



# LEGAL AND GOVERNANCE MODELS FOR SHARED SERVICES IN LOCAL GOVERNMENT

*Interim Report, May 2012*

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ACELG is undertaking a considerable body of research into issues of regional collaboration and structural reform in local government. It has already published papers on Consolidation in Local Government: A Fresh Look and A Comparative Analysis of Regional Organisations of Councils in NSW and Western Australia.

This paper builds on that earlier work and provides a 'progress report' on work to investigate models of shared services delivery. Available legal options and models actually in use vary greatly across Australia, and it was not possible to include all the studies required within the original scope of this project. Hence the publication of an interim report.

Work is already under way to undertake additional and/or more in-depth case studies, and to explore the reasons behind the differences between jurisdictions in the models councils may use for shared services delivery.

ACELG would welcome feedback on the material presented here, and ideas for further investigations.

## **Acknowledgements**

This report was prepared by David Somerville, Northbridge Management Consulting, and Melissa Gibbs, Assistant Director of ACELG with input from Graham Sansom, Director of ACELG. Stefanie Pillora provided project oversight and Nancy Ly and Chris Watterson (ACELG) assisted with the report design and publication.

ACELG would like to acknowledge the contribution of Donna Galvin, Executive Director of the Wellington Blayney Cabonne Strategic Alliance (WBC) and participants in the WBC shared services workshop held in Molong in November 2011, as well as state and territory government representatives who provided input into the research and checked the accuracy of material on the legislative provisions.

## **Citing this report**

Please cite this report as: Somerville, D. and Gibbs, M. (2012) Legal and Governance Models for Shared Services in Local Government, Australian Centre of Excellence for Local Government, University of Technology, Sydney.

ISSN 1838-2525

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## 1. Introduction

### 1.1 Background to the project

In 2011, the Australian Centre of Excellence for Local Government (ACELG) published a significant body of research entitled *Consolidation in Local Government: A Fresh Look*. That report includes a review of some of the forms in which shared services arrangements have been carried out by local councils in Australia and New Zealand and identifies a number of factors contributing to their success or failure.

‘Shared services’ in this context may be defined as two or more local government authorities jointly planning, employing staff, undertaking management, business and/or regulatory activities, delivering and/or maintaining infrastructure, or providing services to their communities. Such collaborative activities can be conducted in a variety of ways, ranging from simple written agreements (such as an exchange of letters) through loosely structured regional organisations of councils (ROCs) and other more formal entities, to jointly-owned companies with independent boards.

ACELG’s earlier consolidation research provides a useful starting point, stating that:

*The existence of an acceptable structure through which to undertake shared services appears, at first glance, to be an important factor in encouraging the development of a significant shared services capability (Aulich et al., 2011, Vol 2, p.23).*

This paper is therefore intended to build on the sections of the ACELG consolidation report that address shared services, and to identify the strengths, weaknesses, lessons learnt and the replicability of the various governance models for shared services. It does not discuss the merits, or otherwise, of shared services relative to amalgamation or other forms of local government consolidation.

A further impetus for this paper came from the Wellington Blayney Cabonne (WBC) Strategic Alliance, a grouping of three councils and a water utility located in the Central Tablelands of NSW. This group has achieved success in delivering collaborative programs and is seeking to ensure it has in place the most appropriate governance arrangements to enable it to build on its successes into the future. Whilst the research in this paper is broad, it may provide a useful reference point for organisations, such as the WBC Strategic Alliance, which are looking to develop their collaborative arrangements further.

The paper also aligns with a complementary study carried out by ACELG and the Northern Sydney Regional Organisation of Councils (NSROC): *A Comparative Analysis of ROCs in NSW and Western Australia*.

### 1.2 The research process

In preparing this paper, a qualitative research approach was used to examine the various legal and governance models currently being used for the sharing of municipal services within Australian states and the Northern Territory. This included reviews of published documentation and relevant websites, and structured interviews with key stakeholders in state and Northern Territory

government departments across Australia to validate the currency of these written sources of information. Structured interviews were also held with local government practitioners involved in shared services and collaboration to gain insights to their experience.

### **1.3 Structure of this report**

**Section 2** sets out the context and rationale for shared services, including a brief overview of relevant theoretical perspectives.

**Section 3** discusses alternative models for shared services, together with associated legislative and governance issues.

**Section 4** provides five examples of existing local government groups in Australia and New Zealand which have used different organisational models to carry out shared services and other collaborative arrangements. Each case study explores the strengths and weaknesses of the approach taken, identifies lessons learnt, and assesses the extent to which such a model could be replicated.

**Section 5** presents some interim conclusions based on research to date.

## 2. Context and rationale

Most councils across Australia, to a varying degree, collaborate in some way with other councils in their region or beyond. As a result, the sharing of information and activities, and joint advocacy on common issues are not new to local government.

The delivery of municipal services is highly complex and dynamic. In the urban context, there is a range of organisations, in addition to councils, which respond to community needs for services such as health care, education and environmental restoration. In rural and remote regions of Australia, councils tend to provide a broader range of services than their urban counterparts as they are required to fill gaps in services usually provided by other spheres of government.

Whatever their location, it is becoming increasingly important for councils to plan for the future needs of their communities. Councils must respond to demographic changes such as an ageing population, and demands for higher levels of service or infrastructure improvement across many areas of activity. There are also underlying challenges such as climate change and workforce shortages which councils need to address. Many councils are reviewing whether past methods of service delivery are appropriate for meeting future needs, and whether new forms of service delivery need to be considered. In this context, shared services is one model frequently considered by councils.

### 2.1 Theoretical frameworks

Recent research has progressed the understanding of the components and processes involved when a council is considering how best to deliver services. This section focuses on two pieces of research that are relevant to local government shared services in Australia.

Dollery et al. (2009) identify seven alternative models of local governance. These are outlined in Table 1. They suggest that this set of models cover a “continuum given by the degrees to which political and operational control can be centralised or decentralised between local councils and the new organisational entity they join”.

**Table 1: Alternative models of local governance**

Model type	Characteristics
<i>Existing small councils</i>	High level of political and operational autonomy and highest degree of decentralisation
<i>Voluntary arrangements between geographically adjacent councils sharing resources on an ad hoc basis</i>	Operate on an as needs basis whenever and wherever the perceived need for voluntary arrangements arises
<i>Regional Organisations of Councils (ROCs)</i>	Constitute a formalisation of the ad hoc resource sharing model, typically financed by a fee levied on each member council as well as a pro rata contribution based on rate income, population, or some other proxy for size, which provides shared services to member councils

Model type	Characteristics
<i>Area integration or joint board</i>	Retain autonomous existing councils with their current boundaries, but create a shared administration overseen by a joint board of elected councillors
<i>Virtual local government</i>	Consists of several small adjacent 'virtual' councils with a common administrative structure or 'shared service centre' that would provide the necessary administrative capacity to undertake the policies decided upon by individual councils, with service delivery contracted out to private companies or to the shared service centre
<i>Agency</i>	All service functions are run by state government agencies with state government funds and state government employees in the same way as state police forces or state emergency services presently operate. Elected councils would act as advisory bodies
<i>Amalgamation</i>	Constituent councils surrender completely all political autonomy and operational control to the new entity and cease to exist

**Source:** Dollery et al. (2009)

Oakerson (1999:17-18) identifies seven possible avenues for delivering services, six of which involve the procurement of shared services. These are described as:

- a) 'In-house production' when a local council arranges its own production
- b) 'Co-ordinated production' where two or more councils co-ordinate production activities
- c) 'Joint production' where two adjacent councils organise a single production unit
- d) 'Intergovernmental contracting' where one council contracts services from another council or state or federal government agency
- e) 'Private contracting' where a council outsources the service to an external private service provider.
- f) 'Franchising' where a council gives a commercial producer the right to produce a given service from which residents can purchase the service
- g) 'Vouchering' where a council sets standards and the level of provision by allows households to select their own producer using a voucher.

## 2.2 Recent federal, state and local government studies

A number of studies into shared service arrangements have been undertaken by federal, state and local government bodies across Australian in recent years. Findings from four of these studies provide a useful background.

### ***Collaborative Arrangements between Councils: Survey Report***

The NSW Division of Local Government, Department of Premier and Cabinet (NSW DLG) conducted a survey of councils in NSW in 2011 to identify the range, scope, benefits and challenges of collaborative arrangements between councils (NSW DLG 2011a). The survey report identified the following key findings:

- **Benefits** of collaborative arrangements include increased opportunities for regional and subregional strategic development; increased cost savings and economies of scale; reduced duplication; access to a service not otherwise available; improved access to technical expertise and higher quality work; and better environmental outcomes.
- **Challenges** identified included the time costs of engaging in collaborative arrangements in addition to normal responsibilities; the lack of start up and ongoing funds to support collaborative arrangements; the need for leadership and commitment at the top level; the need for an organisational culture that is willing to embrace and see the benefit of shared activities with other councils; the need for arrangements to have strong strategic direction supported by a business plan and service level arrangements; governance challenges associated with arrangement design, membership, size and decision making; staff parochialism and job security concerns; and need for legislative change to better facilitate collaborative arrangements.
- A **common issue** noted was the difficulty in ensuring timely commitment of partner councils and aligning council decision making. This particularly relates to decisions requiring a formal council resolution where council meeting dates were not aligned or if the decision was deferred for another month. A common strategy to overcome these barriers was to ensure that councils' responsibility for governance of the collaborative activity was clearly defined, documented, resourced and reviewed. In this regard, one council commented: "Councils have to make necessary structural and governance changes – need to relinquish local control of resources and delegate."
- Some of the **critical success factors** reported were clear communication, co-operation, combined purpose, trust, goodwill and a willingness to compromise; development of a resource sharing culture; community support; a focus on the greater good and public interest; strongly committed champions; an equal partnership; use of project management methodology with reporting and review; and effective business systems.

These findings align with one of the conclusions of ACELG's research into consolidation, namely that shared services should not be seen as a 'soft option' compared to amalgamation: robust and durable shared services operations similarly require a willingness to cede a substantial degree of local autonomy, albeit within a negotiated framework.

### ***Towards Financially Sustainable Local Government in South Australia***

In 2005, the Local Government Association of South Australia commissioned an inquiry (held by the Financial Sustainability Review Board – *Towards Financially Sustainable Local Government in South Australia*) into financial sustainability in local government. Findings from Part One of the report, outlined below, identified the sharing of services as a component which could improve the financial position of councils:

**11.2(1)** *That, in canvassing alternative methods of delivery, councils consider further resource-sharing initiatives, especially involving the smaller councils, ranging from working together more effectively to more formalised regional groups, area integration and whole-of-sector initiatives.*

**11.3(1)** *That each council develops and publishes a policy framework clearly specifying its policies*



*regarding the number and nature of services to be delivered and the methods for delivery. This framework should define service levels and quality and quantity standards for the range of services they deliver.*

**1.3(5)** *That councils, as a matter of course, publish the results of the outcomes of their service reviews and their experience with efficiency initiatives such as resource sharing, and the dollar value of savings achieved.*

It is noteworthy that in South Australia the concept of ‘whole of sector’ shared services, managed through the local government association, has developed strongly. The themes of the range and forms of service sharing, and the importance of a strategic policy framework through which to conduct shared services are explored later in this paper.

### **Queensland Local Government Reform Commission**

The assessment of shared services published by the Local Government Reform Commission set up by the Queensland Government in 2006 included the following more sceptical findings:

**4.5 Alternative Models of Structural Reform** – *regional co-operative structures and shared service arrangements generally offer less efficiency and economies of scale than could be achieved through amalgamation (essentially because of the additional overheads they incur). However, they may have applicability in areas where amalgamation is not being recommended by the Commission.*

**4.5.2 Shared services** – *The LGAQ and certain councils have advocated shared services as a means of achieving efficiencies, avoiding the need for amalgamation. Proponents of shared services also suggest it provides a way of retaining local jobs which might otherwise be lost through amalgamation ... Councils outsource the delivery of certain services (to the LGAQ or other providers) on the basis they can be performed at lower cost. This is a function of scale resulting from the aggregation of work from a number of councils which enables the provider to achieve efficiencies. The costs associated with meeting the increasingly sophisticated requirements around payroll, accounting and compliance generally, have led small councils in particular to shared services as a cost effective option ... The Commission does not discount shared services as a valid method of performing certain functions cost effectively. However, shared service models are not a substitute for council amalgamations.*

Alongside the comments on the limitations of shared services and co-operative structures, there was recognition by the Commission that service sharing is a viable option within some areas of local government.

