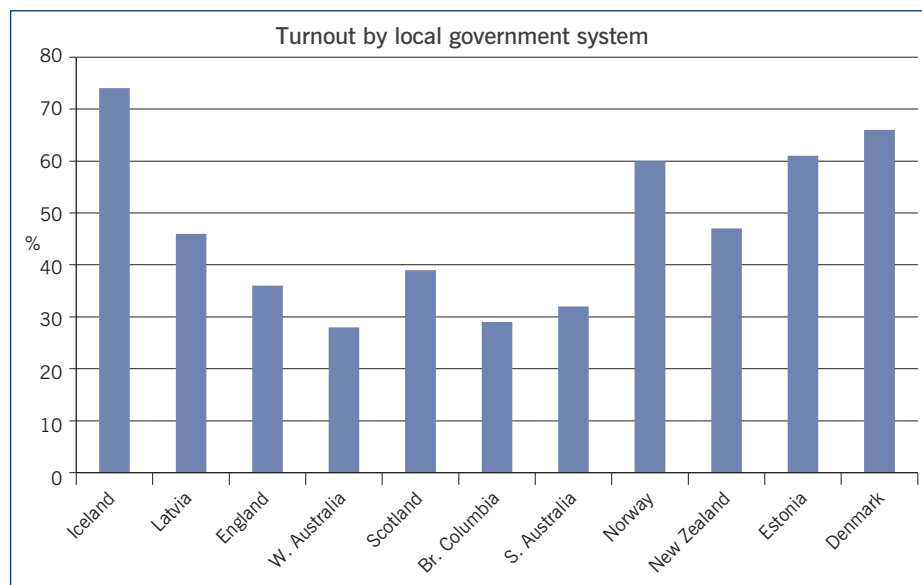
Another factor that can influence the propensity to vote is the presence or not of formal political parties, which play a minor role in local elections in New Zealand. While ‘party politics’ in local government can be problematic (such as substituting national priorities for local ones), it should reduce the cost of information search. For example:

- the party ‘brands’ signal distinct and well-recognised policy styles;
- there is more likelihood of candidates’ policies being implemented should their party become a majority;
- candidates will have been through a ‘filtering’ process to get on the ticket, so the risk of electing eccentric or unpredictable candidates is less.

While theoretically appealing, the evidence that the lack of political parties in local elections has diminished turnout does not appear to be strong, or is undermined by other factors, such as salience. The United Kingdom, where formal political parties play a major role in local elections, has turnout rates of between 30 and 40% (but also has local salience).

While local government turnout is generally less than turnout at the national

Figure 4 International turnout rates

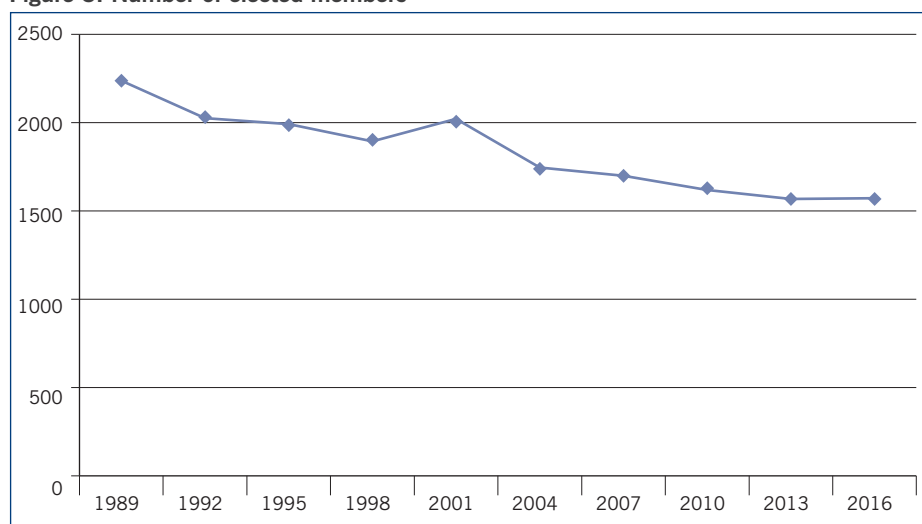


Source: Local Government New Zealand, 2013

Table 2: International turnout trends

Country	Turnout 1980–90	Turnout 2010–13	Change
Israel	80%	67%	-13%
Norway	84%	78%	-6%
United Kingdom	75%	66%	-9%
Canada	75%	61%	-14%
Denmark	88%	88%	0%
Finland	75%	67%	-8%
Netherlands	85%	71%	-14%
New Zealand	89%	74%	-15%

Figure 5: Number of elected members



Source: www.dia.govt.nz

level, it also varies according to the nature of the local government system. Figure 4 shows this variation. Figure 4 highlights an important theme found in local government studies, that turnout rates are strongly correlated to the range of services councils provide, the way they are funded, the degree of elected member

autonomy and their constitutional status. The Zealand system is part of the Anglo-Saxon tradition, along with those of Canada, Australia and the Republic of Ireland. Such local government systems have a narrow task profile and take a small share of national GDP. As Figure 4 shows, turnout in these systems is lower

than in systems found in northern and southern Europe, where councils play a major role in the delivery of social services, such as education, health and police, and possess the authority to levy income and consumption taxes.

Another difference between New Zealand and other countries is the lack of constitutional status and the resulting ease with which central government can amend local government’s status and powers. Why, for example, would citizens spend time and effort assessing candidates when there is a relatively unconstrained ability for higher-level governments to intervene to protect ‘national interests’ or overturn local decisions? Recent examples, such as the removal of the elected councillors at Environment Canterbury, the marginalisation of Christchurch City Council in the post-earthquake rebuild and the government’s intervention in Auckland, act to reinforce the subaltern status of local politicians in this country.

**Why is turnout declining?**

Voter turnout has demand and supply characteristics. From the demand perspective, the decision to vote is influenced by individual and community values and traditions, as well as expectations that the act of voting will improve personal or community utility. Any change in community values, the introduction of new ways of political participation, or a change in salience (such as a reduction in services or autonomy) may consequently reduce the attractiveness of voting. From the supply perspective voter turnout is susceptible to increases in the cost of voting; for example, if the voting process becomes more complex the consequential ‘cost’ of voting will increase and we can expect that the number of people who choose to vote will diminish. In relation to recent turnout both factors appear to be at work.

Turnout decline is not simply a New Zealand local government issue. In his report on how to increase turnout Gludovatz states that

‘voter turnout in elections in Canada has decreased at the federal and provincial levels to under 60% ... but

in municipal elections the number of people voting has dropped even more dramatically' (Gludovatz, 2014, p.2).

Table 2 shows turnout trends in a number of central and federal governments.

In his 1999 Reith lectures Anthony Giddens referred to the 'paradox of democracy', by which he meant the phenomenon of turnout declining in the 'advanced' democracies at the same time that democracy was spreading and the number of democratic states expanding (Giddens, 1999). Why, he asked, were people in states that had a long tradition of democracy losing interest? His explanation highlighted changing values and the rise of consumerism: that is, the re-conceptualisation of people as consumers rather than citizens, whereby voting is set against Netflix in a competition for 'out time'.

The one country that stands out as having dodged the trend is Denmark. Robert Peden, chief executive of the Electoral Commission, has looked at the Danish experience and notes that in response to signs of a decline in turnout the government adopted a proactive strategy of civics education.<sup>8</sup> The strategy was built on a programme targeted at schools and younger people and designed to 'induce local discussions and initiatives on how to better cultivate democratic virtues and national belonging among pupils. The main argument and concern was that citizenship education is more important in a globalizing world' (Kriegbaum and Mouritsen, 2015, p.1).

While changing values and perceptions are likely to apply to all spheres of government at the local level, there are a range of additional contextual factors which, should they change, may have an impact on turnout. These are discussed below.

#### **Increasing representation ratios**

The ratio between citizens and councillors (the representation ratio) has, if increased, the potential to reduce turnout by diminishing engagement with elected members and increasing the cost of search. Local governments with a low ratio (that is, a small number of residents

per elected position) tend to have a higher turnout than those where the ratio is high (Drage, 2008). The New Zealand ratio is one of the highest in the OECD, and it has increased over the last two decades due to a reduction in the number of elected members and an increase in population: see Figure 5.<sup>9</sup>

#### **Salience**

As discussed above, a government's level of salience represents its ability to effectively meet citizens' needs and preferences.

... [voter] turnout was relatively stable in the 1990s, until 2001 when it fell by 4%, to be followed by a fall of 7% in 2004 ... [as] changes to voting processes ... increased voter 'costs'.

Evidence suggests that the salience of the New Zealand local government system, while relatively low due to a narrow task profile, has declined further over recent years. Likely factors are:

- legislation giving various ministers the ability to override council decisions: for example, in relation to aquaculture and urban land use boundaries;
- legislation limiting financial discretion, as with the recent financial prudence measures; and
- legislation enabling ministerial intervention in councils' affairs, such as the enhanced ability of the minister of local government to intervene when he or she identifies 'a problem'.

Such measures, while undermining the constitutional separation of local and central government, also disincentivise potential voters when they realise that elected members are less able to respond to their concerns and expectations.

#### **Alternative mechanisms for influencing local governments**

As the Swiss example in Table 1 shows, citizens may prefer alternative ways of influencing their local governments to

voting (Ladner, 2009). While the New Zealand local framework lacks the direct democracy mechanisms found in the majority of Swiss cantons and communes, it does provide a range of formalised opportunities for citizens to take part in decision making, namely the right to be consulted on significant decisions and on councils' annual and long-term planning, budget setting and work programmes.

While anecdotally some citizens may claim to be over-consulted, we have no research that would substantiate

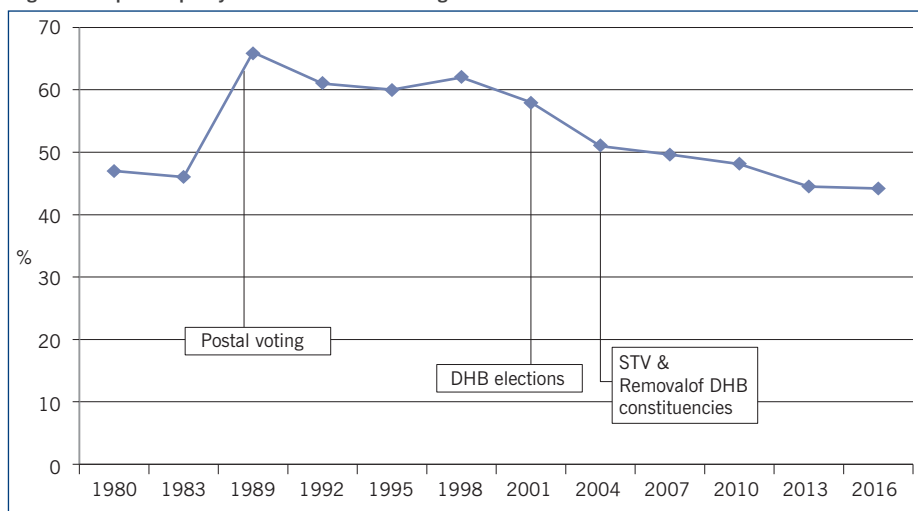
the view that citizens see consultative and engagement opportunities as an alternative to voting. Given that recent legislation has greatly reduced requirements on councils to consult with citizens, this is unlikely to feature as a factor in turnout in the near future either.

#### **Role of elected representatives**

Related to the issue of salience is the degree to which politicians have the discretion (statutory authority or institutional mechanisms) to implement the promises on which they stood, or respond effectively to community needs and preferences. Should politicians lack this discretion, voting may cease to be rational.<sup>10</sup> The introduction of New Public Management and corporate-style service delivery models in 1989, and the increased use of council-controlled organisations since (as occurred in the Auckland model), has distanced elected members from decision making on a number of services, many of which are important to citizens.

Chris Trotter describes this trend as a growing democratic deficit created not by a shift in community values, but by government efforts to marginalise local politicians by shifting decision making

Figure 6: Impact of policy and institution and change



Note: Figures for 1989 and 1983 reflect mayoral turnout results (an accurate proxy).

about local public goods into what he refers to as corporate entities. As Trotter argues:

even before the Government sacked environment Canterbury in 2010, it was clear to voters that the ability of their elected members to translate election promises into practical policies has been seriously compromised ... what possible motivation could voters have for treating local government elections as anything other than an increasingly pointless political ritual. (Trotter, 2016)

**Complexity**

Given that potential voters will consider the ‘cost’ of voting in relation to the degree to which personal and social utility are enhanced, any changes that increase the cost should see a resulting decline in turnout. Figure 6 attempts to identify this effect. It uses average turnout data (and the data starts prior to 1989 which was an unusual peak year due to reorganisation and universal postal voting).

Removing the one-off factors, it would appear that turnout was relatively stable in the 1990s, until 2001 when it fell by 4%, to be followed by a fall of 7% in 2004. Both of those elections were associated with changes to voting processes which potentially increased voter ‘costs’.

- The introduction of the district health board elections in 2001 increased the number of candidates

that voters had to assess and thus the time it took to vote (and, reflecting the lack of political party platforms, information on candidates was not easy to come by).

- The removal of the DHB constituencies in 2004 significantly increased the number of candidates that voters were required to assess;
- The introduction of single transferable voting (STV), also in 2004, meant that almost all voters were confronted with two voting systems, which required additional time to ensure that local government candidates received ticks and DHB candidates numbers (this writer admits to having failed on more than one occasion).
- An off-setting factor to the increased cost of search was the introduction of 150-word profiles (in a booklet) in 2004. The profiles (for good or bad) appear to have become increasingly relied on by many people to assess the efficacy of candidates.

Despite the fall in turnout in both national and local elections, Figure 6 suggests that changes in voting processes can have an effect on the willingness of people to vote. Increased complexity and search time arising from the changes made in 2001 and 2004 appear to have had a discouraging effect on potential voters.

**Conclusion**

The two questions this article set out to answer were why turnout in local elections

is consistently below the level achieved in parliamentary elections, and why turnout in both elections has been declining.

The first question is straightforward. Voters act rationally and trade off the benefit (in personal and social utility terms) to be gained from participating in an election against the associated costs. The importance – that is, the demand side – is directly proportional to the salience of the governing system and the degree to which politicians possess the discretion and autonomy to put into effect policies and programmes to meet the needs and preferences of the relevant jurisdiction. As the discussion shows, New Zealand local government has relatively low salience: it has a narrow task profile, spends a small share of public expenditure and consumes an even smaller share of GDP.<sup>11</sup> And compared to central government, council taxes are a small share of a citizen’s annual income.<sup>12</sup> In addition, the last decade has seen an erosion of local politicians’ autonomy and discretion, both of which are vote-diminishing over time.

The reasons for turnout decline in local government, a phenomenon not limited to New Zealand, are more complex. This is because citizens are not only affected by whatever democratic malaise is sweeping the advanced democracies, but are equally susceptible to government actions that affect the context and institutional settings which apply to local governments, particularly in this case since there are 67 separate elections. In addition to the demand-type factors, such as salience and elected member autonomy, the context and institutional factors, such as population size, demographics, diversity, representation ratios and complexity, all play a role in affecting the propensity of citizens to vote.

Many of these factors are likely to be affected, in a vote-diminishing way, by recent and planned local government reforms. These include efforts to create large local authorities based on the Auckland model (a bill to amend this process is before a select committee); proposals to shift services into council-controlled organisations and thus remove them from the direct



control of citizens and local politicians (contained in the same bill); proposals to set national performance measures which, if implemented, could diminish local discretion; and plans to increase the opportunities for ministers to intervene in local government affairs. The reforms are designed to improve the efficiency of local services and ensure that the 'national interest' is not compromised by local decision making.

Should, on the other hand, the reform objectives be concerned with strengthening local democracy, then a different menu of changes is required. These should be designed to:

- increase local government salience through a programme of decentralisation and (in Giddens' view) deepening democracy;
- recognise local government's constitutional status in order to

provide greater certainty about its role and powers;

- reduce the cost of voting by exploring alternative voting processes, including the use of new technologies; and
- invest in programmes to increase the awareness of all citizens about the nature of our democracy and raise their civic awareness.

- 1 Morning Report, RNZ, 15 October 2001.
- 2 The terms of reference for inquiries tend to vary according to issues that might have arisen leading up to and including the election itself. The big issue for 2004 was the failure of the STV election process in a number of areas.
- 3 Figures for 2016 are still provisional. Final figures will be released by the government in early 2017; they are expected to show a small increase.
- 4 This analysis uses 'average' turnout of councils (the average of the 67 territorial authorities) rather than the total turnout figure (the number of enrolled voters who voted), for two reasons: in the first case, because average turnout is less sensitive to turnout figures in our two largest cities, which contribute virtually 50% of all turnout; secondly, because international turnout data is expressed as averages. As it turns out, the 2016 average and total figures are almost exactly the same. Total turnout figures are included for information.

- 5 For presentation purposes Auckland Council (turnout 38%) and Christchurch City Council (38%) are excluded from this graph. Their exclusion does not affect the correlation.
- 6 Paradoxically the theory would suggest that people are more likely to vote in smaller than in larger elections, as their votes will have more chance to affect outcomes.
- 7 While people will tend to vote more if they believe their vote is likely to count, they may vote less if there are other ways of influencing their governments, such as in Switzerland, which provides extensive opportunities for direct democracy approaches, such as referenda.
- 8 Presentation given to the New Zealand School of Local Government Managers' Electoral Working Party Conference, Wellington, December 2015.
- 9 Includes community and local board members.
- 10 In a survey undertaken by the *Local Government Chronicle* (a UK publication), the major reason citizens gave for not voting was their belief that councillors had no authority to adopt policies and implement programmes to address local issues. Despite UK local government's role as a provider of social services, at that stage services were delivered according to performance standards set by Whitehall.
- 11 Local government taxes represent approximately 2% of GDP, the same proportion as found in 1950 and similar to the share that existed 50 years earlier in 1900, when it was 1.8%.
- 12 This is not the case for many older people who own properties and live on fixed incomes. Not surprisingly this group votes in extremely high numbers.

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Christine Cheyne

# E-voting Eventually? Online voting in (local) elections

## Introduction

In April 2016 New Zealand's long-awaited online<sup>1</sup> voting trial for local elections was again cancelled, or postponed indefinitely. Despite its advocacy of e-government, central government in New Zealand has continued to stall over trialling online voting. The trial of online voting was strongly supported by local government and has long been recommended by a Parliamentary select committee. However, three months before nominations opened for the October 2016 elections, the associate local government minister, Louise Upston, called off the online voting trial proposed for the elections, citing concerns about security and vote integrity.

The cancellation of the online voting trial came as a disappointment to many in the local government sector, especially the councils that were keen to participate. The minister appeared very equivocal about the future of online voting, stating in her media release:

online voting could be trialled at future elections but there is still much to learn about online voting, and issues with online voting overseas have stressed the importance of getting it right and maintaining public confidence. The Government is open to looking at proposals for future trials of online voting in local elections but any plans for trials should be developed as part of a programme of gradual steps towards online voting in local elections. (Upston, 2016)

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Christine Cheyne is an Associate Professor in the School of People, Environment and Planning at Massey University.

Since that statement there has been no further public announcement of further steps towards online voting.

Yet the option of e-voting is a key subset, and logical extension, of e-participation, which is being proactively used in New Zealand. Indeed, New Zealand ranked fifth equal with the Netherlands in the United Nations 2016 index of e-participation, just behind the United Kingdom, Japan, Australia and South Korea (United Nations, 2016, p.56). What is perhaps more noteworthy than the high ranking is the rapid acceleration in ranking, from 19th in the 2014 index. This high level of e-participation reflects not only the pace of development of e-participation but also the rapid expansion of internet connectivity, especially since 2014, stimulated by faster broadband speeds, with exponential growth in fibre-based internet connections since the introduction of fibre in 2011 (doubling between 2014 and 2015) and more attractive pricing plans. For example, as at 30 June 2015 a third of all broadband internet connections were uncapped, compared with 8% in 2014 (Statistics New Zealand, 2015).

In this article, after reviewing the background to online voting in local elections in New Zealand, with reference to relevant overseas experience, I consider the way forward to implementing online voting, with a view to e-voting being an optional method of voting in local elections.

#### **Online voting: the growing momentum**

Postal voting, a form of remote voting, has been a long-established method of voting and was made mandatory by the fourth Labour government for local elections in 1989, in an effort to boost turnout. Following a change of government in 1990, postal voting was made optional from 1992, but with turnout plummeting at the one council (Hutt City), which used ballot box voting, the norm has been for postal voting to be used (Bush, 1995; Zvulun, 2010). However, average turnout has declined slowly, as it has in parliamentary elections, since then (Local Government New Zealand, 2013). Postal voting may have sustained voter turnout

rates in the period, but is rapidly become anachronistic as email and, in particular, online communications displace paper mail. While the voting method is not the key determinant of turnout, the opportunity to harness technology to assist voters cannot be ignored. The extent to which the antiquated postal voting method deters voters needs to be carefully examined.

The rapid expansion of e-government, which has been promoted by both central and local government, has heightened the expectation of many citizens of being able to vote electronically. The move to e-government is a worldwide phenomenon, found not just in developed countries but also in developing countries (Björklund, 2016). While online voting is 'one of the last frontiers

recommendations that this method of voting be considered for local body elections. Following the 2007 and 2010 elections, the Justice and Electoral Committee inquiry into local elections recommended a trial of online voting. Already, as will be discussed below, online voting was being successfully implemented in a number of jurisdictions internationally.

A 2011 New Zealand Society of Local Government Managers (the peak body for senior local government managers, which includes staff administering elections) electoral working party developed a strategic framework for e-voting in local elections which drew heavily on the draft strategy for voting technology published by the Chief Electoral Office referred to above. The working party noted:

## The move to e-government is a worldwide phenomenon, found not just in developed countries but also in developing countries ...

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for Internet use' (Crothers, 2015, p.125), many related aspects of elections utilise, and are increasingly dependent on, the internet. These include voter registration, information about elections, information about candidates, and other voter advice. Nearly a decade ago in New Zealand the Chief Electoral Office in the Ministry of Justice published a draft strategy for voting technology which identified a very wide range of benefits to voters and the community, to government and to democracy from the introduction of e-voting technologies. It noted the natural progress towards e-voting, given that 'ICT solutions are already in place for voter registration, the roll, "download and fax" voting, the administration of the election, media and public access to election results, public access to election agency information, etc.' (Chief Electoral Office, 2007, p.36).

Expectations of online voting were further elevated with the recurring

The local government sector has had extensive experience in recent decades with remote/unsupervised postal voting elections which are extensively run on proven technology systems. Election Services [one of two companies that provide assistance with vote processing and other aspects of elections] have had extensive experience in running e-voting election in New Zealand in tandem with postal voting for non-public elections. This also means that there is a significant number of electors who have experienced e-voting. (New Zealand Society of Local Government Managers, 2011, p.4)

In September 2013 the minister of local government announced that online voting would be trialled at the 2016 local elections (Tremain, 2013a). Online

voting was specifically linked to digital government services:

Online transactions are the way of the future and the Government is committed to rolling out digital services for New Zealanders. ... The Government RealMe service will be used to enable online voting. New Zealanders who have a RealMe logon can now update their electoral enrolment details online. The Electoral Amendment Bill recently introduced will enable electors with a RealMe verified identity to enrol online. (Tremain, 2013a)

Zealand, had expressed support. Several councils had volunteered to participate in a trial, with interest coming from a diverse range of councils.

Just over two months later the minister announced the terms of reference and membership of the working party. The clear intention was to have a trial prior to the October 2016 local elections and then full implementation at the elections:

The online voting working party (the working party) is appointed to consider and recommend:

a) the feasibility of having online voting in local government elections by 2016;

b) any other opportunities to provide for local electoral processes through the internet; and

c) practical options for achieving online voting in the 2016 local authority elections, subject to a successful trial having been conducted before 2016. (Tremain, 2013b; Department of Internal Affairs, 2013)

It was envisaged that online voting would be available not just for council but also for district health board elections, and, if used in local authority elections, would potentially drive demand for online voting in parliamentary elections and school board elections. As noted above, the Ministry of Justice had a decade ago identified an extensive set of benefits of e-voting. It recognised that new technologies opened up new methods of voting. As well, there has been growing concern about the decline in voting in parliamentary elections. In 2013 the Electoral Commission (which replaced

the Chief Electoral Office in October 2010 and is responsible for administration of parliamentary elections) argued that there needed to be a national discussion about the implications of declining voter participation, and it sought to promote such a discussion with its strategy for participation in parliamentary elections. In that strategy it noted that enrolment and voting processes themselves do not significantly affect turnout in New Zealand, as it is easy to enrol and vote. Research on non-voting indicates that key factors are that non-voters 'are too busy, have no interest in politics, have little faith in politicians, cannot make up their mind, or do not think their vote will make a difference' (Electoral Commission, 2013, p.3). Clearly, e-voting cannot address many of these factors, but it can assist by providing a more convenient mechanism and would eliminate some of the vulnerabilities of postal voting, such as postal voting papers being undelivered, stolen or, once received, misplaced.

Security risks with e-voting are undoubtedly essential to address, but can be overstated. While such risks are ever-present, and have resulted in considerable caution, they have not prevented many countries successfully implementing online voting at various levels of government. E-voting was first introduced in local elections in Estonia (which has a population of approximately 1.3 million) in 2005, and repeated in subsequent local elections in 2009 and 2013, and also used in parliamentary elections (2007, 2011, 2015) and in the Estonian European Parliament election (2009, 2014) (Alvarez, Hall and Trechsel, 2009; Björklund, 2016; Gibson et al., 2016). There have been various other initiatives in Europe, such as in Switzerland, where e-voting was introduced in the early 2000s to allow expatriate voters to participate in elections (Mendez and Serdült, 2014).

In Canada, two provinces, Ontario and Nova Scotia, implemented e-voting in municipal elections in the early 2000s, and increasing numbers of councils have provided the option of e-voting since then. In the October 2014 elections in Ontario approximately a quarter (98 out of 414) offered e-voting in the elections, and in Nova Scotia approximately one

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In addition to the extension of e-government to elections, the minister also made a connection between online voting and voter turnout, especially among younger voters and people with disabilities:

Voter turnout in local body elections is traditionally low and we need to look at other ways to encourage people to become involved in the democratic process. Online voting will be more convenient and appeal to young voters. It will also make it easier for people with disabilities to vote (Tremain, 2013a).<sup>2</sup>

A working party was established by the Department of Internal Affairs to consider the options, costs and security aspects of online voting. As noted above, the decision by the minister to progress the implementation of the long-awaited online voting trial had been preceded by strong support from the local government sector. Both individual councils and the peak body, Local Government New

third of communities used e-voting in 2012 (Goodman and Pammett, 2014). Based on detailed analysis of online voting in the city of Markham in Ontario, Goodman concluded that ‘although online ballots are not a broad-based solution for turnout decline, electoral participation can experience modest increases when they are made available’, which seemed to result from the enhanced accessibility and convenience offered by remote e-voting (Goodman, 2014, p.22).

Much closer to New Zealand, some states in Australia (where voting is compulsory, so e-voting is not seen as an engagement mechanism) have introduced remote electronic voting in state general elections for voters who live at a distance from the nearest polling booth, or have a disability that means they require assistance with voting, or who are absent from the state during the hours of polling (Holmes, 2012; Zada, Falzon and Kwan, 2016). In New South Wales, legislation in 2010 made e-voting available in state elections for visually-impaired voters and others with disabilities. In Victoria, electronically assisted voting for the visually impaired had been trialled in state elections in 2006 and was expanded to all advance voting centres in the state in 2010. This was prompted by recognition that the United Nations Convention on the Rights of Persons with Disabilities, to which Australia is a party, protects the right of persons with disabilities to vote by secret ballot (Holmes, 2012). In the 2015 New South Wales state general election approximately 200,000 voters were able to use the remote electronic voting system iVote, which allowed them to vote using the telephone or internet (Zada, Falzon and Kwan, 2016).

Independent, up-to-date research is needed into what voters think about postal voting. Surveys by the Electoral Commission are primarily focused on how it can improve its services, as opposed to rigorously assessing current and potential voting methods. An Australian survey found that respondents were more in favour of the use of mobile internet e-voting than against it. They were attracted by its mobility, verifiability and speed. As well, security issues continue to affect postal voting. In

September 2016, just over a week before polling ended nearly 700 voting papers were found among up to 3,000 mail items that had not been delivered by a New Zealand Post worker in Wellington (Stewart, Shadwell and Nicoll, 2016).

The Justice and Electoral Committee inquiry into the 2011 general election had also made recommendations supportive of online voting. It had received submissions from the Electoral Commission recommending that e-voting be initially trialled with small-scale pilots at coming elections, targeting

undertook its work against this backdrop of considerable interest in, support for and international experience with online voting. In early August 2014 the working party’s report, *Online Voting in New Zealand: feasibility and options for local elections*, was released. The report found that online voting for local elections was feasible. In October 2015 Local Government New Zealand announced that eight councils had expressed interest in participating in a trial of online voting in the 2016 local elections.<sup>3</sup> The trial would take place alongside postal voting.

While the cancellation of the 2016 online voting trial in local elections was disappointing to many councils and voters, it is clear that from the beginning there was a lack of interest and support on the part of central government.

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overseas voters and others disadvantaged by paper-based ballots. The committee noted that the Electoral Commission had sought guidance from the government on the feasibility of running such a pilot of internet and telephone voting for the 2014 election. The commission had estimated the cost at \$5–7 million, but the government indicated that resourcing the pilots was not a fiscal priority. E-voting by overseas voters had dropped significantly, and the select committee endorsed recommendations from the Electoral Commission for online voting to replace outdated technology (fax machines) which was being used at that time (Justice and Electoral Committee, 2013). In the 2014 general election, overseas voters were able to download their voting papers from the commission’s website (in addition to the existing options for voting) and could scan and upload them directly to the commission’s website – a first tentative step towards remote electronic voting (Justice and Electoral Committee, 2016).

The online voting working party which met in the first half of 2014

The president of Local Government New Zealand, Lawrence Yule, noted that

the eight councils together meet the Cabinet’s requirement that the trial is of sufficient scale and representativeness to produce evidence of the practicality and value of online voting in local elections across New Zealand. The councils will only be able to offer online voting if they meet the regulatory requirements set by Cabinet and if Cabinet agrees to a trial going ahead. (quoted in Local Government New Zealand, 2015)

Councils seeking to participate in the trial had to give an assurance that they were able to meet regulatory requirements imposed by the Department of Internal Affairs, and their participation would be subject to an audit by the government’s chief information officer. Councils also had to meet the costs of the trial, despite the trial being for what was intended to be a nationwide policy initiative. The eight councils worked with national organisations for six months to

prepare for the October 2016 online voting trial, until the government's decision to cancel the trial.

#### Beyond 2016

While the cancellation of the 2016 online voting trial in local elections was disappointing to many councils and voters, it is clear that from the beginning there was a lack of interest and support on the part of central government. Recommendations for online voting from select committee inquiries into local elections had been addressed somewhat belatedly and half-heartedly. Central government insisted that ratepayers in each local authority should foot the bill for the trials, which clearly penalised councils that offered to be part of the trial and acted as a disincentive to participation. The lack

Australia in August 2016).<sup>4</sup> Yet occasional failures should not be cause for rejection of the use of digital technology. While a number of countries have stepped back from e-voting, there are generally factors specific to each country that have prompted the retreat, as in the case of the German federal court's decision in 2009 that e-voting using a particular type of machine was unconstitutional; this did not, however, mean that e-voting was unconstitutional (BVerfG, 2009).

