

Effective Relationships and Collaborative Arrangements between Central and Local Government

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1 Executive Summary

"Partnership is very much the touchstone of the approach we have encouraged since taking office ... Partnerships within and across the state sector; partnerships with local government, with communities and individuals ..." (Hon Steve Maharey (13 November 2003) *Social Capital and Social Development - Enabling New Zealanders* Address to the Annual General Meeting of Philanthropy New Zealand. Turnbull House, Wellington.

The Terms of Reference for the Royal Commission on Auckland Governance invites the Commission to investigate and receive representations on what is required for effective relationships and collaborative arrangements between central and local government.

These concerns are not new. The election of a Labour-led Government in 1999 marked an ideological shift from the public sector reforms of the mid-1980s to a "third way" approach to government, which emphasized the building of social capital and partnership approaches to empower communities and improve social outcomes.

While many of the Government's collaboration initiatives have focused on the welfare sector, this 'sea change' has also been part of local government reform. Explicit in the Local Government Act 2002, for instance, is a requirement for local authorities to facilitate the involvement of communities in strategic planning, but collaboration between central and local government has also been a feature of this reform.

These efforts to promote 'joined-up' government and inter-sectoral co-operation not only have their basis in practice, but also in theory. The concept of "governance" (as opposed to "government") has emerged as a new theoretical foundation underpinning the "third way" approach to government.

Notions of collaboration, coordination and partnership are closely related activities undertaken within the context of a network paradigm. Networks refer to the development of linkages between actors (organizations and individuals) where linkages become more formalised towards maintaining mutual interests. The nature

of such linkages exists on a continuum ranging from 'loose' linkages to coalitions and more lasting structural arrangements and relationships.

From a central/local government perspective, “governance” demands that co-ordination occur both horizontally (e.g. between different government agencies which may have responsibilities for various activities at the same level of government) and vertically (e.g. between different levels of government (local, regional and central) within a single functional administrative and policy system (e.g. public transport, social housing, public health). This notion is different from but complimentary to “subsidiarity” which requires decisions to be taken at the level of government best placed to do so, but does not say what the level is. Implementing subsidiarity means allocating roles appropriately between levels of government, coordinating implementation of decisions and managing accountability and participation.

Although there has been a focus by central Government on developing relationships directly with the community, a number of initiatives have been developed with local government in order to utilise its capacity to collaborate with local communities. Examples include the Local/Central Government Forum, central government engagement in the Community Outcomes process and the Auckland Sustainable Cities Programme. A number of key lessons can be learned from these projects of relevance to what is required for effective relationships and collaborative arrangements between central and local government. These include Protocols or high level Principles between the parties outlining: the scope of their relationship; the visions, strategies, significant investments and initiatives; respective funding allocation; the joint work programme; the level of political engagement; the level and type of stakeholder and community engagement; and provision for debate and disagreement.

Of further relevance are the conclusions of the Local Government Rates Inquiry, which included the argument that there was a need for clearer policy direction from central government in relation to how local and central government could work together to conduct strategic planning, undertake monitoring and reporting, and achieve community outcomes.

Experience from overseas suggests that the ideological shift from the public sector reforms of the mid-1980s to a “third way” approach is a global phenomenon. But it also suggests that, although New Zealand has embraced relationship building and co-operative networking between local and central government, we have not taken steps to formalise the arrangements that have emerged. By contrast, these types of approaches have been formalised in other countries, extending from forums with a statutory basis, Principles or Memoranda of Understanding to guide the relationship between central and local government (including their incorporation into statute), and constitutional recognition of the value of the local government sector.

2 Royal Commission Terms of Reference

The Terms of Reference for the Royal Commission on Auckland Governance require the Commission to:

“... receive representations on, inquire into, investigate, and report on the local government arrangements (including institutions, mechanisms, and processes) that are required in the Auckland region over the foreseeable future in order to maximise, in a cost effective manner, - (a) the current and future well-being of the region and its communities; and (b) the region’s contribution to wider national objectives and outcomes.”

More specifically and without limiting the above, in conducting the inquiry, the Commission may investigate and receive representations on:

“... (c) what is required for effective relationships and collaborative arrangements between central and local government;”

However, the Commission is not to enquire into:

“... (d) central government agency and institutional arrangements and the accountability of Ministers of the Crown to Parliament for the expenditure of appropriated funds, the provision of services, and the stewardship of assets within their ministerial portfolios;”

Although there is no further elucidation in the Terms of Reference themselves about what is meant by “effective relationships and collaborative arrangements between central and local government”, some illumination of the concerns held by Government in this regard may be found in the Cabinet Paper concerning central government engagement in the 2006-2016 Community Outcomes processes. Here Cabinet directed the Department of Internal Affairs to overcome what it saw as the potential barriers to central and local government interaction, specifically – a lack of consistent communication, variation in preparedness, and a lack of capability across central and local government to develop inter-sector relationships (Cabinet Policy Committee, 2004).¹

3 Collaboration - The Second Wave of Reform

The election of a Labour-led Government in New Zealand in 1999 marked an ideological shift from the public sector reforms of the mid-1980s to a “third way” approach to government, with an emphasis on building social capital and government working in partnership with agencies to empower communities and improve social outcomes.

3.1 The Public Sector Reforms

The public sector reforms introduced in New Zealand from the mid-1980s were intended to dismantle public administration at both central and local government levels. They were underpinned by public choice theory, agency theory, transaction cost economics, and comparative institutional analysis. There were three principle economic reasons underlying this new direction. The Government was interested in reducing the dependency of public bodies on public budgets, in reducing public debt

¹ See Appendix A of this Report for the details of the concerns raised in the Cabinet Paper.

by selling state assets, and in improving efficiencies by adopting commercial practices.

In general, these theories were based on an assumption that individuals, be they public servants or providers of services, were individual self-interested utility maximisers and therefore could not be trusted to act in the public interest. Consequently, the behaviour of these individuals needed to be managed through monitoring, contractual arrangements, proscriptions, and/or incentive structures.

These theories were used to justify departmental restructuring, including the introduction of policy/operations and specifier/provider splits, in an effort to manage what was described as “rent-seeking” behaviour by public servants. As Gregory (2003, 44) points out “institutional economics places much more emphasis on risk management than relational trust, on competition than cooperation, on markets than hierarchies, on consumership than citizenship, on corporate management than democratic governance ...”.

However, a number of problems resulted from the introduction of these public management reforms that took place in New Zealand. These have been well canvassed in various government reviews and publications by academics (Kelsey 1997; Boston, Daiziel et al 1999; Boston 2000; Brown 2000; Cheyne, O'Brien et al 2000; Gregory 2003; Ministry of Social Development 2003). These problems include fragmentation of decision-making, the proliferation of agencies and ministerial portfolios, as well as the consequential loss of strategic outlook and co-ordinated service delivery. These reports and articles have also criticised the reforms for ‘hollowing out the state’ (where the nature of the state has changed from being one of centralised administration to one in where government is dispersed among a number of separate bodies).

Arguably, the quasi-commercial, market-orientated setting created, in the provision of governmental services, a contractual basis for the relationship between the specifiers and providers of services that undermined the trust that had existed between government agencies (including local government), and between government and community agencies. This resulted in a breakdown of co-operation and co-ordination

between all agencies. The nature of government underwent a significant transformation from a traditional public administration model (where government policy was implemented for the public good) to a corporate model (with an emphasis on efficiency, return on investment and market-based mechanisms determining relationships between stakeholders).

3.2 *Changing Direction - Shifting to Collaborative Ways of Working*

Many of the initiatives developed by the Labour-led governments since 1999, to promote effective relationships and collaborative arrangements, can be interpreted as an acknowledgement of the problems caused by the breakdown in inter-agency co-ordination and co-operation since the mid 1980s. Indeed, New Zealand is currently in the midst of what has been described as a second wave of reform, characterised by a concern for cohesiveness, consistency, constructive relationships, and shared values across all parts of government (Walker, 2004; Lerner and Butler, 2005).

In the welfare sector, collaboration has been a high priority of both the Ministry of Social Development and the Department of Child, Youth and Family. Reviews, such as the *Baseline Review of the Department of Child Youth and Family* (Ministry of Social Development, Child Youth and Family et al 2003), have found that welfare agencies can lift their performance through improved collaboration. The Ministry of Social Development's publication *Mosaics – Whakaahua Papariki* emphasizes collaboration and argues that while it is very important, collaboration is also often very difficult to achieve (Ministry of Social Development 2003). The State Services Commission and, in particular, the outcomes and implementation of its 2001 publication *Review of the Centre* is another example of the emphasis the government is giving to enhancing interagency relationships and structures (State Services Commission 2001).

This 'sea change' has also been part of local government reform over the past few years. Explicit in the Local Government Act 2002, for instance, is a requirement for local authorities to involve the community more in strategic planning as well as more improve co-operation between central and local government. The Department of

Internal Affairs Report *Facilitation of the Central /Local Government Interface in the Community Outcomes Process* is a demonstration of the efforts being made to encourage greater central/local government co-operation, while the *Auckland Sustainable Cities Programme* is a further example, particular to the Auckland region.

4 Conceptualising Collaboration

These efforts to re-establish 'joined-up' government and promote co-operation between sectors have both been built upon and have further developed the concept of "governance" (as opposed to "government") and being part of what has been identified as a "third way" approach to government. Ideas of governance have emerged from the "governmentality" or Foucault school of thought (Hunt and Wickman 1994) and operates through network structures, as a "new process of governing; or a change to condition of ordered rule; or the new method by which society is governed" (Rhodes, 1997: 43).

The growing emphasis on "governance" as opposed to "government" is also supported by recent developments in management theory. For example, theories of collaboration (eg Gray, 1985; Gray, 1989; Wood and Gray, 1991) and network development (eg Powell, 1990; Freeman, 1991; Cooke and Morgan, 1993) emphasise the importance of links being made between stakeholders in the processes of policy development and strategic planning.