### **Performance Benchmarking of Australian Business Regulation: The Role of Local Government as Regulator, Productivity Commission 2012**

In July 2011, the Assistant Treasurer requested the Productivity Commission to undertake a research study to benchmark the extent to which particular approaches to the exercise of regulatory responsibilities by local government authorities, affect costs incurred by business both within and between jurisdictions. The draft research report includes a section on local government co-ordination and consolidation (Productivity Commission, chapter 5) and while it focuses on local government co-ordination and consolidation in the context of regulatory functions, there are some important observations. Chapter 5 of the draft report notes:

- *Local government co-ordination and consolidation can be initiated by local governments, or by state and Northern Territory governments. It can include:*
  - *Informal meetings and consultations between local governments*
  - *Negotiating agreements such as memoranda of understanding and partnership agreements*
  - *The establishment of regional organisations of councils and other groupings of local governments*
  - *Joint activities such as resource sharing and joint projects*
  - *The creation of joint local government entities delegated to provide functions on behalf of local governments*
  - *The amalgamation of local governments into a new authority.*
- *Local government co-ordination and consolidation in relation to regulatory functions has the potential to address the burdens faced by business, particularly where there is regulatory duplication or inconsistency across local government areas; and inadequate capacity within local governments to make or administer good quality regulation.*
- *Regulatory benefits are most likely to be achieved where co-ordination and consolidation features:*
  - *Genuine and clear agreement between two or more local governments to promote good quality regulation*
  - *There are strong incentives from well-designed legislative or government assistance arrangements for individual local governments to implement the agreement.*
- *Without supporting legislative and assistance arrangements, local government incentives to voluntarily co-ordinate to achieve regulatory efficiency are likely to be weak.*

The report identifies factors explaining the need for local government-initiated co-ordination and consolidation. These include:

- The mounting complexity of functions they are required to undertake
- A lack of capacity to undertake their functions due to shortages of technical or professional staff or inadequate financial resources
- A desire to capture cost savings as well as economies of scale and scope
- A desire to improve service delivery
- A desire to attract businesses and economic development
- Advocacy to higher levels of government
- Concerns about the prospect of state government intervention (so as to pre-empt compulsory amalgamation).

The draft report identifies a number of potential benefits of local government co-ordination and consolidation for reducing excessive regulatory burden on business:

- Gains in economic efficiencies arising from economies of scale and scope in local government functions
- Gains in regulatory efficiencies – for example, better quality regulation as well as reduced inconsistency and duplication in regulation
- Improved capacity and capability in local governments to carry out their regulatory functions
- Improved financial sustainability
- Strategic benefits such as greater economic development and investment in local government areas and more funding from higher levels of government

- Reducing regulatory inconsistency or duplication
- Improving the capacity and capability of local governments to effectively carry out their regulatory functions.

The Commission makes the distinction between informal groups of local governments such as ROCs and legal joint entities thus:

- Legislation plays an essential role in the establishment of governance structures of joint entities
- Joint entities are delegated with legislative responsibilities by their constituent councils.

It notes that all the Local Government Acts of the states and the Northern Territory have provisions for the establishment and governance structures of joint local government entities. An issue is whether individual local governments have sufficient incentives to use the provisions to create joint entities to undertake regulatory functions.

### **2.3 The rationale for shared services**

Several studies, such as the ACELG *Consolidation in Local Government* report, the South Australian Financial Sustainability Review Board findings, the Local Government Association of Queensland (LGAQ) *Size, Shape and Sustainability Guidelines Kit* and the Productivity Commission's *Performance Benchmarking of Australian Business Regulation: The Role of Local Government as Regulator* have identified key drivers behind why councils might share a service or services. They may be grouped as follows:

- Economies of scale
- Economies of scope
- Improved service quality
- Organisational development
- Increased strategic capacity.

#### ***Economies of scale***

Councils are under pressure to save money for a range of reasons. Commonly cited pressures include cost shifting, the constraints on council funding (such as rate capping or a reliance on grants in remote and Indigenous councils) and increasing community expectations. Traditionally, in the commercial environment, the bulking together of a resource, product or service has resulted in cost savings through economies of scale.

Transferring this concept to the public service environment can be problematic. The ACELG consolidation report and Dollery, Akimov and Byrne (2009) question the extent to which savings can be achieved by 'bulking up' municipal services. The lack of empirical evidence and the complexity of measurement make it difficult to identify the degree to which savings can be achieved through the sharing of the fixed costs of an activity or the extent to which diseconomies of scale could emerge. As a result, councils would be wise to make thorough cost and logistical assessments if economies of scale are seen to be the primary driver for sharing services.

### ***Economies of scope***

In local government, reducing costs is not always the key driver. Shared services and collaboration provide important opportunities for local government to capture economies of scope (where an organisation increases its critical mass in order to be able to do things it otherwise could not) and enhance its strategic capacity. For example, an individual council on its own may not have the skills, budget, organisational capacity or sufficient local need to provide a particular service, but may be able to provide the service if it joins with others. Additionally, as the Productivity Commission notes in its draft report (Productivity Commission 2012), the mounting complexity of the functions local government is required to undertake, and hence the additional skills and resources required, is another key driver for sharing regulatory and other services.

### ***Improved service quality***

An increasingly important driver is the need for improvements in standards of service delivery. Many local governments are exploring ways to respond to community expectations for higher quality and improved levels of service. Sharing a service with others can result in the provision of greater access and better quality of services.

### ***Organisational development***

The sharing of services can be the catalyst for bringing different employee groups together to work on joint projects. Many councils have recognised that the sharing of project activities can significantly assist in the upskilling and transference of experience between groups at different levels of the organisation. Such a point was raised in responses to the NSW DLG's survey of councils (NSW DLG: 2011a):

*One of the benefits of collaborative arrangements is staff exchange and the fostering of inter-council relationships at various levels through the organisation. The different ideas and methods of dealing with issues and approaching challenges can be explored to the benefit of the whole.*

### ***Increased strategic capacity***

The concept of 'strategic capacity', as set out in ACELG's work on consolidation, represents a combination of the elements outlined above. It infers taking the organisation to a higher level of capability in terms of resources, skills, knowledge and innovation, building on economies of scale and particularly scope, to plan and act more strategically and effectively. Strategic capacity may be enhanced within individual councils – often through amalgamation into larger, better-resourced units – or (perhaps to a lesser extent) through shared services. In the latter case, this approach sees a council's thinking and acting reaching a higher level of strategic collaboration within its own region and/or beyond. This high-level strategic collaboration allows a council to achieve much more than it would have the capacity to do on its own. However, the question remains: how can collaboration at the level required be structured and maintained?

## **2.4 Current state initiatives**

### ***NSW 'Destination 2036'***

*Destination 2036* is a collaborative state-local government process to consider and implement wide-ranging reforms to strengthen the underpinnings and role of local government. It began with a two-day forum convened in August 2011 by the NSW DLG. The forum involved the mayors and general

managers of all New South Wales general purpose and county councils, the executive officers of all ROCs in NSW, and other local government leaders.

The aim of the forum was to begin the process of developing a “clear, achievable and shared path to a strong and resilient local government sector, responsive to the current and future needs of our communities.” (NSW DLG 2011c, p. 5). The Minister called on local government to recognise the need for change and to embrace reform. He invited the sector to focus on achieving its own solutions through co-operation and innovation.

The release of the *Destination 2036 Draft Action Plan* in December 2011 reinforced the focus on regional collaboration through ROCs evident at the *Destination 2036* forum and the Minister’s subsequent comments. In this regard, the draft plan states:

*Looking forward, there is a need to examine how the role of ROCs can be strengthened in regional strategic planning, tendering and procurement and Local Government service delivery and how the current barriers, including legislative, attitudinal, financial, and administrative, can be overcome (NSW DLG 2011c, p. 18).*

The actions proposed in the draft plan either directly referring to ROCs or supporting regional collaboration and shared service delivery are summarised below:

- Activity 1a: Councils to work with their ROCs to identify the range of services and activities that ROCs can provide on their behalf*
- Activity 1b: Develop and release for consultation a proposed strategy to support ROCs and strengthen collaboration on a regional basis*
- Activity 2a: Develop a program for sharing specialist professional, technical and other staff between councils on a regional basis and between urban and rural councils*
- Activity 4a: Identify barriers to establishing inter-council contractual arrangements for sharing staff, including general managers and senior staff as well as commercialising services*
- Activity 11a: Undertake research into alternative structural models of Local Government in Australia and other jurisdictions, identifying their key features and assessing their applicability to NSW*
- Activity 11b: Develop, with volunteer councils, a variety of models for the structure of councils in NSW*
- Activity 14c: Improve access to state agency information and data to assist councils and ROCs with local and regional planning*
- Activity 14d: Identify the range of regional and sub-regional boundaries used by federal, state and local government agencies.*

### **Local government reform in Western Australia**

The Western Australian government has commenced a Local Government Reform Program aimed at ‘creating fewer but stronger councils that better serve WA communities’ (WA DLG, 2010a). Councils are being encouraged to form Regional Transition Groups (RTGs), where two or more councils work to complete a regional business plan with a view to amalgamating, and Regional Collaborative Groups (RCGs), to facilitate the harmonisation of core functions and services.

Under this approach shared services could potentially include:

- Corporate services, including records, rating, finance, information technology, human resources and payroll, workforce planning
- Strategic planning
- Local laws, town planning schemes, integrated strategic planning (asset, financial and strategic community planning)
- Environmental health, natural resource management, building and development approvals
- Economic development
- Community planning (including engagement and representation)
- Road infrastructure and transport planning
- Waste management
- Infrastructure planning and asset management (WA DLG, 2010b).

### 3. Establishing shared service arrangements

#### 3.1 Desirable characteristics of regional models

In March 2011 the WA Department of Local Government (WA DLG, 2011) issued a discussion paper focussing on the essential characteristics of an appropriate vehicle to take regional collaboration forward. The paper suggests that regional collaboration between councils will need a structure or structures with appropriate governance arrangements to deliver the common systems and services to be delivered.

The paper identifies a number of desired characteristics of regional models (WA DLG, 2011, p. 5). They are summarised as follows:

- **Flexibility** – any governance models need to be sufficiently flexible to meet the needs and streamline the operations of member local governments
- **Different models for differing circumstances** – different models may be required to suit the differing circumstances, and more than one model may be needed to accommodate differing purposes with groupings
- **Accountability** – the need for flexibility needs to be balanced by the need for accountability, both to ratepayers and to the state government
- **Compliance** – accountability brings with it issues of compliance, which need not be burdensome, if targeted to specific functions
- **Governance** – purpose, membership, powers and financing arrangements have to be carefully spelt out, and transparent processes need to be put into place for board appointments, and individual accountability needs to be maintained through appropriate mechanisms. Transparency and reporting also needs to be ensured.

#### 3.2 Preconditions for entering shared services

The Association of Local Government Information Management Inc (ALGIM) undertook research on shared services activities within local government in New Zealand. The paper is entitled *Shared Services in New Zealand Local Government 2010*. The key learnings from those involved in shared services in New Zealand have been collated into three main critical success factors:

- Structure and governance
- Shared service design
- Plan for success.

ALGIM (2010, p.1) nominates the following attributes of structure and governance considered essential to the success of a shared service:

- Chief Executive Officer (CEO) commitment, coupled with political commitment and each local authority management team
- There must be passionate advocates within each local authority
- Willingness to invest time and energy into building relationships with staff from other local authorities

- The shared service entity needs a culture of its own, separate from the individual local authorities
- The business structure must enable the shared service to conduct business with external parties from a position of strength
- There must be equal rights in decision-making and influence over the activities of the shared service
- The governance group must meet regularly with a key focus on monitoring performance and evaluating strategic direction and new opportunities
- The governance group must be proactive and drive the strategic vision and thinking
- The members of the governance group must view their work on the shared service as an ordinary part of their job
- Use professional external support in drafting key documents
- Use third party facilitators when establishing a new shared service structure, adding new members or when considering strategic direction
- Foster transparency and trust across the board, and share the goals, activities and performance of the shared service with politicians, management teams and staff
- Match great ideas for shared services with a structured project management methodology and resource.

It is interesting to note the common elements identified in the ALGIM paper and the findings of the NSW DLG survey presented in section 2.3. This is also backed up by the research reviewed for this paper and the stakeholder interviews. There appear to be four critical dimensions to be considered when embarking on shared service arrangements. These are identified as:

- Organisation culture
- Leadership and management capacity
- Flexibility with provider and producer roles
- Existing relationships.

In addition, an effective change management approach is required.