Moving forward, a detailed implementation plan for e-voting trials should be developed, co-ordinated centrally by a joint local–central government working group, and resourced centrally (by the Department of Internal Affairs or the Electoral Commission). It might be argued that

needed simultaneously. In 2016 Local Government New Zealand launched a campaign to promote voter awareness of local government, but the effectiveness of this is questionable. It needs to be complemented by many other initiatives.

A single initiative such as e-voting, or even enhancements more generally to elections, cannot address the complex set of factors affecting turnout. However, it is essential to increase access to and convenience of voting. E-voting offers a mode of voting which will be preferred by many voters who are familiar with digital technologies or not able to use postal or ballot box voting. Goodman, based on her research on e-voting in municipal elections in Ontario, concluded:

‘Though voting by Internet is by no means a systemic fix for apathy or other social and political causes of nonvoting, and the numbers are small, there does seem to be some potential for engagement among less committed voters, particularly young people’ (Goodman, 2014, p.22).

## E-voting is a key aspect of e-government, which is increasingly being implemented internationally as technological and sociological challenges are resolved.

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of central government commitment was particularly noticeable given that the trial was nationally significant: it was intended to provide information which will benefit all councils, and indeed other elections, such as parliamentary elections.

The cancellation of the online voting trial was disappointing also because of the length of time available for resolving the technical challenges, and experience internationally. In fact, technical feasibility is not regarded as a key impediment; rather, the issue is public acceptance and political will. In New Zealand, public acceptance is evident in the support from many sectors for a trial of online voting as a complementary method to postal voting. Some e-voting systems that have been used in other jurisdictions have not been trustworthy or trusted; however, that has also been the case with other forms of e-government, such as online censuses (for example, in

use of e-voting should be a matter of choice for local communities or local councils. However, in a country the size of New Zealand consistency is needed to assist voter understanding of elections, rather than different practices from one council to another. Trials should be conducted at council by-elections. As well, a trial of e-voting by overseas voters should be conducted in association with the 2017 parliamentary election. Groups representing voters with disabilities need to be fully involved in planning for online voting trials.

It has been suggested that, rather than implementing e-voting, central and local government should first focus on encouraging people to vote by improving voter knowledge of the importance of local government. The two initiatives, encouragement (or, as some prefer, engagement) and access, should not be seen as mutually exclusive. Both are

While accessibility for those who are not able to vote via conventional methods was improved for New Zealand voters with disabilities with the introduction of dictation voting by telephone in the 2014 general election, many voters in local elections still require assistance with paper ballots from friends and family members.<sup>5</sup>

Several technical challenges are associated with e-voting, as indeed with postal voting. These include verifiability, dependability, security, anonymity and trust (Gibson et al., 2016). However, as with postal voting and other methods in the past, technology and testing has enabled these challenges to be minimised. While postal voting has enjoyed a degree of confidence in the past, it cannot be assumed that this confidence continues, especially in the wake of the non-delivery of voting papers in Wellington in September 2016. Up-to-date research on confidence in this method, especially given recent reductions in postal services and the related decline in use of ‘snail mail’, is needed.

## Conclusion

E-voting is a key aspect of e-government, which is increasingly being implemented internationally as technological and sociological challenges are resolved. E-voting has been utilised successfully in many developed and developing countries for municipal and higher-level elections. No voting method is free from risk; however, risks perceived with e-voting can be and have been mitigated. E-voting is not intended to replace other voting methods, but will provide a much needed level of convenience and a more accessible form of voting. Increasingly, the choice to use digital means to cast a vote will be important for voter participation in elections in a country like New Zealand, which ranks so highly internationally in indices of e-government and e-participation.

It is widely accepted that e-voting is not a silver bullet that will fix low voter turnout. However, that does not provide grounds for postponing the introduction of online voting. As the Australian case demonstrates, even where voting is compulsory and turnout is not an issue, e-voting is an important mechanism for allowing participation by voters overseas, those away from their electorate on polling day and people with disabilities. It forms part of a very diverse set of initiatives needed to address voting, which include wider societal responses to social exclusion as well as measures related to elections (including not just the method of voting but also timing and the voting system). A co-ordinated response is needed so that the decline in

turnout in parliamentary elections can also be addressed. Political leadership from central government is needed to ensure that the technology is robust and voters have comprehensive information about the option of e-voting.

Digital platforms are increasingly being used to provide information about candidates in an attempt to address one of the causes of non-voting: namely, lack of knowledge about the candidates. With a paper-based system only limited information can be made available, as has been done through candidate profile statements. These are clearly inadequate, and digital information will become increasingly important for most voters. Efforts to provide information to voters about candidates can be more effectively targeted through digital platforms than can paper-based information, and digital platforms are already used to remind voters about registering and voting. Officially sanctioned, digital information sources about elections and candidates can potentially be linked to official election information sources available online.

With online voting now postponed, there is sufficient time for a trial of online voting in a council by-election and for any refinements needed to be made in time for a full roll-out of online voting in the 2019 local elections. The abandoned 2016 pilot would have provided valuable insights to assist deliberation about online voting in general elections. Online voting in elections is likely to become a focus of public and media debate if the trend of declining turnout in general

elections continues in 2017. While it is important to distinguish between engagement and access, access can be significantly enhanced with the use of digital technologies.

- 1 The term 'online voting' is used interchangeably with the term 'e-voting' throughout this article. The former is the term used by the minister and government officials in New Zealand primarily to refer to remote vote casting by digital means. The term 'e-voting' (along with 'internet voting') is used more extensively in the international literature. Some authors use these terms to encompass other aspects of elections that use electronic means, such as vote counting, or local e-voting using an electronic device in an officially designated polling place. However, the focus in this discussion is on vote casting at a distance from the hub that captures, records and counts the vote.
- 2 While the minister refers to low turnout in local elections, it is important to note that there are reasons for the gap in turnout between central and local government elections. More relevant to note is the common trend in both local and general elections of declining turnout. The Electoral Commission in its report on the 2014 general election noted: 'Turnout has been in decline in most developed democracies over the last 30 years, but New Zealand's decline has been particularly steep and persistent. At the 2011 election, turnout as a percentage of those eligible to enrol dropped to 69.57%, the lowest recorded at a New Zealand Parliamentary election since the adoption of universal suffrage in 1893. The 2014 result, 72.14%, is the second lowest. This small increase, while welcome, is no cause for comfort. New Zealand has a serious problem with declining voter participation' (Electoral Commission, 2015, p.i).
- 3 The eight councils were Masterton District Council, Matamata-Piako District Council, Palmerston North City Council, Porirua City Council, Rotorua Lakes Council, Selwyn District Council, Wellington City Council and Whanganui District Council. They encompassed a mix of metropolitan, provincial and rural councils, socio-economic status and voting systems, including single transferable vote (STV) and combined STV and FPP (first past the post) elections. They included councils with community boards and licensing trusts. According to Local Government New Zealand (2015), the population within the jurisdiction of these councils comprised about 10% of New Zealand's total population.
- 4 In August 2016 the Australian Bureau of Statistics attempted to administer the census online but a technological failure resulted in the census website shutting down. The Australian Parliament subsequently tasked the Senate Standing Committees on Economics with inquiring into the preparation, administration and management of the census (Parliament of Australia, 2016).
- 5 In 2016 Auckland Council, working with the Blind Foundation, offered 'assisted voting' for blind and low-vision voters, who could register for a service which used technology and in-house visits (Auckland Council, 2016). The Blind Foundation also supports online voting.

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## Festive greetings from the School of Government

The School of Government would like to extend our sincere thanks and good wishes to all those who had contact with the School during 2016, with particular acknowledgement of our 2016 graduands and prize-winners.

We wish you all a happy and restful festive season and look forward to working with you all again in 2017.



Jean Drage

# Do We Underestimate the Political Strength of New Zealand's Local Government?

The decision to put the Local Government Act 2002 Amendment Bill (No 2) on hold in September 2016 demonstrates clearly the strength that local government has as a unified political voice within our democracy. Early parliamentary support for deliberation on this proposed amendment has now been withdrawn in the face of a strong and determined response from local councils and those who represent them. And while an impending general election year may have tempered the National-led government's resolve here, one can only wonder what local government could achieve if it worked together as a united political force more often.

Instead, the debate tends to focus on issues related to the political relationship between local and central government, especially around the autonomy of local government in the face of central government's fixation on continually forcing through legislative change, ongoing funding inequities faced by many local councils despite new funding tools having been developed (although not implemented) (see Cheyne, 2016, pp.176-89), and central government's continued reluctance to work in partnership with local government on solutions to current policy concerns.

In fact, the Local Government Act 2002 Amendment Bill (No 2) is a clear demonstration of the very low ebb in the tidal relationship between central and local government in New Zealand at this time, a low not witnessed since 1989 when central government beefed up the role of the Local Government Commission<sup>1</sup> in order to substantially restructure (and reduce the number of) local councils in the face of considerable opposition. In a similar vein, the 2016 amendment

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Jean Drage is currently an Adjunct Senior Lecturer at Lincoln University and has recently co-edited *Local Government in New Zealand: challenges and choices*.

promotes the Local Government Commission as the protagonist for further changes to local government, this time to reorganise local government services (such as water, transport and economic development) across local authority boundaries into joint council-controlled organisations. This proposal would, in essence, force councils to work together through regulation rather than choice when in reality they already do this.

Major concerns about the purpose of this bill were initially raised in Parliament, with opposition parties suggesting that it was a clear representation of the

would have a damaging impact on the quality of our local democracy by diminishing the scope of elected members' decision-making, reducing the ability of councils to take a holistic approach to the development of their communities and eroding the important constitutional distinction between our two spheres of government.

Further, councils attending the Local Government New Zealand conference in July 2016 supported a remit that vigorously opposed

have on the democratic nature of local government.

But let's be real. This central/local government relationship has rarely been an easy one. Despite local government's best efforts to work with central government, history records a political environment in which central government has 'largely shunned local government as the poor relation or the incompetent younger sibling' which it cannot always control and 'so ridicules, reforms and dismisses' (Drage, 2011, p.11). The command-and-control bureaucratic model practised in the post-earthquakes environment in Canterbury (see Hayward, 2012) has always been the 'go to' position of our centre-right governments, a position recently reinforced through the sacking of the Environment Canterbury councillors in 2010 (and the failure to restore full democracy to this regional council despite earlier promises), and the reigning in of local government through legislative amendments that changed its purpose and introduced more central government oversight of local councils.

The irony is that the current focus on promoting collaborative relationships within and across communities (a key focus of this bill) is not practised by those promoting it, despite evidence that it can work. The first decade of the 21st century was a time of significant collaboration between these two levels of government. The empowerment focus of the new Local Government Act enacted in 2002 was a first step here, particularly with a limited power of general competence which enabled local councils to do what they wanted within a legal framework and signalled a degree of power sharing. Another step at the time was the Central/Local Government Forum, chaired by the prime minister, which met twice a year to work on common issues and develop a relationship that acknowledged local government's contribution and the increasing dependence that central government has on local government to achieve policy outcomes. And across local authorities there is a wealth of examples of councils that have worked collaboratively over many years on joint planning, strategy and service provision.

## Despite local government's best efforts to work with central government, history records a political environment in which central government has 'largely shunned local government ...

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National Party's negative attitude to local government. Labour's Phil Twyford claimed that it was yet another example of 'the very vexed history of policy that this government has had in regard to local government'; the Green Party MP Eugenie Sage pointed out that the bill showed a lack of trust in local government as it continued 'the centralisation of executive power at the expense of local democracy and at the expense of the public having a say in decisions that affect them'; and New Zealand First MP Ron Mark suggested it was 'just another underhand, dirty way of trying to force through the corporatisation of local government'.<sup>2</sup> But this parliamentary response paled in significance in the face of the strength of opposition that came from local councils, who suggested it cut to the heart of local democracy and the role of local government in New Zealand. In its submission to the Local Government and Environment Committee, Local Government New Zealand<sup>3</sup> summed up the majority of the 244 submissions on this amendment, suggesting that the bill in its current form

any measure in the Bill that directly or indirectly removes the requirement for community consultation, demonstrable community support and direct local authority involvement in reorganisation investigations and local decision-making of councils or their assets. (Local Government New Zealand, 2016)

This strong opposition has resulted in the bill now being deferred for what local government minister Peseta Sam Lotu-liga refers to as 'more rigorous analysis of submissions and more constructive dialogue with the local government sector' (Lotu-liga, 2016). Aside from the fact that he must be the seventh or eighth local government minister in the National-led administration in the past eight years (a job that appears to be passed along at a speed that has little regard for the government's relationship with local government), it can only be hoped that this process applies a more critical lens to the impact that this amendment will

So, while acknowledging the growing tendency of our current government to dismiss 'free and frank' advice, nevertheless the following is a little guidance for the policy analysts working in this area.

Let's start with the language used here, particularly the reference by the minister to the 'local government sector'. It must be said that local government is not a sector group. It is a legitimate, representative and accountable level of government in this country. To continue to bundle it into a sector group (like the farming or manufacturing sectors) completely undervalues the role that this level of government has within our democracy.

Next, a clear understanding of the role of local government within a democracy is greatly needed. We are all well aware of the local infrastructure provided by our elected councils, the local leadership, economic and community development<sup>4</sup> and the comprehensive strategic and financial planning and decision making done in consultation with communities. But local government is much more than a set of services. It is a legitimate form of local democracy within our communities where accountability for local decisions is provided through triennial elections and through opportunities for public participation in planning and decision making. Further, local government provides an important counterweight to central government. A responsible and

representative democracy needs a viable system of local government to ensure that power is spread within this democracy and this occurs through the process of devolving policy making and planning for a range of services to an autonomous and directly elected local government. As Colin Copus reminds us,

elected local government is not a quaint hangover from the past; it is a vital element of a functioning democracy in which central power is balanced with local autonomy and independence, and in which citizens can participate and control those aspects of local political life closest to their interests and concerns. (Copus, 2013, pp.404-5)

My third point, however, is the most important. A well-informed and critical analysis of just what our local councils do across this country coupled with comprehensive knowledge of the collaborative arrangements already in place is essential for all those in policy jobs. In reminding the Local Government and Environment Committee that local government is not an administrative arm of central government, Local Government New Zealand was spot on in saying that to 'have to state this shows a deep misunderstanding of the role of local government in the minds of the Government and its advisors' (Local Government New Zealand, 2016, p.9).

A great deal of energy is generally invested in getting central government on side, when in fact local councils (when they work together) have shown that they have the political strength to demand a more collaborative relationship with central government, perhaps even a clearly defined contract that requires both parties to work together regularly on common solutions to today's major issues.<sup>5</sup> I would encourage all those advising the current government to read the 244 submissions to the Local Government and Environment Committee on the proposed local government amendment to get a very clear picture of the great innovation and enterprise that is happening already within this country's communities.

The strength of opposition to the latest proposed amendment to local government legislation has shown us clearly that local government's time has come. Let's work towards ensuring central government gets this message.

- 1 The Local Government Commission is a central government quango appointed by the minister of local government to make decisions on the structure of local government and electoral arrangements for local councils.
- 2 See Local Government Act 2002 Amendment Bill (No 2) first reading, [https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb\\_20160615\\_20160615\\_28](https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20160615_20160615_28).
- 3 Local Government New Zealand is the national organisation of local authorities in New Zealand.
- 4 While the four well-beings were removed from the Local Government Act 2002 in 2014, councils continue to spend substantial levels of funding on economic and community development.
- 5 See Reid (2010) for a comprehensive discussion on inter-government agreements.

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Jenny Ombler, Marie Russell and  
Graciela Rivera-Muñoz

# Local Councils and Public Consultation extending the reach of democracy

## Introduction

This article considers public consultation in the context of New Zealand local government. Although by international standards New Zealand possesses a rich culture of citizen engagement and public consultation (OECD, 2015), the quality of consultation presents itself as a problem to local government, as their efforts have often been perceived as

unsatisfactory (Asquith, 2012; Barrett, 2011; Barrett and Scott, 2008; Bond, 2007; Cheyne, 2015; Woodward, 2016). New Zealand's consultation environment is particular too, in that local government engagement with Māori, including with iwi organisations such as rūnanga, with mātāwaka (Māori living outside the rohe of their iwi affiliations)

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Jenny Ombler is a researcher with the Resilient Urban Futures programme, funded by the Ministry of Business, Innovation and Employment, and the Health Research Council-funded He Kainga Oranga/Housing and Health Research Programme, at the University of Otago, Wellington. Marie Russell is a researcher and Graciela Rivera-Muñoz a PhD candidate with the Resilient Urban Futures programme.

and via central government, is integral to decision-making processes (Ryks, Pearson and Waa, 2016). We begin by sketching some theoretical underpinnings of consultation, and the legislative requirements for consultation in New Zealand. We then consider two examples – Loomio in Wellington and Share an Idea in Christchurch – before signalling some areas in which public consultation could be improved and local government can increase its democratic efficacy.

### Participation, democracy and consultation

Public consultation is premised on the democratic integrity of a political system and on varied assumptions and ideologies about democratic governance. Representative liberal theory proposes that most decisions should be made by accountable elected representatives with expertise (Ferree et al., 2002). More ‘participatory’ approaches hold that an enriched democratic form of government facilitates an active and engaged citizenship, and are suspicious of claims to expertise over and above the knowledge of those affected (Ferree et al., 2002). More ‘emancipatory’ approaches propose that the accumulation of power and expertise within a governing elite promotes the continued disempowerment of certain social groups. Improving participation is part of an effort to empower those who are not otherwise enabled. (Arnstein, 1969; Ferree et al., 2002; Palacios, 2015).

A key reference in this debate is Arnstein’s ‘A ladder of citizen participation’ (Arnstein, 1969), still widely discussed by more contemporary theorists (Cheyne, 2015; Connor, 1988; Flinders and Dommett, 2013; Renn, Weblar and Wiedemann, 1995). This ‘ladder’ consists of eight steps, ranging from ‘manipulation’ to ‘citizen control’. Arnstein was adamant that many forms of practised ‘participation’ are tokenistic at best, and oppressive at worst. Her typology describes the ‘levels of discrimination’ particular citizens are subject to throughout consultative processes and measures, and the roles that power, racism and sexism play. According to this framework, people of lower socio-economic status are more likely to be subject to ‘sham’ consultation, and are

less likely to be listened to or taken into account in policy making. Further, any gains in power must be wrested by the populace, as, in her view, the powerful will not willingly relinquish power.

More recent international literature on the nature of ‘public engagement’ distinguishes between forms of participation. For example, Nabatchi and Amsler distinguish between approaches to public consultation depending on ‘who’ is engaged and ‘how’ the process is done (Nabatchi and Amsler, 2014). The ‘who’ may refer to the ‘public’, ‘citizens’, ‘residents’, ‘communities’ or ‘stakeholders’, each of these pertaining to a particular yet difficult-to-define grouping. This may refer to the target of consultation, and/or to the organiser (for example, a gathering

a ‘five-point spectrum’ of public participation: inform; consult; involve; collaborate; and empower (International Association for Public Participation, 2014). ‘Inform’ corresponds only to the provision of ‘balanced’ and ‘objective’ information, whereas ‘empower’ places the process into public hands, the primary role of the governing body being reduced to implementation (of both the process and the decision). In summary, whereas Nabatchi and Amsler differentiate by target and process, IAP2’s distinctions align more with Arnstein’s in that they both convey a shift in power relations.

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of ideas might be initiated by a political interest or professional group: see Howden-Chapman et al., 2011). The ‘how’ denotes differing levels of engagement, with ‘consultation’ and ‘involvement’ being at the lesser end of the spectrum and ‘collaboration’ and ‘participation’ as degrees of co-production that range from the submission of ideas to decentralised, population-wide direct decision-making processes. A decentralised process relinquishes control over policy entirely to a public process. A participatory budgeting process, for example, as used in parts of Tuscany and Latin America, is a process where citizens decide directly on parts of public expenditure (Bassoli, 2012; Lewanski, 2013; McNulty, 2013). For others (e.g. Flinders and Dommett, 2013), ‘participatory’ refers to processes that increase voice, while ‘deliberative’ processes refer to more decentralised decision making.

Another model is offered by the International Association for Public Participation (IAP2), who have proposed

Yet there are still many issues around engagement with Māori (Controller and Auditor General, 2012, pp.49-55; Drage, McNeill and Cheyne, 2011; Meredith, 2000; Sharp, 2003), and engagement is too often limited to cultural aspects, when Māori have significant economic and other interests (Early et al, 2015). There is also little formal attention paid to engagement with other sections of society: for example, those living in greater social deprivation (who are often more resource- and time-poor) and population groups like the young and old, women and the gender-diverse, as well as landed immigrants and refugees (see Bloomberg, 2012; ChangeMakers Refugee Forum, 2008). A closer consideration of the idea of ‘partnership’ (Arnstein, 1969) would seek to ensure that people within these communities are not only invited to participate, but are also adequately resourced in order to do so meaningfully.

At the same time, greater distribution of decision-making power must not undermine processes of engagement

with Māori. New Zealand's democratic expression is different from the assumptions of the models discussed here, which assume a power dynamic between the citizenry on the one hand and decision makers on the other. Arnstein's typology and IAP2's model both derive from this assumption, and attempt to shift the power balance towards those who would otherwise be powerless. When considered in light of the findings of the Waitangi Tribunal's *Te Paparahi o te Raki Inquiry*, principally that Māori did not cede sovereignty to the British Crown in 1840 (Waitangi Tribunal, 2014), a

the principles of consultation in section 82:

- people affected by a local authority decision should be given 'reasonable access to relevant information' (s82(1)(a)) and be 'encouraged to present their views' (s82(1)(b));
- such people should be clearly informed about the 'purpose of the consultation and the scope of the decisions' to be made (s82(1)(c)) and have a 'reasonable opportunity' to present their views (s82(1)(d));
- the local authority should receive such views with 'an open mind' and

Ultimately, under this legal framework the level of influence that consultative processes have depends on how elected representatives listen, structure governance ... and form policy.

simple shift (i.e. from local government to residents) does not adequately meet expectations for engagement. In particular, a blanket shift of decision-making power that treats Māori as simply another interest group rather than holders of sovereign *kāwanatanga* (governance), *tino rangatiratanga* (control and self-determination) and *ritetanga* (equity) will not fulfil the principles of partnership, participation and active protection (Health Promotion Forum of New Zealand – Runanga Whakapiki Ake i te Hauora o Aotearoa, 2002). International models of greater participation, if adopted, will need adaptation to better fit New Zealand's specific bicultural context.

#### Consultation requirements and practice

In New Zealand, public consultation by local authorities – regional, city and district councils and the unitary authority of Auckland – is prescribed in the Local Government Act 2002. In addition to a requirement to provide 'opportunities for Māori to contribute to the decision-making processes' (s81) and the 'special consultative procedure' (s83), the act lists

give them 'due consideration' (s82(1)(e));

- people who express their views 'should have access to a clear record' and explanatory material about relevant decisions (s82(1)(f)).

Observance of these principles is at the discretion of the local authority, subject to various conditions, and open to challenge in the courts (Knight, 2010), but the underlying requirement is that 'a local authority must, in the course of its decision-making process in relation to a matter, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter' (s78). Nevertheless, according to Cheyne, changes in the legislative requirements and local government over recent decades imply more concern for councils' flexibility than for citizen engagement (Cheyne, 2015).

Written submissions to councils come from 'a relatively narrow section of the community (generally well-educated, New Zealand European, and over the age of 45)' (Local Government Commission, 2008, pp.69-71) and predominantly male (Bloomberg, 2012). A 2008 Local

Government Commission review found that while 30% of submitters felt that the public consultation process was either 'excellent' or 'very good', 38% found it 'fair' or 'poor', but these views were 'coloured by the outcome of the process' of the matters being consulted on (Local Government Commission, 2008, pp.69-71). The review presented six key findings: consultation requirements were 'often not properly understood' by councils; councils needed processes to identify how far 'community views' were already known; there was a risk of 'over-consultation' and 'low response rates'; good practice guidelines were needed on 'effective consultation and engagement mechanisms'; while among items requiring special attention were the effectiveness of councils' practices and engagement with Māori (Local Government Commission, 2008, pp.69-71, 4).

Ultimately, under this legal framework the level of influence that consultative processes have depends on how elected representatives listen, structure governance (Asquith, 2012) and form policy. Elected representatives must reconcile diverse submissions, expert advice, special interests and budget considerations. This part of the process is often less transparent and accountable, and may result in a policy that does not reflect the initial public process. As Local Government New Zealand has pointed out, consultation is part of a process of best judgement, by which representatives must make the best decision in light of all available information and with cognisance of the effect on future generations (Local Government New Zealand, 2012). As the majority opinion of submissions may not be reflected in final decisions, respondents in a consultative process may feel disheartened and 'unheard'. This, in turn, feeds a culture of apathy and diminishes popular 'buy-in' of outcomes. For elected representatives, the demand to satisfy often diverse public opinion, combined with other less visible factors, leads to a conundrum of balancing best practice, interests and accountability.

#### Case studies

New approaches using digital engagement or innovative online platforms have been

used by local government along with 'visioning' tools in an effort to reach more people and facilitate more constructive discussions. These platforms support a dynamic and user-friendly process for both the participating public and officials organising the information for council use. While these platforms are promising, their use does not guarantee an outcome that reflects the public's input. Below we present two examples: Wellington City Council's alcohol management strategy and Christchurch City Council's Share an Idea.

#### **Loomio and Wellington City Council's alcohol management strategy online discussion**

When Wellington City Council consulted on its proposed alcohol management strategy in 2013 it used traditional consultation practices (written and oral submissions), and, as an innovation, engaged Loomio, a Wellington-based initiative, to run a Wellington online collaboration. Loomio is an online tool which facilitates bringing 'people together to talk things through, share ideas, address any concerns and determine a clear course of action that works for everyone' (Siegfried, 2014). It emerged from a group of social activists involved in the Occupy movement in Wellington in 2011–12 and uses some of Occupy's discussion and decision-making approaches (Rushkoff, 2014; Siegfried, 2014).

The council proposed a broad strategy and invited residents to attend community workshops, to join an online discussion forum or to write a submission. Over 250 submissions were received, and 150 people participated in the Loomio online discussion. The process itself was well received, with a diverse range of participants working collaboratively to discuss issues and offer ideas and solutions. Council staff were 'delighted with the depth of many of the discussions', said council officer Jaime Dyhrberg (Loomio, n.d.). A participant commented:

The value of Loomio has been in providing a neutral space for productive dialogue, without needing to go to a public meeting. You've got really diverse viewpoints coming

together, which could be quite challenging in an in-person setting. Online, everyone can speak at the same time but it's still easy for every voice to be heard. (Loomio, 2013)

However, after the council released its final strategy, criticism emerged that the consultation process had been merely for show rather than substance, that areas of clear consensus were ignored and that the outcomes were predetermined (Strathmore Park, 2013). This perception may be the 'sour grapes' of those whose ideas were excluded from the strategy, but it also suggests that the transparency inherent in the Loomio online engagement process was not maintained

often overwhelmed at public meetings by vociferous 'frequent flyers'.

#### **Share an Idea**

Following the February 2011 earthquake, Christchurch City Council introduced Share an Idea, a community engagement programme utilising online tools (alongside other, more traditional methods) developed by a New Zealand company, NV Interactive. Share an Idea gathered some 106,000 community-driven ideas, and around 21% of Christchurch residents participated (Carlton, 2013; Christchurch City Council, 2011). The ideas were compiled by the council, and formed the basis for the initial draft central city plan (2011).

The ideas gleaned from Share an Idea then entered a decision-making process that lacked the transparency of the initial process, particularly due to the overarching powers of the Christchurch Earthquake Recovery Act 2011 ...

through to the final decision making by councillors.

The retrospective comments of one of the facilitators, Loomio co-founder Ben Knight, are of interest. Knight was struck by the behaviour of participants in the council Loomio group compared to people at public meetings. In the Loomio discussion there was no competition for limited 'air time' for participants to convey their views because Loomio 'opens up space where all views can be considered and everyone can still be heard'. The public meetings were difficult because of the polarised views of anti-alcohol campaigners on one side, and liquor-store owners on the other: 'everyone else just got squeezed out' and attendances were low. Knight noticed that extreme views became more moderate and 'reasonable' during the online discussion (Knight, 2015), making the approach more attractive to residents, councillors and staff, who are

Overall, the Share an Idea process was seen as a great success, not only in terms of the participation rate, but also as a visionary way for the residents of Christchurch to feel hopeful in the immediate aftermath of one of the country's most devastating natural disasters:

That particular engagement campaign, was one of the few examples in the last few years in Christchurch where we've actually reached out to our community and actually asked for their views ahead of doing planning. ... It was framed in a very enabling way so that people could engage directly with that conversation and other conversations [that] were happening. It was actually all played out on the internet, so the use of IT communications was very, very important. Having Facebook, having posts, blogs ... People's comments were blogged and posted.

Having moving clips of people saying things [and] all that stuff, putting it out there. 'This is what you're seeing and this is what you're telling us.' It engaged the community in the conversation. We haven't done that since. (Rivera-Muñoz, 2016)

The ideas gleaned from Share an Idea then entered a decision-making process that lacked the transparency of the initial process, particularly due to the overarching powers of the Christchurch Earthquake Recovery Act 2011 (without which many of the ideas would have been very difficult to implement, according to some: see Sheppard, 2014). The outcome document, the Christchurch City Blueprint (2012), compiled by the Christchurch Earthquake Recovery

that's sort of like what I suggested'. (Sutton, 2014, p.55)

Others too supported the process and the outcome document. Architect David Sheppard wrote: 'Since its publication in July 2012, there has been a lot of support for the Blueprint and the ideas contained in it. This support has come from many in the business community as well as from the residents of Christchurch' (Sheppard, 2014, p.62). Yet there was a discord between this notion and a thread of discontent that 'the ideas generated by community participation in Share an Idea had been sidelined in the progression away from community ownership towards national government ownership' (Carlton, 2013, p.10; Press, 2012). Some argued that the process by

Nesta, who insist that 'impact' of the consultative process must be broader, and include more difficult measures, than the rate of participation (Simon and Bass, 2016).

Moreover, while most appear to believe that Share an Idea was successful, there has been little independent analysis of how the community has perceived the outcomes and ongoing process, and to what extent the initial process was able to shape the eventual *Blueprint*. It may be that the outcomes will not be able to be properly understood for some years, although interim analysis is important. A 2013 analysis of a participatory democracy process in Sheffield, England, found that rhetoric surrounding the consultative process consistently over-promised on how much citizens could influence policy and that exuberance about the potential for new systems and processes, promoted by local government officials and politicians, raised public expectations above what was realistic in the policy and decision-making context (Flinders and Dommett, 2013). While the rhetoric of hopefulness that surrounded Share an Idea was important in terms of kick-starting the recovery that was beginning to take shape, particularly psychologically, it may be that the enthusiasm of the process set up expectations beyond what was possible in this particular legislative context.

#### Evaluation and measurement

Evaluation has often been absent in online consultations. Finding common standards for evaluation of digital democracy initiatives, such as defining what the 'impact' is, can be challenging, and in most cases the number of participants and contributions is used as the only measure or indicator (Simon and Bass, 2016). But even around 'metrics', an 'honest discussion' may prove difficult:

[Practitioners] want to encourage the piloting and adoption of these types of projects within an already resistant political or legal system; therefore, frank discussion around failures seems less enticing. However, learning about what doesn't work

## To enable effective evaluation, a consensus must first be reached as to the nature, scope ... and purpose of consultation.

Authority's Christchurch Central Development Unit, was perceived by some Share an Idea participants to reflect a top-down approach from central government, rather than a faithful expression of the participatory and highly democratic process itself (Carlton, 2013; Hayward, 2016).