In accordance with these theories, notions of collaboration, co-ordination and partnership are activities undertaken within the context of a network paradigm. Networks are considered to be linkages between actors (organisations and individuals) that have become formalised as a means of maintaining mutual interests. The nature of such linkages exist on a continuum with informal linkages at one end and coalitions or more lasting structural relationships at the other. Mandell (1999) identifies this continuum as follows:

- linkages or interactive contacts between two or more actors;
- intermittent coordination or mutual adjustment of the policies and procedures of two or more actors to accomplish some objective;
- ad-hoc or temporary task force activity among actors to accomplish a purpose or purposes;
- permanent and/or regular coordination between two or more actors through a formal arrangement (eg a council or partnership) to engage in limited activity to achieve a purpose or purposes;
- a coalition where independent and strategic actions are taken, but where purposes are narrow in scope and all actions occur within the participant actors themselves or involve the mutually sequential or simultaneous activity of the participant actors; and
- a collective or network structure where there is a broad mission and joint and strategically inter-dependant action. Such structural arrangements take on broad tasks that reach beyond the simultaneous actions of independent operating actors.

These networks tend to operate neither top down, “where goals at each level in the special area or organisation are determined based on the goals at the next higher level” (Heath and Wall, 1992: 69) nor bottom up, “where the goals of individual units are aggregated together”. Instead, collaboration is characterised as an interactive or co-operative approach, requiring participation between the various levels or units of government in both horizontal and vertical ways.

From a central/local government perspective, “governance” demands that co-ordination occur both horizontally (e.g. between different government bodies which may have responsibilities for various functions at the same level of government) and vertically (e.g. between different levels of government (local, regional and central) within a single functional system (e.g. public transport) or geographic area (e.g. Auckland)).²

² Using Auckland as an example, some of the existing horizontal and vertical relationships between central and local government include:

- Collective regional interactions with the central government Executive (e.g. the Auckland Regional Transport Funding and Strategy Project; Sustainable Cities; Regional Migrant Settlement Strategy)
- Collective regional interactions with Parliament (e.g. developing regional submissions on prospective bills)
- Elected member interactions with Ministers or groups of Ministers (e.g. between the Mayoral Forum and specific Ministers or groups of Ministers (such as the Infrastructure Ministers, as well as interactions with individuals)

This notion is different from, but complimentary to, “subsidiarity” which requires decisions to be taken at the level of government best placed to do so, but does not say what the level is. Implementing subsidiarity means allocating roles appropriately between levels of government, co-ordinating implementation of decisions and managing accountability and participation (Guerin 2002). It is more structured than network arrangements.

Two different types of co-ordination are required in governmental networks: administrative co-ordination and policy co-ordination. The necessity for administrative co-ordination arises when the aims, objectives and policies between the parties have been agreed, but the process for co-ordination has not yet been determined or there are variations in the implementation. The need for policy co-ordination arises when there is a dispute about the objectives of the policy that must be co-ordinated and implemented. (Hall and McArthur, 1998). Policy co-ordination between independent actors is a ‘political’ activity and as a result of this, co-ordination can prove very difficult to achieve, especially when there are a large number of actors involved in the process. Being precise about the terminology being used can also be helpful. For instance, co-ordination tends to refer to formal structurally orientated relationships within existing networks of organisations or individuals, while co-operation is more about informal trade-offs and attempts to establish associations in the absence of rules (Mulford and Rogers, 1982: 13).

Often, the solution to achieving co-ordinated approaches to planning and policy problems, such as the issue of sustainability, is resolved in organisational terms (eg the creation of new organisations or the allocation of new responsibilities to existing organisations). However, this solution often does not by itself solve the problem of achieving resolution of the varying interests of the stakeholders involved, which can demand the establishment of further informal co-operative processes.

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- Individual local authority relationships with individual government departments (official to official or organisation to organisation) (e.g. significant local projects and initiatives)

Often collaboration will also require that the governmental bodies work with a wider set of stakeholders, thereby attempting to bring together a broad set of public interests. In these situations, the collaborative approach is also seeking to include the opinions, perspectives, and recommendations of a range of stakeholders other than those considered experts. Although this approach may well be more time consuming than a more exclusive approach, often the results can mean a greater level of acceptance of the outcome, because the stakeholders will have more ownership of the planning process. Furthermore, such a process may well establish a basis from which further co-operation or collaboration may be possible.

In much of the analysis of networks, they are typically portrayed as inter-dependent, co-equal and reciprocal relationships (Klign, 1996). However, different actors tend to occupy different positions of power and can carry different weight within such networks. Some occupy positions with extensive opportunities to influence policy outcomes, while others may be reluctant participants or may not have resources to participate beyond a very minor level. As Clegg and Hardy (1996: 678) note “we cannot ignore that power can be hidden behind a façade of "trust" and the rhetoric of "collaboration", and used to promote vested interests through the manipulation and capitulation by weaker partners.”

5 New Zealand Local/Central Government Collaboration in Practice

Although there has been a focus by the Government on developing relationships directly with the community, a number of initiatives to promote effective relationships and collaborative arrangements have also been either directly with local government itself or with particular local authorities and their constituent communities in order to utilise it's capacity to collaborate with local communities. This has included the Local/Central Government Forum, central government engagement in the Community Outcomes process and the Auckland Sustainable Cities Programme.

5.1 Case Study – The Local/Central Government Forum

To enhance the opportunities for improved understanding and joint policy development at the national level between local and central government, the Government established a regular forum for interaction between key Crown Ministers and representatives of Local Government New Zealand in 2000.³ The Forum is jointly chaired by the Prime Minister and the President of Local Government New Zealand. The inaugural Local-Central Government Forum was held in March 2000 and has been followed regularly by meetings about once every six months. The issues identified at the inaugural Forum and that have generally been on the agenda at subsequent Forum meetings include economic development, community development (including social cohesion and housing), environment, roading/transport, the Treaty of Waitangi, local government legislation and financial frameworks. At the Forum in September 2002, Local Government New Zealand made a number of suggestions for improving the Forum and the ‘partnership’ that had formed between local and central government, particularly concerning the mutual development of policy (Central/Local Government Forum, 2002). These were as follows:

“Local Government New Zealand places particular emphasis on having a discussion at this Forum about establishing effective processes between local government and central government to bring about resolution of the widest possible range of these issues. Local Government New Zealand wants to ensure that central government has satisfactory processes for bringing their issues to the attention of local government and in both cases the parties can determine quickly the right process to adopt.

Local Government New Zealand requests that central government consider putting some appropriate processes in place:

- to bring central government issues to the attention of local government so local government can more quickly determine the appropriate process for response and for making input to the resolution of the issue concerned, and
- to ensure that local and regional concerns are recognised and addressed at an early stage of Government planning, so as to more effectively implement them at the local and regional level.

³ The concept is not entirely novel, however. Under previous administrations there had also been the Local Government Consultative Group – a formal working arrangement which linked the two arms of government. The Local Government Consultative Group involved membership from the Minister of Local Government (chair), other Cabinet ministers when appropriate, the Secretary for Local Government, the president and management committee of the Local Government Association and the president of the Society of Local Government Managers. Established in the mid 1970s, it was a forum rather than an executive body. See Bush 1995, 182.

Local Government New Zealand suggested a formal engagement in policy processes as a way to ensure local and regional concerns were recognised and addressed at an early stage of Government planning. Tangible reflections for both central and local government of commitment to this kind of partnership would be:

- the opportunity to identify issues and contribute to the preparation of the Government's Budget across relevant portfolios (and the Government doing the same at the local level);
- government departments having key result areas relating to engagement with the local government sector (as representatives of regional and local communities); and
- input by *Local Government New Zealand* to any papers pre-Cabinet, that may impact on local government or with district/local/regional impacts.

Local Government New Zealand has suggested such a partnership for the development of policy could also be more formally recognised to reflect, as appropriate, the protocols expected to be followed in the development of policy for both "governments" (eg through a memorandum of understanding, or a joint statement by leaders)."

Unfortunately, apart from the Department of Internal Affairs *Policy Development Guidelines for Regulatory Functions involving Local Government* (Department of Internal Affairs 2006) these suggestions have not been significantly advanced, although in practice, as can be seen from the case studies below, central government has engaged in several processes to address these concerns.

5.2 Case Study – Central Government engagement in the Community Outcomes Process

The community outcomes process was introduced by the Local Government Act 2002. Part 6 of the Act requires local government to facilitate a process with their communities, at least once every six years, to identify community outcomes. Local authorities are required to facilitate a process so that communities (including central government agencies and businesses) can identify and promote the community outcomes.

Central government agencies have no legislative requirement to engage in the identification or promotion of community outcomes, although government policy does encourage this engagement where there are mutually desirable outcomes.

In 2004, Cabinet directed the Department of Internal Affairs to facilitate a central and local government interface in the community outcomes process to overcome potential barriers to engagement (Cabinet Policy Committee, 2004).⁴ The Cabinet Paper outlined specific initiatives or requirements to be implemented by the Department in this role. Cabinet also directed the Department to monitor and evaluate their facilitation of the central and local government interface and produce a report (Department of Internal Affairs 2007).

Commencing in November 2004, the Department's Local Government and Community Branch established the interface team, which implemented a number of initiatives that aligned with the Cabinet Paper (including establishing the Central Government Interagency Group; SEEC5;⁵ www.localcentral.govt.nz; annual workshops; monitoring and reporting seminars; an e-discussion group; and communications materials).