### ***Organisational culture***

Embarking on shared services requires strategic thinking and a more objective, measurable and managed approach to risk-taking. It also requires leadership at the executive and elected levels. This is well recognised in business circles:

*Organisational hierarchies tend to stifle debate and risk taking. Managers interested in promoting learning and innovation thus have to find new ways of structuring relations to promote the creative process, especially through the values of the corporate culture (Morgan 1992)*

There also needs to be a high level of trust on the part of the elected members that senior managers have the skill and expertise to implement successfully a strategy of engagement with other councils. As a result, processes and procedures, the chain of command, reporting protocols, the right skills in



the right place, the timing of decisions, are all prerequisites for a council preparing for shared services.

### ***Leadership and management capacity***

The question of political and executive leadership is becoming an increasingly important factor for local government's consideration. Leaders need to be able to:

- Develop and communicate a clear vision
- Allow others to influence that vision
- Build up the trust and respect of their group (i.e. senior management and elected members)
- Successfully perform their ambassadorial role
- Practice all the precepts of the organisation (Handy 2007).

This was emphasised by a number of stakeholders interviewed for this paper. They noted that the professional and personal skills required of a modern council CEO are not always evident in every council. There was, however, an acknowledgement that this is changing, as there is a growing acceptance that effective and strategic CEOs are needed to ensure the council is also effective and strategic. As the ALGIM (2010) findings note, there must be CEO and senior executive commitment and ownership of the shared services agenda, backed up with strong political commitment.

Top leaders also need to possess a high tolerance for ambiguity, to be good at differentiating, and to have the capacity to deal with complexity. Shared services are strategic activities and are likely to form an increasingly important part of a council's corporate activities and direction. Without this understanding amongst its leaders, a council will struggle to manage and effectively control a shared services portfolio.

### ***Flexibility with provider and producer roles***

Traditionally, councils have been the lead providers (funders) and producers (deliverers) of local services, identifying local needs, acquiring the required resources, and delivering the services 'in house' to satisfy those needs. In this way, they have become both client and contractor. This is in contrast to the situation which arises when sharing a service, where a council needs to take a more flexible approach to how it delivers services to its community. Collaboration with others means that the sole provider/producer role often no longer applies.

In some arrangements, a council still continues to have a role as a producer by taking the lead role in delivering a service to its group of fellow councils.

### ***Existing relationships***

The degree of readiness to enter into a shared services arrangement can depend on the scale and level of involvement a council currently enjoys with other councils. A council comment from the Collaborative Arrangements Survey (NSW DLG 2011a) illustrates this:

*One of the benefits of collaborative arrangements is staff exchange and the fostering of inter council relationships at various levels through the organisations. The different ideas and methods of dealing with issues and approaching challenges can be explored to the benefit of the whole.*

It follows, then, that a council with a history of successful collaboration with others will more likely be prepared to strengthen shared service arrangements, as relationships of trust, common interests and an ability to conduct business collaboratively have already been established.

### ***The challenge of change management***

Clearly, entering into a substantial and lasting program of shared services represents a major exercise in change management. The challenges facing these new relationships have been highlighted by Deloitte (2009) in a study of shared service delivery in local government in the UK. Deloitte identifies practical as well as political factors which can limit collaboration. Lack of expertise, the cost of the initial investment and lack of capacity are cited as obstacles to change. Political issues such as changes linked to individuals' careers, risks of reduced headcounts and the relocation of staff outside a political boundary are also difficult points to reach agreement on. Deloitte makes the key observation that shared services should not be seen in terms of provider/producer (i.e. functional) roles, but as a process. This different approach requires a council's executive management and political leaders to think more strategically, and to look at common denominators such as scale, commonality, baseline comparability, locality and risk profile. Deloitte concludes that governance structures need to be based on a secure and robust change management process and they need to acquire strong process owners.

An example of the failures that can occur if robust arrangements are not established is found in the recent failure of the New England Strategic Alliance of Councils (NESAC) in NSW. The review of local government service delivery in the New England area subsequently undertaken by the independent facilitator, Gabrielle Kibble (2010), identified two issues central to the failure of the Alliance. First, the councils failed to agree on the nature and extent of reform required at the beginning of the Alliance, which was put in place primarily as an alternative to amalgamation. The arrangements established lacked an overarching board of governance to control NESAC, and this led to convoluted decision-making processes and a culture of blame-shifting. Second, the facilitator observed a lack of strong leadership and an ongoing lack of trust between the councils. The failure of NESAC again underlines the point that shared services arrangements must not be seen as a 'soft option', or something that can be put in place more or less ad hoc.

### **3.3 Alternative arrangements**

For the reasons outlined above, when embarking on shared services with other parties, a council needs to carefully select the most appropriate form of arrangement, and ensure the lasting implementation of robust governance systems and structures.

There are two broad types of arrangements:

- Forms of agreement
- Associations and companies.

### **Forms of agreement**

Any shared services arrangement requires a form of agreement to set out the ground rules for collaboration. At its most basic, this could be a simple exchange of letters for low risk activities, such as sharing of plant and equipment.

For more complex activities, a deed of agreement might become a more appropriate legal instrument. This usually sets out the aims, the governance structure, the management, scope of activities, relationships with other jurisdictions, and communication and reporting arrangements. The WBC Alliance in the Central Tablelands of NSW is a good example of a grouping of three councils and a water utility that has successfully carried out a number of shared services activities since the its inception in 2003. It operates through a deed of agreement. Refer to [http://wbcalliance.nsw.gov.au/index.php?option=com\\_content&task=view&id=162&Itemid=27/](http://wbcalliance.nsw.gov.au/index.php?option=com_content&task=view&id=162&Itemid=27/) for details of this example.

Strategic alliances and Regional Organisations of Councils (ROCs) operate under a variety of forms of agreement . In 2007, the NSW Department of Local Government defined a strategic alliance thus:

*These are voluntary cooperative arrangements, usually between neighbouring councils, for the purposes of pooling resources, reducing duplication and developing a common platform to develop initiatives. They are usually governed by a Memorandum of Understanding or a constitution. They often interrelate with other alliances and may use a variety of the following business models. (NSW DLG 2006)*

### **Associations and companies**

A higher level of agreement will usually be required for more extensive and complex shared service activities. Under Commonwealth, state and Northern Territory government legislation there are varying provisions which determine what forms these entities may take. This subsection describes the three most common types of legal entities which operate shared services in Australian local government: companies, companies limited by guarantee and incorporated associations. Key attributes are identified, together with the benefits and limitations of each entity. In addition, the case study of Bay of Plenty Shared Services (BOPLASS) provides details of the 'council controlled organisation' model widely used New Zealand.

- **Incorporated Association.** An association is an alternative to forming a company for small non-profit groups. It has similar advantages to a company but is not as expensive to set up or maintain. An association can trade but this cannot be its main objective. Any profit from the trading must be put back into the association.
- Associations tend to be small community organisations but can include specialist interest groups such as sports associations, industry associations, and local government organisations.

Members pay a membership fee to belong to the association, and members are elected to the committee responsible for carrying out the association's aims and objectives. If an association is wound up, the members are not entitled to the association's assets. Generally, they have to be distributed to a like-minded organisation nominated by the members.

- Incorporated associations cease to be a viable option when the cash turnover becomes too large.
- **Proprietary Limited Company.** A private company is a more complex business structure formed by one or more people who wish to have a business that is a separate legal entity, distinct from its owners, managers and operators. It also has its own income tax liability, separate to its shareholders' tax liability. A company has the powers of an individual and can own and dispose of property and other assets, enter into contracts, sue and be sued. When a company is formed, those involved in it become employees, directors and/or shareholders of the company. Compared with other business structures, the transfer of ownership in companies can be relatively simple. The company does not have to be wound up in the event of the death, disability or retirement of any on the persons involved.

The main drawback of this structure is the level of work and cost that may be involved in complying with legal requirements. There are more regulations to adhere to under the Corporations Act and through the Australian Securities and Investment Commission. Increased record keeping is required and establishment and ongoing administrative costs associated with corporations law compliance can be high. Also, in a number of Australian jurisdictions, local councils are not permitted to form corporations.

- **Company Limited by Guarantee.** Companies limited by guarantee restrict the liability of the company's members to the amount the members undertake to contribute if the company is wound up. Like proprietary companies, they are a legal entity separate from their members, and the company can hold property and can sue and be sued. Other features of a public company limited by guarantee include:
  - The company has a defined object or purpose which it must pursue
  - The company consists of members not shareholders
  - No shares are issued
  - Members agree to provide a guaranteed amount to meet outstanding claims of creditors, usually in the order of \$10 to \$20, in the event the company is wound up
  - Directors generally have the same duties and obligations as directors of a proprietary company, for example, to act in the best interests of the company.

Some of the differences between companies and incorporated associations are outlined in Table 2 below:

**Table 2: Requirements of company structures and incorporated associations**

Company Structure Requirements	Incorporated Association Requirements (some variations between jurisdictions)
At least three directors and one secretary	A committee responsible for managing the association and a public officer
A registered office and principal place of business located in Australia	A registered office in its state of incorporation

Company Structure Requirements	Incorporated Association Requirements (some variations between jurisdictions)
Registered office open and accessible to the public	
Internally managed by a constitution or replaceable rules	Act in accordance with its objects and rules
Maintain a register of its members	Keep registers of members and all committee members
Keep a record of all directors' meetings and members; meeting minutes and resolutions	Keep minutes of all committee and general meetings
Appoint a registered company auditor within one month of its registration	
Keep proper financial records	Keep proper accounting records
Prepare, have audited and lodge financial statements and reports at the end of each financial year (not required for some companies limited by guarantee)	In some states, prepare and have audited and lodge financial statements
Send its members a copy of its financial statements and reports, unless the member has an arrangement with the company not to receive them (not required for some companies limited by guarantee)	
Hold an annual general meeting once every calendar year within five months after the end of the financial year	Hold an annual general meeting once every calendar year
Receive and review an annual company statement and pay an annual review fee (a charitable or not-for-profit company may be eligible for a reduced fee)	Lodge an annual statement every year
Lodge notices whenever changes to its officeholders, office address, constitution and its name occur within specified timeframes	
	Have a common seal

Source: [www.asic.gov.au](http://www.asic.gov.au)

### 3.4 Summary of legislative frameworks

Each state and the Northern Territory has enacted its own laws and regulations to guide and direct local councils in the activities which they can or cannot undertake in relation to the setting up of shared services.

Table 3 summaries the statutory requirements and organisational and legal structures available within each state and the Northern Territory. A more detailed analysis of legislative provisions is set out separately for each jurisdiction in Appendix A.

**Table 3: Summary of legislative provisions for joint local government activities and entities**

Jurisdiction	Provisions
NSW	<ul style="list-style-type: none"> <li>▪ A council may exercise its functions within its area or outside its area, but it may only exercise its regulatory functions within its area</li> <li>▪ A council function may be exercised jointly with other councils, including through a voluntary regional organisation of councils</li> <li>▪ A council requires consent of the Minister to form a corporation or other entity; but it may be a member of a co-operative society or company limited by guarantee</li> <li>▪ County councils may be created by the Minister to undertake the functions of a council; the governing body of a county council must be elected by its constituent councils</li> <li>▪ A council must not enter into a Public Private Partnership (PPP) unless the council has provided the Director-General with an assessment of the project prepared in accordance with PPP guidelines</li> <li>▪ A council is not required to tender for a contract entered into with another council, or with a person prescribed by the regulations</li> <li>▪ A council may not delegate the acceptance of tenders and regulatory functions</li> </ul>
NT	<ul style="list-style-type: none"> <li>▪ A council may provide services outside its own area but cannot exercise its regulatory powers outside its own area except by mutual agreement with the council in whose area the powers are to be exercised or with the Minister’s consent</li> <li>▪ There must be a regional management plan for each region</li> <li>▪ A regional management plan must address the opportunities and challenges for local government service delivery in the region; ways of improving service delivery by co-operation between councils or between councils and government agencies</li> <li>▪ A regional management plan may provide for the joint management of facilities within the region</li> <li>▪ A municipal or shire plan must include whether possibilities exist for improving service delivery by co-operation with other councils, agencies or other organisations</li> <li>▪ If the Minister approves, a council or two or more councils acting together may form a body corporate (a local government subsidiary) to carry out functions</li> <li>▪ A council may delegate powers to and functions to a local government subsidiary</li> </ul>
QLD	<ul style="list-style-type: none"> <li>▪ A local government may exercise its powers outside the local government area (including outside Queensland) with the written approval of the Minister</li> <li>▪ A local government may exercise its powers by co-operating with one or more other local, state or Commonwealth governments to conduct a joint government activity</li> <li>▪ A joint government activity includes providing a service or operating a facility</li> <li>▪ Local governments may conduct ‘beneficial enterprises’, defined as an enterprise that a local government considers is directed to benefiting the whole or part of its local government area – internal business units are excluded from the provisions</li> </ul>
SA	<ul style="list-style-type: none"> <li>▪ A council may act in conjunction with another council, authority or person, and it may act outside its area</li> <li>▪ Two or more councils may establish a regional subsidiary to provide a specified service or services or to carry out a specified range of activities; the establishment of a regional subsidiary is subject to Ministerial approval</li> <li>▪ A council may engage in a commercial activity or enterprise and may establish a business, participate in a joint trust, partnership or similar body</li> <li>▪ A council must not participate in the formation of a company or acquire shares in a</li> </ul>