The then chief executive of the Christchurch Earthquake Recovery Authority, Roger Sutton, described the *Blueprint* as directly reflecting the Share an Idea consultation process:

The creation of the new inner city, its smaller, greener and more accessible space, can be directly linked to the ideas and concepts put forward by the community. This may not have been a consultation process in itself, but the 106,000 individual ideas were on tap and available. I believe there will be many a resident across the city who can now look at the *Blueprint* for the city and say 'hey,

which Share an Idea was turned into the *Blueprint* was a 'step-by-step process of removing control and ownership from Christchurch's communities' (Carlton, 2013, p.10). Similarly, Sheppard noted that a criticism could be levelled at those implementing the plan that ongoing consultation was not as good as it should or could be (Sheppard, 2014, p.66).

Across this range of viewpoints is a degree of consensus that the initial Share an Idea process was extremely successful, and an international exemplar of 'co-creation' (Christchurch City Council, 2011; Mathewson, 2013). However, the measure of success appears to be largely based on the volume of input, and the initial buy-in from the community, with the number of ideas (106,000) being cited as proof of success. Yet, as Arnstein would insist, the success of a programme depends not only on levels of participation in the process but also on outcomes. This sentiment is echoed by the UK innovation network



and why can promote successes and best practices going forward, so the conversation is a critical one to have. (govlab, 2014)

The type of qualitative reflection by Knight on the tone of the debate that emerged in the Wellington City Council Loomio collaboration is important to record, along with counts of people engaged and numbers of interactions. But beyond metrics and participant perceptions,

Other, more difficult questions need to be asked, such as: did the process improve the quality or legitimacy of decision-making? Did it help to improve the quality of debate and inform citizens about important political issues? Did it succeed in improving public trust? (Simon and Bass, 2016)

Advice on systematic evaluation of online consultations is emerging: for example, in *Evaluating Digital Citizen Engagement* (International Bank for Reconstruction and Development/World Bank, 2016). Equally, though, the more traditional consultation approaches have been little evaluated, at least in ways that are publicly visible. This is partly because evaluating outcomes is hard, as 'the quality of the output of any participation

exercise is difficult to determine' (Rowe and Frewer, 2000), leading to reliance on process evaluation. Further advice is that planning the evaluation or, less formally, the review of a consultation in advance is important, and should include at least a 'basic description of what took place' (Involve, 2005, p.48). Generally, 'formal evaluation is emerging as an integral part of good public participation management' (ibid.). One advantage of undertaking an evaluation is that 'a robust review process can be an effective form of risk management' for local councils (ibid., p.49).

### Conclusion

Despite efforts to improve public consultation in New Zealand, and promising examples of increased engagement, there is more that can be done to improve the quality and the outcomes of consultative processes. To enable effective evaluation, a consensus must first be reached as to the nature, scope (Cheyne, 2015) and purpose of consultation. Many participatory and deliberative democracy theorists would urge greater decentralisation of decision making, leading to greater empowerment, in a manner that particularly seeks to include those whose voices would otherwise remain unheard. Importantly, engagement with diverse Māori groups, including but not limited to iwi

organisations, is something that New Zealand is still grappling with, and must pay close attention to in the context of improving public consultation generally.

The examples of Loomio and Share an Idea show that there is significant potential for improving public consultation in New Zealand through the use of innovative methods and means of engagement. However, to meet the expectations that increased engagement might engender, more thorough attention must be paid to the process throughout, including management of expectations, increasing transparency, and multiple points of engagement at every step, from conceptualisation to the final outcome. Further, more robust and far-reaching evaluation must be supported and implemented, at all stages of the consultative process, in order to better understand the processes, impacts and outcomes of consultation, and to better construct and refine the ultimate aim of a consultative process – to enhance the democratic character of our political system.

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**Professor Claudia Scott** is Professor of Public Policy at VUW and has taught at Auckland University, the Australia and New Zealand School of Government and Victoria University. She has teaching and research interests in policy analysis and advising, strategic management, local government policy and planning and regulatory policy. She has delivered policy courses for academic credit and professional development in New Zealand and Australia



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Email: [Mike.Reid@lgnz.co.nz](mailto:Mike.Reid@lgnz.co.nz)



**Dr Amanda Wolf** is a Senior Lecturer in public policy. Amanda leads in public policy and research design and methodology at Victoria and ANZSOG. She researches and publishes on the ways that innovative uses of social science inform the selection and application of policy methods and the role of information and evidence in enhancing policy knowledge and practices.

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Chris Berry

# The Poll Provisions and Local Government Reform in Western Australia

## Preface

Local government reform is on the agenda of many countries, particularly those with local government systems based on the Anglo-Saxon approach. In many of these jurisdictions, from Wales to the Republic of Ireland, to most of the Australian states and New Zealand, the dominant reform narrative is structural change, and the challenge faced in most of these jurisdictions is how to marry the apparent national interest in creating bigger councils with the desire of citizens to have a say about how their towns and districts are governed; it is a debate that inevitably finds governments' technical experts at odds with local citizens. The resulting challenge has led to a range of new approaches to structural reform, optimistically designed to meet the needs of both.

One of the most hotly contested issues is the role of local referenda. For much of the last 150 years a fundamental tenet of local government law in New Zealand has been the right of residents to decide the future of their locality through a binding referendum. Indeed, for the second half of the 20th century this was a defining difference between Labour and National governments, with Labour governments looking to weaken the referenda requirements in order to promote consolidation and National governments focused on retaining them. Today the roles are reversed, but the issue is as topical as ever, with the local government sector recently asking for binding referenda to be reinstated.

Given the issue's currency, this article from Chris Berry provides an insight into how the right to hold referenda has had an impact on local government reform in Western Australia – lessons that should be helpful given the content of the Local Government Act 2002 Amendment Bill which is currently with

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Since completing a Doctor of Philosophy on local government boundaries, Chris Berry has spent nearly 30 years working in the Western Australian local government sector, and now consults to local governments in Western Australia.

the Local Government and Environment Committee.

*Mike Reid and Michael Macaulay,  
Guest Editors*

## Introduction

The local government system in Western Australia has two unique characteristics. It is the only state in Australia where there has not been significant reform of the sector. In addition, it is the only state where legislation contains binding provisions for a poll of electors on local government amalgamations. It would be reasonable to conclude that these two characteristics are linked.

Referenda – the holding of a direct vote on a specific issue – are in common use around the world at every level of government, with the June 2016 Brexit poll being a well-known example. A distinction might be made between mandatory referenda, such as those provided for under certain circumstances in Western Australia's Local Government Act 1995, with conditions to be met for a binding result, and optional referenda, initiated by local government, which are non-binding and indicative, possibly assisting local government decision making. Further, reference might be made to the 'popular referendum', where the means is provided for a petition signed by a certain minimum number of registered voters to force a public vote, a form of direct democracy (Wikipedia, 2016; ACE, 2016).

Although Western Australia is the only state in Australia with legislation provisions governing a binding elector's poll on local government amalgamations, there are poll provisions in place in New Zealand (Local Government Act 2002, schedule 3) and in some parts of Canada (such as in British Columbia: Local Government Act 1996, s8). This article looks at the history and effect of the poll provisions in Western Australia, and considers the question as to whether the poll provisions have impeded structural reform of the local government sector in the state.

## Background

The current poll provisions of the Western Australia Local Government Act

1995 can be triggered by a petition signed by at least 250 individual electors or 10% of total electors (whichever is the lesser) of a district affected by an amalgamation proposal.<sup>1</sup> The results are binding, and the proposed amalgamation is defeated if a poll is held and at least 50% of the electors of one of the districts vote in the poll and a majority of those voting oppose the amalgamation.

The 1995 act provisions replaced and amended provisions that were first introduced through the Local Government Act Amendment Act (No. 4) 1975. Under the 1975 amendments, provision was made for the presentation

who vote thereat is not less than one-third of the number entitled to vote thereat and a majority of the valid votes recorded at the poll are against the proposal, the Minister shall not present the petition containing it to the Governor.

The timing – 1975 – of this amendment to the Local Government Act 1960 is significant, as it followed on from several major boundary inquiries, including a royal commission on metropolitan boundaries which reported in 1975. These reports recommended that the number of metropolitan local

The current poll provisions of the Western Australia Local Government Act 1995 can be triggered by a petition signed by at least 250 individual electors or 10% of total electors (whichever is the lesser) of a district affected by an amalgamation proposal.

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of a petition where the adjustment of municipal boundaries, the abolition of a municipal district or the union of two or more adjoining municipalities was proposed. Unless councils had jointly signed the petition, it was mandatory for ratepayers of each affected district to be given the opportunity to demand a referendum on the proposals, and only one third of the electorate were required to turn out to vote to create a binding outcome (Department of Local Government, 1976, p.21). Specifically, section 30A of Local Government Act 1960–1975 provided that:

4) at least fifty per centum of the number of electors of a municipality which will be directly affected ... or fifty of them, whichever is the lesser number, can demand that the proposal be put to a poll. ...

(6) (e) if at the poll in any municipality the number of electors

governments be reduced from 28 (in 1968) to 17, 18 or 22 respectively. The proposed implementation of the royal commission recommendations by the then government was a direct threat to the future of the smaller local governments in the metropolitan area, including the inner urban City of Subiaco (1976 population: 16,100). While the city would continue as a local government entity under the royal commission recommendations, a significant portion (known locally as the Crawley Corridor) was proposed to be ceded to the neighbouring City of Nedlands.

A subsequent amendment to the 1960 act (section 30A) became known as the 'Dadour amendment'.<sup>2</sup> The MP for Subiaco, Tom Dadour, who was also a sitting Subiaco councillor, had previously called for an amendment to the Local Government Act in a speech to Parliament in 1973, arguing that boundary changes should only be made after a poll of

residents. Dadour continued to lobby vigorously on this proposal, including to the new premier after the 1974 state election, his efforts culminating in what became known as the Dadour Bill being presented to Parliament in early 1975. It provided for 50 or more ratepayers to demand a poll on a boundary change, and required one third of eligible voters to vote, with a simple majority voting 'no' to defeat the proposal (Spillman, 1985, p.332). The proposed amendment was opposed by the Labor opposition of the time. The provisions were seen as diminishing ministerial responsibility, 'tak[ing] away from the Minister the right that all Ministers for Local Government have had up to the present. It seeks to take away that power for no good reason, and it does appear to take some of the control from the Government in exercising responsibilities

Town and Shire of Albany had been mooted for some time. A community group known as the Albany One Movement submitted a petition for their amalgamation to the Local Government Boundaries Commission in 1989. The commission subsequently recommended the creation of a local government based on the urban areas of the town and shire. A poll involving both town and shire electors defeated the proposal (Department of Local Government, 1987).<sup>3</sup>

The only amalgamation to occur after the Dadour amendment (and prior to the 1995 version of the legislation) was the creation of the City of Kalgoorlie–Boulder in 1989. As both the Town of Kalgoorlie and Shire of Boulder agreed to the merger by council resolution on the same date (14 November 1988) and a jointly signed petition was forwarded

provisions were altered, the spirit of the Dadour provisions was retained, but the key numbers were changed (50% of voters for a binding result rather than one third) to make the process 'more democratic'. Another important change saw the poll provision removed for boundary changes and retained only for amalgamations. This change would have major ramifications when metropolitan boundary changes were being progressed in 2015.

If, on completing an inquiry, the Local Government Advisory Board recommends to the minister that an amalgamation proposal should proceed, the poll provisions come into play. Before the minister can consider any such recommendation, the board must inform affected electors of their right to hold a poll on the proposal. A valid request for a poll must be signed by at least 250 individual electors or 10% of total electors (whichever is the lesser) of a district. If a poll is held and at least 50% of the electors of one of the districts vote in the poll and a majority of those voting oppose the amalgamation, the minister must reject the board's recommendation of amalgamation. Under clause 9 of schedule 2.1 of the act, the board is to determine the question to be answered by electors and to prepare a summary case for each way of answering the question.

The government amended the legislation in 1998 'to make it clear that where a poll is requested in relation to a proposed amalgamation of two or more local governments the poll applies only to the local government which has received the request' (Legislative Assembly of Western Australia, 1998, p.2456), effectively changing the application of the poll from 'the districts' to 'that district', even though only one of the districts would have to return a 'no' vote to stop the proposal.

These polls, like many elections, often turn into battles of vested interests, with claims and counter claims often based on emotive arguments rather than hard facts. In most circumstances a referendum must have a 50% 'yes' vote to carry the proposition, but in the case of these local government amalgamation polls the obverse is true and a 50%

## The evidence shows that most electors, or at least those electors who care enough to turn out to vote on such occasions, do not support amalgamations.

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of government' (Legislative Assembly of Western Australia, 1975, p.1249).

When the City of Nedlands followed up the royal commission recommendation with a petition for boundary change in October 1975, hundreds of Subiaco ratepayers supported the demand for a poll via counter petition. Following an extensive city campaign leading up to the March 1976 referendum, nearly 60% of Subiaco electors turned out to vote, with 94.4% voting 'no' to the proposed boundary change. The poll provisions had had their first success in blocking a local government boundary change.

After the Subiaco referendum the poll provisions were used in a number of other areas, and each time the proposed boundary change was stopped. For example, the amalgamation of the 'doughnut' local governments of the

to the governor (Department of Local Government, 1992, p.3), no poll was required.

### A new Local Government Act

After a comprehensive review and consultation process, the new Local Government Act 1995 came into effect on 1 July 1996 (Department of Local Government, 1996, p.8). A new process for local government boundary change was established, with a Local Government Advisory Board replacing the former Local Government Boundaries Commission. Any proposal for boundary change or amalgamation, which could come from the minister, the community or from a local government, must be referred to the board for review. Schedule 2.1 of the act sets out the inquiry process and relevant criteria. While the specifics of the poll

turnout and a 50% 'no' vote is required to stop a proposal. The default position is that the amalgamation will proceed. The parties that oppose a particular amalgamation therefore have to work across the community to ensure they muster enough support to generate the sufficient numbers to defeat the proposal. Perversely, where such polls attract a large number (but not necessarily a majority) of 'yes' voters, such voters increase the likelihood of a binding poll result by their participation. Some of the stakeholders who better understood the provisions have realised that it is better for those in favour of a proposal to not vote to reduce the possibility of a binding poll result.

#### Polls under the Local Government Act 1995

The poll provisions of the Local Government Act 1995 have been well tested, with 17 polls conducted between 1998 and 2015 (Tables 1–4). These polls have been categorised into three reform eras: the period prior to the 2009 state-wide reform process commencing, the period of state-wide reform (2009–13) and the period of metropolitan reform (2013–15).

The evidence shows that most electors, or at least those electors who care enough to turn out to vote on such occasions, do not support amalgamations. Most amalgamation referenda have been defeated, although seven proposals did not attract sufficient turnout to yield a binding result (although the majority of those participating voted 'no'). The likelihood of a binding 'no' vote is greater in the less populous councils. This particularly characterised the polls held prior to the metropolitan reform phase: where the boundary changes were defeated (seven councils), the average electors roll was 1,768; where the boundary changes proceeded (five councils) the average electors roll was 8,517. Paradoxically, it might be argued that it is in the smaller local governments, where amalgamation is most required, that amalgamation is more likely to be defeated by a poll, given the lower numbers required to enforce a binding outcome. The more recent metropolitan amalgamation polls of 2015 (Table 4) were undertaken in a different reform context.

**Table 1. Amalgamation Poll results, Western Australia 1995-2015**

Phase	No. of polls	No. valid polls	No. where the amalgamations defeated	No. where the amalgamations proceeded
1. Pre 2009 Reform initiative	7	4	4	3
2. State-wide Reform period 2009 -2013	5	3	3	2
3. Metropolitan Reform period 2013 -2015	5	3	3	0*
<b>TOTAL</b>	<b>17</b>	<b>10</b>	<b>10</b>	<b>5</b>

\*While two polls were not valid, the amalgamation was defeated by valid polls in the other amalgamating local government.

#### Phase 1: Pre the 2009 reform initiative

The first test for the 1995 act poll provisions was in the Shire of Albany in 1998 (1997 population 13,165), where the poll on the proposed amalgamation with the Town of Albany failed to attract the necessary 50% voter turnout and the amalgamation into the City of Albany proceeded.

The amalgamation of the urban centre of Geraldton and the 'doughnut' Shire of Greenough in the Mid West region of Western Australia was much more controversial. The Greenough poll, a postal ballot overseen by the Western Australia Electoral Commission, was characterised by an extensive media campaign conducted by the City of Geraldton which included local television advertising and newspaper advertisements. The extraordinary part of the campaign was the unprecedented negative message promoted by the city, based around discouraging Greenough electors from voting to ensure a non-binding poll result. It included full-page local press advertisements with banner headlines such as: 'Plea for unity – don't vote'; 'Let's Grow Together, Let's Grow Today. Greenough ballot, throw it away'; and 'Stronger if we unite. Support unification and put the ballot in the bin'.<sup>4</sup> This campaign was extensively criticised by the local press, and by local electors on both sides of the boundary. As has been noted, an amalgamation poll referendum must have a 50% turnout and a 50% 'no' vote to stop a proposal. The outcome of the Greenough poll was convincing on both counts, with nearly 5,000 of the 7,763 ballots returned (74%), and 90% of those cast against the merger.

With this conclusive poll outcome, the City of Geraldton and Shire of Greenough continued as separate entities through 1999. The chief executive officer of the City of Geraldton observed that 'the current situation is so unsustainable unification will occur at some time in the future through boundary changes or an amalgamation agreement between the shire and the city'. But he would not be around to see it, as his contract was terminated in April 2000 after just 16 months' tenure.<sup>5</sup> The mayor did not run at the next council election in October 2001.

It is perhaps not surprising that amalgamation eventually occurred in 2006. Once again there was a petition for a poll of Greenough residents, but without the acrimonious campaign of 1999 fewer than 50% of the Greenough electors voted, so the poll result was not binding.

In retrospect, the amalgamation of the City of Geraldton and Shire of Greenough could be judged to be a significant success. Community benefits and outcomes included new leadership with a new organisational structure which created capacity to expand the provision of services and improve delivery and standards of existing ones. The new structure incorporated key functions that were lacking in the old entities and applied additional resources to areas that had previously been under-resourced, including tourism and marketing, economic development, environmental sustainability and engagement with community groups (Department of Local Government, 2010). The new entity has

won significant awards, and as further testimony to that success the adjoining Shire of Mullewa (population 1,000) amalgamated with the City of Geraldton–Greenough in 2011 to form the City of Greater Geraldton (Office of the Minister for Local Government, 2011).

Held on the same day in 1999, a poll of electors of the Shire of Northam had a very similar outcome, with nearly 1,700 of a potential 2,300 ballots cast (74%), with 95% against the merger. The poll was conducted by the Shire of Northam, which at the same time was campaigning against amalgamation. This caused concern, as people were uncomfortable

### *Phase 3: Metropolitan reform 2013–15*

On 30 July 2013, following on from the recommendations of the Metropolitan Local Government Review Panel, the state government announced plans to reduce the number of metropolitan local governments from 30 to 14, as well as to amend the act so that the poll provisions could not be used in metropolitan Perth (Department of Local Government and Communities, 2016). While the local government sector was expecting the government to announce plans for major metropolitan reform, the removal of the long-standing poll provisions was a surprise. The Local Government

subsumed by a continuing entity though a boundary adjustment, thus not triggering the poll provisions. Some of the proposals received by the board used this approach, and some of the recommendations of the board were also based on this approach, concerned as it was with recommending on the best boundaries rather than on the mechanism of their achievement. This difference in implementation was seen as an inequity, with the opposition spokesperson moving in Parliament:

That this house – (a) condemns the Premier and the Minister for Local Government for allowing, through its forced amalgamation process, some communities in the metropolitan area an opportunity to have a poll under the Dadour provisions in the Local Government Act 1995 about their local council's future, while others have not been given that democratic right; and (b) further, supports all affected communities having a right to a poll on their council's future. (Legislative Assembly of Western Australia, 2014, p.8879)

## The poll provisions of the Western Australia Local Government Act 1995 can and do stop amalgamations, and have done so as recently as 2015.

with the primary opponents having a direct role in ensuring that the poll was conducted in a fair and open manner. This situation led to further legislative change relating to the running of polls on amalgamation: the Local Government Act was amended in 2004 to provide for the Western Australia Electoral Commission to be responsible for the conduct of such polls (clause 9(2)). All amalgamation polls since 2004 have been conducted by the Western Australian Electoral Commission.

### *Phase 2: State-wide reform 2009–13*

In February 2009 a state government agenda for voluntary local government reform was initiated. Funding was offered to local governments to form regional transition groups (RTGs), which were to undertake cost–benefit analyses of the benefits to the community (Berry, 2012). After the business planning process was completed by a number of groups, amalgamation proposals were subsequently defeated in polls in Perenjori, Westonia and Cuballing (Table 3). Amalgamation of the Shire of Mullewa and the City of Geraldton–Greenough took effect on 1 July 2011.

Association president described the poll provisions as the 'safety net for the community' and announced that their arbitrary suspension would be opposed. An opposition MP moved a motion in Parliament to support the retention of the Dadour local poll provision in the Local Government Act in September 2013, leading to a long debate in the chamber about the origins, intentions and effects of the poll provisions (Legislative Assembly of Western Australia, 2013, pp.4365–94).

Despite the political debates, the local government reform process continued. The Local Government Advisory Board subsequently received 38 proposals for amalgamations and boundary changes to districts in metropolitan Perth in October 2013, with 12 proposals from the minister for local government, 25 from local governments and one from electors. After an extensive public consultation process the board submitted its report to the minister in September 2014, with recommendations for amalgamations and boundary adjustments that would reduce Perth's 30 councils to 16. The key point here is that as well as amalgamations, there are also provisions in the legislation which allow for local governments to be

Some councils had non-binding polls prior to the board concluding its recommendations, including in conjunction with their 2013 postal elections.

The minister subsequently accepted all but two of the report's key boundary recommendations.<sup>6</sup> On 24 December 2014 governor's orders to change the boundaries of nine local government districts and abolish six local governments were gazetted. Naturally this caused a public outcry, particularly since many communities would not have access to poll provisions to have their say. Three proposed amalgamations, involving six metropolitan councils, were subject to the poll provisions of the act. Petitions for polls were subsequently received for five of the affected local governments, Cockburn, Kwinana, East Fremantle, South Perth and Victoria Park. The Local Government Advisory Board had a role in preparing statements for the 'yes' and 'no' cases for the polls. There were significant community campaigns for the 'no' case, some of which were underpinned by



significant council resources and some of which were supported by government backbenchers. There was no comparable campaign waged by any party in support of the reforms.

On 7 February 2015 the proposed amalgamations were defeated through valid polls in three of the local governments (Kwinana, East Fremantle and South Perth) (Table 4). With the proposed reforms now in disarray,

the state government put its local government reform agenda on hold on 17 February 2015 and governor's orders for boundary adjustments not supported by the councils were revoked (Offices of the Premier and Minister for Local Government).

#### Review and future directions

The poll provisions of the Western Australia Local Government Act 1995

can and do stop amalgamations, and have done so as recently as 2015. But the outcome is never a certainty and depends on the context. In the smaller local governments, amalgamation proposals have often been defeated, and this is a direct reflection of the relatively small numbers required for a binding outcome. In other cases, mainly in the larger local governments, amalgamations have on occasion proceeded because of the much

**Table 2: POLLS ON AMALGAMATION PROPOSALS – Pre 2009 reform initiative**

Local Government Area Requesting Poll	Proposed Amalgamation Partner	Population Of Proposed New Entity	Date Of Poll	Voting Data For Local Government Area Requesting Poll						Outcome
				Number of Electors	Total Number Of Votes	Number of No Votes	Number of Yes Votes	Percentage of Electors Voting	Number of No Votes as a Percentage of the Total Number of Votes	
Northam Shire	Northam Town	10,100	28 April 2007	2,539	596	555	41	23% Invalid poll	93%	Amalgamation proceeded
Greenough Shire	Geraldton City	33,565	2 December 2006	8,931	2,564	2,045	519	29% Invalid poll	80%	Amalgamation proceeded
Narrogin Shire	Narrogin Town	5,436	26 February 2004	596	454	325	129	76% Valid poll	72%	Amalgamation defeated
Narrogin Shire	Narrogin Town	5,565	17 March 1999	619	551	502	49	89% Valid poll	91%	Amalgamation defeated
Greenough Shire	Geraldton City	31,763	20 February 1999	7,763	4,891	4,410	479	63% Valid poll	90%	Amalgamation defeated
Northam Shire	Northam Town	9,948	20 February 1999	2,270	1,680	1,591	89	74% Valid poll	95%	Amalgamation defeated
Albany Shire	Albany Town	28,668	28 February 1998	9,114	3,983	1,713	2,267	43.7% Invalid poll	57%	Amalgamation proceeded
Albany Shire	Annexation of the southern portions of the Shires of Jerramungup and Gnowangerup to the Shire of Albany	No data currently available	6 May 1989	No data currently available	No data currently available	No data currently available	No data currently available	Less than 33% Invalid poll	75%	Annexation defeated
Albany Shire			1987					56%	80%	

Table 3: POLLS ON AMALGAMATION PROPOSALS State-wide Reform 2009 -2013

Local Government Area Requesting Poll	Proposed Amalgamation Partner	Population Of Proposed New Entity	Date Of Poll	Voting Data For Local Government Area Requesting Poll						Outcome
				Number of electors	Total number of votes	Number of No votes	Number of Yes votes	Percentage of electors voting	Number of No votes as a percentage of the total number of votes	
Cuballing	Narrogin Shire Narrogin Town	6,138	13 April 2013	559	449	353	96	80% Valid poll	79%	Amalgamation defeated
Westonia	Yilgarn	2,015	14 April 2012	200	154	126	28	77% - Valid poll	82%	Amalgamation defeated
Geraldton-Greenough	Mullewa	38,773	16 April 2011	22,128	7,903	5721	2,158	36% Invalid poll	72%	Amalgamation proceeded
Mullewa	Geraldton-Greenough	38,773	16 April 2011	471	167	139	28	35% Invalid poll	83%	Amalgamation proceeded
Perenjori	Mingenew Morawa Three Springs	2,607	16 April 2011	368	296	273	20	80% Valid poll	92%	Amalgamation defeated

Table 4: POLLS ON AMALGAMATION PROPOSALS Phase 3: Metropolitan reform 2013-2015

Local Government Area Requesting Poll	Proposed Amalgamation Partner	Population Of Proposed New Entity	Date Of Poll	Voting Data For Local Government Area Requesting Poll						Outcome
				Number Of Electors	Total Number Of Votes	Number Of No Votes	Number Of Yes Votes	Percentage Of Electors Voting	Number Of No Votes As A Percentage Of The Total Number Of Votes	
East Fremantle	Fremantle		7 February 2015	5,178	2825	2145	680	54.7%	76%	Amalgamation defeated
Cockburn	Kwinana		7 February 2015	61,888	22,398	18,654	3744	36.3%	83%	Amalgamation defeated (by Kwinana result)
Kwinana	Cockburn		7 February 2015	18,209	9618	8462	1156	52.9%	88%	Amalgamation defeated
South Perth	Victoria Park		7 February 2015	26,789	13,598	10,572	3026	50.8%	78%	Amalgamation defeated
Victoria Park	South Perth		7 February 2015	20,136	7627	4697	2930	38.0%	62%	Amalgamation defeated (by South Perth result)

larger number of voters required to turn out. The metropolitan reform polls of 2015 showed, however, that it was possible to get binding 'no' votes in more populous local governments.

The Dadour poll provisions still exist within the state's Local Government Act,

albeit in their amended, 1995 form. In a final irony, the Crawley Corridor, that part of the City of Subiaco that Tom Dadour had sought to protect when introducing these poll provisions, was transferred to the City of Perth from 1 July 2016 through the City of Perth Act 2016, thus becoming

the one and only boundary change that the state government achieved after years of promoting metropolitan reform.

#### Postscript

Berry highlights the damage that can be done as a result of poorly thought-through

legislation. New Zealand councils are currently facing the fourth major change to their core legislation in the last eight years. The changes, which intend to restore binding referenda for consolidation of political or legal boundaries, exempt any consolidation of council services, and are as a result highly contentious.<sup>7</sup> At the time of writing efforts are underway to find a middle ground between the

government's desire to achieve economies of scale by joining services together and local governments' desires to ensure such decisions are made with the agreement of citizens.

*Mike Reid and Michael Macaulay,  
Guest Editors*

<sup>1</sup> Amalgamations may be proposed by the minister, local governments or affected electors, and are subject to an inquiry and recommendation to the minister by the Local

Government Advisory Board (Local Government Act 1995, schedule 2.1).

- <sup>2</sup> While many amendments to local government legislation can be attributed to particular individuals or councils, the Dadour provisions are perhaps the most famous in Western Australia.
- <sup>3</sup> Note that the Town and Shire of Albany amalgamated on 1 July 1998 to form the City of Albany.
- <sup>4</sup> Geraldton Guardian, 3 Feb. 1999, p.11; 1 Feb., p.9; 27 Jan., p.12; 1 Feb., p.11.
- <sup>5</sup> *Ibid.*, 22 Feb. 1999, p.1; 10 April 2000, p.1.
- <sup>6</sup> The City of Perth Act came into effect on 1 July 2016.
- <sup>7</sup> The proposal is for any polls to require a majority of residents in all affected councils to support a reorganisation. The traditional approach has been for separate polls to be held in each district and that a reorganisation will only occur where each district votes in support, not a majority of the total.

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## MeGov courses stimulate collaboration with the University of Indonesia

The School of Government received a week-long visit in November by Dr Roy Salomo and Zuliansyah Zulkarnain (Ichan) from the University of Indonesia to discuss collaboration, specifically about establishing a double Master's degree in e-Government between VUW and UI, Indonesia's leading university. This visit followed an earlier visit from UI in 2015. E-government is one of several capabilities that Indonesia is

promoting in its government reforms. Highly successful meetings were held with a range of staff, other VUW offices and external stakeholders, increasing understanding and agreement around a possible curriculum. VUW's Master's in e-Government started in 2013 and is an innovative degree of which there are only few in the world.

Peter McKinlay

# Community Governance

The theme of this article is current developments in community governance (see, for example, Rolfe, 2016), but it comes with a warning: this is an area where definitions are extremely difficult and it is easy to become distracted by semantics, rather than focused on the substance. Discussion is further complicated by the variety of practice, the many different approaches which can come under the umbrella of community governance, and the formal responsibilities of local government in different jurisdictions: local government in England and Wales has significant social service delivery responsibilities (albeit typically under fairly tight government requirements), but in both Australia and New Zealand local government's actual involvement in social service delivery is relatively minimal, although Australian local government does have a role in care both of older people and of children, especially in the provision of childcare centres.

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**Peter McKinlay** has worked for many years nationally and internationally as a researcher and advisor on the role and function of local government. He is executive director of McKinlay Douglas Ltd and a fellow of the Royal Society of Arts.

There are three principal elements to a community governance approach, only one of which is picked up in virtually all current New Zealand consultation and engagement practice. The three elements are:

- the council seeking feedback from its communities on council proposals;
- the community seeking dialogue with the council on initiatives which the community wishes to put in place (the opportunity to make submissions on a long-term plan or annual plan falls short of a community governance approach for a number of reasons, including time constraints and lack of opportunity for genuine dialogue);
- dialogue within a council's community or communities themselves in order to arrive at a representative view on what it is the community wishes to see take place – a contrast with the current situation, in which input from a community level is typically from individuals or groups with no specific mandate to speak on behalf of the community as a

whole (especially when it affects a geographic community rather than a community of interest).

A central point to consider is whether local government involvement in community governance should depend on the explicit statutory powers of local government and be confined to those services for which it has actual responsibility, or whether instead it is a function of being the only elected entity whose principal purpose is serving the communities which provide its electoral mandate. From an elected member perspective, the difference is between being elected as part of the governing body of a specific entity with a limited range of functions, and being elected as a community leader, one of whose roles is being a member of that governing body. In terms of accountability, it can be loosely seen as a choice between accountability to a statutory function which has remained little changed for decades (while the world around it has changed dramatically), or accountability to the community for providing leadership to deal with the complex issues communities face now and in the future.