Four short term impacts were identified in the monitoring and evaluation report for both central and local government, that were attributable to the activities of the Department over the course of the project (Department of Internal Affairs 2007, 4-10), specifically -

- *Connecting:* Departmental relationship managers created a sense of connection between 21 central government agencies and the community outcomes processes, through their attendance at national and regional forums. The Department also connected at least 12 central government agencies, to varying degrees, with local authorities to meet identified local needs. Local authorities were not, however, always ready to interact with central government agencies and at times rejected the Departments suggested engagement proposals.
- *Creating Relevance:* The Department played a critical role in demonstrating to central government agencies the relevance of the community outcomes process. However, there was limited success, where at least 14 central government agencies appear to have perceived little relevance in, or were not engaged in the community outcomes process. Given the Department's limited capacity, and the lack of demand from local government, the Department did not seek to address

⁴ See Appendix A of this Report for a copy of the concerns raised in the Cabinet Paper.

⁵ SEEC5 stands for the four wellbeings of social, economic, environment and culture, with the 5 representing the wellbeing agencies (Ministry of Social Development (MSD), Ministry of Economic Development (MED), Ministry for the Environment (MfE), Ministry of Culture and Heritage (MCH) plus the Department of Internal Affairs).

systematically the reasons these agencies were not engaging. In addition, amongst local government, there continued to be some confusion about the role of central government agencies in the communities outcomes process.

- *Smoothing Engagement:* Departmental relationship managers eased or assisted a number of central government agencies to work with local government and encouraged and supported the engagement process through offering advice, assistance and resources.
- *Sharing good practice learning:* Relationship managers gathered and disseminated examples of good practice about different community outcomes processes, and central and local government engagement amongst central government. However, there was limited evidence that this resulted in changed practices within central government agencies, although this did reduced duplication of effort across local government. Nonetheless, it is likely that over time this information sharing will enhance central government agencies' understanding about community outcomes, therefore creating a foundation in which community outcomes may become more embedded within central government processes.

Overall, the Report concluded that the Department achieved some targeted success in improving central government engagement in the community outcomes process. The Report suggested that further gains might be achieved using a more strategic approach to identify those central government agencies that should be engaging in the identification of mutually beneficial community outcomes and by addressing, if possible, their underlying reasons for not engaging. Into the future, central government participants see a need for:

- reviewing the first full community outcomes process across the country;
- focusing on action planning;
- monitoring and reporting assistance they have offered to local government;
- better understanding and awareness of the role of central government agencies roles in these processes;
- avoiding duplication of effort; and
- enhancing the awareness and understanding of how local government needs and community outcomes align with central government agencies strategic direction and work plans.

For local government participants, their future needs in the community outcomes process relate to:

- clarifying the level of focus for central government in the community outcomes going forward (ie should it be local, subregional or regional);
- creating greater understanding by central government of their roles in community outcomes;
- continuing to connect with central government agencies;

- sharing good practice in an ongoing way;
- seeking to avoid consultation overload.

5.3 *Case Study – Auckland Sustainable Cities Programme*

The Auckland Sustainable Cities Programme ("ASCP") was a three-year multi-agency pilot programme conducted between 2003 and June 2006 which aimed to achieve a number of sustainable development and partnership outcomes.

The ASCP emerged out of the New Zealand Sustainable Development Programme of Action ("NZSDPOA"), the Government's response to the 2002 World Summit on Sustainable Development, and was developed in partnership with the Auckland region's seven territorial authorities and the Auckland Regional Council.

Twenty five agencies participated in the ASCP, which involved six workstrand areas, responsible for 14 projects. It was overseen by a combined steering group of central and local government senior officials, who reported to their respective agencies and councils. In summary, the ASCP consisted of projects focused on:

- sustainable communities;
- transport and urban form;
- regional child and youth development;
- open form design and development;
- Auckland regional settlement strategy;
- urban centres and economic performance.

An evaluation report produced in 2006 identified that the key partnership achievements of the ASCP were:

- greater political engagement between the two sectors;
- increased capability for the two sectors to work together in Auckland;
- sustainable development (a motivating, unifying, stretching factor);
- significantly improved integration within central government;
- improved central government understanding of the Auckland region;
- central government changes becoming new "business as usual";
- improved local government understanding of central government;
- increased awareness and collaboration within the Auckland region;
- catalysing other work between the sectors in the Auckland region; and
- providing central government with a model for engagement in other regions.

Beyond these achievements, the ASCP also had a number of impacts on both the central and local government sectors, including increased understanding and integration between the two sectors, and an increased understanding and integration within each sector (particularly for central government).

A number of key lessons were also learned about working relationships between local and central government in the Auckland region.

- (1) There are inevitable tensions between central and local government partners that require careful management. Councils are separate entities and regional partnerships require that they work collegially together. This required long lead times when providing ASCP update reports through all of the councils. The fact that council committee meetings are open to the public resulted in risk management concerns within some central government agencies.
- (2) Central government needed to build the partnership at the regional level, to ensure an efficient use of its resources, which are spread across many agencies and the whole of the country. Both central and local government needed to constructively manage their partnership expectations, value the contributions made by both sectors and accept, with time, that the different ways of operating can be managed.
- (3) Complex multi agency work requires strong leadership at a range of levels. Vital strategic leadership was provided at the early stages of the ASCP, and throughout, which helped ensure its success.
- (4) It took time to develop relationships and trust and the understanding of sustainable development needed to undertake this work. The right agencies need to be involved along with committed staff at senior levels, and for the full duration of any programme. Changes in personnel are inevitable over a longer programme, but care is needed to ensure that the knowledge and commitment are fully transitioned with these changes.
- (5) Funding was needed to build relationships up front, along with recognition that benefits occur in the longer term. It was helpful having funding sitting behind the partnership at both programme and project level. The ASCP experience suggests that central government has a greater ability to fund programmes such as ASCP and that having contracted project/workstrand co-ordinators within councils and/or central government agencies was a very efficient way to progress the work.
- (6) More flexible accountability and greater understanding is required when managing multi agency funded contracts.
- (7) Communicating the achievements of multi agency programmes is important and needed to have been planned for, from the start. Different sectors and agencies had different communication needs and central government agencies required appropriate risk management.

- (8) Support and training was needed to help partners understand more about each other's ways of working. Field trips in the region were offered, but short term secondments in Wellington, mentoring or coaching by those with a working knowledge of both sectors, may have helped to speed up the understanding.
- (9) Protocols for engagement between central and local government are necessary at several levels to support understanding and commitment between the parties.⁶

Although the ASCP itself has been disestablished, several developments have emerged of significance for the local/central government relationship, with the Auckland Regional Sustainable Development Forum (RSDF) being of particular note.

The RSDF was established as a standing committee of the Auckland Regional Council on 24 September 2007. The RSDF is intended as a forum to continue the work of the Regional Growth Forum, but was established more in response to the outcomes of the Strengthening Auckland's Regional Governance Project undertaken in 2007 and to take responsibility for the ongoing stewardship and development of the Auckland Sustainable Framework (ASF). Of note, with regard to the outcomes of the Strengthening Auckland's Regional Governance Project were several observations about the key future relationship 'success' factors for local/central government relations in the Auckland region:

- The benefits of co-operation must outweigh the benefits of 'going it alone'
- An organised Auckland with a common vision is necessary as an intermediary between communities and central government
- Regular agreement is required between Auckland and Central Government on the issues which need to be addressed and a timetable for doing so
- Regular and purposeful contact between central government ministries and the Auckland region to maintain engagement on Auckland issues
- Protocols need to be established for those occasions when local authorities deal with central government as individual entities rather than as a regional grouping
- Wellington relationships with regionally based governmental agencies must complement interactions between the Auckland local authorities and central government, and
- Increased flexibility is required for regionally based central government agencies

⁶ See Appendix B of this Report for Protocols proposed for engagement between central and local government in Auckland.

The RSDF is itself a response to these observations. It is a collaborative political body comprising representatives from central, regional and local government as well as tangata whenua. The inclusion of enhanced central government representation on the RSDF will provide an important opportunity for collaboration and joint working. Membership from central government includes the Chief Executives or their nominees from the Department of Internal Affairs, Ministry of Economic Development, Ministry of Social Development, Ministry for the Environment, and the Department of Prime Minister and Cabinet. A set of protocols for the ongoing operation of the RSDF have also been adopted. The main focus for the RSDF in 2008 will be the development of the first version of One Plan for Auckland.

6 Conclusions from the Local Government Rates Inquiry

In August 2006, the Minister of Local Government established an independent inquiry into local government rates. Although the Report of the Rates Inquiry focused mainly on funding issues concerning local government, the authors also took the opportunity to discuss a number of key principles, including the partnership between central and local government (Local Government Rates Inquiry Panel, 2007). These are relevant to the Royal Commission, not only in and of themselves, but also because the Royal Commission has been instructed in its terms of reference to “take into account the implications of the findings of the Independent Inquiry into Local Government Rates for local government arrangements in the Auckland region.”

The Panel noted that both central and local government are deeply involved in the four wellbeings of communities and the pursuit of sustainable development. Although some features of the relationship, such as the Central/Local Government Forum, work well, the Panel believed that the partnership could be made to work better. Overall, the Panel argued that there was a need for improved institutional arrangements, including “better analysis, coordination, consultation, and guidance in the development of central government policies that impact on local government” (Local Government Rates Inquiry Panel, 2007, 3, 260).

Furthermore, there was, argued the Panel, inadequate capacity and resources within central government allocated to monitoring the operation of the Local Government Act 2002 and the Local Government (Rating) Act 2002 - the two major pieces of legislation governing the operations of local government – and recommended that the resources provided to the Department of Internal Affairs be increased to enable it to better monitor the operation of councils and local government legislation. The Panel also had concerns that there were serious shortcomings in the database of information held by central government concerning local authorities.

In terms of its recommendations, the Panel was steadfast that the partnership required central government to provide additional funding for local government, particularly by providing two new revenue sources – an increase in the current local authority petroleum tax and additional government funding for water infrastructure. The partnership principle also underpinned the Panel's recommendation to make all Crown land (except the conservation state, parliament, vice regal residences, roads, seabed, foreshore, lakes, and rivers) fully liable for rates.