Jurisdiction	Provisions
	company
<b>TAS</b>	<ul style="list-style-type: none"> <li>▪ A council may perform its functions either within or outside its municipal area</li> <li>▪ A council may transfer to a single authority or joint authority any of its assets and liabilities and any of its employees</li> <li>▪ A council may form or participate in the formation an operation of a corporation, trust, partnership or other body</li> <li>▪ A council may resolve to establish a single authority or a joint authority with one or more councils to carry out any scheme, work or undertaking; to provide facilities and services; and to provide any function or exercise any power of a council</li> <li>▪ A single or joint authority may operate outside the boundaries of the municipal area if the rules of the authority permit and the exercise is in accordance with competitive neutrality provisions</li> </ul>
<b>VIC</b>	<ul style="list-style-type: none"> <li>▪ A council may perform its functions inside and outside its municipal district</li> <li>▪ Usual tendering provisions do not apply if the contract is entered into with a council acting as the agent for a group of councils</li> <li>▪ A council may form and operate a corporation, but must assess the total risk exposure of forming or operating a company</li> </ul>
<b>WA</b>	<ul style="list-style-type: none"> <li>▪ A council may perform its functions outside its own district</li> <li>▪ Before it commences a major trading undertaking, a local government is required to prepare a business plan; the major trading undertaking requires the approval of the Minister</li> <li>▪ A local government cannot form or take part in forming, or acquiring an interest in the control of an incorporated company</li> <li>▪ Two or more local governments may, with the Minister’s approval, establish a regional local government to do things for the participants for any purpose to which a local government can do things; a regional local government can only do things for a regional purpose</li> <li>▪ Local governments may make arrangements under which one performs a function for another, or local governments perform functions jointly</li> </ul>

Table 4 specifies the enabling legislation for the establishment of joint local government entities in each jurisdiction.

**Table 4: Enabling legislation for the establishment of joint local government entities**

Jurisdiction	Joint local government entity	Enabling legislation
<b>NSW</b>	County council	Local Government Act 1993, section 383
<b>VIC</b>	No provision	
<b>QLD</b>	Joint local government entity or joint government entity	Local Government Act 2009, section 10
<b>WA</b>	Regional local government	Local Government Act 1995, section 3.61
<b>SA</b>	Regional subsidiary	Local Government Act 1999, section 43
<b>TAS</b>	Joint authority	Local Government Act 1993, section 30
<b>NT</b>	Local government subsidiary	Local Government Act 2008, section 27

### 3.5 Jurisdictional perspectives

The overview of legislative frameworks in Table 3 makes it clear that all states and the Northern Territory contemplate some form of collaboration and sharing of service delivery between local governments. Also, as noted earlier, New South Wales and Western Australia have clearly stated reform agendas focussed firmly on collaboration and shared services.

To gain a more complete picture of the current views of jurisdictions on shared services models in local government, interviews were conducted with executive-level officers from each state and the Northern Territory. Set out below is a summary of their collective views on governance models and related transitional issues.

#### ***Governance models***

- There is a consensus that there is no one governance model that works for all councils.
- Some jurisdictions are looking at the ‘council controlled organisation’ provisions operating in New Zealand.
- As noted in section 2.4.1, the *Destination 2036* initiative of the NSW Division of Local Government has a strong focus on further encouraging shared services and exploring alternative governance models. To this end, a ‘slimmed down’ version of the county council model is currently under consideration in NSW.
- There is a view in some jurisdictions that shared services and entrepreneurial activities should be conducted under local government systems of governance to protect employment and ensure openness, transparency and decision making in the public interest.
- Any model needs to reflect the risks it involves.
- There are strengths and weaknesses in all the available models for regional entities, and success depends on informed decision-making by the key players. Very good sources of information are needed, as is an understanding of what the state and federal governments are planning to do in social/economic terms.

#### ***Obstacles to change***

- Some departmental officers suggested that shared services may have peaked and now stalled.
- Some suggested that the executive staff in local governments are generally keen to embrace shared services, but that there are problems when elected members need to vote on such decisions. It is therefore a question of political will, pointing to the need for executive staff to involve elected members from the outset to ensure there is trust and confidence in the process.
- The flip side of this is an apparent reluctance of CEOs to fully embrace shared services due to perceived threat to status, loss of control and diminished influence.
- Council members on a regional governing body can see themselves as only representing the interests of the councils which appointed them, often to the detriment of making progress on shared services.
- There is a view in some quarters that local government associations need to provide more leadership in this area.



- The need for CEOs to champion shared services, backed up by the support and commitment of the elected body and senior management team, was reinforced in many areas.
- Many of those interviewed for this study reported there may be a perception that a council seeking to ally with other councils is a sign of weakness, signalling that the council can't deliver on its community responsibilities, and also that such collaboration is a precursor to amalgamation.
- There may be a lack of trust between individual councils due to a fear that one may dominate the other in collaborative arrangements.
- There is a tendency for councils to wait for other councils to start the change process before they become involved.
- Distance negates economies of scale in the delivery or production of shared services such as libraries and health centres.

### ***Industrial relations***

- There is a degree of resistance from the union movement to shared service agreements, as they can see them as moves to outsource services, leading to staff cuts and redundancies. The alternative argument is that there are possibilities of job creation from shared services as seen in the BOPLASS case study, with its 'centres of excellence' approach to service sharing.
- In shared services initiatives there is likely to be a level of retraining and reallocation of staff resources.
- An important element of any new legal structure will be the ability of an entity to retain the employment rights of its workers as local government employees. This is a challenge if the entity is corporatized.
- When a council decides to outsource a service, it is very difficult, if not impossible to bring it back into council, so staff leave and cannot return.

### ***Minimising unintended outcomes***

- There is an awareness of the potential for unintended consequences due to weaknesses in contract management by councils. Part of the solution could be to create shared arrangements in which councils with specialist expertise in contract management can partner with, and assist those councils which lack those skills. There are examples of councils engaging specialist expertise to establish and manage complex contracts to overcome a lack of contract management capacity.
- When establishing new contractual arrangements for a shared service, a council needs to be aware that contractual responsibilities will need to be honoured, and this may involve a change in council thinking. There needs to be a strong business case and good service specifications for delivering on expectations, and this requires compromise and trust between the council partners.
- There is a need for councils to be clear about the risks of sharing services and to engineer solutions that are tailored to the needs of councils.

## 4. Case studies

The following case studies provide a snapshot analysis of how shared services and collaborative arrangements are currently operating in practice using a range of different legal and governance models. The studies explore the background of each entity, how and why each was established, and its composition and purpose.

A number of additional case studies of regional collaboration and shared services can be found in Volume 2 of ACELG's *Consolidation in Local Government* report, and further studies are under way.

The consolidation report can be accessed at:

[http://www.acelg.org.au/upload/program1/1320885947\\_Consolidation\\_Final\\_Report\\_Vol\\_2\\_web1.pdf](http://www.acelg.org.au/upload/program1/1320885947_Consolidation_Final_Report_Vol_2_web1.pdf)

### 4.1 Cradle Coast Authority (TAS)

#### Overview

In 1999, under Section 30 of the Tasmanian *Local Government Act 1993*, nine local government areas across the North-West and West coasts of Tasmania established the Cradle Coast Authority (CCA). The member councils are:

- The City of Burnie
- Central Coast Council
- Circular Head Council
- Devonport City Council
- Kentish Council
- King Island Council
- Latrobe Council
- Waratah/Wynyard Council
- West Coast Council.

The Authority's vision is for the region to be:

*known for its resilient economy, healthy communities, long-term thinking and confident, creative people.*

The Authority's objective is:

*To facilitate the sustainable development of the region, resolve regional issues and coordinate regional scale activity in areas such as tourism, health and local government services.*

#### Authority structure

The Authority is a joint authority constituted under the *Local Government Act 1993*. As such, it performs its functions as if it was a local government or council. The Authority is governed by a two-tiered structure comprising two representatives from each member council, and a skills-based board of directors. The Representatives Group appoints the Board, approves the Authority's guiding documents and meets quarterly to review progress against the annual budget and strategy. A quarterly report on the strategy is presented to the representatives and published on the website at the end of September, December, March and June each year.

### **Board of Directors**

The Board comprises eight directors: five with skills covering agriculture, industry, commerce, education/training and tourism in the region appointed from public nominations; two persons appointed from participating council nomination and one director appointed from nominations from council general managers. The Authority's Executive Chairman performs the role of Chief Executive Officer, Chairman and spokesman for the Board, but does not vote at Board meetings. The Board is responsible for implementing the Authority's strategic direction, overseeing financial matters and performing other duties.

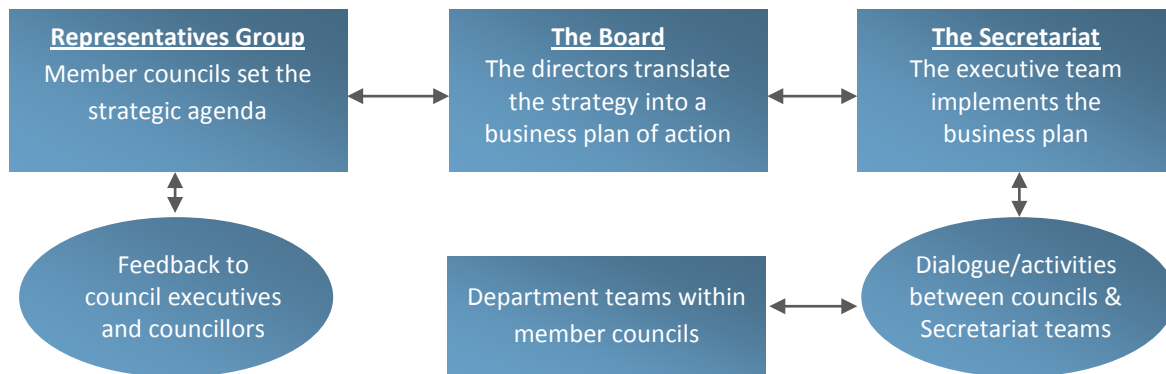
### **Representatives Group**

Each of the Authority's member councils appoint two representatives to the Representatives Group, which acts as the Authority's shareholder body, voting on major budgetary, policy and governance issues. The Representatives Group:

- Sets the strategic direction of the Authority each year
- Appoints and reviews the Authority's board
- Approves the Authority's annual budget
- Monitors the Authority's overall performance.

Group meetings are held quarterly, with the representatives reporting back to their respective councils. The structure is shown in Figure 1.

**Figure 1: Cradle Coast Authority structure**



### **Financial arrangements**

The member councils contribute to the Authority's annual budget for core operations. Project-based activities are financed through grants, state government funding and fee-for-service arrangements.

### **The secretariat**

The Authority employs 25 officers in the Secretariat, including seven permanent staff. Apart from its core activities, the Secretariat is also responsible for health, wellbeing, tourism, and natural resource management projects (covering Landcare, biodiversity, business support, information and operations).

## Goals and strategic issues

The Cradle Coast Authority strategy for 2011-2012 is shown in Figure 2.