This is a relatively recent distinction, the significance of which is still being worked through, with the majority of elected members and observers of local government almost certainly yet to fully understand the difference between the two roles and why the difference matters. One reason is that the community leadership role is emerging in a variety of different ways and almost invariably outside the conventional statutory planning, reporting and accountability requirements imposed on local government, in part because, at least in the early stages, a community leadership role may make only a minimal demand on council resources.

For New Zealand councils and their elected members, a useful starting point is the first leg of the purpose of local government as stated in section 10 of the Local Government Act 2002, which states that the purpose of local government is 'to enable democratic local decision-making and action by, and on behalf of, communities'. The wording is fascinating in its implications. First priority is

given to decision-making and action by communities. Treated in isolation, this purpose can be seen as virtually a charter for participatory democracy. In practice, the second leg of the purpose section, with its focus on meeting 'the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses', has been much more prominent, especially in central government's relationship with the local government sector.

In formal terms New Zealand local government's interaction with its

it over to individual councils to work through with their communities what their preferences are, and over time for a shared understanding of good practice to develop through the sector. Guidance can, however, be found in experience elsewhere, including the following description of engagement taken from a good practice guide to achieving a whole-of-organisation approach to best value prepared for Victorian local government in 2007:

Engagement is an outcome which can arise out of consultation processes, or other interactions occurring between a local government and its

There are differences between local government in New Zealand and Victoria ... but the basic statutory understanding of the relationship between councils and their communities is broadly similar ...

communities has largely been through statutorily specified requirements for consultation, which have often been less than satisfactory in terms of building trust and confidence between councils and their communities (see the trenchant criticism in chapter 15 of the report of the local government rates inquiry (Local Government Rates Inquiry, 2007)). Practice is beginning to change both on the part of councils themselves and in legislation (despite the present government's emphasis on local infrastructure and services), with an amendment to the Local Government Act in 2014 requiring councils to prepare a significance and engagement policy which is required to include 'how the local authority will respond to community preferences about engagement on decisions relating to specific issues, assets, or other matters, including the form of consultation that may be desirable; and how the local authority will engage with communities on other matters'.

The legislation is silent on what is meant by engagement, seemingly leaving

community, such as participation and the gathering and provision of information. *Engagement is achieved when the community is and feels part of the overall governance of that community.* Local governments have an important role in building stronger communities, and engaging communities is a key means to doing so. (Victorian Corporate Planners Network, n.d., p.12, emphasis added)

There are differences between local government in New Zealand and Victoria, most notably the fact that Australia is a federal system, but the basic statutory understanding of the relationship between councils and their communities is broadly similar in the two jurisdictions. This lends force to the suggestion that the Victorian description of engagement should be a good starting point in New Zealand, especially when councils are considering, and discussing with their communities, the development of their significance and engagement policies.

**Table 1: Change in approach by Bendigo Bank from conventional grant making to outcomes-focused community development**

From	To
Strengthening community	Transforming community
Keeping capital in the community	Growing capital in the community
A local investment option for locals	Investment in local enterprises and innovation
Source of revenue for local projects	Source of revenue, plus leadership and innovation

Source: C. DeAraujo, personal communication, 2014

**Some Australian experience**

Five years ago the present writer was the lead author of a major report on what was happening with community governance in Australian states. The report, *Evolution in Community Governance: building on what works* (McKinlay et al., 2011), looked at a number of different initiatives, not just on the part of councils, but uniquely also on the part of a significant private institution, the stock exchange listed Bendigo Bank Ltd. The wide variety both of practice and purpose made it clear that any attempt to develop (or find) a single clear definition of community governance which would have both precise boundaries and general acceptance was unlikely to be successful. Instead, after considering both the range of practice which works for the report reviewed, and a wide body of research, the report proposed that ‘community governance’ be understood 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.

Inclusion of the Bendigo Bank within the study highlighted the potential of community governance not just as a

means of understanding the relationship between various tiers of government and the communities they serve, but as encompassing processes which may involve non-government actors, including private sector parties, as very significant participants.

In the late 1990s Australian banks, in order to reduce operating costs, embarked on a major programme of rationalisation, eventually closing well over 1,000 branches. The Bendigo Bank, then a small regional bank mainly serving the state of Victoria, saw an opportunity to offer communities an alternative approach to accessing banking services. It developed a very well-designed community banking franchise. Under this approach, local branches would be owned locally by companies with a widespread shareholding, one shareholder one vote rather than one share one vote, a locally appointed board of directors, and a commitment to returning a significant proportion of branch profits to the local community. Bendigo Bank itself would retain responsibility for quality control, appointment of staff and provision of banking services; borrowings were from and deposits were with the bank itself, not with local branches.

The model has proved extremely successful and there are now more than 300 community-owned branches within the Bendigo Bank community banking network. Substantial profits have been returned to the community, with some branches now returning in the order of several hundred thousand dollars a year.

In the early stages of profit distribution, community bank branches acted like any other small community funder – inviting applications from within the community and typically funding proposals to

renew sporting facilities or equipment, provide short-term funding for local non-governmental organisations, and similar reactive responses. As the amount of money within the overall network available for community reinvestment increased, the network as a whole came to realise that the funds which branches had available for distribution were more than just a useful top-up for local activity. They were in fact a critical community resource, which, if deployed strategically, could play an important role in achieving important outcomes for the community itself. This shift in emphasis has been described by a senior manager working with the community banking network as shown in Table 1.

Although the Bendigo Bank community banking network is unique internationally, its role as a community grant maker distributing what are discretionary funds (that is, funds which are held for purposes of community benefit rather than any specific activity or activities) within the community is not. This makes the community banking network experience, in consciously recognising its role in transforming community and providing leadership and innovation, an important insight into the potential of a community governance approach, and one which is very relevant in New Zealand. Several different community-based trusts in this country hold funds for purposes of community benefit, and thus are essentially a discretionary resource for application as trustees determine. They include the community trusts which resulted from the restructuring of New Zealand’s trustee savings banks, a number of the energy trusts which came out of the restructuring of the electricity industry, licensing trusts, and trusts within the recently emerging community foundation network.

**Some New Zealand initiatives**

An overview of practice in New Zealand local government shows that a number of councils have taken quite innovative steps to go beyond the statutory requirements for consultation to much more of an engagement approach, some well before the 2014 amendment. Examples include:

- Porirua City Council's long-standing village planning initiative, under which the council supports community-based groups within its different villages (the council's term for its different geographic communities) to prepare village plans which feed into the council's own long-term planning in terms of initiatives to be taken within that community (Porirua City Council, n.d.);
- Palmerston City Council's use of an online citizens' panel of approximately 1,100 individuals chosen at random to provide monthly feedback to the council on issues which the council refers to the panel (Palmerston North City Council, n.d.);
- Waipa District Council's engagement with its communities over a period of nearly 12 months in the lead-up to the publication of its draft long-term plan for 2015–25 (Waipa District Council, 2014), to share information about priorities for the district, including a 30-year vision, and the funding implications, especially in relation to infrastructure renewal.

These are examples from councils which have been particularly innovative. Anecdotal evidence suggests that some other New Zealand councils are seeking to go well beyond what have been the standard statutory requirements for consultation (as with the special consultative procedure), seeking to learn more about their communities' expectations and build community understanding of what the council is proposing to do. Generally, however, practice is still within the understanding of the role of elected members as being the elected governing body of the council, rather than elected leaders of the community with their council role as simply one way of expressing leadership with their communities on substantive issues.

#### Putting the community into community governance

Currently, innovation in community governance on the part of councils is

largely taking place within conventional assumptions about the respective roles of central and local government, with local government primarily seen as a subsidiary form of government, undertaking services and activities authorised by statute and preferred by central government as appropriate for local government. As a number of indicators demonstrate, including the percentage of GDP spent by local government,<sup>1</sup> one consequence is that New Zealand local government plays a lesser role in respect of its communities than local government in almost any

other developed jurisdiction.

From a static analysis perspective, this sets a context which is relatively limited in terms of the range of activities a community governance approach as between a council and its communities might encompass. We are not, however, in a static environment. There is increasing evidence from a number of jurisdictions that addressing the so-called 'wicked problems' which have bedevilled public policy for decades will depend at least in part on strong collaborative arrangements at a local level, able to tap into local knowledge and networks and encourage co-production (see, for example, the Productivity Commission's report *More Effective Social Services* (Productivity Commission, 2015)). Associated with this is a concern that the conventional, relatively top-down approach to the design, targeting and delivery of major social services has been one factor in the increasing sense of exclusion which is seen as lying behind phenomena such as the Brexit referendum outcome.

In England this is leading to increasing calls for devolution, and to take decision-making closer to the people affected. Jonathan Carr-West, chief executive

of the Local Government Information Unit, in an early response to the Brexit referendum has stated:

There are many reasons why the country voted to leave the EU but one factor was certainly a sense of anger about decisions being made far away by people not directly accountable. Devolution is a key part of resolving that just as it is a key part of growing local economies and improving public services. (Carr-West, 2016)

... innovation in community governance ... is largely taking place within conventional assumptions ... with local government primarily seen as a subsidiary form of government ...

A joint study by the Royal Society of Arts and the Staff College, *Changing the Narrative*, published after the Brexit referendum, argues the case that public administration is shifting from New Public Management to New Public Governance,<sup>2</sup> with the implication that public services will be increasingly place-based, collaborative and drawing strongly on community support of both a tangible and an intangible nature. The thrust of their argument can be seen in the following extract:

Assumptions behind preventative and pre-service interventions, which become increasingly attractive as public services become ever more financially stretched, point often (but not exclusively) towards the type of soft interventions that draw on a variety of place assets. These assets include the formal and informal, statutory and voluntary, material assets such as buildings and institutions where people associate with one another or receive the support services they need, and much less tangible things like community networks, social

relationships, integrated and flexible services, or a civic pride in the local place. It is impossible to conceive of all of these things being activated centrally. Instead, a mixed ecology of these assets and actors needs the opportunity to thrive – and this is most likely to happen around the construct of a local place. (Buddery, Parsfield and Shafique, 2016, p.48)

In New Zealand the case for a stronger emphasis on place-based management at a local level, with individual councils playing a pivotal role, would currently be seen as based much more on changing understandings of the requirements for effectiveness in the design, targeting and delivery of major services than on

- to respond to the many challenges they now face?
- What objectives do councils have for engagement and, potentially, promoting a community governance approach? Is it simply to inform their communities about matters such as proposed council activities and the associated funding implications? Is it to build a more collaborative relationship with their different communities, with the purpose, for example, of encouraging co-production?<sup>3</sup> Is it to partner with their communities in working with central government to 'localise' the design, targeting and delivery of major social services?
  - Is the objective to find better ways of

## New Zealand local government operates within a public policy framework which is inherently top-down in the approach it takes to the nature of government.

concerns that New Zealand communities face similar issues of exclusion as are now being recognised in jurisdictions such as England. That said, New Zealand local government as a sector and individual councils face some extremely complex choices when considering how to carry forward a commitment to engagement and to community governance as described in this article, including exactly what their role should be in respect of their communities taking into account the very marked changes now under way.

The following indicative questions are among the choices this author identifies.

- Are councils primarily a subsidiary form of government, delivering primarily those services, including infrastructure and regulation, which central government has determined should be handled by a subsidiary entity, or are they primarily a community resource providing leadership in working with their communities to determine how best

tapping into community knowledge and networks in order to improve the efficiency and effectiveness of council spending? There are a large number of examples which suggest that councils which work collaboratively with their local communities, and respect their knowledge of the local area, can benefit significantly in terms of better decisions: for example, in spending on infrastructure, whether maintenance, renewal or new investment.

- Is it part of a broader strategy of building strong communities able to take significant responsibility for dealing with their own collective issues as happen: for example, in Portland, Oregon, through its neighbourhood involvement programme?<sup>4</sup>

### Conclusion

New Zealand local government operates within a public policy framework which is inherently top-down in the approach it

takes to the nature of government. As the current local government amendment bill demonstrates,<sup>5</sup> central government sees it as entirely proper that if it is dissatisfied with the way in which local government is managing its responsibilities, it should intervene legislatively to ensure that local government activities are controlled and managed in ways which meet the government's objectives. This is an approach which has deep-seated roots in practice over at least the past 30 years (since the major restructuring initiatives of the 1984–90 Labour-led government), and has shaped not only the way central government approaches local government but also, arguably, the way local government responds to central government initiatives.

Increasingly, this is a contrast with practice in other jurisdictions, where central governments (state or federal) are to varying degrees coming to realise that much of what needs to be done to improve outcomes within the communities they serve cannot be done by higher tiers of government alone, or for that matter by higher tiers of government working in partnership with local government. Instead, addressing the current challenges facing developed societies, including the potentially very negative impacts of the sense of exclusion which many people feel, will more and more require working at a community level in partnership with communities.

New themes such as community governance, new public governance, place-based management, co-production, co-design and much more will set the patterns for the future of public sector activity and determine the extent to which different communities are able to realise their objectives for a reasonable quality of life and a sense of belonging to the society of which they are part. Achieving this in a New Zealand context will not be straightforward. For local government it will require a commitment to a collaborative approach in working with its communities, almost notwithstanding some of the current signals from central government. For central government it will require an understanding of both the nature of New Zealand local government itself as an expression of local democracy



rather than simply an outreach of central government objectives, and of how international experience is demonstrating the critical importance for governments of working collaboratively with the communities they serve. In this sense, although community governance will remain one of the single most difficult terms for which to find an agreed

definition, it will also increasingly be the essence of how successful communities function.

1 A 2007 Council of Europe report, *Local Authority Competences in Europe*, notes that the majority of European local authorities spend between 6% and 13% of GDP, rising to 20% plus in Nordic countries and falling as low as 5.3% in Italy (this figure is artificially low because of a significant parallel funding source for local activity) and 5.9% for Portugal and Spain (Council of Europe, 2007). In contrast, New Zealand local government spends 3.8% of GDP

(source: Local Government New Zealand).

2 Essentially, from a market-driven approach to governance, to a collaborative approach with a philosophy akin to that described above for community governance.  
3 For an excellent recent example of this approach see the Wigan Deal, an innovative approach under which the Wigan Council is achieving significant savings by promoting a range of partnership and co-production initiatives with its communities: <https://www.wigan.gov.uk/Council/The-Deal/The-Deal.aspx>.  
4 See <https://www.portlandoregon.gov/oni/>.  
5 Local Government Act (2002) Amendment Bill (No 2).

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# The Need for Localist Reforms

Sir Geoffrey Palmer and Andrew Butler recently released their draft constitution for New Zealand, which joins a rich body of work on the subject of constitutional reform. It is in the area of local government that the document departs from much of the literature and the current government's thinking on this important sector.

In short, Palmer and Butler propose that local government's place in New Zealand's decision-making structure be reorganised along localist lines, as seen in many European democracies. In these countries local authorities have their own distinct place in the constitution that is independent from that of central government. Palmer and Butler call for decision-making power to be based on the principle of subsidiarity, where decisions are made at the lowest appropriate level.

As such, where government is concerned, local bodies would make local decisions, regional bodies would make regional decisions, and central bodies would be concerned with national-level decisions.

Under their draft constitution, local authorities would manage their affairs independently within the areas of control ceded to them by Parliament, and guided by democratic community preference. Funding would predominantly come from the existing property rates system,

but they include scope for central government to share tax revenues with local authorities. Under their proposal, Parliament would retain the right to pass regulatory responsibility to local government, but it must consult on any new local government mandate, and detail any extra financial and administrative costs associated with these responsibilities (Palmer and Butler, 2016, p.73).

The proposed settings bear a close resemblance to the constitutional structure of the Netherlands and Switzerland, two countries whose governance arrangements are structured on a bottom-up rather than top-down basis (Krupp, 2016, pp.17-31).

## **Constitutional muddle**

To those less familiar with the current constitutional arrangements of local government in New Zealand it may seem as if Palmer and Butler's solution is begging a question. However, a closer examination of the country's governance arrangements shows that many of the challenges facing New Zealand right now, such as declining housing affordability and pressure on local infrastructure, are caused or made worse by our constitutional arrangements.

Before examining local government's place in New Zealand's legislative and constitutional structure, it is worthwhile describing how decision-making power is typically divided in developed countries. At one end of the spectrum are highly centralised countries, where the role of local government is limited to a set list of defined activities, principally the provision of local public goods. At the other end are more decentralised countries, where local government is regarded as an independent democratic entity in its own right. Pinpointing New Zealand's place on this spectrum is difficult because to some degree local authorities are both agents and independent authorities at the same time.

Under the Local Government Act 2002 the purpose of local authorities is to 'enable democratic local decision-making and action by, and on behalf of, communities' (s10). While conducting this duty, councils must also meet 'the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses'. This would imply to the casual reader of the act that local authorities in New Zealand reside on the devolved/independent side of the spectrum, wholly answerable to their communities. However, in the absence of a formal constitution, local government's existence relies entirely on statute. As such, Parliament can – and does – pass on responsibilities to local authorities as part of the lawmaking process, which councils are obliged to accept. The Productivity Commission estimates that there are about 30 pieces of legislation that confer regulatory responsibilities on local government, and more by-laws are made under these statutes than under the Local Government Act (Productivity Commission, 2013, p.17). The scope of these activities ranges from building and construction standards to food and hygiene regulations, health hazards, the control of liquor and gambling activity, the storage of hazardous substances and waste management, to name but a few.

These arrangements mean that New Zealand's local authorities are positioned

at both ends of the centralised–decentralised local government spectrum at the same time. Notionally this arrangement should provide for double oversight, one where councils are democratically accountable to their communities, and also benefit from central government oversight and standard setting at the same time. In practice these governance arrangements fall far short of this ideal state, and could in some respects be described as dysfunctional.

#### **Accountability gap**

One of the problems with this arrangement is that it creates an accountability gap between those who set policy and those who bear the effects and costs thereof. A

that central government is likely to underweight the costs imposed on local communities as part of the legislative process. For example, the Treasury's Regulatory Impact Assessment Team, which assesses regulatory impact statements, requires policymakers to consider the significant impacts or risks associated with legislative changes. In theory this requirement should include the costs and risks posed to local government, but in practice these are often overlooked (Productivity Commission, 2013, pp.102-3).

Although the practice of passing unfunded or under-funded mandates is widespread, the true costs of the problem are unknown. One attempt to tally the costs imposed on councils by

## The Productivity Commission's inquiry into local regulation shows that central government is likely to underweight the costs imposed on local communities as part of the legislative process.

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clear example of this was the introduction of minimum drinking water standards by the Ministry of Health in 2005 (Ministry of Health, 2008). The policy forced many councils to upgrade their plants to meet this standard. The costs of compliance were estimated at between \$309 million and \$527 million, yet central government set aside only \$150 million for this activity (CH2M Beca Ltd, 2010, p.82). The shortfall had to be funded out of local taxes, yet the communities were given little say in the setting of these standards. Some rural communities may have been happy to settle for less stringent standards than those set by central government, or to have upgraded their facilities over a longer time period, in order to lighten the tax burden on local ratepayers. These kinds of trade-offs, based on local preference, are not feasible with a one-size-fits-all approach to policy making.

The Productivity Commission's inquiry into local regulation shows

amendments to the Local Government Act 2002, the Public Transport Management Act 2008, the Health (Drinking Water) Amendment Act 2007 and the Land Transport Management Amendment Act 2008 estimated that it would take an additional 720,000 hours of council staff time to meet them. Conservatively priced at the average hourly wage at the time, this represented \$14 million in additional salary costs, and excludes \$25 million of one-off consulting costs (Statistics New Zealand, 2009; PricewaterhouseCoopers, 2009). The study did not explore how these costs are distributed between small and large local authorities.

Central government acknowledged this problem in its official response to the Productivity Commission, noting that 'improvements will be made to central government documentation, such as the Cabinet Office Manual, Cabinet Guide, Regulatory Impact Analysis Handbook and the Department of Internal Affairs

“Policy Development Guidelines for Regulatory Functions Involving Local Government” (New Zealand Government, 2014).

### Blame game

The current governance structure also allows councils to shift the blame for poor local performance onto central government. Rapidly rising house prices in Auckland are often blamed on the Resource Management Act (Bassett and Malpass, 2013, p.5). This legislation has certainly made it more difficult to build in New Zealand’s biggest city by making subdivision of land more difficult, but the problem has been made significantly worse by the city’s urban growth limit.

Under the separation of powers laid out by Palmer and Butler, each tier of government would be pre-eminent within the sphere of its constitutionally mandated duties.

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This zoning rule, which delineates urban and rural land at the edge of the city, was found by one study to increase the cost of residential land by between eight and 13 times relative to that of equivalent rural land parcels of a similar size just outside the boundary (Grimes and Liang, 2007, p.31). Nowhere in the RMA are councils required to put urban boundary limits in place; it is a local policy preference.

The quality of local council decision making is also highly questionable. Under section 32(2) of the RMA, local authorities are required to assess the costs and benefits of any major spending item proposed in the district plan. To an economist this would imply a systematic measure of the expected net benefits of a proposal for affected members of a community. In practice many of the section 32 analyses do not meet this standard. For example, in the Kāpiti Coast District Council’s ten-year plan, the cost–benefit analysis that accompanies the infrastructure, services and associated

resource use section amounts to little more than a list of what might or might not be costs and benefits (Kāpiti Coast District Council, 2012). This listing process may be appropriate where the expense of a professional cost–benefit analysis is not justified based on the scale of the activity, but councils can still commission a professional cost–benefit assessment of the entire ten-year plan, as Auckland Council did with the Unitary Plan (Nixon et al., 2013). Unfortunately, Auckland is an exception.

This lack of transparency and accountability on both sides of the central–local divide could to some degree explain local voter disengagement. Preliminary estimates suggest that only

41.8% of eligible voters cast a ballot in the 2016 local government elections. This was marginally higher than the 41.3% turnout in 2013, but well down on 57% turnout in 1989 (Department of Internal Affairs, 2013; Local Government New Zealand, 2016). The public’s dissatisfaction is not limited to the ballot box either. Attitudinal surveys rate the overall performance of the sector at 29% (Local Government New Zealand, 2015).

### Political intransigence

This distrust of local government appears to manifest itself as political intransigence, where communities resist moves by councils to increase rates, borrow more or sell assets to fund investments that should benefit residents in the long term by growing the ratepayer base (Krupp and Wilkinson, 2015, p.29). Community resistance to higher taxes or great council borrowing is not surprising, but it is perplexing that fast-growing communities like Queenstown are not

making greater use of debt to pay for infrastructure investments (total term debt was equivalent to 6% of assets in 2014) (ibid., p.53). Fast-growing areas, like Auckland, have higher term debt to asset ratios – in Auckland 14% in 2014, near the statutory borrowing limit – but the city also held investments equivalent to 556.1% of infrastructure assets in 2014 (ibid., p.46). Selling these assets to pay for infrastructure investments or to service debt has been labelled ‘a hot political issue’ by the city’s former mayor, Len Brown, suggesting that it will be unlikely or at least very difficult for the city to divest itself of these assets to fund infrastructure development or pay off long-term debt.

A concern is that the current situation may worsen. The lack of transparency and accountability at a local level may increase voter intransigence, which in turn is likely to frustrate central government’s efforts to encourage faster economic growth. Central government’s response may be to legislate around political roadblocks, further blurring the lines of accountability, transparency and local choice, forming a vicious policy circle.

This is already playing out to some extent. The 2012 amendments to the Local Government Act made it easier for local parties to propose local council amalgamations in their area. Three such applications to merge councils in Northland, Greater Wellington and Hawke’s Bay regions were made under this legislation. The Northland and Greater Wellington proposals failed to win sufficient popular support to proceed to a poll, and the Hawke’s Bay amalgamation proposal was voted down by a ratio of 2:1 (Local Government Commission, 2015; Hawke’s Bay Today, 2015). Central government’s response was to table further amendments to the Local Government Act. Should these amendments become law, it will make it easier for councils and the Local Government Commission to propose amalgamations and consolidations of local council assets into regional council-controlled organisations. Many in the local government sector see this as an attempt to legislate around local preferences.

### Constitutional remedies

A constitutional separation of powers would go a long way to remedying these problems. Under the separation of powers laid out by Palmer and Butler, each tier of government would be pre-eminent within the sphere of its constitutionally mandated duties. Were the costs of a locally provided public service to suddenly rise, or quality deteriorate, the affected community would immediately know which agency was responsible. Likewise, communities would be directly faced with the costs of their decisions (taxes) and the consequences of their decisions (approving poor policies). The transfer of authority is low-risk, as the majority of these tasks are largely already managed by local authorities, such as the provision of roading, water and other services.

Where there are benefits from central government passing regulatory tasks to local authorities, the draft constitution stipulates a mechanism by which the cost this would impose on communities is made transparent. Where these costs are deemed to be greater than the benefits, local authorities, given the power to 'manage their own affairs independently within subject-matters established in Acts of Parliament' (Palmer and Butler, 2016, p.73), should be within their rights to reject these policies. Even if councils are not given the ability to opt out, greater transparency about the costs that central government imposed on communities should provide greater oversight and scrutiny of these mandates.

Conceptually, the constitutional reforms proposed by Palmer and Butler would go a long way to resolving the blurred lines of accountability and mixed responsibilities that currently exist. It is notable that New Zealand is one of the few countries in the world that does not have a written constitution (New Zealand's constitutional arrangements are codified in numerous pieces of legislation). However, those looking to improve on the local government arrangements through a formal written constitution are unlikely to find much success any time soon. Palmer and Butler's work shows that there is interest in a written constitution, but it is largely

confined to academia. Appetite among the public and policymakers is low.

Research by Rachael Jones shows that various attempts have been made by government to begin this process over the past two decades, to little avail. These include the Building the Constitution conference, which was hosted in Parliament in 2000, and the Constitutional Arrangements Committee, which was established in 2005 (Jones, 2013, pp.14-15). The former failed to achieve any 'general consensus' on constitutional reform. The latter produced a report which recommended that government avoid a constitutional debate for fear of stirring disagreement and division in the community.

Like New Zealand, the United Kingdom does not have a constitution, but the country has opted to devolve powers to city-regions on a contractual basis.

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More recently, the National-led government, which was elected into power in 2008, agreed to set up a framework to review New Zealand's constitutional arrangements as part of its confidence and supply agreements with the ACT, United Future and Māori parties. This led to the formation of the Constitutional Advisory Panel in 2011. The panel finished its recommendations in November 2013; they included that New Zealand wrap up its various constitutional protections (such as those contained in the New Zealand Bill of Rights Act 1990) in one statute (Constitutional Advisory Panel, 2013, p.22). The panel's recommendations were not binding, and at the time of writing government has not issued an official response.

### Contractual workaround

Developments in the United Kingdom, however, suggest there are other means of achieving the same ends as the Palmer-Butler written constitution. Like New Zealand, the United Kingdom does not

have a constitution, but the country has opted to devolve powers to city-regions on a contractual basis. The first and most well-known of these is the Greater Manchester 'city deal'. Under this arrangement central government has devolved a number of powers and responsibilities to the city-region, a regional body made up of ten constituent local councils (Greater Manchester Combined Authority, n.d.). The powers and responsibilities conferred include control over health and social programmes, housing and planning, skills and employment development, and the setting and collecting of business rates (Krupp, 2016, p.15). This deal provides some of the outcomes that the Palmer-Butler constitution would achieve. The

Greater Manchester Combined Authority is contractually assured that it has full control over the policy areas devolved to it, guided by democratic preference. Officials in Whitehall can of course use parliamentary power to amend the terms of the deal, and again dictate standards at the local level, but it would not be without political cost.

In some respects the malleable nature of these arrangements is preferable to a constitution. Once enacted, constitutions are robust legal documents, and require a high measure of public support to change. Should the local government arrangements proposed by Palmer and Butler prove to be a poor structure for deciding local matters, it would be a very difficult and slow process to reverse. A contractual arrangement, on the other hand, could be reversed, and quickly, by mutual agreement.

Furthermore, a constitutional separation between central and local government achieved by contract could be changed as the capacity of councils change. It would also allow central

government to tailor the handover of powers according to different types of councils, as opposed to taking a one-size-fits-all approach.

Precedent for this kind of contractual devolution already exists in New Zealand. Under the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010, the Crown handed a group of iwi the power to set the strategic direction of management of the Waikato River. This power was previously held by Waikato Regional Council. Under the act, local authorities have to ensure that regional, coastal and district plans align with the vision and strategy set by iwi. Notably, iwi decisions supersede national and coastal policy statements, two areas under central control (Local Government New Zealand, 2011, pp.19-20). If this kind of arrangement can be established with iwi, the same framework can surely be used to achieve a separation of powers between central and local government.

### Conclusion

In concluding, it is worth restating the problem that the contractual or constitutional reforms would both address. That is to fix the dysfunctional aspects of the relationship between central government and local authorities that has been created by the way New Zealand structures its governance affairs. This relationship is characterised by poor lines of accountability and overlapping regulatory responsibilities. This makes it difficult for the public to tell which tier of government is ultimately responsible for which service. The same arrangements mean central government gives too little consideration to the costs its policies impose on local communities and, in turn, allow councils to blame their poor performance and decision making on central government. The effects are high levels of frustration among communities who live under, and pay for, these governance arrangements.

One means of addressing this would be to formally stipulate the respective roles of local government in a written constitution, as proposed by Palmer and Butler. The lack of public and political appetite for a constitutional discussion, however, suggests that this process may not be achievable any time soon. This need not derail much-needed local government reform, as the devolution process in the United Kingdom, and specifically Greater Manchester, shows. Unlike a constitutional discussion, there is great interest among the public and policymakers in improving the efficiency and effectiveness of local government. Making local councils more accountable to the communities they serve is a means of getting there.

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Richard Norman

# New Public Management's Impact on Capital Cities

## new economic and employment challenges for Wellington

The philosophy of New Public Management, which relies more on market solutions and less on government officials as initiators, has had particular impact for capital cities such as Wellington that are not also their country's dominant commercial centre.<sup>1</sup> Wellington has been challenged to diversify away from government-related employment during the past 30 years. While it has had considerable success fostering tourism and software and film production, since 2008 growth in employment has been almost non-existent, contrasting with strong growth in Auckland, New Zealand's largest city and commercial centre. In 2013, John Key, prime minister in the country's centre-right government, triggered debate and local action with an offhand comment: 'even Wellington's dying ... all you have there is government, Victoria University and Weta Workshop'

In fact, Wellington is a relatively prosperous city at the heart of a region with a largely urban population of 480,000 which has New Zealand's highest average incomes, with nearly 50% of work in higher-skilled knowledge roles, contrasting with 33% nationally (Wellington Regional Council, 2012, p.3). The anxiety in Wellington, which has prompted a rethinking of strategies for economic development, reflects growing international debate about the likely impact of technological change on work and responses needed from public organisations. The 20th anniversary conference of the International Public Management Network is a timely prompt to reflect on the leadership which might be expected from public administrators and managers during the early stages of a 'fourth industrial revolution' (Schwab, 2016).