Although currently the land transport network is a partnership between central and local government, the Panel stated that there was a need to develop a similar partnership for the three waters' infrastructure (water, wastewater and stormwater).

The Panel noted, with regard to the existing pattern of transfers from central government, that these did not appear to be based on any consistent principles and that a review of the scope and value of the current transfers be undertaken so that they might better reflect equalisation principles, as part of the development of a new infrastructure equalisation fund.

However, the Panel did refer to the Department of Internal Affairs *Policy Development Guidelines for Regulatory Functions involving Local Government* (Department of Internal Affairs 2006) which are designed to prompt and assist central government agencies to identify and consider key issues that may arise where local authorities may be required to be involved in the implementation of regulatory functions. A further mechanism the Panel considered was a requirement in the

Cabinet Handbook to identify the costs to (or other impacts on) local government arising from any proposed government policy decision or legislation and to confirm that appropriate consultation had been undertaken with local government. In addition, it was recognised that Parliament's Local Government and Environment Committee also reviewed any legislation impacting on local government. Moreover, the Select Committee had also indicated that it would monitor the impact of the recent reorganisation of the Department of Internal Affairs, which had been designed to foster and improve the relationship between central and local government.

Finally, the Panel recognised that considerable progress had been made, but there was “a need for clearer policy direction from central government in relation to how the sectors can work together, conduct strategic planning, undertake monitoring and reporting, and achieve community outcomes.” (Local Government Rates Inquiry Panel, 2007, 3, 260). Interestingly, this concluding comment has comparisons with the conclusions of the report by Sir Michael Lyons on Local Government in the United Kingdom (Lyons 2007, 8), where he stated:

“In order to clarify the responsibilities of local and central government a number of changes are therefore necessary. First, both central and local government need to acknowledge the contribution that the other can make to their shared agenda for improving the wellbeing of our communities. This means recognising that central government should not expect to do the things which local government is better equipped to do, and vice versa. For example, local government by virtue of its closer connection with citizens, is better placed to engage with them about what they want, to manage expectations about what is possible, and to work with service users to improve the effectiveness of local public services.

Second, central government should be much clearer about those areas in which responsibility should be fairly local, and resist cause to intervene in those areas. This requires an acceptance that variability between areas is not only inevitable, but also desirable if pressures are to be managed.”

7 Overseas Comparisons

The New Zealand experience of central Government promoting effective relationships and collaborative arrangements with local government also needs to be viewed in an

international context. The ideological shift from the public sector reforms of the mid-1980s to a “third way” approach has not only been evident in New Zealand, but has been a global phenomenon.

Although New Zealand has embraced relationship building and co-operative networking between local and central government to achieve local community outcomes, it has not taken significant steps, in terms of Mandell’s continuum of collaboration, to formalise structural arrangements to take on broad tasks that reach beyond the simultaneous actions of the independent operating actors. By contrast, these types of approaches have been formalised in other countries, extending from statutory forums, to Principles or Memoranda of Understanding to guide the relationship and constitutional recognition.

7.1 Forums between Local and Central Government in the United Kingdom and Australia

Arrangements for local-central government forums operate in both the United Kingdom and Australia, but differ in terms of their formality from the institution in New Zealand.

In England, for example, a Local-Central Government Forum meets regularly to consider and discuss major issues. The agenda and decisions are regularly published on both local and central government websites.⁷ In Wales, intra-governmental relations between the Welsh Assembly and Welsh local government have been formalised through a statutory Partnership Council, established as an advisory body under the *Government of Wales Act 1998 (UK)*.⁸

⁷ In England there are normally three meetings per year, alternating between ODPM’s HQ in Eland House and Local Government House plus occasional away days. See Local Government Association website – <http://www.lga.gov.uk>

⁸ See Schedule 11, *Government of Wales Act 1998 (UK)*. The role of the Partnership Council is to promote joint working and co-operative relationships between the National Assembly of Wales and local government. The Partnership Council comprises 25 representatives, including key members of the National Assembly of Wales (from all parties) and members from local government - drawn mainly from the Welsh Local Government Association but also including representatives of the National park, police and fire authorities and two from the community councils.

In Scotland, the Scottish Executive together with the thirty-two Scottish local authorities and the Convention of Scottish Local Authorities (COSLA) entered into a Partnership Framework in May 2001. The document outlines a background to the framework and establishes 'Respect' on the basis of 'parity of esteem' as the underlying key principle. The Framework then goes on to commit the parties to a number of key operational principles for the relationship, including: engagement; consultation; public announcements and the exchange of information; meetings between the Executive and COSLA/Councils; and support of joint working relationships. The Framework also includes the *European Charter of Local Self-Government* as an Appendix.⁹

Formal interaction between the different levels of government also takes place in Australia. In particular, a number of State Governments have established formal protocols for inter-governmental relations. The arrangements in South Australia are a good example. The *State-Local Government Relations Agreement 2004* (updated in 2006) between State Government and local government in South Australia is a useful example for New Zealand to emulate.¹⁰ This agreement contains a set of objectives and shared understandings for the relationship, agreed principles (on mutual recognition, communication and consultation, financial relations and shared strategic directions), agreed processes (including the Minister's local government forum, implementation and review) and a Schedule of Priorities.¹¹ A copy of the 2006 Agreement and Schedule of Priorities is contained in the Appendix D of this Report. The South Australian agreement also reflects the national *Inter-Governmental*

The Partnership Council's remit is: to give advice to the Assembly about matters affecting the exercise of any of the Assembly's functions; make representations to the Assembly about any matters affecting, or of concern to, those involved in local government in Wales; and to give advice to those involved in local government in Wales.

The Partnership Council meets quarterly, with its meeting being open to members of the public. Its agendas and minutes are regularly published.

⁹ See Appendix C for a copy of the European Charter on Local Self-Governance. See also the Partnership Framework at Scottish Executive – www.scotland.gov.uk

¹⁰ See Appendix D for a copy of the South Australia State-Local Government Relations Agreement.

¹¹ See Office of Local Government (State Government of South Australia) *State-Local Government Relations – An Agreement between the State Government and Local Government in South Australia* (2004) at www.lga.sa.gov.au.

*Agreement Establishing Principles Guiding Inter-Governmental Relations on Local Government Matters 2006.*¹²

7.2 Principles for the ‘Partnership Relationship’

At the inaugural New Zealand Local-Central Government Forum, Local Government New Zealand introduced a set of principles for the relationship that it suggested central government could apply when determining policy and practice about the local government sector (Cabinet Policy Committee, 2000):

- respect for the autonomy of local government except where significant national interests and values outweigh the benefits of allowing local difference and discretion;
- recognition of local government’s role in community governance and encouragement of citizen participation;
- empowerment of local government to identify and meet the local needs and preferences of their communities
- encouragement of local government to maximise its contribution to national goals and involving strong communities and economic development
- clarification of local government’s responsibilities to the principles of the Treaty of Waitangi; and
- encouragement of local government to be efficient, effective and provide “best value” for its citizens and customers.

Unfortunately, there has been little further consideration of these principles, although in making its submission on the Local Government Bill 2001, Local Government New Zealand suggested a further set of principles be incorporated into the proposed new Local Government Act (Local Government New Zealand 2001, 21):

The relationship between local authorities and central government in relation to this Act is based on the following principles:

1. Co-operative relations between central government and local authorities are to be fostered in order to efficiently and effectively meet the needs of the local communities
2. Where responsibilities are delegated to local government either the necessary funding should be allocated or local authorities be given the powers that allow them to draw on the resources required to fulfil those responsibilities

¹² See Office of Local Government (State Government of South Australia) *Inter-Governmental Agreement Establishing Principles Guiding Inter-Governmental Relations on Local Government Matters 2006* at www.lga.sa.gov.au.

3. Notice and consultation is needed for central government actions that directly affect local authorities' interests
4. Central government recognises that different local authorities and their communities have different local needs and circumstances and so may require different approaches
5. The independence of local authorities is balanced by the responsibility of the central government to consider the interests of all the communities.

The principles suggested by Local Government New Zealand were based on section 3 of the British Columbia *Local Government Act, Chapter 323*,¹³ but were not finally included in the Local Government Act 2002. These principles have been developed further in British Columbia and now form section 2 of the British Columbia *Community Charter* legislation, Chapter 26, and are as follows:

- “2 (1) The citizens of British Columbia are best served when, in their relationship, municipalities and the Provincial government
- (a) acknowledge and respect the jurisdiction of each,
 - (b) work towards harmonization of Provincial and municipal enactments, policies and programs, and
 - (c) foster cooperative approaches to matters of mutual interest.
- (2) The relationship between municipalities and the Provincial government is based on the following principles:
- (a) the Provincial government respects municipal authority and municipalities respect Provincial authority;
 - (b) the Provincial government must not assign responsibilities to municipalities unless there is provision for resources required to fulfill the responsibilities;
 - (c) consultation is needed on matters of mutual interest, including consultation by the Provincial government on
 - (i) proposed changes to local government legislation,
 - (ii) proposed changes to revenue transfers to municipalities, and

¹³ See section 3, *Local Government Act, Chapter 323 (British Columbia)*: Principles for governmental relations

The relationship between regional districts and the Provincial government in relation to this Act is based on the following principles:

- (a) cooperative relations between the Provincial government and regional districts are to be fostered in order to efficiently and effectively meet the needs of the citizens of British Columbia;
- (b) regional districts need the powers that allow them to draw on the resources required to fulfill their responsibilities;
- (c) notice and consultation is needed for Provincial government actions that directly affect regional district interests;
- (d) the Provincial government recognizes that different regional districts and their communities have different needs and circumstances and so may require different approaches;
- (e) the independence of regional districts is balanced by the responsibility of the Provincial government to consider the interests of the citizens of British Columbia generally.