**Figure 2: Cradle Coast Authority Strategy 2011-2012**

GOALS			
<b>A resilient economy</b> that is diverse and sustainable, built on our region's unique advantages and big new ideas	<b>Healthy communities</b> that are attractive places to live, where people value their wellbeing above all else	<b>Long-term thinking</b> that helps us protect our natural assets, respond to change and prepare for the future	<b>Confident and creative people</b> with visible role models and unlimited access to information, knowledge and learning
Current and Emerging Issues			
Structural change in vegetable, dairy and timber/forest sectors	Inadequate public transport linking population, employment and service centres	Coordination of regional-scale planning for land use, natural resource management, water and sewerage, waste, infrastructure and economic development	Continuing low post year-10 and workforce participation
Increasing seasonal workforce in agriculture and forestry	Demand for active transport (walking/cycling) networks	Protection of natural values in multi-use landscapes	Poor adult literacy (including workforce and students)
Planned and potential irrigation projects	Increasing costs of living	Adaptation to climate change opportunities arising from climate change projections	Uptake of National Broadband Network and related opportunities
Expansion of exploration and mining activity	High incidence of chronic disease linked with inadequate diet and exercise	Implications and opportunities under a 'carbon economy'	Retention of young, professional and skilled workforce
Increased mobility of skilled workforce	New location-based approaches to providing wellbeing services	Potential for commercial and community scale renewable energy projects	Emergence of social inclusion policies (state and federal)
Declining tourism access and market share relative to other Tasmanian destinations	Roles for local government in supporting healthy lifestyles		Engagement in Informal learning, opportunities to 'be involved' in the community
Regional and state-wide planning reforms	Roll-out of Local Hospital Network and Medicare Local reforms		
Increasing sharing of resources and services between councils	High levels of children at risk due to poor health, family situation and/or educational outcomes		

## **Strengths, lessons learned and replicability**

### ***Current reviews***

The region is in the midst of further administrative reform. As a result, member councils are currently reviewing or considering:

- The future role of the Authority
- Enhancing services in community development
- Changes to water and sewerage services
- Implementing the recently amended articles of incorporation and Authority rules. One important change is that a member council must give three years' notice before it can withdraw from the organisation. This requirement will provide the Authority with greater certainty to work in the interests of its member councils.

### ***Flexibility and responsiveness***

The organisational structure of the Authority is modular. This means that it can alter its size and focus and its service activities can expand and contract in response to the changing priorities of the Board and the needs of the region. Currently, it hosts the region's natural resource management (NRM) committee and staff. This provides a platform for the creation of synergies. For example the NRM group is currently working in the Tarkine area and developing a strategic direction to identify potential shared outcomes for the potential competing interests of economic development, retaining ecological diversity and tourism.

### ***Relationship building***

The Authority sees its main function as being to assist in resource sharing by member councils and to deliver on activities requiring a regional response. For example, a group of member councils has created a separate joint authority to operate a group contract for waste services and to operate a landfill. The Authority has worked in alignment with this approach by establishing a regional waste group to discuss waste policy and other waste matters at a strategic level.

At a policy level, the Authority provides a means for the state government to deal with one entity rather than with nine separate councils. This approach provides a collective voice and cuts down transactional costs. However, the Authority also recognises that in many cases, where the state government is unable to deal with issues across the state at a regional level, it has to revert to a consultation path on a council-by-council basis.

At a business level, the Authority can work productively with other agencies. For example, it has a service agreement with Tourism Tasmania and charges a fee to perform certain roles in regard to industry development and coordination of marketing for its member councils. The NRM committee acts as coordinating arm under which these arrangements function.

### ***Future relations***

In helping to rebuild communities in the region following the economic recession of a decade ago, the Authority is beginning to partner with other organisations such as the University of Tasmania's Institute for Regional Development to retain local talent and stem the youth brain drain from the

region. To this end, it is working on educational programs and workforce development and is making progress into other areas such as social inclusion for disadvantaged groups.

### **Lessons learned**

The Authority acknowledges that there is no manual from which to select the best options or the right decisions for the region. The process needs to be consultative, consensual and iterative. On reflection, the following lessons have been identified by those interviewed:

- At the time of establishment, the Authority realised that it needed to seek early benefits to the member councils to secure its legitimacy. This was achieved by focussing on development and investment for the region. The Authority presented itself as an investment-ready, easy-to-work-with vehicle for regional development using state and federal money.
- Member councils have used the Authority to implement actions at a regional level. There are quite clear lines of demarcation which help to avoid and minimise duplication.
- The Representatives Group faces the ongoing challenge of balancing their local interests with those of the region, and the need to maintain the ability to think strategically.
- Governments can be uncomfortable working with one regional entity if they can't work in a similar way everywhere. Regional consultation is challenging for state and federal governments, and the Authority is concerned that any new policy responses do not hamper or undermine the status of regional organisations which have built up capacity and governance structures over a long period of time.

### **Replicability**

The Authority uses a straightforward legislated framework and could fairly be described as a sophisticated variant of regional organisation of councils. It does not undertake any 'core' shared services activities for its member councils, but the joint authority model has enabled external agencies to work with and interface with member councils and other authorities at the regional level. This common platform is seen to have many advantages.

The Authority has worked hard to establish itself within the local government sector. It has provided a regional service delivery focus whilst at the same time allowing individual councils to operate autonomously. The Authority's model can help to achieve some scale benefits and capacity for innovation while retaining autonomous democratic organisations at the local level.

## **4.2 Eastern Health Authority (SA)**

### **Overview**

The Eastern Health Authority is a regional subsidiary established under Section 43 of the South Australian *Local Government Act 1999*. It is one of 22 regional subsidiaries established under the Act. The 22 regional subsidiaries cover services such as:

- Waste management
- Cemetery management
- Health services
- Mobile library services

- Floodplain management
- Saleyards
- Community transport
- Water management
- Advocacy, representation, collaboration, policy development.

The constituent councils of the Eastern Health Authority, listed below, are located in the eastern and inner northern suburbs of Adelaide:

- City of Burnside
- Campbelltown City Council
- City of Norwood Payneham and St Peters
- City of Prospect
- The Corporation of the Town of Walkerville.

The Authority provides specific environmental health services on behalf of its member councils, and has played a significant role in the promotion and enforcement of public health standards.

### ***Objectives and functions***

The Authority's objective is:

*To protect and promote public and environmental health for the wellbeing of the community on behalf of the constituent councils.*

Its main functions include:

- Provision of immunisation services
- Surveillance of food safety
- Sanitation and disease control
- Licensing of supported residential facilities.

The Authority ensures that its constituent councils meet their legislative responsibilities relating to environmental health as mandated in the:

- Public and Environmental Health Act (1987)
- Food Act (2001)
- Supported Residential Facilities Act (1992).

### ***Authority structure***

The Authority's governing board is composed of ten directors, two from each member council. A board member does not need to be an elected member of a constituent council. One of the current board members is an external appointee.

The board meets five times each year to discuss health matters and actions, and makes decisions on behalf of the Authority. At these meetings the board is:

- Alerted to changing legislation in a timely way
- Kept informed of public health issues at a strategic level
- Provided with operational reports.

## **Activities and relationships**

### ***The Charter***

The current Charter, under which the Authority operates, was published in 2009. The Charter sets out the Authority's objects and purposes, powers, functions, duties, financial management, funding and operational activities.

### ***Business planning***

The Authority's annual business plan identifies its strategic direction and outlines its objectives for the financial year, the activities to be undertaken to achieve those objectives and how these activities/objectives are measured. Its current priorities are:

- To continue to provide a professional and cost effective environmental health service to its stakeholders
- To develop a Public Health Plan which links the State Health Plan with its constituent councils' strategic planning processes
- The installation of a computer failover system
- The development of an electronic performance management system
- Improved data collection and reporting from health managers
- A review of available legislation and monitoring programs applicable to lodging houses.

### ***External activities***

Under the Act, the Authority may also provide services to councils outside the constituent council group, with the group's endorsement. To this end, the Authority currently provides immunisation services to Adelaide City Council and the licensing of residential facilities on behalf of Unley City Council.

### ***Relationships***

Community satisfaction surveys indicate that the Authority is providing an efficient and effective service. The Authority has a relatively small group of highly skilled and trained professional environmental health officers. They are accountable directly to the Board and as such are subject to a greater degree of scrutiny in their direct reports to the Board than staff members at equivalent levels in an individual council's health department.

One of the other challenges facing the Authority is the need for a greater degree of communication between the executive of the Authority and the member councils. Good communication is required to ensure that:

- The objectives of the Authority's business activities are aligned with the potentially varying needs of each member council
- The executive management of each member council does not feel that ceding control to the Authority will lower the level of health service provision which would otherwise be achieved if



the council ran its own health department.

Contact between the Authority and external health bodies such as South Australia Health is also greatly valued. In this regard, the Authority is consulted on public health matters of emerging importance.

## **Strengths, challenges and replicability**

### ***Financial structure***

The Authority has an accountable financial structure. In planning its future health service activities, it apportions its costs according to the level and type of activity undertaken for each council. Each constituent council then provides its portion of funding based on this formula and is able to track the cost of the service against the benefits received. As a result, the Authority's activities are charged on a fee-for-service basis with no hidden financial support.

### ***Transparency***

Unlike a health department within a council, the Authority is not able to apportion capital or running costs, such as property leases or utility charges to a council's central accounting system. As it cannot 'hide' these costs, it is fully accountable for its decisions.

### ***System efficiency***

Because it only employs about 17 staff, the Authority buys in corporate services such as payroll, human resources and occupational health and safety from one or more of its constituent councils without having the administrative costs of running these services itself. The Authority can also take advantage of public service benefits, such as superannuation and government procurement schemes.

### ***Cost benefit***

The Authority has been able to demonstrate the cost and quality advantages that can be gained by providing specific health service activities, such as an immunisation program, across a group of councils. Bulk supplies of drugs can reduce costs. The provision of a network of clinics can standardise and maintain a high level of service, as well as allow residents of a constituent council to access such services in another council area within the group. This provides good customer service by giving residents choices of locations and opening times which can suit their personal circumstances.

### ***Staff issues***

The higher level of accountability of environmental health officers to the Board could have a potentially negative effect on recruitment, but this is currently offset by a supportive workplace and professional development opportunities.

### ***Communication***

As stated earlier, the Authority needs to ensure that it remains well connected at senior management levels within member councils in order to:

- Avoid being isolated from potential decision-making avenues within councils
- Maintain contact and involvement with the constituent councils' strategic planning processes
- Demonstrate to the constituent councils that they are receiving good value for money
- Respond to constituent councils' need for improved communication.

### **Replicability**

Within South Australia, the model is clearly replicable, as there are 22 regional subsidiaries currently in operation. The Eastern Health Authority appears to have the essential elements in place for conducting shared services identified in the survey report produced by the NSW Division of Local Government (NSW DLG 2011a) and summarised earlier in this report, and the model presents a robust framework through which to deliver shared services. However, as it was beyond the scope of this study to evaluate the effectiveness of the services provided by the regional subsidiaries operating in South Australia, it is unknown whether all of the regional subsidiaries have achieved the same level of success as the Eastern Health Authority.

Some further information on the Eastern Health Authority is contained in the case study section of ACELG's *Consolidation in Local Government* report.

## **4.3 Pilbara Regional Council (WA)**

### **Overview**

The Pilbara Regional Council (PRC) was established in 2000 as a regional local government authority under Section 3.61 of the *WA Local Government Act 1995*. The PRC was formed to foster regional cooperation, coordination and resource sharing. The four member councils are:

- Shire of Ashburton
- Shire of East Pilbara
- Shire of Roebourne
- Town of Port Hedland.

The PRC has eight elected councillors, two appointed by each member council. The member councils also nominate two deputies to ensure that a minimum of two councillors attend each PRC meeting. The regional councillors elect a chairperson and deputy chairperson. Each participant council contributes equal financial contributions to fund the PRC's operations.

### **Purpose**

The purpose of the PRC is to be:

*A Pilbara regional government that delivers a voice and attracts a financial return commensurate with the region's contribution to the Australian economy.*

Following a recent workshop process with councillors and participant council CEOs, the PRC launched a new strategic plan for the years 2011–2014. The new plan identifies four key result areas:

**Key result area 1** Regional service delivery

**Key result area 2** A voice for the Pilbara

**Key result area 3** Economic value

**Key result area 4** Governance support.

Projects the PRC has completed or will complete in the 2011/12 financial year include:

1. Regional corporate governance framework and implementation
2. ICT governance framework and implementation for Pilbara Local Government Areas (LGAs)
3. Regional submissions on the impact of Fly-In-Fly-Out, Country Local Government Fund etc.
4. Developed a website portal for member councils designed to communicate and share successes of 'governance champions' from across the Pilbara LGAs to leverage best practice. The portal also provides access to quality information and templates including project initiation, business case request for quotation templates.
5. Risk management framework for Pilbara LGAs
6. Regional workforce location analysis and strategy
7. Regional training needs analysis and regional training strategy
8. Stakeholder engagement map and plan
9. Manage the tender and co-ordinate the project to upgrade coastal tourism locations and improve selected roadside stops (\$2.75m)
10. Develop the business case for the 2011/12 Country Local Government Fund
11. Tourism short stay accommodation study – partnering with the Pilbara Development Commission
12. Secured an affordable housing public/private partnership to benefit the region
13. Regional workforce plan – location analysis and strategy
14. Plan and manage the joint Pilbara/Kimberley forum.