Technologies seen as leading this revolution include mobile supercomputing, intelligent robots, self-driving cars, neuro-technological brain enhancements and genetic editing. Klaus Schwab, founder of the World Economic

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Richard Norman is head of the human resources and industrial relations specialisation at Victoria University's School of Management. Over the past three years, with support from 13 local government and the Ministry of Business, Innovation and Employment, he has been engaged with students and summer scholars in researching the changing nature of knowledge sector work in Wellington.<sup>2</sup>

**Table 1: Changes in the distribution of population in New Zealand since the freeing of the markets in the 1980s**

Year	New Zealand population	Auckland	Wellington	Auckland as percentage of the national population	Wellington as a percentage of the population
1984	3,264,000	863,000	342,000	26.4	10.48
2015	4,479,000	1,500,000	478,000	33.5	10.67

Forum, fears the pace of change might be so great that organisations will be unable to adapt and governments will fail to employ and regulate new technologies to capture their benefits. Among results will be new security risks, and increasingly unequal and fragmented societies (ibid.). The scale of potential change in work

These margins put in context international, winner-takes-all economic pressures. But while digital technologies are global, people live and work locally and their local governments can expect to be at the front line of debate about how to respond. As a city with an already high proportion of knowledge-based

## Wellington's challenges are similar to those of many cities in an era of globalised markets, challenges which have led to 'winner takes all' successes ...

was highlighted by a 2013 survey which concluded that nearly half of 700 United States employment classifications are at risk of being significantly altered by computerisation (Frey and Osborne, 2013). Millions of people with education and training which they thought would be work for a lifetime are likely to be 'not only unemployed but also obsolete' (Galbraith, 2014).

Letting nature take its course as occurred during the Industrial Revolution of the late 18th and early 19th centuries would be a 'dangerous gamble'. Those changes occurred over 50 years, with 'untold human suffering during an extended period of economic transformation' (Kaplan, 2015, p.15). The possible pace of change with the 'fourth industrial revolution' is illustrated by Kaplan, who contrasts revenue per employee of \$US855,000 for Amazon, the largest online retailer, with \$213,000 for Walmart, the largest bricks-and-mortar retailer; for each \$1 million in sales, Walmart employs about five people while Amazon employs slightly more than one person (ibid., p.139).

work, and its capital city role, Wellington can expect to be at the forefront of this emerging public management challenge during the next decade.

### Relearning public leadership at a local level?

In 1996, when the International Public Management Network was founded, the internet was an emerging and unreliable technical wonder, not the commercial force it now is. Markets were favoured solutions for public services in the aftermath of the recent collapse of communism. New Zealand was an enthusiastic adopter of New Public Management ideas for reducing the size of government, contracting out services and using competition to reshape public services. These 'neo-liberal' views were theorised by economists during an era dominated by large public and private organisations that were strongly hierarchical and drew from the Second World War military experience of many of their leaders. New Public Management was assisted by one of the first 'miracles' of the era of personal computers, the spreadsheet, which, when linked with

'management by objectives', created a new era of rationalising, restructuring and managerialism by the numbers.

With a single debating chamber and a first-past-the-post electoral system, New Zealand politicians were able to introduce rapid and comprehensive change in the 1980s and early 1990s. New Zealand was the first nation to adopt private sector accounting methods throughout government. It adopted a comprehensive system for the delivery of public sector 'outputs' and gained an international reputation as either an exemplar of or cautionary tale about public sector change (Norman, 2003).

The neo-liberal theorising which influenced these system changes was summarised in April 2016 by the *Guardian's* George Monbiot.

Neoliberalism sees competition as the defining characteristic of human relations. It redefines citizens as consumers, whose democratic choices are best exercised by buying and selling, a process that rewards merit and punishes inefficiency. It maintains that 'the market' delivers benefits that could never be achieved by planning.

Attempts to limit competition are treated as inimical to liberty. Tax and regulation should be minimised, public services should be privatised. The organisation of labour and collective bargaining by trade unions are portrayed as market distortions that impede the formation of a natural hierarchy of winners and losers. Inequality is recast as virtuous: a reward for utility and a generator of wealth, which trickles down to enrich everyone. Efforts to create a more equal society are both counterproductive and morally corrosive. The market ensures that everyone gets what they deserve. (Monbiot, 2016)

The emphasis on 'the market' has brought major changes for the role of capital cities. Prior to 1984, New Zealand had a tradition of strongly activist central government, starting with the opening up of new land during the 19th



century, and redistributing wealth and providing social security in response to the depression of the 1930s. One result of the 'more market' policies since 1984 has been very limited economic growth in Wellington in contrast to Auckland. In that period Auckland has grown from having about one quarter of New Zealand's population to one third, while Wellington has remained at about 11% (Table 1). 'More market' strategies adopted by central government, advised mostly by Wellington-based public servants, have created a new challenge for local and regional public organisations to consider how they might counter the pressures of 'winner takes all' market forces.

With the added pressure of technology change, leaders of local authorities have gained a new role, whether ready or not. While the market is international, 'place has replaced the industrial corporation as the key economic and social organising unit of our time' (Florida, 2012, p.188). Place is critical for economic development because jobs are increasingly dependent on entrepreneurs who can choose where to live and seek locations which provide 'high-quality amenities and experiences, an openness to diversity ... and the opportunity to validate their identities as creative people' (ibid., p.186). When each new high-tech job in a city can create five additional local jobs (Moretti, 2012, p.57), it is no longer sufficient for local authorities to focus overwhelmingly on the traditional roles of 'roads, rats and rates'. The ability to support infrastructure such as water and waste disposal, planning and parks is significantly affected by the economic health of the region. Wellington has adopted a 'creative capital' strategy to define its distinctiveness; but in doing so it is competing with at least 60 cities, 20 in Britain alone, which have sought to brand themselves as creative (Hollis, 2013, p.96).

Wellington bounced back from public sector cutbacks of the 1980s and 1990s with a period of activist public management which included major infrastructure projects such as the building of a new national museum, Te Papa (1998), and the Wellington Stadium

**Table 2: Employment by sector, Wellington Region**

Sector	Employment Number FTEs				%pa Change		
	2005	2013	2014	2015	2014	2015	2005 to 2015
Primary	4,320	4,178	4,315	3,963	3.3	-8.2	-0.9
Manufacturing	17,336	12,958	13,059	13,214	0.8	1.2	-2.7
Construction	14,833	16,600	15,841	17,154	-4.6	8.3	1.5
Wholesale and Distribution	17,118	16,308	16,622	15,939	1.9	-4.1	-0.7
Retail Trade and Service	40,132	39,191	40,373	39,483	3.0	-2.2	-0.2
Business Services	53,508	58,540	60,032	59,536	2.5	-0.8	1.1
Arts and Recreation Services	3,596	4,888	4,841	4,754	-1.0	-1.8	2.8
Social Services	57,507	73,962	74,451	76,194	0.7	2.3	2.9
<b>Wellington Regional Council</b>	<b>208,351</b>	<b>226,626</b>	<b>229,533</b>	<b>230,237</b>	<b>1.3</b>	<b>0.3</b>	<b>1.0</b>
<b>New Zealand</b>	<b>1,741,850</b>	<b>1,883,050</b>	<b>1,932,950</b>	<b>1,976,617</b>	<b>2.6</b>	<b>2.3</b>	<b>1.3</b>

Source: BERL Regional Database, 2015

(2000) as part of the development of the waterfront alongside the central business district. Wellington-based film entrepreneurs have helped rebrand the city by gaining Hollywood backing for local production of films based on J.R.R. Tolkien's books *The Lord of the Rings* and *The Hobbit*. A capital city which New Zealanders tended to see as 'bureaucratic grey' in earlier times was in 2011 recommended by the Lonely Planet travel guide as 'the coolest little capital' and one of the top ten cities in the world to visit. Wellington was also helped by a buoyant economy and an expansionist left-of-centre Labour government between 1999 and 2008, a period of central government activism which a centre-right National Party government has since 2008 sought to restrain.

Since 2008 Wellington has had almost no net employment growth (Table 2). The largest single local authority of the region, Wellington City Council, with 200,000 residents under its jurisdiction and a central business district which means it has about 60% of the rating base of the region, has again opted for an activist economic agenda. In June 2015 it opted to leverage the city's real estate assets and borrowing capacity to make available an additional \$80 million per year to invest in growth-oriented projects, with eight big development ideas as the strategic centre for action. Tourism, events management and economic development roles have been combined into a single agency, the Wellington Regional Economic Development Agency, with the goal that

it take a broader approach to economic development to seek a way ahead from a period of relative decline. With the aim of encouraging economic growth, the council opted for a higher rates rise and borrowing and selling some assets in order to fund these initiatives:

- establish a tech hub in collaboration with the private sector with ICT start-ups;
- investigate an extension to the Wellington International Airport runway to allow for direct connections to Asia and to bring extra visitors, students and economic benefits;
- establish an international film museum to showcase talent and attract visitors and encourage them to stay longer;
- build a large-scale performance arena to fill a gap in the current offering and draw in larger concerts and more visitors;
- establish an urban development agency to support the creation of vibrant, mixed-use inner city neighbourhoods.

Concurrent with Wellington City Council efforts to take an activist approach to the local economy, the city's largest university, Victoria University of Wellington, adopted a strategic plan in August 2014 which proposes a doubling of student numbers, from 15,000 to 30,000 over 20 years. This plan also proposes that the university become more strongly a civic university, and tackle cross-disciplinary research

themes of distinctive relevance to the region: advancing better government, cultivating creative capital, digital futures, design-led high-value manufacturing, and promoting sustainability. Two of Wellington's largest public organisations are therefore seeking ways to influence market forces that have shown the pulling power of larger cities in providing more diverse employment opportunities and larger local markets.

Wellington's challenges are similar

## Economic development increasingly based on knowledge and distinctive human capabilities involves very different economics from that based on large physical investments ...

to those of many cities in an era of globalised markets, challenges which have led to 'winner takes all' successes such as Silicon Valley and Seattle, contrasted with the collapse of cities based on previous technologies, such as Detroit and the motor industry and Rochester, New York and Kodak film.

### Cities as sources of innovation and new economic activity

In 1800, 3% of the world's population lived in cities. Productivity gains made possible by coal, oil and electricity have seen the depopulation of rural areas during the 20th century. Cities now hold 54% of the world's population, and 100 cities account for a third of the world's economy (Ross, 2016, p.196).

As technology change and international trade during the past 30 years have spread the gains of the digital era unevenly, city-based political leaders have tended to be pragmatic interventionists. While neo-liberal ideas have dominated national debates in English-speaking countries, political leaders of cities have been prompted to seek pragmatic responses to changing economics which are locally visible through empty shops and social unrest.

Cities are like natural ecosystems, 'not static entities but continually evolving creative commons that expand or shrink depending on the ingenuity of their residents' (Moretti, 2012, p.247). Human creative talent is now the most important part of a city's ecosystem, argues Richard Florida (2012). A city which seeks to attract and retain the people who are critical for its economy needs to consider:

- what's there: the combination of the built environment and the natural

environment – a proper setting for pursuit of creative lives;

- who's there: the diverse kinds of people, interacting and providing cues that anyone can make a life in that community; and
- what's going on: the vibrancy of street life, cafe culture, arts, music and people engaging in outdoor activities – altogether a lot of active, exciting, creative endeavors.

The contribution of cities towards economic activity and innovation has been explained by the 'weak ties' they can provide, in contrast to smaller centres where everyone is likely to know everyone else (Granovetter, 1983). In New York's art world, for instance, 'your ability to get a new job is more likely dependent on a wide network of acquaintances who are plugged into a wider network of other acquaintances, further increasing your chance that someone knows someone who is willing to give you a job' (Currid, 2007). The importance of networks for creating new businesses was highlighted in a study by a political scientist and urban planner which contrasted the success of high technology enterprises in Northern California's Silicon Valley with the relative failure of Boston's Route 128 (Saxenian, 2006). In Boston, new companies worked

more like the manufacturing sector, with large independent firms wary of sharing information with other firms for fear of losing ideas. In Silicon Valley there was a more cooperative, interdependent environment in which many smaller firms worked through decentralised networks which prompted more innovation and different use of information and resources. Strong networks of

'weak ties' enable people to find work more easily and for cities with creative workers to be 'ideal laboratories of innovation: there are more people here, so the likelihood is that more ideas will bubble to the surface. It is not just the size of the population, however, but the density of the connections that matter' (Hollis, 2013, p.100).

### Changing work as a challenge for public sector leaders

Work has become so established as the dominant organising structure for developed societies that it is easy to overlook the extent to which it is a creation of city-based economies. Cities were first built around trade and manufacturing; now, knowledge-based work assisted by technology change is increasingly the force for economic development.

Such work is increasingly likely to involve cognitive and social skills. Cognitive skill is 'the ability to acquire knowledge, process information, and solve problems', while social skill is the 'capacities used to work with people to achieve goals'. These are 'more than just people skills', and 'include the capacity to bring the right people together on a project, persuasion, social perceptiveness, the ability to help develop other people, and a developed sense of empathy. These are the leadership skills that are needed to innovate, mobilize resources, build effective organizations, and launch new firms' (Florida, 2012, p.224).

Economic development increasingly based on knowledge and distinctive human capabilities involves very different economics from that based on large physical investments such as electricity supply or aluminium smelting, two

major areas of New Zealand investment between the 1950s and 1980s. People-focused skills that are least automatable are ‘sensing the thoughts and feelings of others, working productively in groups ... and expressing ourselves with greater power than logic can ever achieve’ (Colvin, 2015, p.3).

**Challenges facing the new Wellington Regional Economic Development Agency**

In 2014 the Wellington city and regional councils opted to merge tourism, events and economic development agencies, creating a larger agency with a total budget of about \$28 million, with \$8 million from trading and public funds contributed 80% by Wellington City and 20% through the regional council. Expectations for the new agency were set high in July 2015, with the board of the agency announcing the new mission that ‘by 2025, Wellington will be the most prosperous, liveable and vibrant region in Australasia’. New agency chairman Peter Biggs said the bar was high but it could be done and there was no route to ‘wimp out’. Wellington would not compete head to head with large Australian cities; comparisons were made with Tel Aviv in Israel and Manchester in England instead.

Among challenges the agency identified for the region were flat retail spending since 2011, a lack of confidence in the local economy, and a slowing of overall job growth despite employment growth in the public service resuming. There were skill shortages in key sectors, particularly information technology, and the region was not reaching its potential in terms of international visitors, particularly those from outside its traditional markets of Australia, the United States and Britain. The region was not getting its share of migrants and international students, and its distinctive arts and events positioning was being challenged, particularly by a united and increasingly confident Auckland.

The extent of this ‘falling behind other parts of New Zealand’ was highlighted in a report released in early 2016 for the Wellington Regional Council about economic trends. (Tables 2 and 3 have some of this data.) In the year to March 2015, GDP in the Wellington

region increased by 1.3%, compared with national growth of 3.2%. Employment in the Wellington region grew by only 0.3% compared with 2.3% nationally. The agency described the strengths of the region as:

- a highly skilled and educated workforce;
- a strong knowledge-based services sector;
- world-renowned ICT, film, science and creative sectors;
- a mix of large multinationals and small and medium enterprises;
- the location for central government,

the public service and the diplomatic corps;

- a reputation as a leader in arts, culture and cuisine;
- a high-performing education sector, including three universities;
- a quality food and beverage offering, including innovative and export-led primary industries;
- the national centre for the expression and discovery of New Zealand’s nationhood.

The newly reorganised agency faces the challenge of all public agencies that while politicians campaign in poetry, they ‘govern in prose’.<sup>3</sup>

The extent of the gap between poetry and prose is evident in the dollars involved: a newly constructed agency with a rates-based budget of approximately \$20 million has a mandate to find ways of leveraging a regional economy of \$25.6 billion annual turnover and a workforce of 230,000. To tackle this task, the agency will have a staff of about 160, with 75% of budget directed towards support for tourist promotions and events. The public

funds allocated are less than 1000th the size of the regional GDP of \$26 billion. The Wellington Regional Economic Development Agency, in common with similar agencies, has as a priority the establishing of ways of leveraging its funds with a variety of partners.

The challenge for allocating local government support for economic development is highlighted by the comparative statistics on tourism and digital sector work in Wellington. The tourism sector contributes 2.9% of GDP to the region, compared with tourism throughout New Zealand which

The knowledge-based sector of Wellington has moved beyond a stage of seeming almost ‘accidental’ as a series of support functions for long-established public sector and finance and insurance organisations.

makes up 3.8% of GDP. Wellington’s more dominant knowledge-based sectors are ‘information, media and telecommunications’, which contribute 6% of the local economy (compared with a New Zealand average of 3.2%), and ‘professional scientific and technical services’ at 10.7% of the Wellington economy (compared with 7.3% nationally). Yet these sectors receive less funding than tourism, which can point to trackable numbers of visitor arrivals and spending patterns. The digital sector has had a multi-year run of unfilled job vacancies, at pay levels double those of tourism. The digital sector has been dispersed in its focus and growth has been so rapid that much of its focus has been on building individual businesses with local and international clients, leaving limited time for industry collaboration or local promotions.

**Leadership is needed for building a knowledge city**

As work becomes increasingly based on human innovation and relationship

**Table 3: Location Quotient 2015**

Industry	Wellington Region		New Zealand
	Location Quotient	Share of total GDP	Share of total GDP
Central Gov Admin, Defence & Safety	3.0	11.4%	3.8%
Petroleum & Coal Product Manufacturing	2.8	1.4%	0.5%
Telecomms, Internet & Library Services	1.9	4.4%	2.3%
Finance	1.7	6.6%	3.8%
Printing	1.7	0.5%	0.3%
Information Media Services	1.6	1.4%	0.9%
Arts & Recreation Services	1.5	2.2%	1.4%
Professional, Scientific & Tech Services	1.5	11.2%	7.7%
Auxiliary Finance & Insurance Services	1.3	1.2%	0.9%
Other Services	1.3	2.2%	1.8%
Insurance & Superannuation Funds	1.3	1.4%	1.1%
Electricity & Gas Supply	1.2	2.9%	2.5%
Local Government Administration	1.1	0.6%	0.5%
Administrative & Support Services	1.0	2.1%	2.1%
Health Care & Social Assistance	1.0	5.9%	6.1%
Polymer Product & Rubber Product Manu	0.9	0.5%	0.6%
Rail, Water, Air & Other Transport	0.9	0.8%	0.8%
Water, Sewerage & Waste Services	0.9	0.4%	0.5%
Furniture & Other Manufacturing	0.9	0.3%	0.3%
Education & Training	0.9	3.8%	4.3%
Accommodation & FoodServices	0.9	1.8%	2.1%
Textile, Leather, Clothing, Footwear Manu	0.8	0.2%	0.3%
Fruit, Cereal & Other Food Product Manu	0.8	0.7%	0.9%
Supermarket & Specialised Food Retailing	0.8	1.0%	1.3%
Property Operators & Real Estate Services	0.8	4.6%	6.0%
Other Store & Non Store Retailing	0.7	1.9%	2.6%
Pulp & Paper Product Manufacturing	0.7	0.2%	0.3%
Construction Services	0.7	2.2%	3.0%
Fabricated Metal Product Manufacturing	0.7	0.6%	0.9%
Postal, Courier & WarehousingServices	0.7	1.2%	1.8%
Road Transport	0.7	0.9%	1.4%
Wholesale Trade	0.6	3.4%	5.3%
Building Construction	0.6	0.8%	1.2%
MotorVehicle, Parts & Fuel Retailing	0.6	0.4%	0.7%
Beverage & Tobacco Product Manu	0.6	0.5%	0.9%
Wood Product Manufacturing	0.6	0.4%	0.6%
Rental & Hiring Services	0.6	0.7%	1.1%
Basic Chemical & Chemical Product Manu	0.6	0.3%	0.6%
Machinery & Other Equipment Manu	0.6	0.7%	1.3%
Non-Metallic Mineral Product Manu	0.6	0.3%	0.5%
Meat & Meat Product Manufacturing	0.5	0.4%	0.8%
Transport Equipment Manufacturing	0.5	0.2%	0.5%
Heavy & Civil Engineering Construction	0.5	0.9%	1.8%
Fishing & Aquaculture	0.5	0.1%	0.1%
Forestry & Logging	0.4	0.3%	0.7%
Primary Metal & Metal Product Manu	0.4	0.1%	0.3%
Poultry, Deer & Other Livestock Farming	0.4	0.1%	0.1%
Mining	0.3	0.5%	1.7%
Sheep, Beef Cattle & Grain Farming	0.2	0.3%	1.3%
Dairy Product Manufacturing	0.2	0.1%	0.6%
Horticulture & FruitGrowing	0.2	0.1%	0.5%
Agric Support Services & Hunting	0.2	0.1%	0.7%
Seafood Processing	0.1	0.0%	0.2%
Dairy Cattle Farming	0.1	0.3%	2.6%

Source: Infometrics, 2015, p.11

skills, as captured in the title of the book *Humans are Underrated* (Colvin, 2015), the core challenge of a city seeking to be activist about its economic future is to attract, retain and build distinctive skills. These are what Ulrich (2015) calls leadership skills that are required to navigate the industry conditions. Drawing on experiences of specialist investors, Ulrich summarises the industry and performance challenges facing any business. Industry favourableness includes such characteristics as growth potential, barriers to entry, competitiveness, social trends, customer opportunity and regulatory opportunities. The performance of a company will include financial results coupled with intangibles related to strategy, technological advantage, and capabilities such as speed to market, innovation and customer service. But the distinctive qualities for knowledge-based business development are likely to be the 'ability to set and execute strategy, to manage current and future talent, and to develop future leaders'.

The knowledge-based sector of Wellington has moved beyond a stage of seeming almost 'accidental' as a series of support functions for long-established public sector and finance and insurance organisations. The low-profile, privately owned Datacom, now New Zealand's largest information technology company, has grown significantly through gaining contracts in Australia. TradeMe, New Zealand's equivalent of the US trading site eBay, was a disruptive technology developed by a young entrepreneur at the expense of newspaper classified advertising. Xero, developer of cloud-based accounting software which puts a large part of the role of bookkeepers and accountants in the hands of end users, has yet to make a profit while it builds international business. These and hundreds of small start-ups in the digital sector have brought about a change in the shape of Wellington's economy as manufacturing has reduced. Many founders have emerged from large corporations and government agencies and are using their skills and entrepreneurship to create software

products or services with internet-based, international markets.

This is the industry context which the new economic development agency is tackling. Questions which seem to this researcher to be most productive to pursue in more depth include:

- How can a city and a region with more than 500 digital sector vacancies best create such skills without relying too strongly on migration?
- How can tertiary education organisations best create ‘employable’ graduates during a period of rapid technology change without becoming ‘trades’ schools?
- How can public funds best be used to gain collaboration from the private sector to create new, high-value work, given perceptions that companies ‘free-ride’ on such money?
- How can the new Wellington Regional Economic Development Agency balance its role in supporting

tourism and the creation of high-tech work?<sup>4</sup>

### Conclusion

Local governments can expect to face increasing expectations to provide leadership in tackling economic development, particularly in cities and smaller centres that are not buoyed by spending on construction that comes with population growth. Calls for public sector action on employment can be expected to increase as technology change affects increasing numbers of knowledge- and service-based jobs which can be converted into computer-controlled routines.

During the past 30 years the neo-liberal approach to government has emphasised reducing the scale of government and its role in planning. The ideas of neo-liberalism were a disruptive ‘technology’ for the centralised and planning-intensive model of government of the early 1980s. Now that those ideas have become the ‘new establishment’,

what forms of planning and activism can provide the most effective leverage for city leadership which refuses to accept a ‘dying city’ verdict?

If cities are to be generators of digital-era innovation, more activist ‘ecosystems’ of capability building and connectedness are needed. Wellington is a capital which has been significantly changed by New Zealand’s adoption of ‘more market’ strategies at a national level. Wellington’s current challenge is an example of an international pressure for local public sector leaders to explore new ways of leveraging limited public funds to create distinctive competitive advantage for the increasing pace of change of a ‘fourth industrial revolution’.

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1 Ottawa and Canberra are other examples.

2 This article is an edited version of a presentation given at the 20th conference of the International Public Management Network, 1–3 June 2016, at St Gallen, Switzerland.

3 Attributed to Democratic governor of New York State, Mario Cuomo: [https://en.wikiquote.org/wiki/Mario\\_Cuomo](https://en.wikiquote.org/wiki/Mario_Cuomo).

4 These are questions that are driving a next phase of research and the author would welcome input from others interested in these dilemmas for a period of digital disruption.

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# Auckland Council is it too big to last?

Auckland is a city-region under intense political pressure. Migration and development are transforming streetscapes and communities. Local government has to plan and budget for significant investments in infrastructure as the city grows, and there is no strategy that pleases all sectors of residents at once. Property owners love their rising asset wealth, but central government is under pressure to address homelessness and home affordability. The Reserve Bank and the Treasury, moreover, watch Auckland's over-heated housing market nervously, as it poses risk to the whole economy (Makhlouf, 2016).

In the midst of this, a major restructuring of Auckland's local governance and administration has been undertaken. The formation of the Auckland Council in 2010 unified four metropolitan city councils, two and a half district councils and one regional council, comprising a large urban, rural and marine area

(encompassing 4,894 sq km of land and 3,702 km of coastline and embracing 30% of New Zealand's population). This new entity was popularly dubbed the Super City, somewhat misleadingly given that, in terms of area, the new authority is mainly rural, although its population is mainly urban-dwelling. Being formally named

simply Auckland Council, a middle term is conspicuous by its absence. 'City', 'District' and 'Regional' could not be used, as they were the kinds of entities being abolished. Auckland Provincial Council would have resurrected an entity abolished in the 19th century; 'Shire' sounds too Australian; State of Auckland would have raised the spectre of federalism.

Auckland's basic problem is one that many other regions would love to have: growth. But then, how do you manage it? Its population was 1,415,550 in the 2013 census, and is predicted conservatively to reach 2 million by 2033. 'Three-fifths of New Zealand's population growth between 2013 and 2043 will be in Auckland' (Statistics New Zealand, 2015). Providing for this growth is costly for ratepayers (new infrastructure and amenities) and for central government (new schools, state highways, etc), and there is no end of argument over how to plan for it. A struggle arose over whether the urban space should intensify (grow up) or sprawl (grow out), and a political compromise was reached when the council passed the unitary plan in August 2016.<sup>1</sup>

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Grant Duncan is an associate professor in the politics programme at Massey University. He teaches political theory and public policy at the Albany campus, Auckland. In 2016 he participated in an independent evaluation of the unified governance model in Auckland.

Blakely (2015) summarised the planning issues in a previous issue of this journal; the present article considers the new governance structure of the Auckland Council itself, but not the council's administrative organisation. Central government considered that a unified governance structure was needed in order to provide the policy and planning effectiveness necessary to manage the city's growth. In the view of the Royal Commission on Auckland Governance,<sup>2</sup> the aim was to achieve strategically cohesive and effective planning and decision making across the region, and to improve local participation and engagement. Efficiency and cost reduction were not the primary concerns. Businesses and central government were frustrated with having to deal with seven local authorities; it was considered desirable that Auckland should 'speak with one voice' (Chen, 2014). The reforms were set down in the Local Government (Auckland Council) Act 2009, without the endorsement of a local referendum.

This significant reform of governance was more than just an amalgamation. It introduced a two-tier structural model with an office of the mayor that was new to local government in New Zealand at the time. Proposals for similar unifications in other regions (Northland, Wellington and Hawke's Bay) were roundly rejected after consultation and, in the case of Hawke's Bay, a referendum. And most Aucklanders' attitudes are negative or indifferent towards the new local authority. The council's own performance-monitoring survey found that few residents express trust in the council or satisfaction with its services. Only 15% expressed satisfaction with the council's overall performance; 17% trust the council to make the right decisions; and 20% were confident that the council is heading in the right direction. Critics of the council are especially prevalent in the Rodney and Hibiscus and Bays areas (Auckland Council, 2016). Those in rural areas feel that the new administration has an urban bias (Rose, 2015). Local advocacy groups in North Rodney and Waiheke Island formally proposed the formation of separate unitary authorities to the Local Government Commission,

arguing that Auckland Council does not represent or address the needs of their communities. So, how well have the Auckland reforms worked out in practice? Is the new model fit for purpose? As a decision-making entity (or group of entities), is it achieving what it was supposed to achieve? And, even if it is working well, what further problems or needs for modifications have become apparent?

The unification aimed for cohesive Auckland-wide planning within a single policy framework, and the new model has settled in surprisingly well, given the sheer size and scope of the restructuring and the lengthy and contentious process towards a unified plan. My qualified

ward on the council's governing body (which has 20 councillors and the mayor), and select a team (of between five and nine members) to make up their local board. The 21 local boards play an important role in local policy decisions and place-shaping, but they are not mini-councils, as they have no powers to raise rates or to pass by-laws. They do have non-regulatory functions, and they have input into region-wide policy through their local strategic plans. It is the governing body that approves the budget, makes the critical policy and planning decisions and passes by-laws. The mayor has a 'first mover' role, initiating budget proposals and strategic plans, but has only one

## Dissatisfaction with rates rises and planning processes has emerged, but it is not sufficient simply to 'blame the Super City' for this ...

endorsement of the unified governance model should not be taken as an evaluation of the particular actions and decisions of the Auckland Council. The unitary governance model and the actual performance of the council itself are obviously closely related, but they need to be assessed separately. Dissatisfaction with rates rises and planning processes has emerged, but it is not sufficient simply to 'blame the Super City' for this, as one cannot prove that people would have been better off under the former seven councils. Although the Auckland model has some flaws, the challenge for the time being is to make it work as well as possible. The present article identifies aspects of the governance model that may require refinement. Looking long-term, it also asks whether Auckland Council, in its present form, is simply too big to last.

The 2016 election, then, was the third time that Aucklanders have participated in this governance structure as electors. They vote at large for one mayor, vote for a councillor to represent their local

vote on the governing body. This briefly summarises the main elements of Auckland's governance. Aspects of this new model of local government have become politically controversial, however; this article sets out some of those contentious issues and seeks to put them into context.

### **The governing body**

The mayor of Auckland appoints the deputy mayor, chairs the governing body, establishes its committees and appoints their chairpersons. The inaugural mayor, Len Brown, distributed the roles of committee chairs evenly among councillors across the political spectrum. This helped to avoid partisanship of a kind that, at worst, could mean a stand-off in which a majority opposes the mayor. So, while there was a noticeable left-right political spectrum, no cohesive factions (and certainly no whipped caucuses) emerged under Brown's mayoralty. Nonetheless, the mayor is given significant powers. Councillor Christine Fletcher observed that the inaugural mayor, the

deputy mayor and the chair of the finance committee had 'much of the control and authority for day-to-day organisation and gatekeeping between the chief executive and senior management, and access to information' (Fletcher, 2015).

The ward system for the election of councillors means that they are based geographically across the whole of Auckland. This creates a tension, however, between representing their local voters, on one hand, and the need to vote in the interests of the region as a whole on the other.

Some governing body councillors think regionally ... but a few are still very parochial and not all work well with their local boards, creating a

#### The office of the mayor

The legislation gives the mayor the leading (but not decisive) role in planning and budgeting, and authorises him or her to be the voice of Auckland as a whole. To support this higher executive function, it provides for an office of the mayor with a guaranteed operational budget. The mayor can staff this office as he or she sees fit, but all the employment agreements come under the human resources controls of the council's chief executive. The office of mayor and its executive powers have nonetheless been attacked for giving the mayor too much power, independently of the governing body and removed from public scrutiny. Christine Fletcher commented in 2015 that democracy is 'lacking', that 'Councillors are not driving

Zealand, but the boards have no regulatory powers. They cannot pass by-laws or levy rates; their budgets are granted by the governing body. The legislation states that the local boards and the governing body 'share' decision making, but the governing body can override a local board if a local matter is deemed to have region-wide policy implications or impact. A formal submission seeking to split North Rodney off from Auckland Council stated that 'we do not regard the present local boards as any more than *advocates*, as they have very limited areas of empowerment' (Northern Action Group, 2013, p.15). This may underestimate the consultation, planning and place-shaping roles of local boards, but nonetheless it reflects a certain perception of the two-tier model. If one includes all of the elected officials on local boards and the governing body, the representation ratio in Auckland is still a relatively high 1:8,820 and growing. This indicates that a significant weakness in the Auckland model may be at this local level, in terms of representation and engagement. Local board members are part-time in their roles, and not all meetings are open to the public. The claim that they lack the resources and powers to be meaningfully working with, and making decisions for, their communities will continue to be heard.