- (iii) proposed changes to Provincial programs that will have a significant impact in relation to matters that are within municipal authority;
- (d) the Provincial government respects the varying needs and conditions of different municipalities in different areas of British Columbia;
- (e) consideration of municipal interests is needed when the Provincial government participates in interprovincial, national or international discussions on matters that affect municipalities;
- (f) the authority of municipalities is balanced by the responsibility of the Provincial government to consider the interests of the citizens of British Columbia generally;
- (g) the Provincial government and municipalities should attempt to resolve conflicts between them by consultation, negotiation, facilitation and other forms of dispute resolution.”

It may be appropriate to consider a section such as this in the New Zealand context.

At the Local-Central Government Forum in September 2002, Local Government New Zealand introduced a yet another set of principles that it sought to have expressed in a Memorandum of Understanding or a Leadership Statement concerning appropriate and effective processes for the ‘partnership relationship’ (Local-Central Government Forum, 2002):

- to bring central government issues to the attention of local government so local government can more quickly determine the appropriate process for response and for making input to the resolution of the issue concerned;
- for working together to ensure local and regional concerns are recognised and addressed at an early stage of Government planning, and to effectively implement policies at the local and regional level;
- to have an opportunity to identify issues and contribute to the preparation of the Government's Budget across relevant portfolios (and the Government doing the same at the local level);
- to provide that government departments have key result areas relating to engagement with the local government sector (as representatives of regional and local communities); and
- to allow input by *Local Government New Zealand* to any papers pre-Cabinet, that may impact on local government or with district/local/regional impacts.

While the precise drafting of any principles for a local-central government relationship might be considered further, in light of the principles of the *European*

Charter of Local Self Government, overseas experience and the success of the New Zealand Local-Central Government Forum, it is arguably time to consider enshrining an appropriate set of 'partnership relationship principles' into the Local Government Act 2002 or at least into a Memorandum of Understanding between local and central government in New Zealand.

7.3 Covenants (or MOUs) between Local and Central Government

In Australia there is a growing practice of formalising relationships between local, state and central government in Covenants or Memoranda of Understanding.

A useful example is that of Tasmania, where a Local Government Partnership Agreements program has been established and where Partnership Agreements are promoted as a way for the Tasmanian State Government and local authorities to work more constructively together. In this example, a Partnership Agreement is a document that sets out actions to be undertaken by local and state government to address a range of social, environmental and economic concerns. The Agreements take into account consultative mechanisms at the local level. They are aimed at encouraging local input to community and economic development and at promoting shared responsibilities for better-targeted service delivery.¹⁴ They are integral to implementing the benchmarks set by *Tasmania Together* - the 20 year social, economic and environmental plan for the State adopted in 2001. In addition, the Agreements provide a framework for implementing, at a local level, the sector specific industry plans being developed as part of the State Government industry development strategy. Four types of Partnership Agreement are now developed under

¹⁴ The objectives of Partnership Agreements are to: (a) with the local community, identify opportunities to work in partnership with Local Government to progress agreed social, economic and environmental issues for Local Government areas; and (b) to ensure effective service delivery arrangements to meet the reasonable needs of all residents including, where appropriate, options to improve co-ordination of joint service delivery arrangements to address gaps and overlaps in service delivery. See <http://www.dpac.tas.gov.au>

There are currently four signed statewide Partnership Agreements on financial reform, communication and consultation, simplifying planning schemes and waste management. In addition, the Tasmanian Government is now looking at developing tripartite agreements on issues of mutual concern to the Federal, State and Local Governments.

the program: bilateral (state with council), regional (state with regions), state-wide (state with all councils and regions) and tri-partite (federal, state and council).¹⁵

While some commentators have questioned whether documenting principles for inter-governmental relations in this way achieves any more in practice than if they remained undocumented, arguably a documented approach would be preferable in New Zealand where there are no other formal conventions to guide the relationship (Himsworth 2004).

7.4 *Constitutional Approaches in other Countries*

By comparison with New Zealand, a number of other countries have also confirmed in their various federal and state constitutions, the constitutional place or role of local government (Norton 1994).

In continental Europe, for example, the status of local government, developed within the traditions of civil law and under the influence of eighteenth and nineteenth century principles of constitutionality, is almost always recognised in national constitutions (Norton 1994, 9).¹⁶ Here, local authorities serve the purposes of the State by

¹⁵ A bilateral Partnership Agreement is one between the State Government and one Council. There are now 20 bilateral Partnership Agreements in place, with another two under development. The State Government introduced regional Partnership Agreements shortly after the first bilateral Partnership Agreement was signed to address issues that cross local boundaries but do not apply to the whole State. All Tasmanian Councils have chosen to be part of one of three regional local government agreements or organisations (called region north!, Cradle Coast Authority and southern Tasmanian Councils). Statewide Partnership Agreements are developed under the Premier's Local Government Council.

¹⁶ Rights to local self-government came to be constitutionally recognised in Luxembourg (1789), Switzerland at cantonal level (1803, 1848 and 1874), Prussia (1808), France (1831), Belgium (1831), Denmark and Norway (1837), the Netherlands (1848), Sweden (1862), Finland (1865 and 1871), the Weimar Republic (1919) and, after the Second World War, in Japan (1947), Italy (1948), the Federal Republic of Germany (1949), Portugal (1976) and Spain (1978). In Sweden, for example, local government is entrenched in the very first article of the constitution, which reads:

“All public power in Sweden proceeds from the people. Swedish democracy is founded on freedom of opinion and on universal and equal suffrage. It shall be realised through a representative and parliamentary polity and through local government.”

In Denmark, Section 82 of the Constitution [Local Autonomy] provides that:

“The right of the municipalities to manage their own affairs independently under the supervision of the State shall be laid down by Statute.”

contributing to its constitutional values and a holistic governmental system and their role is typically to look after the affairs of local communities (Denmark) or to govern and regulate community affairs (Germany). This status is reflected in the *European Charter of Local Self-Government* which acts as a constitutional guide for the relationship.

By contrast with the nations of Europe, the former British colonies have largely followed British legal tradition and made little or no provision for local government in their federal constitutions, despite some recognition in state or provincial constitutions (Norton 1994, 18). Despite this lack of recognition at the federal level, there has, in many instances, been active consideration of the role of local government.

In Australia, for instance, the federal Advisory Council for Inter-Governmental Relations (ACIR) advocated, in a 1985 Report, that formal recognition should be given to local government within the Commonwealth Constitution. In 1988 the matter was put to national referendum, but was opposed by Opposition Parties and was lost, with less than 33 per cent of the electorate voting in favour (Advisory Council for Inter-Governmental Relations, 1985).

Despite the lack of federal recognition, local authorities in Australia have been recognised in State Constitutions and afforded protection in the constitutions of Victoria, Western Australia, South Australia and New South Wales. Overall in Australia, local government is referred to in all State Constitutions, with three of the States providing for entrenchment of local government provisions and special procedural requirements for consultation on the part of State Governments with local authorities before they are able to pass local government legislation.¹⁷

In addition, some local authorities in Australia have adopted a localised version of the *European Charter of Local Self-Governance* as a means of reinforcing the constitutional position of local government from the “bottom-up”.¹⁸ In some ways,

¹⁷ See *Constitution Act 1902 (NSW)*, s.51; *Constitution Act 1867 (Qld)*, s.54; *Constitution Act 1934 (SA)*, s.64a; *Constitution Act 1934 (Tas)*, s.45A; *Constitution Act 1975 (Vic)*, s.74A; *Constitution Act 1889 (WA)*, s.52. See Jones (1981), Jones (1989) and Jones (1991).

¹⁸ See Appendix E for a copy of the City of Burnside, Charter of Local Self-Government.

this approach mirrors that taken by local authorities in New Zealand to establish nuclear free zones. Indeed, in an increasingly globalised world, particularly one where demonstrations of commitment to democracy are now important, internationally accepted texts, such as the *European Charter of Local Self-Governance*, have global significance. The emergence of international law that reaches down below the level of the state to local government, raises questions about whether national governments are even entirely free to determine the legal or constitutional framework within which local authorities operate. The question arises whether New Zealand is obliged to ensure that its local government framework complies with the principles espoused in international instruments (Frug and Barron, 2006).

Like Australia, while there is no recognition of local government in the federal constitutions of the United States or Canada, individual States and Provinces are able to, and often do, determine in some detail the structural and other conditions that must be met by state government with regard to the local system of government.¹⁹

In another example, the 1996 South African Constitution clearly establishes local government as the local sphere of government and requires both the national and provincial governments to consult with local government before the passing of local government legislation.²⁰

By contrast, although the *New Zealand Constitution Act 1986* brings together a number of provisions of constitutional significance, including an articulation of the general functions and powers of the Sovereign, the Executive, the Legislature and the Judiciary, it does not mention local government at all. Arguably consideration should be given to the inclusion of a new Part V in the *New Zealand Constitution Act 1986* that articulates the role of local government and its relationship to central government.

¹⁹ See, for example, section 4 of the *Local Government Act (RSBC 1996)* of British Columbia that outlines a number of principles for the relationship between local governments and the Provincial government.

²⁰ *Constitution of the Republic of South Africa 1996, Cl. 151-164.* These provisions of the Constitution of South Africa concern: the status of municipalities; the objects of local government; the developmental duties of local government; arrangements for co-operation with municipalities; the establishment of municipalities; the composition and election of municipalities; membership of municipal councils; the terms of municipal councils; the internal procedures of municipalities; privilege; the publication of municipal by-laws; organised local government; and other matters.

Building on the expressions noted above in the constitutions of other countries, suggestions have been made for a new Part V of the *New Zealand Constitution Act 1986*:²¹

1. There shall continue to be in New Zealand a nation-wide system of democratically elected local authorities through which collective decisions can be made and acted upon locally by and on behalf of citizens.
2. The Executive and Legislature, by legislative and other measures, must support and strengthen the capacity of local authorities to manage their own affairs, to exercise their powers and to perform their functions.
3. Draft legislation that affects the status, institutions, powers or functions of local government must be published for public comment before it is introduced in Parliament, in a manner that allows organised local government and other interested persons an opportunity to make representations with regard to the draft legislation.