### **Legislative framework**

Section 3.61 of the *WA Local Government Act, 1995* provides a mechanism for two or more local governments to establish a regional local government. Section 3.61 says:

- (1) *Two or more local governments (referred to in this Division as the **participants**) may, with the Minister's approval, establish a regional local government to do things, for the participants, for any purpose for which a local government can do things under this Act or any other Act.*
- (2) *An application for the Minister's approval is to be —*
  - (a) *in a form approved for that purpose by the Minister; and*
  - (b) *accompanied by a copy of an agreement between the participants to establish the regional local government (referred to in this Division as the **establishment agreement**).*
- (3) *The participants are to supply the Minister any further information about the application that the Minister asks for.*

- (4) *If the Minister approves the application the Minister is to declare, by notice in the Gazette, that the regional local government is established —*
- (a) *on the date;*
  - (b) *under the name; and*
  - (c) *for the purpose, set out in the notice.*

Section 3.62(1) of the Act provides that a regional local government body is a body corporate with the same general functions of a local government, including its legislative and executive functions. Except for some specific exclusions outlined in section 3.66 of the Act, the *Local Government Act 1995* applies to a regional local government as if:

- the participants' districts together make up a single district; and
- the regional local government were the local government established for the district.

### ***Factors influencing the decision to choose the regional local government model***

When forming the PRC, the participant councils wanted to form a statutory authority in its own right, covered by the Local Government Act, which participants were familiar and comfortable with. The other prevalent model for regional collaboration in Western Australia is the Voluntary Regional Organisation of Councils (VROC) model, but the Pilbara councils wanted to be bound closely together under legislation that has the same compliance requirements they are subject to individually.

### **Suitability of the regional council model**

#### ***Restrictions***

While the regional local government framework may have been desirable and suitable at the time of formation, the requirements of the Local Government Act are now restricting the PRC's expansion into entrepreneurial activities. The new strategic plan sees the PRC moving towards a more strategic role with a strong business and entrepreneurial focus. The PRC would like to form an incorporated company to carry out some of its new activities, but section 3.60 of the Act specifically prohibits a local government from forming, taking part in forming, or acquiring an interest in an incorporated company.

#### ***Compliance***

Another problem identified with the regional local government structure is the level of compliance required. With a staff of just two full time employees, the PRC has the same reporting and compliance requirements as mainstream local governments with a broader role and focus. The 'one size fits all' nature of the Act means there can be no tailoring of compliance and regulatory measures, meaning PRC resources are tied up in a process and compliance system not necessarily suited to its strategic role.

In its submission on the Local Government Amendment (Regional Subsidiaries) Bill, the Western Australian Local Government Association (WALGA 2011, p. 22) noted the compliance and reporting requirements associated with Regional Local Governments:

- Regional local governments have significant compliance and regulatory requirements because they are regarded as local government

- Regional local governments are regulated as local government except when the Local Government Act 1995 makes specific reference to sections that do not apply, and these exclusions are minimal, relating to such provisions as elections or rating.

WALGA has advocated for a review of the regulatory and compliance burden of regional local governments so as to make the establishment of regional local governments a much more attractive proposition for local governments seeking to enter into shared services arrangements.

### **Communication**

Many of the administrative requirements of the Act are also difficult for a council like the PRC which has its head office in Perth, but whose participant councils are located several hundred kilometres away, and together cover an area the size of France.

A current issue causing difficulties are the requirements relating to special meetings held by teleconference. While meetings by teleconference are permitted under regulation 14A of the *Local Government (Administration) Regulations 1996*, the fine detail renders teleconference meetings difficult to convene without a lot of prior planning. While fine for ordinary meetings, this is less easy to achieve for special meetings, which by their nature tend to be held at shorter notice. The Act states that a special council meeting can be called, but it can only be convened by teleconference when it has been approved by an absolute council majority and the councillors have recorded where they will be located during the teleconference. For the PRC, with councillors located in an area covering 507,896 square kilometres, this can – and does – pose a practical difficulty. Regulation 14A states:

*(1) A person who is not physically present at a meeting of a council or committee is to be taken to be present at the meeting if –*

- (a) the person is simultaneously in audio contact, by telephone or other means of instantaneous communication, with each other person present at the meeting;*
- (b) the person is in a suitable place; and*
- (c) the council has approved\* of the arrangement.*

\* Absolute majority required.

### **Structural options for the future**

The PRC is likely to consider future structural options in the context of a broader review of Regional Development Commissions in WA. In 2010, the Minister for Regional Development approved a review of the functions and responsibilities of Regional Development Commissions (RDCs). The review was finalised and a report released in November 2010. The report, *Structuring Regional Development for the Future – A Review of the Functions and Responsibilities of Regional Development Commissions* contains a series of recommendations for the consideration of the WA government. Recommendation 10 relates directly to the Pilbara region:

*Establish a Ministerially endorsed and mandated working party to strengthen the integration and alignment of statutory land use planning, regional development, and local government service delivery within existing legislative planning frameworks for the Pilbara region. (This accords with Economic Audit*

*Committee recommendations 6 and 10.)*

In July 2011, the government released its response to the review recommendations. The government's response to Recommendation 10 is:

*Department of Regional Development and Lands (RDL) leading in implementing Recommendation 10 as Government will establish a Ministerially endorsed and mandated working party to strengthen the integration and alignment of statutory land use planning, regional development, and local government service delivery within existing legislative planning frameworks for the Pilbara region. There is great potential in having the Commonwealth, through the Regional Development Australia organisations, join this partnership. If successful, the model could be applied to other regions.*

The PRC is involved in discussions with participant councils, other regional groups in the Pilbara and other key stakeholders to discuss alternative regional governance models in the light of this review. The future structure of the PRC is therefore unknown at this stage until the council confirms its position on the various models currently on the table.

#### 4.4 NSW County Councils (NSW)

##### Overview

Section 383 of the NSW *Local Government Act 1993* provides for the establishment of a county council. There are currently 14 county councils in NSW. While the Local Government Act places no restrictions on the functions a county council may undertake, there are presently only four functions carried out by county councils. It appears to be some decades since a new county council was formed.

The table below outlines the number of county councils and their purpose.

County council purpose	Number of councils with this purpose
Water supply	4
Water and sewerage services	1
Floodplain management	1
Eradication of noxious weeds	8

##### **Formation of county councils**

Under Section 383 of the NSW Local Government Act, a council, a county council, a public authority, or the Director-General may make a proposal to the Minister to establish or dissolve a county council or to amend the constitution of a county council. Section 387 states that the Governor may, by proclamation, establish a county council after a period of public notice and the opportunity for representations concerning the proposal.

Section 387 (2) states that the proclamation must include:

- The name of the county council
- A description of the county council's area of operations
- The name of each constituent council whose area lies wholly or partly within the county council's area of operations

- A description of the county council's functions.

### ***Application of the Local Government Act to county councils***

The NSW Local Government Act applies to county councils in the same way as it applies to general purpose councils. There are some exceptions, but these are minor, covering matters such as:

- Notice of meetings, meeting closures, frequency of meetings
- How people are elected to civic office
- Constitution of councils
- The roles of mayors and deputy mayors
- The provisions concerning the making and levying of ordinary rates.

### ***The governing body***

Each county council must have a governing body elected by its constituent councils. The governing body is responsible for managing the affairs of the county council. Provisions concerning the membership of the governing body are prescribed in the proclamation establishing the county council. Members of a county council are elected by the councillors of each constituent council from among their number.

Each county council has a chairperson elected by the members of the county council from among their number. The chairperson presides at meetings of the county council and exercises other functions determined by the county council.

### ***Suitability of the county council model***

During interviews conducted for this case study, it became apparent that the suitability or otherwise of the governance model is now being reconsidered by a number of county councils. On the positive side, county councils allow councils to establish a legal entity and constituent councils appear to be comfortable with the familiar governance structures, reporting and compliance requirements afforded by their status under the NSW Local Government Act. On the negative side, this governance and reporting regime is seen as a burden for many of the small county councils, which are providing a much narrower scope of service than their general purpose counterparts, yet face the same compliance and reporting systems.

For example, most of the provisions of the Integrated Planning and Reporting provisions of the Local Government Act 1993 apply to county councils. These provisions require a council to produce a 20 year strategic business plan, a four-year delivery program and a 12 month operational plan. These documents are complemented and supported by a four year resourcing strategy that consists of a 30 year long term financial plan, four year workforce management strategy and a 20 year asset management strategy and plan. It is questionable whether this level of planning and reporting is necessary for small county councils providing very basic operational services.

Some are also questioning the suitability of the governance structure. Research for this paper has revealed that one county council has a ratio of elected representatives to staff of 1:1. This is important because such a ratio arguably subjects these employees to greater pressure and scrutiny than their counterparts in general purpose councils, whose staff would typically work as part of a

larger council division, with less exposure to elected representatives. While transparency and accountability is laudable, there is a stronger likelihood in the small county councils of councillors becoming involved in operational matters, often due to the absence of a more strategic role for them.

On the other hand, it has become apparent that at least one group of councils is considering the option of establishing a county council to provide a framework for undertaking shared services. The county council option is on the table largely due to the absence of a more suitable structure. As well, a cluster of county councils on the north coast of NSW is actively considering a range of structural reform options to improve business efficiency, including the possibility of amalgamation.

### **Structural options for the future**

As part of the *Destination 2036* initiative, the NSW Division of Local Government is preparing a discussion paper addressing collaborative and shared services arrangements between councils and the suitability of the various governance models currently available to NSW local government. The paper will explore the potential for new models that will better support the development and governance of these arrangements.

## **4.5 Bay of Plenty Local Authority Shared Service (NZ)**

### **Overview**

BOPLASS Ltd is a company formed as a Council Controlled Organisation (CCO) under Sections 6 and 7 of the New Zealand Local Government Act of New Zealand 2002. It is jointly owned by eight councils:

- The Bay of Plenty Regional Council
- Rotorua District Council
- Western Bay of Plenty District Council
- Kawerau District Council
- Tauranga City Council
- Opotiki District Council
- Whakatane District Council
- Taupo District Council and Gisborne District Council

### **Key drivers**

ALGIM (ALGIM, 2010) notes that BOPLASS was formed as an initiative of the Chief Executives of the region, who perceived benefits could be accrued through shared services and procurement. The key area of focus in the beginning was regional broadband with a subsidiary company established in response to government policy at the time.

### **Objectives**

The objective of BOPLASS is:

*Working together with the full support and involvement of staff, we will provide benefit to Councils and their stakeholders through improved levels of service, reduced costs, improved efficiency and/or increased value through innovation.*



This will be achieved primarily through:

**Joint procurement**

Being the procurement of services or products by two or more Councils from an external provider regardless of whether the service is paid for through BOPLASS or individually by participating Councils.

**Shared services**

Being the participation of two or more councils in the provision of a common service which may be jointly or severally hosted.

**Purpose**

The BOPLASS Statement of Intent for 2011-12 specifies the purpose of BOPLASS (BOPLASS, 2011):

*The Councils that operate within the Bay of Plenty and Gisborne Regions have formed a CCO to investigate, develop and deliver shared services, joint procurement and communications where and when that can be done more effectively for any combinations of some or all of the councils.*

*The expected benefits that can be achieved through shared services are:*

- *Improved levels and quality of service*
- *A co-ordinated and consistent approach to the provision of services*
- *Reductions in the cost of support and administrative services*
- *Opportunities to develop new initiatives*
- *Economies of scale resulting from a single entity representing many councils in procurement*
- *These benefits and opportunities can apply to all councils irrespective of location or size.*

**Structure**

The company is owned by the nine participating councils, with each council having one share valued at \$1000. Under the New Zealand Local Government Act for CCOs, the councils appoint an independent board of directors which runs the company in accordance with a Statement of Intent updated annually by its shareholders (the councils). This process enables the councils to give quite specific directions to the board, and they may update the CCO at any time if circumstances warrant that.

Currently the nine CEOs of the shareholder councils make up the board of directors, and up to three additional directors can be appointed for their commercial or technical skills. According to the Statement of Intent for 2011-2012:

*to ensure total synergy between the companies' activities and its council shareholders' activities, the directors are also the Chief Executives of their respective shareholding councils. The dual roles recognise the interdependence of BOPLASS and its councils in the undertaking of its activities.*

BOPLASS works through advisory groups comprised of representatives of the different councils interested in a particular service. Each group is service specific: the participants initially decide the scope of the project and the desired outcome and work collaboratively to achieve them. This enables the organisation to benefit from the expert knowledge of participant council staff and involve staff in the process.

### **How it works**

BOPLASS assists with facilitation and also provides a legal entity, representative of all the councils, able to enter into contracts and agreements with the councils and/or external suppliers. An important requirement for BOPLASS is that it adds value to the process.