#### Māori representation

The government rejected the royal commission's recommendation to have Māori represented directly on the governing body through two wards, based on the Māori electoral roll, plus one appointed by a Mana Whenua Forum. Instead, the legislation created an independent board tasked with assisting the council in 'promoting cultural, economic, environmental, and social issues of significance' for both mana whenua and mataawaka (urban Māori), and ensuring that the council complies with statutory provisions that refer to the Treaty of Waitangi.<sup>3</sup> The Independent Māori Statutory Board consists of seven mana whenua and two mataawaka representatives. They are appointed by a selection body which includes one representative from each mana whenua group. The board then appoints up to

## Urban Māori leaders complain that the views of their community groups are still not being taken into account, and they say that mataawaka representatives should be appointed by urban Māori ...

situation whereby the governing body councillor and local board members cut across each other's work. In theory, given their regional mandate, governing body councillors should be visiting and meeting with residents and local boards outside their own wards to get a more-regional view of issues, and this does happen with some councillors. (Shirley et al., 2016, p.23)

Moreover, this body of 21 representatives makes the key regulatory, budgetary and rating decisions for a population of 1.5 million and growing: a representation ratio of roughly 1:71,500. Given the scope of the unitary planning process, it is simply impossible for councillors to be 'across the details' in their own wards, let alone the region, and hence unelected officials are likely to exercise greater influence.

policy', and that the public did not get enough information about decisions affecting them (Fletcher, 2015). To mitigate such concerns, the mayor's role as first mover in policy development is subject to the support of the governing body, and budgeting and planning processes are open to the public once they reach the governing body. Having the mayor elected at large is appropriate to the purposes of the unitary governance model, as it means there is a single figurehead for the whole region. Given the scope and responsibilities of this new civic leadership role, it is also appropriate that a distinct office be resourced to support it.

#### Representation and participation

Auckland Council has 21 local boards with between five and nine elected members each, or 149 members altogether. The population covered by any single local board is larger than many of the local territorial authorities elsewhere in New



two of its members to sit on each sub-committee of the governing body.

Some have criticised this arrangement on the grounds that it places unelected members onto committees that are otherwise composed of elected councillors (Rudman, 2015). On the other hand, by representing each of seven mana whenua groups, this arrangement provides a more inclusive, yet independent, avenue for local Māori participation in decision making than would have occurred under the royal commission's proposal for only two wards. The boundaries of such wards would cut across and/or incorporate distinct rohe. But with no Māori wards, there is no guaranteed Māori representation on the governing body itself, only on its subordinate committees.

Moreover, the selection body's appointments of mataawaka representatives have been controversial. One unsuccessful applicant disputed the selection process, and the Court of Appeal (in *Te Rangi v Jackson*) agreed that the process had been hasty and failed to take into account the views of mataawaka. But the controversy has not ended there. Although the selection body consists only of mana whenua representatives, it appoints the mataawaka representatives. Urban Māori leaders complain that the views of their community groups are still not being taken into account, and they say that mataawaka representatives should be appointed by urban Māori (Radio New Zealand, 2016). That would require amending the statute.

Direct representation by indigenous people in governance over their traditional territories is consistent with the Treaty of Waitangi and necessary for heritage and development purposes; hence some form of guaranteed representation for Māori – and not only through 'mainstream' systems – is warranted. Māori wards could still be implemented in Auckland, but they are politically contentious (Edwards, 2016). The current independent board is a compromise that has caused controversy among Māori and non-Māori.

#### Financial situation

Some observers assume that the unitary model was set up with 'alluring promises

of a cheaper and more efficient council' (Hill, 2015). No such promise was made, however. The royal commission and others (McKinlay Douglas Limited, 2006; Reid, 2009) were aware that, while some efficiencies may be gained through combining services and resources, the overall costs may not be reduced due to past underinvestment in infrastructure and population growth. Empirical research from Australia suggests, moreover, that, beyond a certain scale, amalgamation of local authorities may even lead to diseconomies (see below).

An independent analysis of Auckland Council's finances concluded that rates increases, on average, 'are well above the

rate of inflation, but allowance needs to be made for Auckland's growth and the pressures this creates, as well as for addressing the infrastructure deficit', and that 'debt appears to be within prudent limits, although compared to other councils it is high and growing' (Shirley et al., 2016, pp.40, 69). In June 2016 the council group's total tax-supported debt was reported to be at 246.5% of its adjusted operating revenue, and it aims to keep this under 270%. Auckland has large capital expenditure requirements to upgrade existing infrastructure, due to increased population densities and the need to modernise, and also has to provide new infrastructure as urban development expands. Hence some difficult decisions have to be made about financing this in future, through debt, rates, user charges, public-private partnerships and/or asset sales.

#### Council-controlled organisations (CCOs)

The CCO model has also been a controversial aspect of Auckland governance. Given the sheer size of the assets and costs, especially in Auckland Transport and Watercare, there have been claims that there should be more direct

democratic accountability over them. The Ports of Auckland Ltd (a company wholly owned by a CCO) has been subject to public controversy, for example, due to its management of the workforce and a proposed wharf extension. The CCOs have their own governing boards and are required to act as commercial entities. This opens up the risk of role conflict and poor co-ordination between the business goals of a CCO, the wishes of a local community and the region-wide policies and planning priorities of the unitary plan. The Auckland model could thus be accused of replacing geographical fragmentation with functional fragmentation.

In the recent past, under the 'new

Experts largely agree that the unification was a good idea ... but very few residents hold positive opinions about the council ...

public management' of the 1990s publicly-owned trading organisations such as state-owned enterprises and CCOs were required to act like business enterprises, although some social responsibilities may be mandated as well. Commercially-oriented business decisions were at arm's length from the political process, and hence subject to less 'interference'. A minister or a council might instead purchase services from them. For Auckland's CCOs, however, the pendulum is now swinging back towards centralised control and democratic oversight. The Governance Manual for Substantive CCOs (issued by the Auckland Council's CCO governance and monitoring committee in August 2015) requires them to act in the best interests of 'the council group' and to make decisions that align with the council's plans and policies. Agency theory and the autonomy to act as a commercial entity have given way to 'partnership' and closer co-ordination of activities between council entities.

#### Too big to last?

Experts largely agree that the unification was a good idea (Chen, 2014; Shirley et al.,

2016), but very few residents hold positive opinions about the council (Auckland Council, 2016). Even some councillors are sceptical. Mike Lee (Waitematā and Gulf ward) expressed qualified support for a 'greater level of self-government' for North Rodney on the grounds that the unitary Auckland Council 'cannot be defended as optimal in terms of efficiency and cost-effectiveness' (Lee, 2016, p.26). The council has work to do to build the

number of councils from 157 to 73 and the number of elected representatives from 1,250 to 526. But a before-and-after analysis 'cast doubt on whether the Queensland forced amalgamation program has improved the operational efficiency of local councils' (Drew, Kortt and Dollery, 2016, p.12). As a result of the amalgamations, this study found, a greater proportion of Queensland residents were represented by local

Victorian councils between 161000 and 174000 residents' (Drew, Dollery and Kortt, 2016, p.74).

Given that Auckland's average rates increases have been well above inflation and that there is significant public dissatisfaction with the council, the results of this Australian research reinforce the contention that the Auckland model is well beyond the optimum size from the viewpoint of both efficiency and public satisfaction. Auckland is now the largest local authority in Australasia in terms of population, and the comparative evidence cited above does not support the notion that its size will lead to greater efficiency and economy of scale, or to greater public satisfaction.

## Auckland is now the largest local authority in Australasia ... and the comparative evidence ... does not support the notion that its size will lead to greater efficiency and economy of scale ...

reputation of the unitary model among its own elected members and Aucklanders at large. Even if disaffected communities in North Rodney and Waiheke Island do not win their case to break away from Auckland Council, the fact that they have put formal proposals forward to do so shows that many residents see the council as too big and too remote for effective local democracy. If this trend were taken to its logical conclusion, however, more powers would be devolved to all local boards, and eventually Auckland would have 21 boroughs and a regional council, and be back at square one.

On the other hand, an argument in favour of the unitary council is based on its sheer size. It may create greater buying power with suppliers, reduce duplication, allow for efficient sharing of services, and provide scope for trialling innovative service models. Empirical evidence from Australia, if comparable, suggests that Auckland Council could be well above the optimal size, however. The forced amalgamations of local bodies in Queensland in 2007 reduced the

authorities that exhibited diseconomies of scale. The optimal population size was found to be just under 100,000. In addition, Sinnewe, Kortt and Dollery (2016) conducted a comparison of the very large Brisbane City Council with Sydney City Council, an average of six south-east Queensland councils and an average of ten metropolitan New South Wales councils on measures of financial performance. If the notion that 'bigger is better' holds true, then Brisbane (with 380,800 households) should out-perform those comparators. But, on measures of financial flexibility, liquidity and debt-servicing ability, the Brisbane City Council performed comparatively poorly. On non-financial performance indicators too the evidence does not look good for larger municipalities. Using data from community satisfaction surveys of local councils in the state of Victoria, Drew, Dollery and Kortt found, for metropolitan councils, an inverted U-shaped relationship between population size and community satisfaction. These results suggest 'an optimal population size for

### Conclusion

Is Auckland Council now simply too big to be efficient, democratic and sustainable? Will it be branded 'a failed experiment'? Once the unitary spatial plan has been approved and put in place, will the next step be to devolve powers to, say, ten or 12 smaller councils?

Empirical evidence and public sentiment weigh against Auckland's unified governance model. Aucklanders disapprove of it; the rest of New Zealand refuses to emulate it. This particular pendulum may have further to swing towards centralisation (meaning central government takes over some powers to shape Auckland), or it may have reached its extreme position and be on the cusp of swinging back towards a devolved model (multiple boroughs under a regional council). In the meantime, the council has to earn a better reputation with the people of Auckland, improve local engagement and participation, implement the new unitary plan and ensure financial sustainability. Its long-term fate rests in the balance.

1 At the time of writing, legal appeals threaten to delay the full application of the unitary plan's zoning maps.

2 The *Report of the Royal Commission on Auckland Governance* (2009) and related papers have been archived by the National Library at <http://ndhadeliver.natlib.govt.nz/ArcAggregator/arcView/frameView/1E1055203/http://www.royalcommission.govt.nz/>.

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# Improving Intergenerational Governance

## Forthcoming Event in March 2017

As part of the University's focus on the theme of *Advancing Better Government*, the Institute for Governance and Policy Studies is organising a one-day symposium at Parliament in March 2017 on *Improving Intergenerational Governance*.

Speakers will include:

Peter Hughes; *State Services Commissioner*;  
Sir Geoffrey Palmer QC,  
Professor Jonathan Boston,  
Dr Andrew Colman,  
Professor Girol Karacaoglu,  
Professor Wendy Lerner,  
Associate Professor Michael Macaulay and  
Associate Professor Maryan Van Den Belt.

More information will be made available soon through [www.igps.victoria.ac.nz](http://www.igps.victoria.ac.nz)



**Institute for Governance and Policy Studies**  
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Frances Sullivan

This paper was submitted prior to the November 14, 2016 Kaikoura earthquake.

# Strategies for Managing Infrastructure Risk an update

Dynamic is perhaps the most understated and least understood of all the terms used to describe New Zealand. Straddling an active plate boundary and surrounded by ocean, New Zealand has a spectacular and dynamic landscape formed by geological and meteorological events, but the management of the risk to people, property and infrastructure from natural hazard events associated with this environment is a challenging area of public sector management. Events of recent years, both here and overseas, present a timely reminder that risk does not stand still.

Our knowledge of hazards and our vulnerability to events are both on the rise, and local government has recognised the need to stand back and take stock of whether we are doing the best we can to manage risk rationally and sustainably (Willis, 2014). The Canterbury earthquakes of 2010 and 2011 created a heightened awareness of the impacts of earthquakes, including access to insurance (Stobo, 2015), and global agreements to commit to mitigating

climate change impacts are now being embedded in the policy environment. Central government agencies are responding: the National Infrastructure Unit infrastructure plan, the Ministry of Civil Defence and Emergency Management resilience strategy, the classification of earthquake-prone buildings and the parliamentary commissioner for the environment's report on sea level rise. Treasury has embedded risk management

as one of five key factors for policymakers to consider to achieve the vision of higher living standards for New Zealanders (see figure). As our wealth and standard of living has grown, so has our risk. Risk management enables policymakers to be better informed about the risks associated with action or inaction, to analyse critical information for prioritisation and resource allocation processes, and to target desired levels of resilience. Good risk management is the difference between evidence and knowledge, and intuition and luck.

Risk is defined by ISO 31000 as the 'effect of uncertainty on objectives', and while science continues to improve our understanding of the likelihood of natural hazard events, the consequences are not so well understood. The immediate impacts of these events are readily identifiable, if not quantifiable – lives lost or damage done to property – but much more difficult to assess is the impact on the economy, community health and well-being.

The uncertainty of when an event will occur, whether it be coastal erosion or an earthquake, and the impacts of these events does not measure up well against the perception of the immediate impact on property rights. This is often the greatest barrier to action. Local government has seen this time and again in the dialogue on actions to

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Frances Sullivan is a Principal Policy Advisor with Local Government New Zealand.

address the threat of these natural hazards on our lives. Downward pressure on rates, coupled with increasing expectations of service delivery, have the potential to delay decision making and create gaps in investment that cannot be avoided in the long term, although it is not clear who will pay and when. These are issues that are being grappled with internationally.

Local Government New Zealand has developed a business case for a local government risk agency for government consideration. The initial focus of the proposed risk agency will be to close the information and capability gap in relation to local government assets (and associated services) and natural hazard risks. Local authorities want to take a more integrated and informed approach to risk-based decision making because these assets (three waters infrastructure (water supply, waste water and storm water) in particular) tend to be expensive (and ageing) and difficult to maintain, and are of critical importance to the local economy and community welfare. This would include the use of risk-based approaches for asset management and developing a better understanding of the risk/return trade-offs. The benefits expected from the proposed changes are:

- greater community resilience and welfare as a result of better risk management and governance; and
- improved national and local visibility (greater sharing and understanding) and cost certainty of risk exposure.

Benefits will also accrue to

- the Crown by way of its reduced contingent liability;
- communities by way of improved resilience and welfare; and
- local government by way of insurance premiums that are better value for money.

This work follows the Local Government New Zealand think piece on managing natural hazard risk (Willis, 2014) and insurance market review (Stobo, 2015). The think piece made three recommendations: for a national information portal; a policy platform; and a natural hazards and community resilience strategy. It also identified two

Climate change will amplify existing risks and create new risks for natural and human systems. Risks are unevenly distributed and are generally greater for disadvantaged people and communities in countries at all levels of development. Increasing magnitudes of warming increase the likelihood of severe, pervasive and irreversible impacts for people, species and ecosystems. Continued high emissions would lead to mostly negative impacts for biodiversity, ecosystem services and economic development and amplify risks for livelihoods and for food and human security.

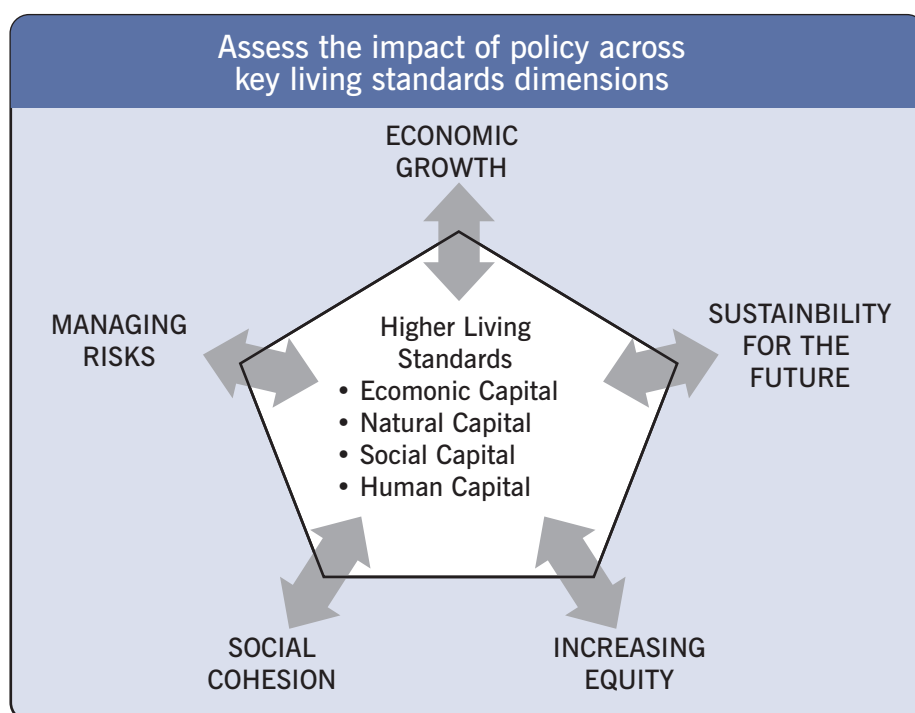
— IPCC fifth assessment report

core ideas that dominate natural hazard risk management:

- the need for issue- and place-specific responses; and
- the need for integration and collaboration in order to develop and deliver effective responses across the many players with a role to play.

Integration and collaboration are easier to require than they are to deliver, however. Don Lenihan describes the policy process as ‘designed for a simpler world, where governments were busy building roads and bridges, regulating basic trade and commerce, and establishing law and order’, and proposes five principles for rethinking the policy process, with a strong underlying theme of collaboration and integration:

1. Good policy is comprehensive: good planning and policy development should be comprehensive, in the sense that it should take important links to other policy fields into account.
2. Real progress requires public participation: societal goals are bigger than government in the sense that their achievement requires effort and action on the part of all. Climate change mitigation and health are both good examples. It takes more than good public transport and cycle paths to reduce reliance on private transport; it requires an informed and engaged public who are ready, willing and able to change their behaviours.
3. Societal goals require long-term planning: societal goals like wellness or climate change adaptation are long-term goals that require ongoing dialogue, action and adjustment. No single piece of legislation or strategy will achieve them; nor will they be achieved in the usual three-year mandate of a government.
4. Every community is different: issues that look similar at first glance are often very different just below the



Coastal defenses reduce the risk of floods today, but they also attract population and assets in protected areas and thus put them at risk in case the defense fails, or if an event overwhelms it.

—Stephane Hallegatte, senior economist, World Bank

surface, as, therefore, are the causes of and solutions to the problem. While this does not mean there is nothing useful to say at a regional or national level, it does mean that good policy making must allow for real flexibility in solutions and implementation at a variety of levels.

5. The public have new expectations: public expectations around transparency and accountability have changed. (Lenihan, 2012, pp.39-41)

Underpinning integration and collaboration, the application of these principles within local government is growing. The provision of natural hazard information to the public is taking on new dimensions, with Otago and Hawke's Bay recently setting up websites. The East Coast LAB (Life at the Boundary) is a collaboration between GNS Science, EQC, Massey University, NIWA, the Ministry of Civil Defence and Emergency Management, regional councils and the civil defence and emergency management groups from Hawke's Bay, Manawatu-Whanganui, Wellington and Napier. Given this region's proximity to the Hikurangi trench, the aim is to ensure that people living on the east coast of the North Island are aware of the hazards that affect them and know how to prepare and respond to natural hazard events.

Reinforcing the principle that every community is different, natural hazards

caused by climate change are, by contrast, the long-term priority for Otago. The parliamentary commissioner for the environment has described sea level rise impacts on South Dunedin as 'a slow unfolding red zone'. The Otago Regional Council has recently released three videos, on the history of the landscape, the relationship between groundwater and land levels, and sea level rise and other risks, as the starting point for discussions about the future of South Dunedin and how the community responds and adapts to climate change.

Following the ACTA (avoid, control, transfer and accept) approach, most local authorities have some planning provisions that reflect climate-related risk based on current predictions (Lawrence et al., 2013). In a study of 99 local authority plans, Wendy Saunders of GNS Science found that a set of general risk management and/or 'all hazard' objectives and policies, alongside hazard-specific methods and rules, is a common approach in district plans, and that managing risk is becoming more explicit in regional policy statements and district plans (Saunders and Grace, 2015).

### Conclusion

Consideration is needed about the choices that exist for addressing future risk and who will bear the costs. A World Bank report forecasts average global flood losses

to multiply from \$US6 billion per year in 2005 to \$US52 billion in 2050 through increasing population and property value alone (Hallegatte et al., 2013). The risks from sea level rise and sinking land mean that large coastal cities could face losses costing \$US1 trillion a year if these cities do not take steps to adapt, and while New Zealand cities do not feature in the list of those at risk, local authorities will remember the influence the Canterbury earthquakes had on the cost of insurance for infrastructure assets.

A risk management approach will enable local authorities to address priority issues with their communities. Infrastructure that provides core services to communities could be the first to be affected by rising sea levels and storm surges, rainfall events of greater frequency and intensity, and other natural hazard events. Despite this, there remains the potential for risk management to be viewed as part of the merry-go-round of favoured policy themes that come and go depending on the political leanings of the time. Yet, in light of increasing demands on budgets, and increasing demands on and expectations of services for both central and local government, risk management at its simplest supports prudent financial management and decision making in a constrained fiscal environment.

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Matt Adams and Ralph Chapman

# Do Denser Urban Areas Save on Infrastructure?

## Evidence from New Zealand territorial authorities

How urban planners shape urban form and long-lived infrastructure in these coming few years will largely determine whether the world gets locked into a traditional model ... or moves onto a better path, with more compact, connected and liveable cities, greater productivity and reduced climate risk.

— Global Commission on the Economy and Climate, 2014, p.41

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Ralph Chapman is the director of the graduate programme in Environmental Studies at Victoria University of Wellington, with particular interests in climate change mitigation, cities, transport, energy and housing. Matt Adams was a postgraduate student in the Environment Studies programme at Victoria University of Wellington, and is now a policy analyst at the New Zealand Customs Service.<sup>1</sup>

Compact (dense) urban form presents an alternative to the sprawling city development that characterises many younger cities around the world. Sprawl is low-density, car-oriented, dispersed or leapfrog development, typically with segregated land uses (Litman, 2015). Compactness is argued to be an important component of sustainable urban form, other elements of which include destination accessibility, design of street networks, diversity (mix) of land use, density of intersections (connectivity), and distance to destinations by walking and cycling (Ewing and Cervero, 2010). Benefits of sustainable urban form and design, it is claimed, can extend to energy saving, emission reduction, more available green space and even improved community interaction (Jabareen, 2006; Joffe and Smith, 2016; Litman, 2012; Talen, 1999). For example, the Global Commission on the Economy and Climate (2014) argues that: ‘more compact, more connected city forms allow significantly greater energy efficiency and lower emissions per unit of economic activity’ (p.41). Other literature reinforces the significance of the potential economic, environmental and social gains (Creutzig et al., 2015; Ewing et al., 2011; Holman et al., 2015; OECD, 2012).

Arguments for compactness include the agglomeration benefits arising from higher employment density and the easier exchange of ideas, information and services, driving a more productive urban economy (Grimes, 2010). Other arguments include the support of public and active transport modes, meaning fewer cars on the road, shorter commutes, fewer vehicle kilometres travelled, reduced energy consumption and carbon emissions, and healthier lifestyles (Cameron, 2011; Chapman, 2008), as well as more space at the urban periphery for agriculture, biodiversity protection and outdoor recreation. On the other hand, intensification brings greater change for

but an analysis is beyond the scope of this article.

#### Compactness and infrastructure

In principle, mid- to high-density development means more people can be served by a given investment in networked infrastructure such as roads and water supply. Cities of higher density are argued to have lower infrastructure costs per capita, making them more economically efficient than lower-density development. Higher density can in principle leave local councils more resources to allocate to other services. As cities develop, making good use of the excess capacity of existing infrastructure is preferable to building

expenditures (Litman, 2016, p.43). In short, the evidence base is improving (Litman, 2012; Global Commission on the Economy and Climate, 2014), and grey literature, based on business consultancy studies, provides additional if less robust evidence (e.g. Centre for International Economics, 2015).

The present study examines economic efficiency in relation to the provision of infrastructure by New Zealand's territorial authorities (TAs), considering four key assets: roading, water supply, waste water and storm water. To examine economic costs we use depreciation, an accounting measure that spreads the cost of an asset over its life, as a proxy for the (annual) economic cost of each asset. There is conceptual support for using depreciation as an indicator of the economic cost of replacing infrastructure assets at current service levels (Office of the Auditor-General, 2014, paragraph 2.64).

The rest of this article is structured as follows. First, the methodological approach taken by studies on compactness and infrastructure is briefly examined. Second, the methods used in the present study are detailed. Empirical results are accompanied by a discussion of limitations and implications.

#### Approach taken by the literature on infrastructure costs

Early US work (Burchell and Mukherji, 2003) used a simulation approach to costs of 'public services' (including infrastructure) for conventional (sprawling) development patterns, comparing them with those of a managed growth (higher density) scenario over 25 years. Burchell and Mukherji took into account lower public service costs associated with sprawl arising from a 'reduced need for a deep public service base' (p.1534), and the higher costs of administering managed growth.

Other research examined the consistency of any relationship between infrastructure costs and density: they found that the cost curve might be U-shaped, first falling and then rising as density increased (Ladd, 1992, 1994). Carruthers and Úlfarsson (2008, 2003) considered how the form of urban

Other research examined the consistency of any relationship between infrastructure costs and density: they found that the cost curve might be U-shaped, first falling and then rising as density increased ...

existing communities (Mead and Ritchie, 2011). There is a need for research to provide planners and local authorities with an evidence base for shaping development to be economically efficient as well as socially and environmentally sustainable. In New Zealand, local authorities spend collectively about \$8 billion annually on infrastructure assets (Department of Internal Affairs, 2013) and their configuration matters economically.

Significant questions relating to compact development include whether, even if it is more economical in some sense, such development is also attractive to people choosing where to live (Arbury, 2005; Carruthers and Úlfarsson, 2008, p.1816). How do people trade off neighbourhood type against housing attributes, and transport factors, for example? There is emerging evidence on this (Dodge and Chapman, 2015; Dodge et al., 2014; Yeoman and Akehurst, 2015),

new infrastructure in areas further from employment. Such new and distant infrastructure may be poorly utilised, especially if growth slows.

The empirical evidence on infrastructure savings from compactness rests largely on some key studies mainly from the United States (e.g. Carruthers and Úlfarsson, 2008, 2003). Recent Spanish research on costs for water supply, sewerage and other services (Prieto, Zofío and Álvarez, 2015) found that infrastructure costs per capita fall as population increases (economies of scale), reinforced by increased density (economies of density), and concluded that most cities studied were below the optimum density for these infrastructure services. Litman's review (2015) indicates that sprawl typically increases the costs of providing a given level of infrastructure by 10–40% (p.28). Litman also refutes the findings of Cox and Utt (2004), who found little effect of density of US municipalities on public service



development (including density) was related to a range of public expenditures (including roadway and sewerage costs) across 283 metropolitan US counties (over 1982–92). They used regression analysis, controlling for property values and other confounders, finding that the cost per capita of most public services fell as density rose. While roading costs declined with density, sewerage costs (waste water and storm water combined) rose with density, although not significantly. The authors concluded that this latter relationship arises because low-density areas tend to use private rather than public facilities. Carruthers and Úlfarsson also noted that regression-based analyses can produce conflicting evidence, partly because of methodological differences but also because of differences in the way the character of urban development is measured (2003, p.507). They noted that density is only one factor characterising urban areas and that other aspects should be considered; and that the use of counties (analogous to TAs in New Zealand) can be problematic where their large size obscures urban density. We minimise this latter difficulty in the present study by using a population-weighted density measure for TAs.

Urban densities (whether dwelling or population densities) are measured in the literature in various ways, including gross, net and population-weighted density. Gross density is simply the number of people or dwellings in a geographic zone (e.g. a region, a district, a census area unit or a meshblock) divided by the zone's land area. It includes land areas of all uses, whether urban, suburban, rural or wilderness. Accordingly, the existence of parks, natural environments and undeveloped land within a set zone can skew results (Nunns, 2014). Net density includes only zones of a particular land use (Zhao, Chapman and Howden-Chapman, 2011): exclusion of open space or parks within a city's boundary arguably gives a more accurate portrayal of the density experienced by a city's population.

Population-weighted density assigns a weight to each zone of a city's land area based on that zone's population. This weight is applied to the average density of the zone, and zones are then summed

to give the city's overall population-weighted density. This accords greater salience to those areas of high population. An advantage of this measure is that it indicates better how density varies across a city (Mead, 2014) and considers where people actually live. If population growth occurs at lower densities (for example, in greenfields), the lower-density area will gain a higher weighting, thus bringing down the population-weighted density of a city. Also, population-weighted density better indicates the density residents experience, and thus more typical economic and liveability impacts. But it is more difficult to compute (Litman, 2015) and, in New Zealand, accurate calculations are limited to census years.

#### Method

##### Density

We calculated population-weighted densities using 2013 census data for every territorial authority, with meshblock zones for weight calculations. Meshblock land areas were obtained from Statistics New Zealand,<sup>2</sup> as were population data (Statistics New Zealand, 2013). Densities were calculated at TA level to match the financial information on infrastructure costs (in required audited public reports) only publicly available at TA level. Thus we could compare TA density to infrastructure costs.<sup>3</sup>

##### Financial data

We used depreciation for infrastructure assets presented in TA financial statements as a proxy for annual infrastructure costs. Depreciation spreads an asset's capital costs over its useful life. The result is an annual expense which reduces an asset's carrying value (asset cost or value less depreciation accumulated since the asset was recognised) in the financial statements.<sup>4</sup> Typically, this depreciation is calculated on a straight-line basis.<sup>5</sup> (Supplementary

**Table 1: Top five densest New Zealand territorial authorities (people per hectare)**

Territorial Authority	Population-weighted density people per ha
Wellington City	57.40
Auckland	46.33
Dunedin City	34.09
Christchurch City	30.00
Hamilton City	29.91

information on depreciation is available from the authors.)

Depreciation was chosen over other potential measures of infrastructure costs, such as operating and capital

## The fast-growing TAs of higher density maintain roading costs lower than those of more dispersed TAs.

expenditure, for several reasons. Firstly, in a recent report on the management of road and three waters (water supply, waste water and storm water) infrastructure, depreciation is identified as an appropriate estimate of the expenditure required to maintain infrastructure asset service capacity (Office of the Auditor-General, 2014).<sup>6</sup> Second, both capital and operating expenditure fluctuate as asset replacement and new development become necessary and as maintenance schedules come due (not to mention emergency expenditure from natural disasters). Depreciation smooths such effects. Third, maintenance costs are not consistently reported separately in the financial statements of all councils, whereas infrastructure depreciation must be disclosed. Lastly, items of capital and operating expenditure from the activity funding impact statements are not subject to the same accounting and audit rigour as the main financial statements. On the other hand, a weakness is that depreciation omits certain aspects, such as land (relevant to the true economic cost of such assets).<sup>7</sup>

**Growing territorial authorities**

As this research addresses the way New Zealand cities are growing, and the economic costs of doing so, we also examined the relationship between rapid population growth and infrastructure costs. Ladd notes that ‘rapid population growth is associated with large increases in per capita spending’ (Ladd, 1992, p.274). Examination of growth over the intercensal 2006–13 period showed a cluster of TAs growing at 9% or above. We investigated whether this cluster had higher (or lower) depreciation.

**Results**

**Density**

Table 1 shows densities for the five most densely populated TAs.<sup>8</sup> Wellington City

is densest, with a population-weighted density of 57.4 people/ha, almost double that of Hamilton City which rounds out the top five.<sup>9</sup> The mean weighted density of all TAs is 18.3 people/ha.