Finally, the question of what place or role local government has in the New Zealand constitution was raised during the Review undertaken by the New Zealand Constitutional Review Committee.²² In particular, it was proposed by some submitters that a set of principles, adapted from the *European Charter of Local Self-Government*, should be recognised in the New Zealand Constitution.²³

8. Conclusions

²¹ See Submission from R Matthews, G Hewison and J Sheppard, *Local Government and New Zealand's Constitutional Inquiry* (16 June, 2005).

²² See <http://www.constitutional.parliament.govt.nz/>

²³ See Submission from R Matthews, G Hewison and J Sheppard, *Local Government and New Zealand's Constitutional Inquiry* (16 June, 2005). See <http://www.constitutional.parliament.govt.nz/>. See also R Matthews, G Hewison and J Sheppard, "Local Government and the New Zealand Constitutional Inquiry", *Public Sector*, Vol. 28 (2) (2005), 12. The principles included those recognising in the constitution: the legal foundation for local government; the concept of local government; the scope of local government; protection of local authorities and their boundaries; appropriate administrative structures and resources for the tasks of local authorities; conditions under which responsibilities at a local level are exercised; administrative supervision of local authorities' activities; financial resources of local authorities; local authorities right to associate; and the legal protection of local authorities.

The Terms of Reference for the Royal Commission on Auckland Governance invites the Commission to investigate and receive representations on what is required for effective relationships and collaborative arrangements between central and local government.

These concerns are not new. The election of a Labour-led Government in 1999 marked an ideological shift from the public sector reforms of the mid-1980s to a “third way” approach to government, which emphasized the building of social capital and partnership approaches to empower communities and improve social outcomes.

While many of the Government’s collaboration initiatives have focused on the welfare sector, this ‘sea change’ has also been part of local government reform. Explicit in the Local Government Act 2002, for instance, is a requirement for local authorities to facilitate the involvement of communities in strategic planning, but collaboration between central and local government has also been a feature of this reform.

These efforts to promote 'joined-up' government and inter-sectoral co-operation not only have their basis in practice, but also in theory. The concept of “governance” (as opposed to “government”) has emerged as a new theoretical foundation underpinning the “third way” approach to government.

Notions of collaboration, coordination and partnership are closely related activities undertaken within the context of a network paradigm. Networks refer to the development of linkages between actors (organizations and individuals) where linkages become more formalised towards maintaining mutual interests. The nature of such linkages exists on a continuum ranging from 'loose' linkages to coalitions and more lasting structural arrangements and relationships.

From a central/local government perspective, “governance” demands that co-ordination occur both horizontally (e.g. between different government agencies which may have responsibilities for various activities at the same level of government) and vertically (e.g. between different levels of government (local, regional and central) within a single functional administrative and policy system (e.g. public transport,

social housing, public health). This notion is different from but complimentary to “subsidiarity” which requires decisions to be taken at the level of government best placed to do so, but does not say what the level is. Implementing subsidiarity means allocating roles appropriately between levels of government, coordinating implementation of decisions and managing accountability and participation.

Although there has been a focus by central Government on developing relationships directly with the community, a number of initiatives have been developed with local government in order to utilise it’s capacity to collaborate with local communities. Examples include the Local/Central Government Forum, central government engagement in the Community Outcomes process and the Auckland Sustainable Cities Programme. A number of key lessons can be learned from these projects of relevance about what is required for effective relationships and collaborative arrangements between central and local government. These include Protocols or high level Principles between the parties outlining: the scope of their relationship; the visions, strategies, significant investments and initiatives; respective funding allocation; the joint work programme; the level of political engagement; the level and type of stakeholder and community engagement; and provision for debate and disagreement.

Of further relevance are the conclusions of the Local Government Rates Inquiry, where the Panel argued that there was a need for clearer policy direction from central government in relation to how local and central government could work together to conduct strategic planning, undertake monitoring and reporting, and achieve community outcomes.

Experience from overseas suggests that the ideological shift from the public sector reforms of the mid-1980s to a “third way” approach is a global phenomenon, but also that, although New Zealand has embraced relationship building and co-operative networking between local and central government, we have not taken steps to formalise the arrangements that have emerged. By contrast, these types of approaches have been taken in other countries, extending from forums with a statutory basis, Principles or Memoranda of Understanding to guide the relationship between central

and local government (including their incorporation into statute), and constitutional recognition of the value of the local government sector.

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Appendices

Appendix A

Content from Cabinet Policy Committee Paper (2004)

Improving engagement between central government agencies and local government is perceived as contributing to:

- better understanding of each others' goals and priorities at a local, regional and central level, (ie better understanding of roles and responsibilities, drivers and priorities), and how each may contribute appropriately to the identification and realisation of community outcomes. Engagement between central and local government will ensure realistic expectations are set and maintained;
- progressing community outcomes through central and local government being better informed about what communities want and by thinking about how they might work together to achieve them;
- improving policy development through better understanding of local conditions and concerns;
- encouraging efficient use of public resources through the avoidance of duplication by greater co-ordination of information flows, and improved communication between sectors;
- reducing compliance costs through the clustering of community outcomes and local and central government engagement.

In early 2004, there was growing recognition that effective engagement by central government in the community outcomes process may be hindered by:

- lack of consistent information and communication reflecting the existence of eight authorities with varying relationships and understanding of central government agencies roles and responsibilities;
- significant variation in preparedness for the community outcomes process by central government agencies resulting in variations in resources and capabilities to respond to local government invitations to engage;
- lack of qualified, mandated central government staff, who understand the local government environment, are respected locally and can develop long-term relationships with the sector.

Recognising these challenges the Department proposed to Cabinet a series of actions to promote more effective central government engagement and improve the central and local government interface around the community outcomes process.

Cabinet Response to Problem Definition

The Department was directed by Cabinet to facilitate and improve central and local government engagement in the community outcomes process. Specifically, paragraphs 8 and 9 of the Cabinet Paper recorded that Cabinet:

"(8) agreed that, to facilitate the central/local government interface regarding community outcomes processes, the Department of Internal Affairs will:

- 8.1 continue to provide information to departments about the LGA;*
- 8.2 work with LGNZ, in conjunction with departments, to establish a directory for local authorities and communities of central government information and contacts;*
- 8.3 provide a central contact point for local government to indicate problems or opportunities regarding central government engagement in COPs;*
- 8.4 provide suggestions to departments regarding their COPs engagement;*
- 8.5 receive and collate information from departments on their involvement in COPs;*
- 8.6 establish mechanisms for departments to share good practice and overcome difficulties regarding COPs;*

8.7 *convene a central/local government workshop annually to discuss how COPs are working and share lessons.*

(9) agreed that, all departments will:

9.1 *ensure relevant departmental staff are informed about the LGA;*

9.2 *provide information to the Department for the directory of central government information and contacts;*

9.3 *provide information to the Department on their involvement in COPs and good practice examples."*

Appendix B

Protocols for Local/Central Government Interaction

High Level Principles

- Act in good faith and co-operatively on issues of information sharing and mutual disclosure.
- Work in an open and transparent manner.
- Confront, test and debate issues constructively.
- Address issues of effective co-ordination, and the clarification of respective roles and in joint work and working to joint outcomes.
- Represent the dissenting view where parties have a significant disagreement with the position of other parties.
- Engage with stakeholders within Auckland and other regions in efficient and innovative ways to ensure their interests and views are fairly represented.
- Acknowledge each party's accountability, conventions and operating procedures. Note that each party has autonomy in how they advise their elected members and make their decisions.

Scope of Relationships

- Where the issue is substantively regional in nature then the relationship will occur in a regional forum.
- Bilateral relationships will continue to progress local interests, issues and relationships with local communities and stakeholders.
- Local government and central government will generally engage with their counterpart at the same rank.
- Deputy Secretaries will act as a conduit for working with the CEO Forum in resolving cross-cutting local government sector to government issues, assisting in shaping a joint work programme and providing a whole of government response to complex and emerging issues.
- CEO Forum will liaise with Metro CEOs on common issues.

Visions, Strategies, Significant Investments and Initiatives

- Be open to sharing foresight work and debate contentious issues for the region and the nation.
- Provide opportunity to engage in the research and formulation phase of significant strategic development.
- Understand each others priorities and the implications these have for each party (both in outcome, funding and stakeholder issues) .
- Hold annual political forum (prior to budgeting rounds) .

Funding

- Place any funding proposals in an agreed strategic context.
- Be transparent and timely in advising on how your proposals have funding implications for the other party.
- Where possible bring a regional approach to prioritising funding bids (rather than multiple bilateral engagements) .
- Acknowledge respective funding contributions (in cash or kind) .

Joint Work Programme

- Both parties agree to nature of roles (sponsor, project leads etc), brief for work and confirm funding sources before work commences.
- Advance notice to either party on variations to scope of work and resource availability.
- Evaluate delivery of project (either by objective or outcome) and report to both CEO Forum, Deputy Secretaries Group and elected members.

Political Engagement

- Officers and officials to advise and brief their elected members in a concurrent fashion (to avoid any surprises) .
- Where possible shared briefings to elected members are provided (particularly on joint work) .
- Agree in advance to communications plans for joint work (collective branding, speeches, briefing and media releases complement each other in content and timing) .

Stakeholder and Community Engagement

- Share information on the profile, and views of stakeholders and communities.

- Advise on plans for significant engagement with stakeholders and communities to encourage better coordination and lessen consultation fatigue.

Debate and Disagreement

- Debate on complex issues is encouraged by both parties.
- Opportunities for clarification and further information sharing is sought in good faith.
- Disagreements on substantive matters and priorities are clearly announced and represented to relevant others including elected members.