Each shared service is subject to a formal service level agreement between BOPLASS Ltd and the participating councils, outlining the services and activities provided, where, when and how; and reflecting the capital and operational costs being met by each service shareholder.

### **Services shared**

The Statement of Intent for 2011-2012 nominates the following current feasibility studies for shared services:

- GIS
- Rates collection
- Joint software support
- Provision of Ultrafast Broadband services between Councils (CRNP)
- Facilitation of regional broad band services in the start up or incubation phase
- Asset management
- Web services
- E-Purchasing
- Business continuity
- Payroll
- Telephony platform
- Consents processing.

### **Cost sharing arrangements**

BOPLASS has adopted a user pays system, and councils pay for specific services provided under the BOPLASS umbrella. In addition, there is an annual membership levy for participation in an advisory group based on council size:

- |                  |         |
|------------------|---------|
| ▪ Large council  | \$2,000 |
| ▪ Medium council | \$1,000 |
| ▪ Small council  | \$500   |

Non-shareholding councils pay a premium of 20%.

### **Lessons learned**

According to ALGIM (ALGIM, 2010, p. 36), the following lessons have been identified:

- It must be driven by the Chief Executives
- It must be resourced with staff
- The Chief Executives must act as company directors not Chief Executives when representing BOPLASS
- It must have its own codified culture
- Councils need to be willing to give some things up for the regional good

- Commitment is required at the 2nd tier level of management within the councils
- Ongoing charges need to be transaction based to better attribute costs
- Go with the movers – don't let the lowest common denominator pull you back
- Success may divert government attention away from amalgamation.

It also seems clear that the governance framework for CCOs contained in the Local Government Act, particularly the process of formulating and updating a Statement of Intent to guide the board, is a critical underlying factor.

Some further information on BOPLASS is contained in the case study section of ACELG's *Consolidation in Local Government* report.

## 5. Conclusions and areas for further research

Local government has a long history of sharing the delivery of services and collaborating on other operational or ‘back-of-house’ activities. State and territory governments, at various times, have undertaken inquiries and surveys to identify how local government has carried out these activities, and to understand the drivers and constraints that determine whether local governments benefit from such approaches. Some are actively promoting enhanced (sub) regional collaboration.

Councils enter into service sharing arrangements for a range of reasons. They need to recognise the restrictions which legislation can place on how they are able to implement such arrangements. No one model suits every situation. It is apparent from the case studies and interviews conducted for this paper that councils need to have a clear understanding of the objectives of entering into such arrangements, and the benefits and constraints associated. More importantly, councils need to be aware of the commitments required in order to gain the best advantage from sharing services with other like-minded councils.

It is clear that shared services will continue to be an option for councils to consider long into the future, even if they are amalgamated into larger units – councils both large and small derive benefits from shared services arrangements of varying types. The success of such arrangements will be dependent on councils working together in a way that transparently and equitably (but not necessarily *equally*) benefits all the participating councils. Senior managers within participating councils will need to be skilled in aligning the interests of their council with the interests of the collective. Political leaders will need the ability to work strategically, to look beyond parochial interests and similarly to find ways to align their interests with those of partner councils.

It is also very clear that robust, accountable and flexible governance structures are essential to underpin shared services arrangements. A range of appropriate legal and governance models are needed to provide suitable platforms for collaboration – as always, one size does not fit all. Across Australia there is already a diversity of approaches, although most jurisdictions restrict the options available to councils – in some cases very tightly. Each model has its strengths and weaknesses and councils need to choose carefully.

The choices councils make will be guided by legislative provisions but are complex and will also involve intangible elements of association. Ultimately, councils participating in shared services arrangements need to develop relationships of trust, cede some (perhaps a great deal of) local control, and compromise for the overall public benefit. It is the way in which relationships develop that is likely to have the most impact on the extent to which a shared services arrangement can be successful and offer a viable alternative to amalgamation.

### 5.1 Further research

More study needs to be undertaken on a number of fronts to explore further the issues raised in this interim report. Some key areas for investigation include:

- Additional and more in-depth case studies to cover the full range of models available to local government across Australia and to explore in greater detail their strengths and weaknesses

- Why legislative provisions and available models vary so markedly between jurisdictions and whether each has a clear rationale for the options – or lack of choice – offered to councils
- The types and levels of support that councils may require when considering and establishing shared services arrangements
- Intangible factors that may build or impede relationships between local governments, and hence influence the success of shared services arrangements.

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## Attachment: Legislative provisions in each jurisdiction

### New South Wales

Legislative provision	Relevance to shared services
<b>Requirements for tendering</b> (Local Government Act 1993, section 55)	<ul style="list-style-type: none"> <li>▪ A council is not required to tender for a contract entered into with another council</li> <li>▪ A council is not required to tender for a contract for the purchase of goods, materials or services specified by a person prescribed by the regulations</li> <li>▪ <i>Note: currently, there are only two persons prescribed in the legislation</i></li> </ul>
<b>How a council exercises its functions</b> (Local Government Act 1993, section 355)	<ul style="list-style-type: none"> <li>▪ A function of a council may be exercised by the council, by a committee of the council, jointly by the council and another council or councils including by means of a Voluntary Regional Organisation of Councils or by a delegate of the council</li> </ul>
<b>Exercising functions within its area</b> (Local Government Act 1993, section 357)	<ul style="list-style-type: none"> <li>▪ A council may exercise its functions within its area or outside its area, but only exercise its regulatory functions within its area</li> </ul>
<b>Restrictions on formation of corporations and other entities</b> (Local Government Act 1993, section 358)	<ul style="list-style-type: none"> <li>▪ A council must not form a corporation or other entity or acquire a controlling interest in a corporation or other entity, except with the consent of the Minister, and subject to the conditions the Minister may specify</li> <li>▪ In applying for the Minister's consent, the council must demonstrate to the Minister's satisfaction that the formation of, or the acquisition of the controlling interest, the corporation or entity is in the public interest</li> <li>▪ A council may be a member of a co-operative society or a company limited by guarantee and licensed not to use the work "Limited" in its name</li> </ul>
<b>Power to delegate</b> (Local Government Act 1993, section 377 and section 379)	<ul style="list-style-type: none"> <li>▪ A council may delegate any function except (amongst others) the acceptance of tenders (section 377) and a regulatory function (section 379) other than to a committee of the council, an employee of the council, or a county council</li> <li>▪ <i>Note: this has implications for councils involved in jointly tendering for services and goods with others</i></li> </ul>
<b>County councils</b> (Local Government Act 1993, section 383)	<ul style="list-style-type: none"> <li>▪ County councils may be created by the Minister to undertake the functions of a council</li> <li>▪ The governing body of a county council must be elected by its constituent councils</li> </ul>
<b>Public Private Partnerships (PPP)</b> (Local Government Act 1993, section 400)	<ul style="list-style-type: none"> <li>▪ A council must not enter into a PPP or carry out a project under a public-private partnership, unless the council has provided the Director-General with an assessment of the project</li> <li>▪ The general manager must certify that the that the assessment has been prepared in accordance with PPP guidelines</li> <li>▪ The Director-General may refer the project to the Project Review Committee for review</li> <li>▪ If the project is not required to be referred to the Project Review Committee, the council may, subject to section 358, enter into the PPP</li> </ul>



## Northern Territory

Legislative provision	Relevance to shared services and collaboration
<p><b>Objectives of a council</b> (Local Government Act 2008, section 13)</p>	<ul style="list-style-type: none"> <li>▪ A council is to co-operate with territory and national governments in the delivery of services for the benefit of its area; to place a high value on the importance of service to the council's constituency; to ensure resources are used fairly, effectively and efficiently; and ensure equitable access to services, facilities and programs</li> </ul>
<p><b>Operations outside area</b> (Local Government Act 2008, section 14)</p>	<ul style="list-style-type: none"> <li>▪ A council may provide services outside its own area but cannot exercise its regulatory powers outside its own area except by mutual agreement with the council in whose area the powers are to be exercised or with the Minister's consent</li> <li>▪ However, a council may exercise regulatory and other powers outside its own area without the agreement of another council or the Minister's consent if the occasion for exercising the powers arises from circumstances occurring in the council's area</li> </ul>
<p><b>Regional management plans</b> (Local Government Act 2008, section 16)</p>	<ul style="list-style-type: none"> <li>▪ There must be a regional management plan for each region</li> <li>▪ A regional management plan is primarily the product of consultation between interested councils in the region and the Agency (the department responsible for the Local Government Act)</li> <li>▪ A municipal council may (but is not required to) participate in consultation related to a regional management plan</li> <li>▪ A regional management plan only binds a municipal council to an extent agreed by the council</li> </ul>
<p><b>Content of regional management plans</b> (Local Government Act 2008, section 17)</p>	<ul style="list-style-type: none"> <li>▪ A regional management plan must address the opportunities and challenges for local government service delivery in the region; the administrative and regulatory framework for local government service delivery; ways of improving service delivery by co-operation between councils, or between councils and government agencies; must define core local government services and where they are to be delivered</li> <li>▪ A regional management plan may provide for the joint management of facilities within the region</li> <li>▪ <i>Note: the Act includes provisions for preparation, revision and amendment of the plans; annual reporting; accessibility of the plans and related documents</i></li> </ul>
<p><b>Municipal or shire plan</b> (Local Government Act 2008, section 23)</p>	<ul style="list-style-type: none"> <li>▪ A municipal or shire plan must contain (amongst other things) a service delivery plan; the opportunities and challenges for local government service delivery in the area; possible changes to the administrative and regulatory framework for delivering services during the period of the plan; whether possibilities exist for improving service delivery by co-operation with other councils or with government agencies or other organisations</li> </ul>

## Queensland

Legislative provision	Relevance to shared services and collaboration
<p><b>Powers of local governments generally</b> (Local Government Act 2009, section 9)</p>	<ul style="list-style-type: none"> <li>▪ A local government may exercise its powers inside the local government area; outside the local government area (including outside Queensland) with the written approval of the Minister</li> </ul>
<p><b>Power to conduct joint government activities</b> (Local Government Act 2009, section 10)</p>	<ul style="list-style-type: none"> <li>▪ A local government may exercise its powers by co-operating with one or more other local, state or Commonwealth governments to conduct a joint government activity</li> <li>▪ A joint government activity includes providing a service, or operating a facility, that involves the other government</li> <li>▪ The co-operation with another government may include entering into an agreement, creating a joint local government entity or joint government entity to oversee the joint government entity</li> <li>▪ A joint government activity may be set up for more than one purpose</li> <li>▪ A local government may exercise a power in another government's area for the purposes of a joint activity, in the way agreed by the governments</li> <li>▪ If the power is to be exercised by a local law, the local law must state that it applies to the other government's area</li> </ul>
<p><b>Beneficial enterprises</b> (Local Government Act 2009, section 39)</p>	<ul style="list-style-type: none"> <li>▪ Local governments may conduct beneficial enterprises, which are defined as an enterprise that a local government considers is directed to benefiting the whole or part of its local government area</li> <li>▪ Internal business units are excluded from the provisions</li> </ul>
<p><b>Conducting a beneficial enterprise</b> (Local Government Act 2009, section 40)</p>	<ul style="list-style-type: none"> <li>▪ In conducting a beneficial enterprise, the local government must consult with all employees who may be directly affected; or consult with an industrial association representing the employees</li> <li>▪ The council must pass a resolution to conduct the beneficial enterprise</li> <li>▪ <i>Note: this section explains in detail how the beneficial enterprise is to be conducted</i></li> </ul>
<p><b>Register of beneficial enterprises</b> (Local Government Act 2009, section 41)</p>	<ul style="list-style-type: none"> <li>▪ A local government must establish a register that includes a record for each beneficial enterprise that it conducts</li> </ul>
<p><b>Planning for a beneficial enterprise with the private sector</b> (Local Government Act 2009, section 42)</p>	<ul style="list-style-type: none"> <li>▪ If a local government plans to invest in a beneficial enterprise conducted with the private sector, the local government must identify the amount to be invested, as a capital expenditure, in the local government's budget</li> <li>▪ If the capital investment amount identified in the budget is not used in that financial year, it may be carried forward the next financial year, for up to three years</li> <li>▪ A local government must obtain the approval of the department's chief executive before it may invest in a beneficial enterprise when the local government has not identified the amount of the investment as a capital expenditure in its budget</li> </ul>