**Roading**

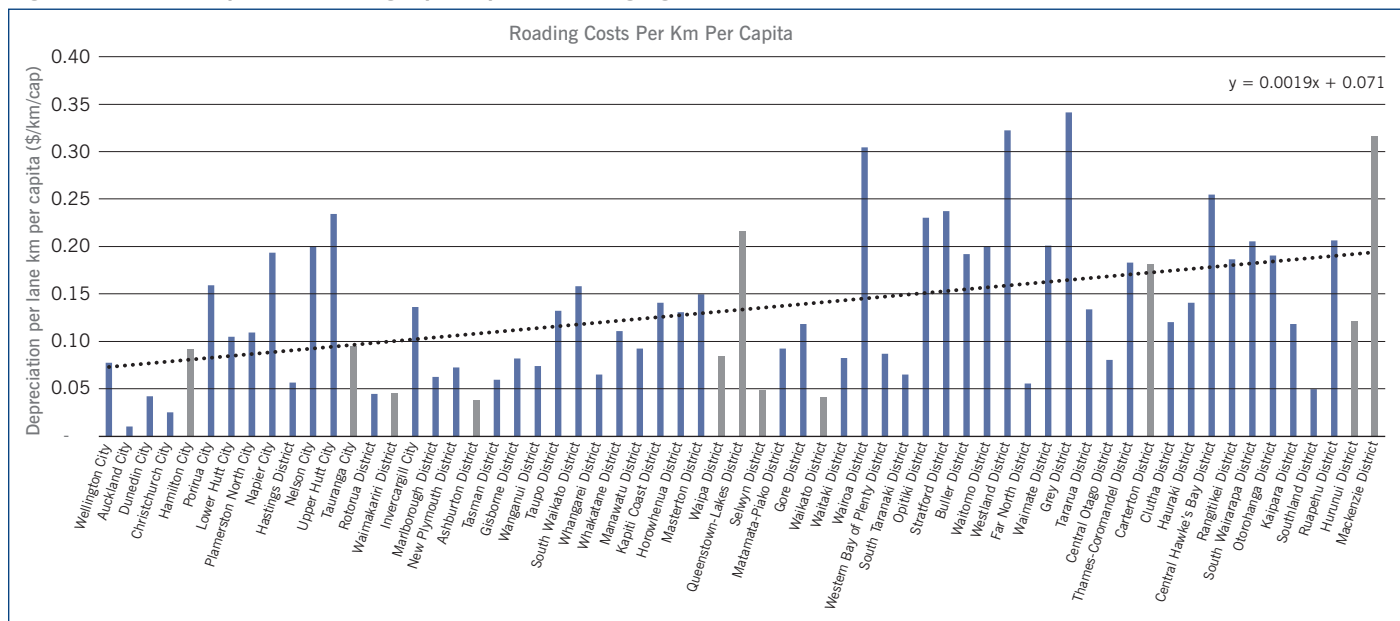
Figures 1–5 allow visual comparison between TA density and infrastructure costs, with infrastructure costs per capita on the vertical axis and the TAs arranged on the horizontal axis in descending order of density. Fitted lines indicate how costs vary as density falls. Positive slope lines (as for roading) indicate that infrastructure costs per capita rise as density falls, while negative slopes show costs falling with density falling.

Figure 1 shows that roading costs per km of lane length per capita are lowest in

Wellington City, and rise as density falls to the least dense district (Mackenzie District). Figure 1 uses costs per km of lane length per capita rather than simple road length, as higher-density roading is more likely to be multi-laned and would therefore be under-represented if simple road length was used. Figure 2 illustrates more simply the inverse relationship between TA roading costs per capita and TA density.

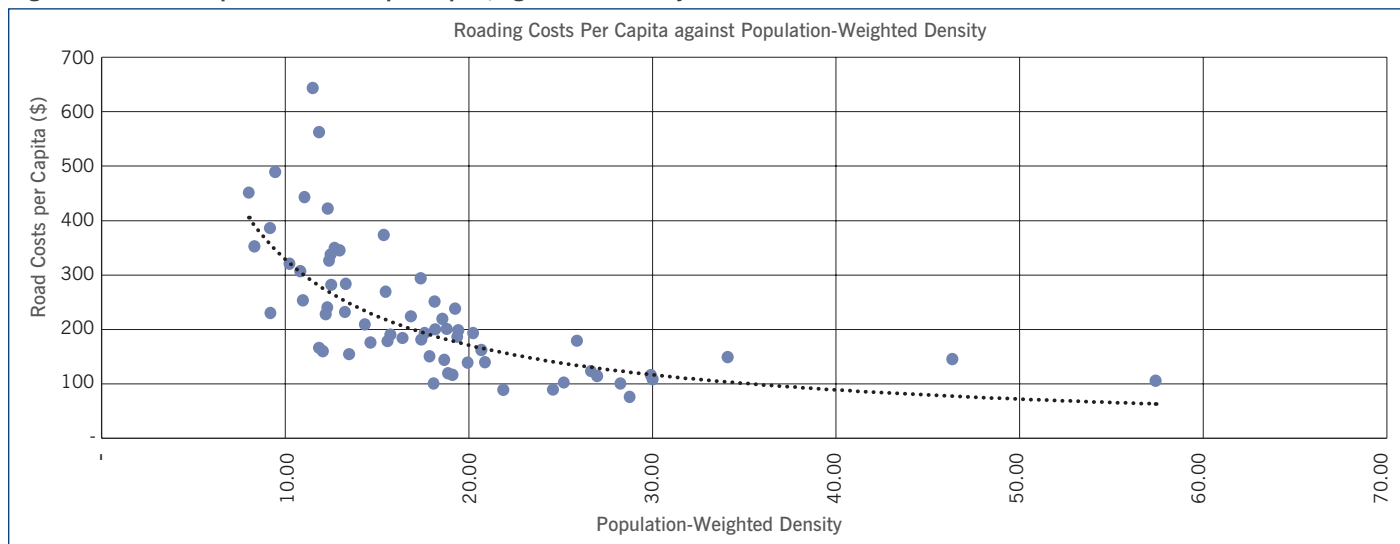
Narrowing the comparison to just the fast-growing TAs, the roading cost gradient with density is *more* pronounced (data not shown). The fast-growing TAs of higher density maintain roading costs lower than those of more dispersed TAs. Most TAs fit the pattern well. Ashburton and Waikato are the only districts well

**Figure 1: Road costs per km lane length per capita (excluding significant outliers of Kawerau and Kaikoura District Councils)**

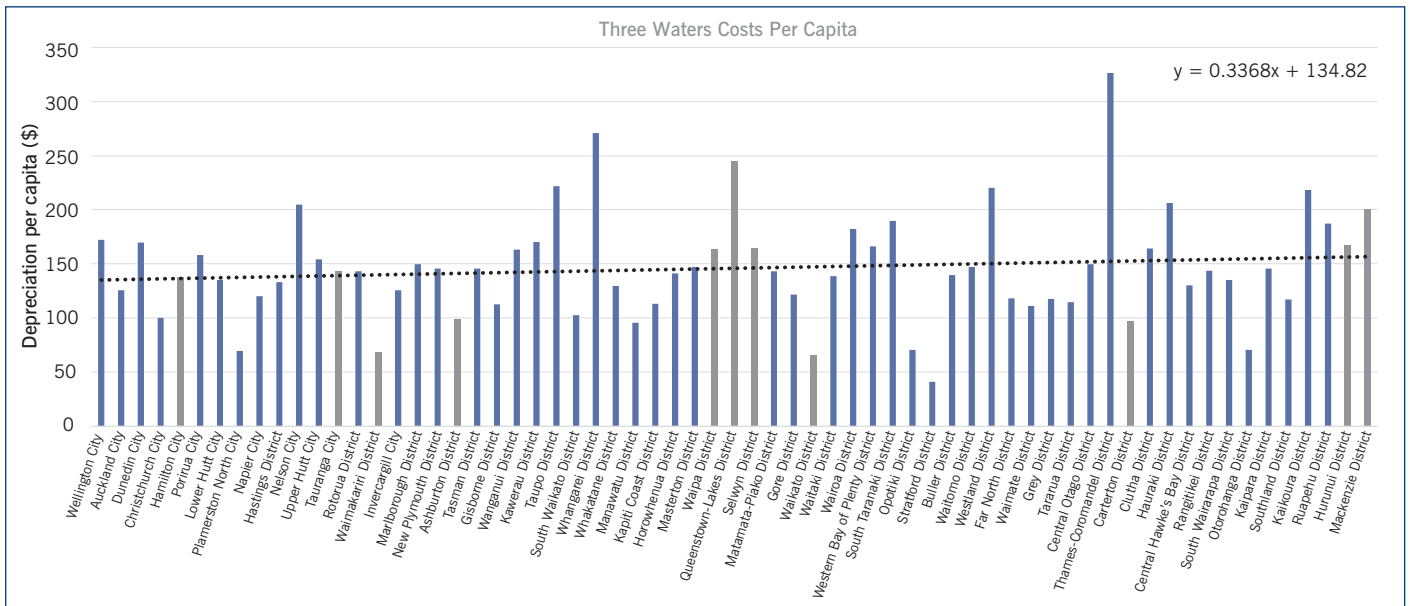


Note: those coloured grey have populations which have grown by more than 9% since the 2006 census.

**Figure 2: TA road depreciation costs per capita, against TA density**

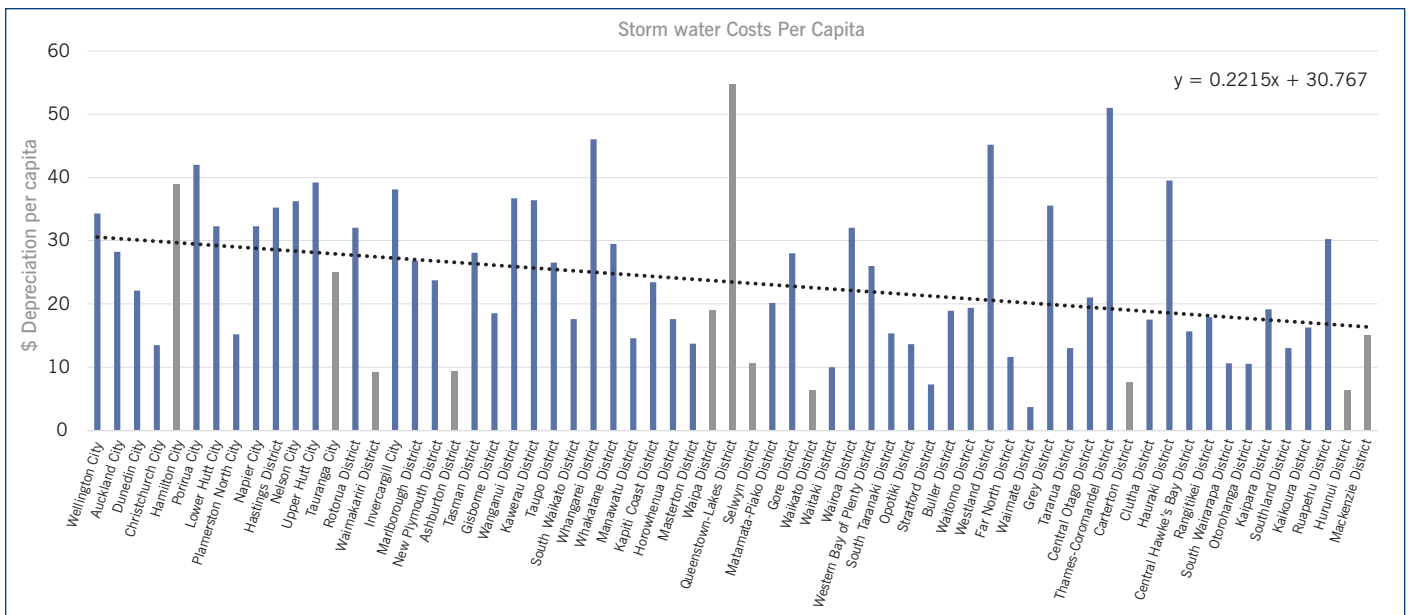


**Figure 3: Combined three water costs per capita**



Note: those coloured grey have populations which have grown by more than 9% since the 2006 census

**Figure 4: Storm water costs per capita**



Note: those coloured grey have populations which have grown by more than 9% since the 2006 census

below the fitted line and Mackenzie and Queenstown districts are well above.

**Three waters**

The combined three waters costs (Figure 3) show that the less dense TAs face marginally higher costs per capita for their three water services combined. However, this gradient is not as steep as with roading. Figures 4 and 5 show storm water and water supply costs separately. Storm water costs (Figure 4) actually fall as density falls. Waste water costs are flat (not shown). The storm water relationship runs counter to that observed with roading. Water supply costs, like

roading costs, increase as density declines. This gradient is strong enough that the combined three waters cost gradient in Figure 3 remains marginally positive.

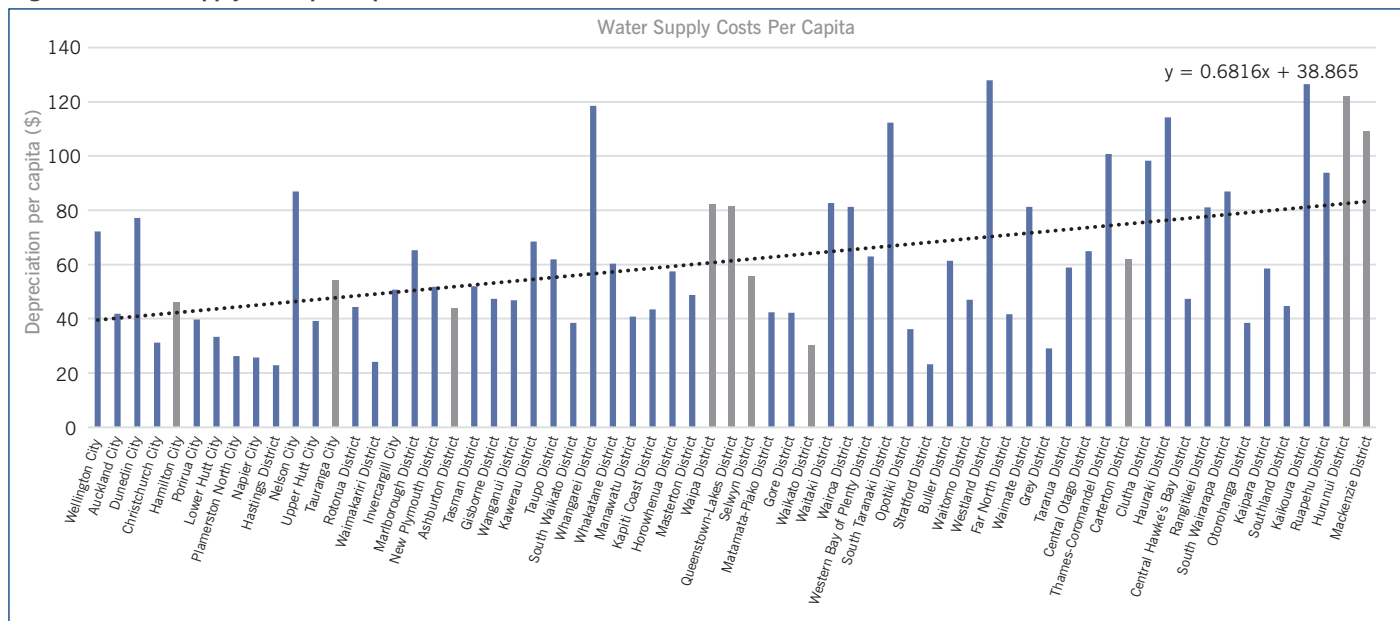
The grey coloured bars in the figures, representing faster-growing TAs, illustrate that such areas do not differ markedly in three waters cost terms from other TAs not experiencing equivalent growth. Queenstown Lakes is an exception: it is a clear outlier in terms of storm water costs (Figure 4).

**Grouping TAs by growth**

We also compared high-growth TAs (greater than 5% growth pa) with

medium- (between 1 and 4.99%) and low-growth (less than 1%) ones (data not shown but available from the authors). Across all growth categories, roading costs per capita consistently rise as density declines. Freshwater supply costs also increase, although the trend is much flatter for medium-growth TAs. Storm water costs decline as density declines. This relationship is steepest for storm water in high- and medium-growth TAs. Waste water costs in low-growth areas increase marginally as density decreases, whereas they decrease in the medium- and high-growth areas.

Figure 5: Water supply costs per capita



Note: those coloured grey have populations which have grown by more than 9% since the 2006 census

**Discussion**

*Density and infrastructure costs*

The gradients observed show that the costs of infrastructure do vary with TA density. TAs of higher density have generally lower infrastructure provision costs per capita, a pattern consistent with the literature and sustainable urban growth principles. The waste water cost gradient is insignificant, but storm water costs do rise noticeably with density. For the US, Carruthers and Úlfarsson (2003) found that waste water plus storm water system costs rose with density, as noted earlier. The relationship in New Zealand may be partly explained by the use of above-ground storm water systems in areas of lesser density. Further research is required to confirm this. But taking the three waters costs together, water supply costs dominate and costs decline marginally as densities rise.

Growing TAs follow a similar pattern to other TAs. Those with denser development tend to have lower infrastructure costs. This appears to contradict the finding of Ladd (1992) and suggests that rapidly growing TAs (above a threshold for ‘rapid growth’) do not experience infrastructure costs that differ from other TAs’ costs. Moreover, grouping TAs by the level of growth experienced over 2006–13 shows that the cost patterns do not change significantly with growth.<sup>10</sup> The rate of population

growth appears to have little effect on TAs’ per capita spending on infrastructure.

Examination of TA infrastructure costs against density highlights numerous outliers. Clearly, other factors influence the cost of supplying infrastructure, and not all can be easily controlled. Prieto and colleagues (2015) identify soil hardness and topography as two such factors affecting the cost of infrastructure installation. Other factors, such as local climate, local industries and proximity to raw material suppliers, could also affect infrastructure asset life and installation costs. Network variables, such as the number of pump stations or treatment plants, will directly influence infrastructure costs and are likely linked to urban compactness. As an example, Westland is an outlier in regard to three waters costs. This TA is the longest in New Zealand and its high costs may relate to the need for nine separate water treatment plants and nine storm water networks (Westland District Council, 2014) to service the small urban areas along the West Coast. In contrast, Wellington City, with almost 23 times the population of Westland, is served by only four treatment plants.

*Limitations*

Setting aside the matter of other variables influencing TA infrastructure costs, only four types of infrastructure cost (albeit

the major ones) have been measured. Public infrastructure costs were proxied by depreciation only. Private and social costs (as well as benefits) are excluded; the calculation of these would be complex and is beyond the scope of this research. Further, for the reasons given, operating costs were not measured (e.g. the electricity required to operate pump stations and the wages of pump station workers). Such costs could be related to factors such as density, population (use) and topography.

In addition, the *quality* of service received by each TA from its infrastructure was not gauged. The quality of infrastructure systems across TAs varies as each strives to meet objectives laid down in their individual long-term plans, and other standards, for example those set by the Ministry of Health. Some TAs may be performing well and some may be performing poorly; this is not measured by cost estimates. On the other hand, the Office of the Auditor-General recently found that there was ‘little relationship between asset expenditure and service-level performance in public information’ (Office of the Auditor-General, 2014, p.5).

Not all roading costs have been measured. Understandably, private roads are ignored, but state highways, owned and managed by the New Zealand Transport Agency, are also excluded.<sup>11</sup>

These state highways serve TAs to varying extents, and have varying traffic flow and expenditure. However, the motivations for state highway building differ significantly from those for local roads, and their costs may vary in a different way with TA density.

### Implications

This research investigated the link between urban density and the costs of providing major infrastructure. Although a number of variables affect the cost of infrastructure provision, this research suggests that roading and water supply costs fall with increasing density. While storm water and waste water costs may or may not increase with density, they matter less in terms of costs.

Such relationships are consistent with a literature that largely accepts that public services can be delivered more efficiently (economically, socially and environmentally) at higher density, up to a point. The overall picture of costs falling with density provides support to those councils espousing and following 'smart growth' plans that seek to utilise the excess capacity in existing infrastructure as opposed to continuing dispersed development. It may also help underpin the setting of higher development contributions for areas sprawling away from established infrastructure.

Councils encouraging lower-density development could be seen as falling short in terms of section 10 of the Local Government Act 2002. That section identifies the purpose of local government and requires delivery of 'good-quality' infrastructure that is effective, efficient, and appropriate for

current and future populations. The present study is not conclusive, as not all factors affecting infrastructure costs have been considered, but it does raise important questions about the practice of many local governments subsidising sprawl in New Zealand.

### Conclusion

The purpose of this research was to examine the link between density and the costs of providing infrastructure in New Zealand. Clearly a link exists. That is, higher-density TAs incur lower infrastructure costs for roading and water supply than TAs of lower density. The relationship is stronger for these forms of infrastructure than it is for storm water, the costs of which increase comparatively slowly as density increases (waste water costs appear unrelated to density).

Considerable 'noise' is evident in the outliers of the illustrated patterns. This is understandable: density is important but not the only variable describing urban areas, and does not solely drive infrastructure costs. However, the analysis establishes that density does influence the cost of infrastructure provision. Further research, taking a bottom-up or longitudinal approach, may help to confirm these findings and strengthen the evidence base.

In interpreting these results, it is worth remembering that the relationship between density and infrastructure costs seen at the 'wider' territorial authority level may be different at the neighbourhood level, where the principles of compact development are often considered. The onus is now on those working at the neighbourhood level

to show that the 'default' relationship between more dispersed development and higher costs does *not* apply.

The findings have backing within the international literature, and have relevance to local government in New Zealand. They provide significant evidence to local government planners that compact urban form is likely to be more economically efficient than dispersed development.

- 1 This article draws on work Matt Adams undertook as part of postgraduate study at Victoria University of Wellington, with Associate Professor Ralph Chapman (supervisor), Director of Environmental Studies at Victoria. Thanks to the Ministry of Business, Innovation and Employment for supporting the research through funding of the Resilient Urban Futures programme. Input from Nadine Dodge (VUW PhD candidate) and support of Professor Philippa Howden-Chapman are acknowledged.
- 2 J. Alexander, personal communication with N. Preval, 14 October 2014.
- 3 Using TAs is a minor departure from the approach of Nunns (2014), who split New Zealand into 15 main urban areas; accordingly, population-weighted densities calculated here differ slightly from Nunns'. In line with Nunns, meshblocks with fewer than three people/ha (unurbanised areas) were excluded from the analysis.
- 4 When an asset is depreciated, its value is decreased in the statement of financial position. The depreciation amount is recognised each year as an expense in the statement of financial performance.
- 5 The annual amount expensed equals asset cost minus residual value, divided by useful life.
- 6 Note that the report identifies that asset renewal expenditure is currently below asset depreciation in local governments, suggesting underinvestment in infrastructure.
- 7 Litman includes it in his analysis of the costs of sprawl in the United States: see Litman (2015). Valuing road land is not trivial, as values would be much lower without road access.
- 8 A complete list of TA densities is available from the authors.
- 9 As indicated in note 3, the method of calculation is close to that used by Nunns (2014), who identified Auckland as densest (43.1 people/ha). The notable difference is in area selection. Nunns identified 15 main urban areas; this research analyses all 67 TAs. The Wellington main urban area used by Nunns includes Wellington City, Hutt Valley and Porirua, treated separately in the present study as they form separate TAs.
- 10 A possible exception is that the per capita water supply cost gradient in the medium-growth grouping is flatter than for the other groups (data not shown).
- 11 The annual depreciation for state highways on NZTA's books for 2013/14 was \$465 million. This is equivalent to around 70% of the annual depreciation expense of all TAs put together (\$677 million).

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Sir Geoffrey Palmer QC

# The Resource Legislation Amendment Bill, the Productivity Commission Report and the Future of Planning for the Environment in New Zealand

Let us begin with the proposition that there is much in the Resource Management Act 1991 (RMA) that needs to be fixed.<sup>1</sup> How that cure is to be effected is not widely agreed. Indeed, the policy surrounding the Resource Management Act at present seems confused. We need to stop and ask, what are we trying to do in this space? I shall in this address try to unravel the issues. Being a planner in this febrile policy context must have its challenges.

In my judgement the overall conclusion to be reached is that New Zealand does regulatory statutes rather badly. They are insufficiently researched. They are not rigorously tested before being enacted. Nor are sufficient efforts made to find out how they worked in the real world. And large statutes are amended far too readily, leading to incoherence and uncertainty in the market. No doubt these are not positive conclusions. But I have been around a very long time and seen these issues come back again and again.

My overall conclusion is not restricted to the resource management legislation. New Zealand's methods of law making are deficient both within the executive government, which conducts its affairs in secret on legislation, and in Parliament, which concentrates on politics rather than scrutiny of the legislation itself. Sooner or later we may wake up to the fact that these ingredients are impeding better governance in this country. How the law is designed, how

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Sir Geoffrey Palmer is a former Prime Minister of New Zealand and a Distinguished Fellow in the Law Faculty at Victoria University of Wellington.

it is consulted about, how it is drafted and how parliamentary scrutiny proceeds are all vital issues in securing quality legislative outcomes.

The failures of the RMA can be laid at the doors of central government and local government. Failure to make policy statements and set environmental standards that the act provides for handicapped the legislation. It left local authorities wandering in the wilderness. Too often local government did not appreciate the nature of its duties under the act and there was too much political interference.

It is important to rectify those weaknesses, and there are signs that that is occurring. But the brutal truth

different acts. The bill implicitly accepts that the amendments proposed in 2013 to alter the environmental bottom lines of the statute in part 2 will not proceed. But the changes are extensive and quite a number may not survive select committee scrutiny. The most important changes are:

- joint development of national environmental standards in national policy statements;
- new regulation making powers designed to permit specified land uses to avoid unreasonable restrictions on land, and to prohibit and remove council planning provisions;
- new provisions in the Exclusive Economic Zone and Continental

need to be considered. The bill was not supported by Peter Dunne, who voted against it; so did ACT MP David Seymour (who thought the amendments were too weak), and the Green Party also voted against it. New Zealand First abstained and Labour voted for it.

The Māori Party cast their votes for the first reading only, having successfully secured concessions that involved removing two objectionable provisions before the bill was introduced, and winning enhanced iwi and Māori consultation provisions in return. The Māori Party prevented the introduction of privatised consenting: alternative consent authorities, where public powers would be exercised by organisations approved by the government but not by people who are publicly accountable officials, had been drafted but dropped before the bill's introduction. The Māori Party also stopped changes in the bill that would have imposed new limitations on restrictions on the use of land. They may secure further changes at the select committee stage.

But I sound a word of caution. Given the complicated political situation evidenced by the voting upon the bill's introduction, it is not easy to predict how the bill will fare at the hands of the select committee. The parliamentary debates warrant close study. Predicting the outcome would be speculative.

#### Issues with the bill

Let me now turn to the weaknesses that I think this bill exhibits. There are at least three significant and dangerous trends running through the bill. These are:

- greater ministerial control and centralised decision making that overrides local planning decisions;
- reduced opportunities for public participation in decisions that will affect local communities;
- emphasis on speed, rather than quality, of decision making.

It is my view that the process for collaborative planning particularly for freshwater management will prove to be unworkable and is likely to deliver outcomes that will be detrimental to the quality of New Zealand's rivers, lakes and streams. The whole collaborative

## Collaborative planning is likely to pave the way for non-transparent dirty deals at the expense of freshwater quality.

needs to be faced. Political reactions that have led to numerous amending acts for the RMA over the years have made the legislation worse, not better. Constant fiddling debilitates both the act and administration. And the pattern is continuing.

There are currently two major policy reviews occurring in the same policy space: the Resource Legislation Amendment Bill and the Productivity Commission's Better Urban Planning review.<sup>2</sup> In addition, Local Government New Zealand published a blue sky discussion about New Zealand's resource management system earlier this year. At the very least stakeholders will have suffered from submission fatigue.

#### The Resource Legislation Amendment Bill

On 3 December 2015 the Resource Legislation Amendment Bill received its first reading and it was referred to the Local Government and Environment Committee for public submissions. The bill is 170 pages in length. It is technical and difficult to follow. The minister, Nick Smith, said the bill makes 40 changes to six

Shelf (Environmental Effects) Act 2012;

- lengthy new provisions to enable the development of a national planning template which gives the minister for the environment power to direct the required structure and format of policy statements and plans and to specify matters (objectives, policies, methods and rules) that either must be included in any policy statements or plans or may be included at the discretion of councils;
- amendments to ensure councils provide sufficient land for residential and business developments to meet long-term demand;
- lengthy provisions allowing for collaborative planning processes to substitute for normal processes (that was designed particularly for the Land and Water Forum work);
- substantial powers designed to centralise control, introduce many detailed procedural changes and provide a new fast track.

The politics in the House of Representatives surrounding this bill



enterprise was based upon the principle that it would be accepted as a whole system. It would not be served up to the government in bits and cherry-picked by the government on the basis that it would advance the pieces that it liked.

There is a more serious objection here. Collaborative planning is likely to pave the way for non-transparent dirty deals at the expense of freshwater quality. This is not the sort of situation that is likely to elevate the standards of our public decision making. Power imbalances will threaten the integrity of environmental outcomes. The way it appears in the bill, collaborative planning seems to be designed to favour development interests over the environment. It is wrong to assume that it is possible to find an accommodation of all the relevant interests through mutual compromise. Environmental bottom lines will not survive a process like that.

I think the adoption of a national planning template is a positive development, but there are very grave weaknesses in the manner in which this policy has been translated into law. A national planning template can set out 'requirements or other provisions relating to any aspect of the structure, format, or content of regional policy statements and plans' (emphasis added). Furthermore, the extent of the proposed content may be prescribed through the national planning template under new section 58C. I read this proposal as allowing the minister to use the national planning template to give directions to district and regional councils on substantive matters of policy. It could be used also to tell councils what they substantively can and cannot do. It goes very far beyond the national planning template described in the public consultation documents circulated by the government before the bill was introduced.

There have been many efforts to streamline the processes of the RMA over the years. They never seem to work very well. This bill contains another streamlined planning process and it is far from clear that there is any evidence to support the need for such a process as the one that is proposed. The real risk is that it will politicise the planning process and

lead to quick and suspect decisions based on political expediency. This is supposed to be an effects-based statute.

There are also significant changes to the regulation-making power in the legislation. The effect of these amendments will be to significantly increase the scope of the regulation-making power, thereby increasing the power of the minister to direct the outcome of planning and consent decisions under the act.

The legislative solutions on offer do not seem to me likely to achieve much. They will make the act more complex, cumbersome and bureaucratic. There will be so many alternative routes to getting to yes, resulting in increased transaction costs and legal costs. The people who

Environment and Development, which set out principles for environmental protection and sustainable development. The commission's report, issued in 1987, is known as the Brundtland Report after its chairperson, the Norwegian prime minister. The Brundtland Report defines sustainable development as 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs'.<sup>4</sup> It contained two concepts: the concept of needs and the idea of limitations.

Rather than viewing 'development' and 'environment' as competing values, one to be sacrificed to the other, the Brundtland Report approaches the two as inseparable: needs can only

[The National Development Act 1979] was a statute of considerable constitutional dubiety and led to a wave of political opposition based essentially on environmental and constitutional factors.

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design the processes do not have to make them work.

#### **The Productivity Commission's Better Urban Planning issues paper**

Bill English as minister of finance launched a new inquiry by the Productivity Commission on 1 November 2015, asking the commission 'to review urban planning rules and processes and identify the most appropriate system for land use allocation'.<sup>3</sup> This followed the concerns expressed by the commission in its earlier report, *Using Land for Housing*, released in October 2015, which made the case for integrating across the Resource Management Act, Local Government Act 2002 and Land Transport Management Act 2003.