Appendix C

European Charter of Local Self-Government

Preamble

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Considering that one of the methods by which this aim is to be achieved is through agreements in the administrative field;

Considering that the local authorities are one of the main foundations of any democratic regime;

Considering that the right of citizens to participate in the conduct of public affairs is one of the democratic principles that are shared by all member States of the Council of Europe;

Considering that it is at local level that this right can be most directly exercised;

Convinced that the existence of local authorities with real responsibilities can provide an administration which is both effective and close to the citizen;

Aware that the safeguarding and reinforcement of local self-government in the different European countries is an important contribution to the construction of a Europe based on the principles of democracy and the decentralisation of power;

Asserting that this entails the existence of local authorities endowed with democratically constituted decision-making bodies and possessing a wide degree of autonomy with regard to their responsibilities, the ways and means by which those responsibilities are exercised and the resources required for their fulfilment,

Have agreed as follows:

Article 1

The Parties undertake to consider themselves bound by the following articles in the manner and to the extent prescribed in Article 12 of this Charter.

Part I

Article 2 – Constitutional and legal foundation for local self-government

The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution.

Article 3 – Concept of local self-government

1. Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.
2. This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

Article 4 – Scope of local self-government

1. The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.
2. Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.
3. Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.
4. Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.
5. Where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be allowed discretion in adapting their exercise to local conditions.
6. Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.

Article 5 – Protection of local authority boundaries

Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

Article 6 – Appropriate administrative structures and resources for the tasks of local authorities

1. Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
2. The conditions of service of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided.

Article 7 – Conditions under which responsibilities at local level are exercised

1. The conditions of office of local elected representatives shall provide for free exercise of their functions.
2. They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.
3. Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.

Article 8 – Administrative supervision of local authorities' activities

1. Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute.
2. Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities.
3. Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.

Article 9 – Financial resources of local authorities

1. Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.
2. Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.
3. Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.
4. The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.
5. The protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.
6. Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.
7. As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.
8. For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

Article 10 – Local authorities' right to associate

1. Local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.
2. The entitlement of local authorities to belong to an association for the protection and promotion of their common interests and to belong to an international association of local authorities shall be recognised in each State.
3. Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.

Article 11 – Legal protection of local self-government

Local authorities shall have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as are enshrined in the constitution or domestic legislation.

Part II – Miscellaneous provisions

Article 12 – Undertakings

1. Each Party undertakes to consider itself bound by at least twenty paragraphs of Part I of the Charter, at least ten of which shall be selected from among the following paragraphs:
 - Article 2,
 - Article 3, paragraphs 1 and 2,
 - Article 4, paragraphs 1, 2 and 4,
 - Article 5,
 - Article 7, paragraph 1,
 - Article 8, paragraph 2,
 - Article 9, paragraphs 1, 2 and 3,
 - Article 10, paragraph 1,
 - Article 11.
2. Each Contracting State, when depositing its instrument of ratification, acceptance or approval, shall notify to the Secretary General of the Council of Europe of the paragraphs selected in accordance with the provisions of paragraph 1 of this article.

3. Any Party may, at any later time, notify the Secretary General that it considers itself bound by any paragraphs of this Charter which it has not already accepted under the terms of paragraph 1 of this article. Such undertakings subsequently given shall be deemed to be an integral part of the ratification, acceptance or approval of the Party so notifying, and shall have the same effect as from the first day of the month following the expiration of a period of three months after the date of the receipt of the notification by the Secretary General.

Article 13 – Authorities to which the Charter applies

The principles of local self-government contained in the present Charter apply to all the categories of local authorities existing within the territory of the Party. However, each Party may, when depositing its instrument of ratification, acceptance or approval, specify the categories of local or regional authorities to which it intends to confine the scope of the Charter or which it intends to exclude from its scope. It may also include further categories of local or regional authorities within the scope of the Charter by subsequent notification to the Secretary General of the Council of Europe.

Article 14 – Provision of information

Each Party shall forward to the Secretary General of the Council of Europe all relevant information concerning legislative provisions and other measures taken by it for the purposes of complying with the terms of this Charter.

Part III

Article 15 – Signature, ratification and entry into force

1. This Charter shall be open for signature by the member States of the Council of Europe. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
2. This Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date on which four member States of the Council of Europe have expressed their consent to be bound by the Charter in accordance with the provisions of the preceding paragraph.
3. In respect of any member State which subsequently expresses its consent to be bound by it, the Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 16 – Territorial clause

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Charter shall apply.
2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Charter to any other territory specified in the declaration. In respect of such territory the Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notification by the Secretary General.

Article 17 – Denunciation

1. Any Party may denounce this Charter at any time after the expiration of a period of five years from the date on which the Charter entered into force for it. Six months notice shall be given to the Secretary General of the Council of Europe. Such denunciation shall not affect the validity of the Charter in respect of the other Parties provided that at all times there are not less than four such Parties.
2. Any Party may, in accordance with the provisions set out in the preceding paragraph, denounce any paragraph of Part I of the Charter accepted by it provided that the Party remains bound by the number and type of paragraphs stipulated in Article 12, paragraph 1. Any Party which, upon denouncing a paragraph, no longer meets the requirements of Article 12, paragraph 1, shall be considered as also

having denounced the Charter itself.

Article 18 – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe of:

- (a) any signature;
- (b) the deposit of any instrument of ratification, acceptance or approval;
- (c) any date of entry into force of this Charter in accordance with Article 15;
- (d) any notification received in application of the provisions of Article 12, paragraphs 2 and 3;
- (e) any notification received in application of the provisions of Article 13;
- (f) any other act, notification or communication relating to this Charter.

In witness whereof the undersigned, being duly authorised thereto, have signed this Charter.

Done at Strasbourg, this 15th day of October 1985, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.

Appendix D

The South Australian State-Local Government Relations Agreement 2006

STATE-LOCAL GOVERNMENT RELATIONS

An agreement between the State Government and
Local Government in South Australia

2006

Preamble

1. The South Australian Government and Local Government make this agreement to improve consultation arrangements, government communication practices and to build a closer, more productive and collaborative working relationship between State and Local Government.
2. The initial agreement was made on the 8th day of March 2004 between the Hon. Mike Rann MP, Premier, for and on behalf of the State of South Australia and Councillor John Legoe, President of the Local Government Association of South Australia, for and on behalf of South Australian local governments.
3. This revised agreement is made on the 21st day of November 2006 between the Hon. Mike Rann MP, Premier, State of South Australia, and Councillor John Rich, President of the Local Government Association of South Australia, to reflect the national *Inter-Governmental Agreement Establishing Principles Guiding Inter-Governmental Relations on Local Government Matters* signed by the Commonwealth Minister for Local Government, State and Territory Ministers for Local Government and the President of the Australian Local Government Association on behalf of all State Local Government Associations in April 2006.
4. The agreement is presented in two parts. Parts I and II deal with the principles and processes, which form the basis of the agreement, and a schedule of agreed priorities is appended.

Objectives

5. The parties make this agreement with the ultimate aim of achieving better outcomes for all South Australian communities, our shared constituency.
6. Complementing the stated purpose of the national *Inter-Governmental Agreement*, this agreement seeks to:
 - 6.1 Better coordinate activities and enable more strategic approaches to responding to community needs;
 - 6.2 Increase the efficiency, effectiveness and coordination of services and infrastructure of State and Local Government;
 - 6.3 Improve integration of strategic planning processes by State and Local Government whilst giving regard to those processes defined in the national *Inter-Governmental Agreement*;
 - 6.4 Promote open and accountable government and transparent processes;
 - 6.5 Foster more consistent approaches to the framing of policies and legislation that affect the other party; and
 - 6.6 Provide guidance for local governments and State Government agencies in their contacts with each other and the Commonwealth, noting the processes for intergovernmental contact as outlined in the national *Inter-Governmental Agreement*.
7. The parties recognise that there will be times when urgent issues will arise and in these instances they agree to be flexible so as to respond in a spirit of cooperation. It is also recognised that there will be times when State and Local Government will disagree and it is acknowledged that these occurrences need not undermine the objectives of this agreement.
8. The parties shall use their best endeavours to facilitate the following principles and processes in a spirit of co-operation and in the best interests of the South Australian community.

Shared Understandings

9. This agreement has been developed on the basis that a level of trust and goodwill exists between State and Local Government in which the interests of their shared constituencies are considered to be paramount.
10. This agreement is not intended to create a legally binding relationship between the parties. Nor does it override or detract from commitments entered into as part of existing agreements to which both State and Local Government are parties.
11. The agreed principles and processes set out below are intended to guide attitudes and practices.

Part I - Agreed Principles

12. For the benefit of all South Australians, State and Local Government agree that the following principles, which are consistent with the principles outlined in the national *Inter-Governmental Agreement*, should guide their relations:

Mutual Recognition

13. Relations between State and Local Government should be conducted in a spirit of mutual respect with an emphasis on improving communication and collaboration;
14. Local Government's collective capacity as a sphere of democratically elected governments with broad powers, responsibilities and discretions in relation to local areas should be enhanced;
15. Local Government's accountability to its communities and capacity for self management should be maximized;
16. The diversity of local governments' financial capacity and the State Government's fiscal position should be mutually recognised.
17. State and Local Government, when making representations to the Commonwealth recognise the importance and support the value of joint State and Local Government representation, as appropriate.

Communication and Consultation

18. The parties should jointly commit to regular and effective consultation and negotiation on the formulation and implementation of key policies, legislative proposals and significant programs/projects that affect the other party:
19. The parties should keep themselves informed about key policy issues or major proposals affecting the other sector.