Legislative provision	Relevance to shared services and collaboration
<b>Assessing public benefit</b> (Local Government Act 2009, section 46)	<ul style="list-style-type: none"> <li>▪ The local government must conduct a public benefit assessment of new significant business activities</li> <li>▪ The local government must prepare a report on the public benefit assessment</li> <li>▪ At a meeting of the local government, the local government must consider the report and decide by resolution whether or not to apply the competitive principle in relation to the significant business activity</li> </ul>
<b>Queensland Government (Beneficial Enterprises and Business Activities) Regulation 2010</b>	<ul style="list-style-type: none"> <li>▪ The regulation details the requirements for Local Government beneficial enterprises and competitive business activities</li> <li>▪ The regulation includes the approval process for certain beneficial enterprises; National Competition Policy application to local governments significant business activities, including water and sewerage; process for complaints about competitive neutrality, including referral to and accreditation by the Queensland Competition Authority</li> </ul>

## South Australia

Legislative provision	Relevance to shared services and collaboration
<b>Functions of a council</b> (Local Government Act 1999, section 7)	<ul style="list-style-type: none"> <li>▪ Functions include to plan at the local and regional level</li> </ul>
<b>Principles to be observed</b> (Local Government Act 1999, section 8)	<ul style="list-style-type: none"> <li>▪ A council must participate with other councils and with state and national governments in setting public policy and achieving regional, state and national objectives</li> <li>▪ Give weight to regional, state and national objectives and strategies</li> <li>▪ Seek to co-ordinate with state and national government in planning and delivery of services</li> <li>▪ Seek to ensure that council resources are used fairly, effectively, efficiently</li> <li>▪ Seek to provide services that are adequate, appropriate and equitable</li> <li>▪ Ensure the sustainability of council's long-term financial performance</li> </ul>
<b>General powers and capacities</b> (Local Government Act 1999, section 36)	<ul style="list-style-type: none"> <li>▪ A council may act in conjunction with another council or authority, or a person</li> <li>▪ A council may act outside its area</li> </ul>
<b>Contracts and transactions</b> (Local Government Act 1999, section 37)	<ul style="list-style-type: none"> <li>▪ A contract may be entered into by an officer, employee or agent authorised by the council</li> </ul>
<b>Regional subsidiaries</b> (Local Government Act 1999, section 43)	<ul style="list-style-type: none"> <li>▪ Two or more councils may establish a regional subsidiary to provide a specified service or services or to carry out a specified activity or activities</li> <li>▪ If a regional subsidiary is established to perform a regulatory activity of constituent councils, the subsidiary cannot also perform a significant and related service activity</li> <li>▪ The establishment of a regional subsidiary is subject to Ministerial approval</li> <li>▪ <i>Note: the Act refers to Schedule 2 containing other provisions relevant to a regional subsidiary established under this section</i></li> </ul>

Legislative provision	Relevance to shared services and collaboration
<b>Commercial activities</b> (Local Government Act 1999, section 46)	<ul style="list-style-type: none"> <li>A council may engage in a commercial activity or enterprise and may establish a business; participate in a joint venture, trust, partnership or similar body</li> </ul>
<b>Interest in companies</b> (Local Government Act 1999, section 47)	<ul style="list-style-type: none"> <li>A council must not participate in the formation of a company or acquire shares in a company</li> <li>This does not limit the ability of a council to participate in the formation of, or to become a member of, a company limited by guarantee established as a national association to promote and advance the interests of an industry in which local government has an interest</li> </ul>
<b>Prudential arrangements</b> (Local Government Act 1999, section 48)	<ul style="list-style-type: none"> <li>A council must develop and maintain prudential management policies for the assessment of projects</li> <li>A council must obtain and consider a report that addresses a number of prudential issues set out in the Act before the it engages in any commercial project where the expected expenditure over the ensuing five years is likely to exceed 20% of the council's average annual operating expenses over the previous five years; where the capital cost over the ensuing five years is likely to exceed \$4,000,000; or where the council considers it appropriate or necessary</li> </ul>
<b>Contracts and tenders</b> (Local Government Act 1999, section 49)	<ul style="list-style-type: none"> <li>A council must develop and maintain procurement policies, practices and procedures</li> <li>A council must prepare and adopt policies on the contracting out of services; competitive tendering; the use of local goods and services; the disposal of land or other assets</li> </ul>

## Tasmania

Legislative provision	Relevance to shared services and collaboration
<b>Functions and powers</b> (Local Government Act 1993, section 20)	<ul style="list-style-type: none"> <li>A council may do anything necessary or convenient to perform its functions either within or outside its municipal area</li> <li>A council may transfer to a single authority or joint authority any of its assets and liabilities or any of its employees</li> </ul>
<b>Enterprise powers</b> (Local Government Act, section 21)	<ul style="list-style-type: none"> <li>A council may form or participate in the formation and operation of a corporation, trust, partnership or other body; acquire and dispose of shares in or debentures or other securities of a corporation; acquire and dispose of an interest in a partnership or other body; enter into partnerships for sharing of profits, union of interest, co-operation, joint venture, reciprocal concession or engage in any business transaction so as to directly or indirectly benefit the community</li> <li>A council may undertake a project or activity not directly authorised by the Act for the purpose of raising revenue</li> <li>A council may exercise its power under this section outside the boundaries of its municipal area if that exercise is consistent with competitive neutrality principles</li> <li>There are procedures for gaining council and Ministerial approval for carrying out these activities</li> </ul>

Legislative provision	Relevance to shared services and collaboration
<b>Single and joint authorities</b> (Local Government Act 1993, section 30)	<ul style="list-style-type: none"> <li>▪ A council may resolve to establish a single authority or a joint authority with one or more councils</li> <li>▪ A single authority or joint authority may be established to carry out any scheme, work or undertaking; to provide facilities or services; and to provide any function to exercise any power of a council</li> <li>▪ <i>Note: the Act outlines functions and powers of single or joint authorities, annual and quarterly reporting requirements, winding-up provisions, rules of authorities, and procedures for review</i></li> </ul>
<b>Operating outside municipal areas</b> (Local Government Act 1993, section 36)	<ul style="list-style-type: none"> <li>▪ A single authority or joint authority may perform functions and exercise powers outside the boundaries of the municipal area or areas if the rules of the authority permit; and the exercise is in accordance with competitive neutrality principles</li> <li>▪ This does not apply to regulatory powers and powers of entry</li> </ul>
<b>Local government subsidiary</b> (Local Government Act 2008, section 27)	<ul style="list-style-type: none"> <li>▪ If the Minister approves, a council or two or more councils acting together may form a body corporate (a local government subsidiary) to carry out functions on behalf of the constituent council or councils</li> <li>▪ The local government subsidiary and the constituent council or councils must comply with any conditions of the Minister's approval</li> <li>▪ LGANT may exercise powers of a council under this section to form a local government subsidiary or to participate in a local government subsidiary</li> </ul>

## Victoria

Legislative provision	Relevance to shared services and collaboration
<b>Objectives of a council</b> (Local Government Act 1989, section 3C)	<ul style="list-style-type: none"> <li>▪ A council is to endeavour to achieve the best outcomes for the local community, having regard to the long term and cumulative effects of decisions</li> <li>▪ In seeking to achieve its primary objective, council must have regard to a number of matters, including efficient and effective use of resources in accordance with Best Value Principles; promotion of business and employment opportunities; accessible and equitable services and facilities</li> </ul>
<b>The role of a council</b> (Local Government Act 1989, section 3D)	<ul style="list-style-type: none"> <li>▪ The role of a council includes (amongst others) providing leadership; responsible and accountable management of resources; and acting as a responsible partner in government by taking into account the needs of other communities</li> </ul>
<b>Functions of a council</b> (Local Government Act 1989, section 3E)	<ul style="list-style-type: none"> <li>▪ A council may perform its functions inside and outside its municipal district</li> </ul>
<b>Restriction on power to enter into contracts</b> (Local Government Act 1989, section 186)	<ul style="list-style-type: none"> <li>▪ Usual tendering provision do not apply if the contract is entered into with a council acting as the agent for a group of councils</li> <li>▪ Wherever practical, a council must give preference to contracts for the purchase of goods, machinery or material manufactured or produced in Australia or New Zealand</li> </ul>

Legislative provision	Relevance to shared services and collaboration
<b>Entrepreneurial powers</b> (Local Government Act 1989, section 193)	<ul style="list-style-type: none"> <li>▪ A council may form and operate a corporation, trust, partnership or other body; become a member of a company limited by guarantee; acquire and dispose of shares or other securities</li> <li>▪ A council must assess the total risk exposure of forming or operating a company</li> <li>▪ If the risk exposure is greater than \$500,000 or 5% of the council's revenue from rates, the approval of the Minister is required</li> <li>▪ If the risk exposure exceeds \$5,000,000, the council must obtain the approval of the Minister and the Treasurer</li> </ul>
<b>Transport plan</b> (Local Government Act 1989, section 203)	<ul style="list-style-type: none"> <li>▪ A council may prepare a transport plan jointly with one or more councils</li> </ul>
<b>Best value principles</b> (Local Government Act section 208)	<ul style="list-style-type: none"> <li>▪ A council must comply with best practice principles</li> <li>▪ Best practice principles are: all services provided must meet quality and cost standards; must be responsive the needs of the community; must be accessible; a council must achieve continuous improvement with service provision; a council must develop a program of regular consultation with its community; must report on its achievements</li> </ul>

## Western Australia

Legislative provision	Relevance to shared services and collaboration
<b>Performing executive functions</b> (Local Government Act 1995, section 3.18)	<ul style="list-style-type: none"> <li>▪ A local government is to satisfy itself that services and facilities it provides integrate, co-ordinate and do not duplicate with any provided by the Commonwealth, state or any public body</li> </ul>
<b>Places to be regarded as within district</b> (Local Government Act 1995, section 3.19)	<ul style="list-style-type: none"> <li>▪ A local government's district is regarded as including any part of another district to which it has been given approval by the local government of that district; and any part of the state to which it has been given approval by the Governor</li> </ul>
<b>Performing functions outside district</b> (Local Government Act 1995, section 3.20)	<ul style="list-style-type: none"> <li>▪ A council may perform its executive functions outside its own district</li> <li>▪ Before a council can do anything on land outside its own district it is required to gain the consent of the landowner, and the occupier of the land</li> </ul>
<b>Commercial enterprises</b> (Local Government Act 1995, section 3.59)	<ul style="list-style-type: none"> <li>▪ Before it commences a major trading undertaking, enters into a major land transaction, a local government is required to prepare a business plan</li> <li>▪ The local government can only commence the undertaking with the approval of the Minister</li> <li>▪ <i>Note: this section of the Act outlines the matters to be included in the business plan</i></li> </ul>
<b>No capacity to form or acquire control of body corporate</b> (Local Government Act 1995, section 3.60)	<ul style="list-style-type: none"> <li>▪ A local government cannot form or take part in forming, or acquiring an interest in the control of an incorporated company or any other body corporate except a regional local government unless it is permitted to do so by regulations</li> </ul>

Legislative provision	Relevance to shared services and collaboration
<p><b>Establishing a regional local government</b> (Local Government Act 1995, section 3.61)</p>	<ul style="list-style-type: none"> <li>▪ Two or more local government's (known as 'participants' in the Act) may, with the Minister's approval, establish a regional local government to do things for the participants for any purpose to which a local government can do things</li> <li>▪ An application to the Minister must be in an approved form and accompanied by an agreement between the participants (an establishment agreement)</li> <li>▪ <i>Note: section 3.64 sets out what the establishment agreement is to contain</i></li> </ul>
<p><b>Constitution and purpose of a regional local government</b> (Local Government Act 1995, section 3.62)</p>	<ul style="list-style-type: none"> <li>▪ A regional local government is a body corporate whose governing body is made up of participating councils</li> </ul>
<p><b>Application of enabling Acts relating to local government</b> (Local Government Act 1995, section 3.66)</p>	<ul style="list-style-type: none"> <li>▪ A regional local government can only do things for a regional purpose</li> </ul>
<p><b>Other arrangements not affected</b> (Local Government Act 1995, section 3.68)</p>	<ul style="list-style-type: none"> <li>▪ Nothing prevents local governments from making arrangements under which a local government performs a function for another local government; or local governments perform a function jointly</li> </ul>

## ABOUT ACELG

ACELG is a unique consortium of universities and professional bodies that have a strong commitment to the advancement of local government. The consortium is led by the University of Technology Sydney's Centre for Local Government, and includes the University of Canberra, the Australia and New Zealand School of Government, Local Government Managers Australia and the Institute of Public Works Engineering Australia. In addition, the Centre works with program partners to provide support in specialist areas and extend the Centre's national reach. These include Charles Darwin University and Edith Cowan University.

## PROGRAM DELIVERY

ACELG's activities are grouped into six program areas:

- Research and Policy Foresight
- Innovation and Best Practice
- Governance and Strategic Leadership
- Organisation Capacity Building
- Rural-Remote and Indigenous Local Government
- Workforce Development

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