What current analysts seem to forget about the Resource Management Act is that the inspiration for it came from the report of the World Commission on

be met within the limitations of the environment. The Brundtland Report puts sustainable development in the international mainstream. It is a concept that appears not to be as popular in New Zealand governmental circles as it was when it was new, but that report formed the foundation of the Earth Summit held in Rio de Janeiro in 1992 and received expression in principle 4 of the Rio Declaration: 'In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.'

It is for this reason that the RMA is driven by part 2, the purpose and principles. The purpose of the act is to promote 'the sustainable management of natural and physical resources' (s5).<sup>5</sup> All this grew out of the National government's policies in the late 1970s of Think Big. The National Development

Act 1979, now happily repealed, provided a fast track for big development projects. It was a statute of considerable constitutional dubiety and led to a wave of political opposition based essentially on environmental and constitutional factors. The RMA replaced as many as 50 different statutes that dealt with these matters and created a one-stop shop.

#### The established jurisprudence

A notable feature of the original RMA was that the environmental safeguards in it were defined and limited in part 2 of the act. This applies to all decision makers and decisions made under the authority of the act. It has taken a very long time to reach judicial understanding of how these

made was consciously avoided by both sides on the environmental divide, so their interests were not weakened by the decisions taken. To cut a long story short, the Supreme Court of New Zealand has now provided clarity in the case of the *Environmental Defence Society v New Zealand King Salmon*.<sup>6</sup> In a careful and elegant judgment of the court given by Justice Terence Arnold, matters were made as clear as possible. It is to be hoped that decision makers do not return to their old habits of ad hoc balancing.

Without going into detail, it is important to note that the Supreme Court in the most important judicial decision since the inception of the act made a number of significant pronouncements

## New Zealand has a bad habit of passing large legislative schemes and never analysing whether they were effective or efficient in achieving their goals.

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provisions should be interpreted. But now, many years after 1991, one consequence of starting again would be to lose the granulated and now clear jurisprudence that applies. That would be a retrograde step.

Leading cases have been slow to reach the senior courts in New Zealand to provide definitive guidance on how the RMA is to be interpreted. The old planning philosophy was overturned by the new act. Disputes were dealt with at the beginning by Planning Tribunal judges, who were not sympathetic to the new legislation and quite critical of it. By the beginning of 1995 there had not really been any leading cases on it. There was, however, a good deal of academic commentary on the uncertainties presented by the act, an issue that occurs with all new legislation and one reason why big, quick changes of direction are to be avoided. But after the Planning Tribunal was abolished and recreated as the Environment Court, new approaches began to emerge. It seems almost as if the stuff of which leading cases are

of great precedential value:

- It repeatedly emphasised that environmental protection is an essential part of the RMA's purpose of sustainable management.
- It stressed that sections 6 and 7 are an elaboration of the statement of principle contained in section 5.
- It drew a distinction between matters addressed in section 6 and those addressed in section 7, noting that the matters in section 6 'fall naturally within the concept of sustainable management in a New Zealand context', and section 6 therefore contains a stronger direction to decision makers than section 7.
- It explained that the elements of protection and preservation in section 6 'are intended to make it clear to those implementing the RMA that they must take steps to implement that protective element of sustainable management'.
- It rejected the 'overall judgment' approach adopted by the board of inquiry.

The government's 2013 proposed changes to sections 6 and 7 take on a new significance in light of this interpretation. Collapsing sections 6 and 7 into a single list, after the court has clearly identified the relationship between the two provisions and explained the basis for it, would make a significant difference. Further, an overall broad judgment approach is not appropriate, the court tells us.

The unfortunate feature of the struggle over part 2 is that it has caused years of delay in making the processes of the act less cumbersome, less bureaucratic and more user-friendly. What the Supreme Court decision demonstrates, in a remorseless analytical manner, is that the environmental protections in the act are real, and any reduction of them would be a retrograde step. People who want to change the approach have to recognise that the sustainability paradigm constitutes the key anchoring principle and the key policy for the whole act.

#### Where is the evidenced-based policy?

It needs to be observed that over the years we have seen very little empirical research that convinces about how the RMA is working. No doubt empirical research is expensive, but before changes are made it really is necessary to find out what is actually happening. Only in that way can meaningful improvements be made. Far too many of the changes to the RMA have been driven by anecdote, prejudice and interest, rather than evidence. Such a position certainly allows political pressure to be exerted for change. Whether the direction in which that change should proceed is based on evidence is entirely another matter.

New Zealand has a bad habit of passing large legislative schemes and never analysing whether they were effective or efficient in achieving their goals. There are many reasons for this phenomenon, but none of them convinces. Some exciting new developments on this issue have been tried in some European countries. New mechanisms should be developed to look rigorously at the effects of legislation that is being passed, and to ensure that it has achieved the objectives upon which it was based and that there are no unforeseen consequences of a deleterious

kind. It seems sound to do this before rushing in with amendments, as occurs so often in New Zealand. Such analysis is also necessary before embarking on new proposals to replace existing law.

#### Changes to the RMA

The cures to the problems ailing the RMA do not require throwing out the act; nor should they involve changes to the purpose and principles of the act as set out in sections 5, 6 and 7. Our recent experience with stakeholders is that there is support for the original intention of the RMA as articulated by the responsible ministers at the time, myself and Simon Upton. The core idea was that a development must take place within the capacity of the environment and ecosystems that support it. That is why the RMA is driven by part 2, the purpose and principles. But some major change is needed. In particular:

- regional spatial planning at the strategic level;
- integration across the RMA, Local Government Act and Land Transport Management Act;
- better provision for urban planning and development within the RMA;
- mitigation of and adaptation to climate change;
- more central guidance through national policy statements and national environmental standards;
- better district planning and rule making;
- better institutional design and decision making;
- rigorous monitoring and evaluation of effective legislation.

These changes would not be disruptive to the established jurisprudence, but they would require radical changes in behaviour and actions by parties that have responsibilities for implementation under the act. And I would add one thing. One of the greatest problems that the RMA faces lies in the prescriptive nature of the processes and procedures it prescribes. There are so many different processes now and so many different avenues that applicants can go down that the matter has become far too complicated, bureaucratic and difficult. The processes need to be totally

reconsidered, made simpler, clearer and much less convoluted.

#### Integration across the RMA, Local Government Act and Land Transport Management Act

The New Zealand statute book has to be viewed as a whole, and that is the place to start. Concentrating reform efforts on one subject, such as land for housing, is bound to have unexpected consequences elsewhere.

The issue of climate change does not seem to figure in these debates and it should. Planning for climate change in the future is going to be an enormous issue, and central government so far

inefficient and potentially dangerous “free-market” outcomes.<sup>7</sup> This is the reason the environmental bottom lines in the RMA are so important and tinkering with them is so unwise. Humankind’s destruction and defilement of the natural environment is seriously endangering the continuation of life on this planet. The failure is one of rational ecological governance.

When it comes to environmental issues, the market fails to capture many of the values and contributing factors at play. The externalisation of environmental and social costs seems to be inevitable in an atmosphere where governments seek endless economic

Too often [local government] is regarded as the agent of central government, to be kicked around and told what to do and not properly consulted.

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in New Zealand has not taken that on board. One has only to read the report of the Parliamentary Commissioner for the Environment of November 2015 – *Preparing New Zealand for Rising Seas: certainty and uncertainty* – to understand that this can be ignored no longer. Post the Paris Agreement there is going to have to be a sea change in New Zealand’s climate change policies.

What is needed are simple principles and processes that will work in the real world. The fixes lie in better plans and better processes, not in altering environmental bottom lines or in the absence of rules. Those in the business community who resent the RMA and praise markets fail to acknowledge the defects of markets when it comes to dealing with environmental issues. Price signals are often distorted for environmental issues and externalities produced by pollution are not reflected in prices. The polluters do not pay and those harmed by pollution are not compensated. As the Yale economist William Nordhaus puts it, ‘markets can distort incentives and produce

growth. Elementary economics suggest that the polluters should pay so that the costs of development are not externalised to the public, but how often does that happen?

#### Local government

Let me conclude with a word about local government. The policy problems I have outlined all depend upon the reform of the structures of local government. This is going to be necessary to achieve the outcomes that the government wants. Government policies so far in this area have lacked bite and determination.

Local government needs more constitutional autonomy in New Zealand than it enjoys. Too often it is regarded as the agent of central government, to be kicked around and told what to do and not properly consulted. There is little doubt that the local government legislation in New Zealand is defective. Whenever a new government comes in it changes the legislation and often in ways that are incomplete and unclear. Significant constitutional change is required in New Zealand if local

government is to flourish. Let me suggest the following – a set of constitutional principles along these lines:

1. The state shall have a strong, transparent and accountable system of local government based on the principle of subsidiarity. That is to say, decisions should be made as close as possible to the people whom they affect.
2. The provision of services and the solution of problems should take place as close to the citizens as practicable and ‘in accordance with allocative efficiency’ as the nature of the relevant process allows.
3. The right of units of local government to manage their own affairs independently in accordance with laws and regulations under the supervision of the state shall be laid down in acts of Parliament.
4. All local government builds on the concept of community.
5. Central and local government policies must be coherent, but within a broad general framework local authorities must have self-government, with freedom to

decide and control local policies.

Administrative supervision of local government will be limited to ensuring compliance with the law and the execution of delegated responsibilities.

6. Local government representatives shall be democratically elected by secret ballot under an act of Parliament.
7. Local government shall be open and transparent in its decision making and accountable to its citizens.
8. The financing of local government by the imposition of rates on land and property provided for by act of Parliament needs to be accompanied by a revenue-sharing programme with central government negotiated between central and local government.
9. When new responsibilities are placed on local government by central government, they must be preceded by adequate consultation and estimate of what the new responsibilities will cost to administer.

Constant meddling with the local government legislation is as counterproductive as the constant meddling with the resource management legislation. When you put both together it is a rather lethal combination.

- 1 This article is an edited version of Sir Geoffrey Palmer’s keynote address to the annual conference of the New Zealand Planning Institute, Dunedin, 2016.
- 2 The Local Government and Environment Committee expects to report back to Parliament late in November. It is understood that there were 750 submissions. The Productivity Commission is scheduled to deliver its final report to the government on 30 November.
- 3 Beehive.govt.nz; see terms of reference at <http://www.productivity.govt.nz/inquiry-content/2682?stage=3>.
- 4 World Commission on Environment and Development, *Our Common Future*, Oxford: Oxford University Press, 1987, ch.2, p.1.
- 5 See Geoffrey Palmer, ‘The making of the Resource Management Act’, in *Environment: the international challenge*, Wellington: Victoria University Press, 1995; Palmer, ‘The Resource Management Act: how we got it and what changes are being made to it’, in Trevor Daya-Winterbottom (ed.), *Resource Management Act: theory and practice*, Auckland: Resource Management Law Association, 2014, p.22. There are a number of legal texts on the act that are useful to practitioners, which do not discuss the policy but rather describe the law: see Derek Nolan (ed.), *Environmental and Resource Management Law* (5th edn), Wellington: LexisNexis, 2015. For more on the policy see Klaus Bosselman, David Grinlinton and Prue Taylor (eds), *Environmental Law for a Sustainable Society* (2nd edn), Auckland: New Zealand Centre for Environmental Law, University of Auckland, 2011.
- 6 *Environmental Defence Society v New Zealand King Salmon Co Ltd* [2014] NZSC 38(SC).
- 7 ‘The Pope & the market’, *New York Review of Books*, 8 December 2015.



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Claudia Scott

# Local Government Funding facing the issues

## Introduction

Designing funding policies to serve all the local and regional councils in New Zealand is challenging. This article looks at some of the issues that arise, and some principles for addressing funding arrangements and for considering whether current local government funding arrangements are suited to the requirements of local governments throughout New Zealand. The need for new sources of revenue for local governments in New Zealand is a topic which is raised

in most reviews of local government funding. The larger question is whether the nature, level and mix of current funding sources meets the needs of all the councils, given the diversity of their roles, funding requirements, opportunities and constraints.

Similar issues are raised by councils themselves and the private and community sectors. Funding is often a matter of concern to ratepayers, particularly commercial and industrial ratepayers who feel that their rates are too high in relation to the benefits they receive from the services provided by local and regional councils. Some

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*Claudia Scott* is Professor of Public Policy at Victoria University of Wellington, and has long-standing teaching and research interests in local government policy, strategic planning and funding. She headed a five-year research project, Local Futures, which explored strategic planning practices in 19 councils under 2002 legislation. She was a member of the 2015 Local Government New Zealand Working Group which examined local government funding.

councils are stretched to provide and maintain essential physical and social infrastructure. Councils with low population or economic growth and a declining or ageing population are being challenged, as are those with small populations in places that attract visitors who require services and amenities but do not directly contribute to funding them. Visitors generate costs for small councils and communities. They can generate demand for places to park and to camp, and high levels of service delivery: for example, in respect of water quality.

Local governments must also incur costs arising from central government's expectations and policy decisions. A recent example is a central government

has now obtained an 'in principle' agreement to the council charging motorists driving on the city's most congested streets. The recently published interim report of the Auckland Transport Alignment Project (ATAP) has found that charges of between 3 cents and 40 cents a kilometre would be likely to have a dramatic positive impact on congestion and the use of public transport.

Funding pressures are leading some councils to be less responsive to pressures for development, because their ability to secure adequate funding to meet requirements and expectations is constrained under current funding arrangements. Fast-growing urban communities in New Zealand, especially

resources can expand the revenue base while also reducing the contribution required from existing funding streams.

The predominant source of funding for councils is rates, which make up about 50% of the revenues raised by local governments in New Zealand. A lack of clear linkages between the functions, jurisdictional boundaries and funding of local governments has prevented fruitful discussions of funding approaches and their suitability for each particular council and context. Ministers have shown a preference for creating unitary authorities, which combine regional with territorial councils. This has been done in Auckland, Gisborne, Nelson, Tasman, Marlborough and the Chatham Islands. Auckland Council was formed from eight authorities. A similar proposal developed for the Wellington region by the Local Government Commission was not supported by a popular vote. Arguments as to whether 'bigger is better' or 'small is beautiful' are perennial and unresolved. They are likely to remain so as long as policy for local government is framed with a heavy emphasis on efficiency gains from reorganisation and limited attention to funding arrangements for local governments.

If the function of local government, its jurisdictional structure and its funding arrangements are artificially separated, then it is difficult to say anything of consequence about any of them.

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decision to alter the way regional councils will be reimbursed for the transport subsidies to superannuitants. It will result in councils receiving less revenue for delivering transport services, which was not anticipated and therefore not budgeted for in their long-term plans. Councils are also expected to meet the costs of implementing regulations made by central government, but there is no provision made for cost-sharing.

The 2015 OECD economic survey of New Zealand said that the most problematic factor cited for doing business in New Zealand remains inadequate infrastructure. The survey recommended that New Zealand facilitate the provision of better urban infrastructure by diversifying the revenue streams available to local governments. It also suggested better management of the demand for and use of urban infrastructure, including congestion charging to reduce urban traffic. After some years of seeking support from central government, Auckland Council

Auckland, expend considerable energy and resources to deliver planning and infrastructure services, address congestion and housing affordability issues, and endeavour to placate strong objection to proposed intensification.

While councils have the power to set tax rates for existing sources of revenue, they do not have power to create new revenue sources. Any such changes will require legislation by Parliament, and therefore support from central government. These matters will often also involve community consultation. It is easy for central government to signal that they are not interested in supporting proposals for additional revenue sources. Ratepayers often oppose proposals for new sources of finance because they believe this will necessarily encourage councils to spend more overall. But new sources can in fact spread the costs of local government more widely without increasing them, and target particular population groups and sectors that benefit from services. New funding

#### **The Local Government New Zealand funding review**

Most previous funding reviews have been instigated by the government or done internally by the public service, whereas the 2014–15 review was initiated by the local government sector. Local Government New Zealand (LGNZ) created a working group of invited participants, who contributed to a discussion paper on local government funding issues. The review developed some case studies that widened the discussion of funding and made comparisons which brought together issues of function, structure and funding. Members were independent and drawn from many different sectors, recognising the diversity of local governments and their issues, opportunities and challenges. The funding discussion paper was followed by a more specific ten-point plan issued by the LGNZ national council.

The working group provided perspectives on a wide range of issues

regarding current funding arrangements, and suggested options for reform. Members brought extensive knowledge of the issues and challenges facing various councils. Some councils felt financial pressures arising from rapid growth and high demand for infrastructure and development. Others councils had ageing populations and shrinking economies, and some communities that attract tourists were challenged to meet visitors' expectations.

If the function of local government, its jurisdictional structure and its funding arrangements are artificially separated, then it is difficult to say anything of consequence about any of them. This separation has become newly important as a result of the Local Government Act 2002 Amendment Bill, currently before a parliamentary select committee, which sets out a new framework for local government organisation without taking financial considerations into account.

#### Structure, functions and funding of local governments

The history of the organisation of local government in New Zealand has been one of consolidation. In 1974 there were 991 territorial and ad hoc authorities; there are now 78 local authorities, comprising 11 regional councils and 67 territorial authorities (unitary authorities, city councils and district councils).

Local authorities vary considerably in size. At the last census of population and dwellings (March 2013), the largest regional council was Environment Canterbury (population 539,433); the smallest was West Coast Regional Council (population 32,148). Territorial and unitary authorities' populations ranged from 1,415,550 (Auckland) to 600 (Chatham Islands).

Table 1 sets out the functions of territorial and regional councils.

Local and regional councils create and maintain infrastructure and provide services for districts, cities and regions. They play an important role relating to planning, and build and maintain local roads. Many councils deliver various community services, such as libraries, swimming pools, parks and recreational facilities. Councils must also implement

**Table 1: Local government functions**

Territorial council functions		
Rural fire protection	Museums	Drainage
Civil defence	Libraries	Cemeteries
Crime prevention	Economic development	Cultural facilities
After-school care	Tourism promotion	Drinking water
Crèches	Airport ownership	Waste water
Voluntary sector grants	Events	Storm water
Public health protection	Sports facilities	Citizens' advisory services
Housing	Parks and open spaces	Citizenship ceremonies
Community centres	Public health regulation	Town planning
Refuse collection and disposal	Local roads	Environmental management
		Local regulations
Regional council functions		
Public transport	Biodiversity	Regional environmental
Port ownership	Bulk water supply	planning (air and water)
Marine regulations	Pest management	Environmental protection

Source: Reid, 2016

regulations established by central government. Many services are taken for granted by those who use or benefit from them, and the general public is often unsure as to the roles of councils and other organisations in financing and delivering services; communities differ in the level and mix of particular services provided by their local councils beyond the core services that are required by legislation.

Relative to councils in other OECD countries, however, all local governments in New Zealand have a narrow mandate, and their range of services excludes the delivery of education, health and social services, which are local government responsibilities in other jurisdictions. Council planning and regulatory functions influence the location of various activities and set standards for the built environment. Councils also play an important role in emergency management, and have a role in building strong communities and resilience in their communities. These activities influence the quality of life and the economic, social, environmental and cultural outcomes in local communities. Councils also vary in the range of services and amenities that they provide to residents and visitors, and this will

affect perceptions of their territories as attractive places to live and to visit.

As already observed, rates are the predominant revenue source, delivering almost 50% of revenues on average. Taxes on property were recognised in the funding review as the cornerstone of funding for local government services, though new revenue sources, such as an accommodation tax and the sharing of sales taxes, were also considered. The imposition of mandatory rating exemptions was also raised. One option proposed was that mandatory rating exemptions be removed, and exemptions made in response to specific local needs, following consultation by councils with their communities. Core Crown land is exempt from rates, though in many overseas jurisdictions it is common for councils to pay grants in lieu of rates.

There are also subsidies from central government, including cost-sharing arrangements with the New Zealand Transport Authority (NZTA), which collects petrol tax and shares a proportion of this revenue with local government to fund local roads.

In 2013 the proportions of local government funding sources were as follows: rates 49%, user fees and charges 15%, current and capital grants (from

**Table 2: Average council activity funding sources for services (by percentage), 2013**

	Rates	Regulatory Income	User Fees & Charges	interest & Dividends	Grants
Roading	61	4.5	4.5		30
Transportation	16	10	28		46
Water supply	64		36		
Waste water	85		15		
Solid waste/refuse	45	1	51		3
Environmental protection	74	4	19		3
Emergency management	63		17		20
Planning and regulation	38	47	13		2
Culture	65	1	16		18
Recreation & sport	66		32		2
Community development	78		13		9
Economic development	56		16		28
Property	21	1	77		1
Governance	94		6		
Support services	76	3	4	17	
Other	28		14		58

Source: Local Government New Zealand, 2015a, p.15

NZTA contributions) 19%, vested assets 7%, regulatory income and petrol tax 5%, interest and dividends 4%, and development and financial contributions 2%. The percentage of income derived from taxes can vary substantially between councils, as it depends upon the availability of other forms of revenues from investments and user fees and charges. Councils vary in the degree to which they rely on particular revenue sources to fund their activities.

The Local Government Act 2002 replaced legislation that mandated specific services. It included a new purpose clause, giving councils a power of general competence and local choice regarding the services to be delivered to their communities. The act required councils to specify their intended levels of services and to work with their communities to prepare a ten-year long-term plan. Councils are now also required to each provide a 30-year plan for infrastructure.

Expenditures also vary considerably across authorities. In 2013 the six largest operating expenditure categories on average by activity were, from high to low, transport and roading (at 29.1%), council support services (14.9%), water, storm water and waste water (14%), recreation and sport (8.5%), culture (6.5%) and planning and regulation (5.3%). Other categories included property, environmental protection, solid waste/refuse, economic development, community development, governance and emergency management.

Revisions to the legislation in 2010 and 2012 focused on improving the performance of local governments and improving transparency, accountability and financial management. Some modifications allowed more flexibility to make use of targeted rates, with a view to assigning rates more precisely to the benefits received. No provision has been made, however, for introducing new sources of revenue.

### Good practice principles for funding arrangements

Local government funding design should be guided by acknowledged good practice principles for taxation and revenue systems. Some criteria for well-designed funding policies and arrangements are allocative and technical efficiency, horizontal and vertical equity, administrative simplicity and transparency. The efficiency criterion is concerned with ensuring that the tax system does not distort economic behaviour and incentives, and maintains relative prices to avoid economic inefficiency. Equity is about fairness. Horizontal equity means treating people who are equal in terms of their income or economic status the same way; vertical equity seeks to compensate for differences in ability to pay, by varying taxes for different income groups. Governments pursuing growth and efficiency have become interested in administrative simplicity, to keep the administrative and compliance costs of taxation relatively low as a proportion of the revenue collected.

In New Zealand, discussion of funding for local government tends to place an extraordinary emphasis on the burden of rates on ratepayers, and on perceived inequities and inefficiencies. Many candidates in local government elections have campaigned on the platform of keeping rates down, unsurprisingly given the reliance on rates as a principal source of funding. Some councils make use of differential rating, which allows councils to impose different rates on property values for residential, commercial and industrial property, and differentials can also be used to impose different rating levels on properties in different value classes. Differentials are sometimes used with a view to considering differences in the benefits received and/or ability to pay of different classes and value classes of property. Councils can also impose a uniform annual general charge which is imposed at the same rate for all ratepayers.

Making decisions on how to fund various council services requires consideration of the purpose of delivering the services and the precise benefits received from them. Public services can confer private benefits to the



users of the service; benefits to those in the community who support councils' delivery of services irrespective of whether they personally benefit from them; and benefits to others, including visitors, who do not contribute to the funding of services. Funding arrangements such as the metering of water are designed to produce efficiencies, as user charges will make individuals more aware of costs and provide incentives to reduce the amount used. Water saving confers benefits to other users, and financial benefits to the council and thus indirectly to all those who help finance council services.

The nature of benefits from a service – such as swimming pools, for example – will vary between communities, and funding policies must have regard to the public and private benefits they confer. The proportion of public and private benefits from swimming pools will differ within and between councils depending on who uses the pools, and the degree to which entry is subsidised for particular user groups. In Auckland a decision to provide free swimming for people under 16 years of age was initially made by a local board, then extended to all parts of the city by the governing body. Public funding of pools and other recreational facilities is often delivered to ensure access for the community which would otherwise be unaffordable to some individuals and groups.

Services provided by central or local government may provide private benefits to users and benefits to those who do not use the services themselves. If the services provided by councils were producing only private benefits to individuals, then, in theory, one could consider mandating that households purchase specific services, such as rubbish collection. The services provided by governments are often those that benefit the community even though they confer private as well as public benefits. Public parks and reserves are an example of amenities from which both public and private benefits are enjoyed.

As observed, councils in New Zealand continue to rely principally on rates for revenue. They can impose differential rates on property zoned for different purposes, and can also differentiate

within a specific category of property by value class or other attributes. Differential rating for commercial property is widely used by large urban councils. Research commissioned in 2016 by the Property Council of New Zealand reported commercial differentials, which are multiples of the general rate applied to residential property by the same council. The commercial rates differential applied by Wellington councils in 2015 were: Wellington City 2.8; Porirua 3.5; Lower Hutt 3.14; and Upper Hutt 2.7. The proportion of general rates collected from commercial property ranged from 22% in Upper Hutt to 45% in Wellington City. Only Porirua had a uniform annual charge.

available to councils, or subsidies linked to income or consumption taxes collected by central government.

These issues raise questions as to whether the revenue base in New Zealand should be diversified, and if central government should share some of the proceeds from GST with local governments, or find ways to reward communities which are growing and thus generating revenues to local governments. In some countries sub-national governments, particularly in large urban areas, have access to a local tax based on income, payroll or sales, which can generate some local revenue from local and international visitors and others who place significant demands on

## The use of differentials makes the rating system less transparent, in that valuation becomes less important in determining the quantum of rates paid by different sectors.

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The use of differentials makes the rating system less transparent, in that valuation becomes less important in determining the quantum of rates paid by different sectors. These arrangements have the effect of increasing the share of rates paid by commercial ratepayers. Differential rates can make it more difficult for people to predict their liability for rating increases in the future than if a single uniform rate was imposed on all classes of property.

Debate about new sources of revenue is more common in rapidly growing cities such as Auckland, but the issues involved also affect small rural communities and areas with small local populations that are popular with tourists and visitors. There is ongoing discussion about the costs associated with visitors and tourists and the revenue contribution they make to local governments. One option to consider is imposing taxes on visitors and tourists, which should be paid locally. There is no payroll, income or sales tax

council services but do not contribute to local taxes. Such a subsidy, for example, is the sharing by the federal government in Australia of the proceeds of the goods and services tax with the state governments.

The funding review examined several potential new sources of funding for councils. It focused particularly on issues of rapid growth and housing affordability in fast-growing urban areas, but also looked at the financial challenges facing small districts with declining populations and rating bases, which still need to renew infrastructure and maintain services, and the service delivery requirements of places that are under pressure from non-resident populations.

A key theme of the funding review's recommendations was the need to re-examine existing funding arrangements to provide stronger incentives for councils to support economic growth and to strengthen local communities. Oliver Hartwich, executive director of the New Zealand Initiative and a member of

the LGNZ working group, describes the current approach to growth as follows:

In New Zealand, unfortunately, we have separated out the benefits and costs of development. Taxes on economic activity – income profit and sales taxes – typically end up in central government's coffers. Yet costs associated with increasing economic activity – infrastructure spending but also losses of amenity – are borne locally.

economic development. Environment Canterbury, for example, has developed a comprehensive strategy with support from mayors of all the local councils in the region. The local government sector has been through a long period of constant reform and legislative change, and could benefit from more certainty about its functions, structures and funding policies. If councils are to be encouraged to support growth more proactively and are to provide infrastructure efficiently and effectively, there is a case for looking

expanded and strengthened Local Government Commission has a focus on reorganisation and the potential benefits of further consolidation of local governments. But legislation currently before a select committee proposes to reintroduce mandatory community polls on any proposed amalgamation of councils. The bill proposes allowing the commission to amalgamate particular councils' services, as distinct from their identities, where it believes this will lead to efficiencies. The New Zealand Council for Infrastructure Development considers this approach to improving local government to be too narrow. Its report on local government and planning reform proposes 'a fully integrated planning, governance, funding, regulation, delivery, and resource management system that will drive regional social and economic development, improve environmental outcomes and strengthen local democracy and community engagement' (New Zealand Council for Infrastructure Development, 2015).

## Designing funding policies should involve consideration of the potential role of new sources of revenue, and of the principles that should guide the design of a robust and suitable funding system.

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As a result of this disconnect, central government is a pro-development force while local government is an obstacle to growth by definition. This affects all sorts of development, whether of residential housing, new businesses, or more controversially, oil and gas exploration and mining. (Local Government New Zealand, 2015b, p.8)

There remain many options to consider. The jurisdictional structure of local government might be subject to change, with implications for the roles local governments undertake, as well as for funding. The tendency has been to seek amalgamations, reducing the number of councils and gaining efficiencies in service delivery, without changes in councils' roles. Regional councils were formed in response to environmental concerns, but may yet take on a wider role regarding growth and economic development: this function is sometimes carried out by specific councils, or by separate economic development agencies, but some regions are beginning to work with local councils on regional

at ways to broaden their permissible revenue base.

This should in turn serve to make councils more receptive to accommodating growth and development. Social, environmental and cultural outcomes will need to be considered, and mechanisms devised to help governments make informed judgements about individuals' and communities' well-being, and on the benefits and costs of alternative courses of action.

### The local government reform agenda

In many countries arrangements for funding local governments are the subject of lively debate because the range of funding sources is wide. Governments with multiple levels of sub-national government often have arrangements for revenue sharing, with the aim of transferring revenues from higher- to lower-level government units. These transfers are made for various purposes.

Efforts to secure alignment between functions, jurisdictional arrangements and financing arrangements can be undermined by selective focus on any one of these three dimensions at the expense of the other two. The recently

The issues facing Auckland regarding growth, transport, urban planning and housing affordability are challenging and substantial. They are not unique to Auckland. Tourism is growing, and regional development strategies are being developed by local governments in various regions.

### Conclusions

Assessing the suitability of funding arrangements requires balanced consideration of the roles and functions to be undertaken; the jurisdictional structure of local government; and the adequacy of the level and mix of revenue sources. These three elements must be able to work well for a diverse range of local and regional councils in New Zealand. The diversity of issues, opportunities and challenges for New Zealand councils necessitates policy settings that recognise and cater for the whole range of communities and regions in New Zealand. Designing funding policies should involve consideration of the potential role of new sources of revenue, and of the principles that should guide the design of a robust and suitable funding system.

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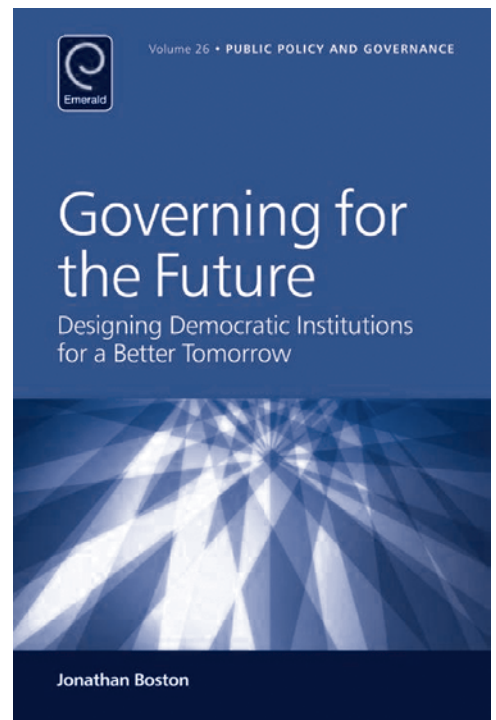
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