Financial Relations

20. The transparency of the financial relations between State and Local Government should be improved to enhance decision making:
21. Planning for any new functions or services or where significant change is proposed by Commonwealth, State or Local Government should include identification of necessary funding sources and any proposed funding changes consistent with the provisions of the national *Inter-Governmental Agreement*;
22. The use of intergovernmental agreements should be promoted to secure effective Commonwealth, State and Local Government participation in programs in which the parties have a significant statutory or financial involvement consistent with the provisions of the national *Inter-Governmental Agreement*;

Shared Strategic Directions

23. Both State and Local Government have a responsibility to contribute to sustainable development that allows people and communities to provide for their social, economic, environmental and cultural well-being for current and future generations;
24. State and Local Government should have the opportunity to contribute to each others' strategic planning processes, enabling more aligned strategic plans;
25. Consistent with the provisions of the national *Inter-Governmental Agreement*, State and Local Government should consult with each other on significant matters related to and raised by the Commonwealth Government which impact on Local Government, or on the State Government's relationship with respect to Local Government.

Part II - Agreed Processes

26. The State and Local Government agree to the following processes, along with those arrangements reflected in the national *Inter-Governmental Agreement*, in pursuing this agreement;

Minister's State/Local Government Forum

27. The Minister's State/Local Government Forum is a mechanism through which State and Local Government can together, in a spirit of mutual respect, tackle some of the significant, complex and challenging issues that arise at the interface between State and Local Government activities.

To give effect to this agreement:

28. The State Government will institute systems and processes giving due weight to the provisions of the national *Inter-Governmental Agreement* in order to:
- 28.1 Formally report to State Cabinet on the outcomes of the State/Local Government consultation processes associated with proposals with significant Local Government impact;
 - 28.2 Promote coordination of its agencies in the design and conduct of consultation and communication with local governments;
 - 28.3 Consult or communicate with the relevant local governments prior to implementing a new service or significantly varying an existing service or program that impacts on local government; and
 - 28.4 Provide information on State/Local Government financial relations, including as part of the State Government Budget process, to the Local Government Association.
29. The Local Government Association of South Australia will institute systems and processes giving due weight to the provisions of the national *Inter-Governmental Agreement* in order to:
- 29.1 Co-ordinate and facilitate local governments' collective decision making efforts and representation of views, while acknowledging the rights of individual local governments to represent their own views;
 - 29.2 When working with the lead State Government agency, coordinate feedback and consult on a particular issue with local governments;
 - 29.3 Facilitate regional strategic planning processes and linkages between country regions on matters of interest;
 - 29.4 Facilitate infrastructure planning, best practice initiatives in all Councils and promote council collaboration; and
 - 29.5 Facilitate appropriate nominations on State Government statutory authorities and committees by taking account of an authority's role and function.

Implementation

30. There will be a shared responsibility to promote this agreement and the State Government and the Local Government Association agree to:
- 30.1 Pursue the intent of this agreement in a spirit of cooperation and maintain its effective implementation; and
 - 30.2 Monitor the implementation of this agreement and suggest improvements.
31. The parties agree that this agreement can be amended from time to time following discussion between the parties and by mutual consent.

Review

32. The Minister for State/Local Government Relations and the President of the Local Government Association will:
- 32.1 Undertake a joint review of the application of this agreement before the expiration of 12 months from signing and with a view to establishing a new or amended agreement and schedule annually; and
 - 32.2 Undertake a 12 month review of the performance of the Minister's State/Local Government Forum.
33. The Minister's State/Local Government Forum will monitor the implementation of the endorsed agreement and, for the purposes of the ensuing year, ensure that it is reviewed within 12 months of operation. The review provides an opportunity for issues and priorities to be discussed, updated and reaffirmed. Any revised agreement will be subject to approval by State Cabinet and the Local Government Association State Executive for State Government and Local Government respectively.

An agreement between the State Government and Local Government in South Australia

IN WITNESS WHEREOF the parties have executed this Agreement at the day and year first above written.

SIGNED by the said **Mike Rann MP**)
PREMIER OF SOUTH AUSTRALIA) _____
For and on behalf of the Crown)

SIGNED by the said **Councilor John Rich**)
PRESIDENT)
For and on behalf of the)
LOCAL GOVERNMENT ASSOCIATION) _____
OF SOUTH AUSTRALIA)

.....
In the presence of:
Hon Jennifer Rankine MP
MINISTER FOR STATE/LOCAL GOVERNMENT RELATIONS

Appendix E

City of Burnside, South Australia – Section 1 – Charter of Local Self Government, South Australia

Charter of Local Self Government in South Australia

The following Charter is based upon recommendations of the International Union of Local Authorities, now increasingly being adopted by Local Government throughout the western world and has been adopted by the City of Burnside.

Preamble

Local authorities are one of the main foundations of the democratic State. The right of citizens to participate in the conduct of public affairs is one of the democratic principles that are assured by all the member States of the Australian Commonwealth. It is at the local level that this right can be best exercised. The existence of local authorities with real responsibilities makes possible an administration which is both effective and in close proximity to the citizen.

The safeguarding and reinforcement of local autonomy is a prerequisite for the development of South Australia, based on the principles of democracy and the decentralisation of power. This entails the existence of local authorities endowed with democratically constituted decision-making bodies and possessing a wide degree of autonomy with regard to their responsibilities, the ways and means by which those responsibilities are exercised and the resources required for their fulfilment.

Article 1: Constitutional Foundation for Local Self-Government

The principle of local self-government shall be recognised in constitutional law.

Article 2: Concept of Local Self-Government

- 2.1 Local self-government denotes the right and the ability of local authorities to regulate and manage a substantial and defined part of public affairs under their own responsibility and in the interests of the local population.
- 2.2 This right shall be exercised by local authorities comprised of members freely elected by secret ballot on the basis of direct, equal universal suffrage. This provision shall in no way affect recourse to assemblies of citizens, referenda or any other form of direct citizen participation where it is permitted by statutes.

Article 3: The Scope of Local Self-Government

- 3.1 The specific responsibilities of local authorities shall be prescribed by the constitution or by statute.
- 3.2 Local authorities should have a general competence power to act on their own initiative with regard to any matter not expressly assigned to any other authority not specifically excluded from the competence of local government.
- 3.3 Maximum responsibility should be exercised at the local level in the interests of the community and in line with resources available to local authorities.
- 3.4 Powers given to Local Government shall normally be full and exclusive. They may not be undermined or limited by administrative action on the part of a central or regional authority. Insofar as a central or regional authority is empowered by the constitution or by statute to intervene in matters for which responsibility is shared with local authorities, the latter must retain the right to take initiatives and make decisions.
- 3.5 Where powers are delegated to them by a central authority, local authorities shall be given a degree of discretion in adapting the implementation of legislation to local conditions.
- 3.6 Local authorities shall have the right to an effective share, at a sufficiently early stage, in the study, planning and decision-making processes for all matters exceeding the scope of a local authority but which have particular local implications.

Article 4: Protection of Existing Local Authorities

Changes in local authority shall not be made without prior consultation of the local community and communities concerned, including a referendum where this is permitted by statute. Clear provisions shall be set out to adequately define the process involved.

Article 5: Adequate Administrative Structures and Resources for the Tasks of Local Authorities

- 5.1 Without prejudice to more general statutory provisions, local authorities must be able themselves to determine their own administrative structures in order to adapt them to local needs and ensure effective management.
- 5.2 The status of Local Government employees, particularly with regard to training opportunities, remuneration and career prospects, must be such as to permit the recruitment of high quality staff.

Article 6: Guarantees for the Exercise of Responsibilities at Local Level

- 6.1 The conditions of office of local elected representatives must guarantee them the free exercise of their functions, and
- 6.2 They may provide in particular for financial compensation for expenses incurred or loss of earnings, as well as other appropriate protections.
- 6.3 Any functions and activities which shall be deemed incompatible with the holding of a local elective office shall be determined by statute alone.

Article 7: Control of Local Authorities' Activities

- 7.1 The control of local authorities shall normally aim only at ensuring compliance with the law.
- 7.2 If other forms of control exist, they shall in no circumstances lead to the local authorities being dispossessed of the responsibilities which are assigned to them by the constitution or by statute.
- 7.3 Procedures for the control of local authorities shall not be instituted except by the constitution or by statute.
7. Such procedures must be designed only to safeguard the legitimate interests of other authorities or of individual citizens. Their exercise must ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.

Article 8: The Resources of Local Authorities

- 8.1 Local authorities shall be entitled to adequate financial resources of their own, distinct from those of the other levels of government, and to dispose freely of such revenue within the framework of their powers.
- 8.2 The allocation of resources to local authorities shall be in proportion to the tasks assumed by them. Any transfer of new responsibilities shall be accompanied by an allocation of the financial resources required for their fulfillment.
- 8.3 Part at least of the financial resources of local authorities shall derive from taxes that can be localised on their territory and of which they have the power to determine the rate.
- 8.4 Local authorities shall be entitled to levy, or to receive a guaranteed share of taxes that are of a sufficiently general, buoyant and flexible nature to enable them to keep pace with the real evolution of their expenditure.
- 8.5 The preservation of the autonomy of financially weaker local authorities requires the institution of a system of financial equalisation through Commonwealth revenue sharing which is designed to correct the effects of the unequal distribution of potential sources of taxation.
- 8.6 On no account shall financial equalisation procedures become a means of diminishing the power of decision of local authorities within their own sphere of responsibility.
- 8.7 The right of local authorities to participate in an appropriate manner, in framing the rules governing the general apportionment of re-distribution resources shall be expressly recognised.
- 8.8 Specific grants shall be replaced, as far as possible, by untied grants which are not earmarked for the financing of specific projects or services. In no case shall the provision of grants justify any undue intervention in the policies pursued by local authorities within their own jurisdiction.

Article 9: Local Authorities' Right to Associate

9.1 Local authorities shall be entitled, in exercising their powers, to form associations either in order to carry out certain tasks which are beyond the capacity of a single authority or for the defence and promotion of their common interests.

9.2 Local authorities shall also be entitled to associate with their counterparts in other countries.

Article 10: Legal Protection of Local Authorities and the Autonomy

Local authorities must have the right of recourse to a judicial remedy in order to safeguard their autonomy and ensure respect for the laws by which they are protected.