

## December 2018 Monitoring Report

### Introduction

In this issue, instead of reporting on one or more specific policy developments of relevance for local government, we consider the major influences which we expect to see shape the local government sector over the next few years and both the opportunities and threats these influences present for the sector as a whole and for individual councils.

We argue that the role and place of local government in the governance of New Zealand is potentially at something of a major tipping point, and that the way in which it tips is very much in the hands of local government itself.

Over the past couple of decades local government has been very much a taker rather than a shaper of the rules and expectations within which it operates with hardly a year going by without significant fine tuning from central government whether in terms of local government accountability, decision-making, regulatory responsibilities... (often with central government cost shifting). A pessimist could see the consequences as being to make local government as a sector somewhat punch-drunk and reluctant to innovate. An optimist would see a combination of circumstances which create an opportunity for local government to reshape the governance agenda for its communities in quite fundamental ways.

This report takes the latter view. It will argue that despite the complexity of the challenges confronting local government there are great opportunities to take control of the governance agenda **BUT** this will require an informed and strategic approach from the sector rather than a series of ad hoc reactions to government initiatives or other potential impacts.

We make this judgement against a background of continuing concern about phenomena such as climate change, rising inequality, uncertainties about the long-term outlook for employment especially as a consequence of technological change, the fiscal and social aspects of an ageing population, the widely diverging rates of population growth in different parts of New Zealand, the funding and infrastructure challenges facing local government, the increasing un-affordability of housing and growing questions about the fitness for purpose of the state sector on which we all to a greater or lesser extent rely.

#### *The three major influences*

In November the Minister of Local Government released two significant reports which between them will do much to set the direction of government policy in respect of local government for the foreseeable future. The two were:

*Local Governance for Community Well-being* which "invites Cabinet to agree to consider the future role of local governance in New Zealand in delivering

intergenerational wellbeing for all New Zealanders, delivering regional growth objectives, strengthening local democracy and instilling greater trust and confidence in local governance.”; and

*Future state of the three waters system: regulation and service delivery* which addresses three high-level options including to “Create an aggregated system of dedicated, publicly owned drinking water and wastewater providers.”

The sector itself, through Local Government New Zealand, has launched its own policy initiative intended to result in a major change in the role and significance of local government: the localism project. The project’s proposition is that “instead of relying on central government to decide what is good for our communities it is time to empower councils and communities themselves to make such decisions. This means strengthening local self-government, putting people back in charge of politics and reinvigorating our democracy. We are seeking an active programme of devolution and decentralisation.”

In support, LGNZ argues the well-known principle of subsidiarity - that services should be delivered by the level of government closest to the affected community - supports a strong case for significant devolution/decentralisation. In terms of possible scale LGNZ points to the reality that New Zealand local government spends a much smaller proportion of GDP than local government and virtually every other OECD country.

All three, the local governance for community well-being initiative, the three waters review and the localism project raise questions which go to the heart of the central government/local government relationship, the respective roles of each level of government in terms of working with New Zealand’s communities, and the place which New Zealand’s communities themselves should play in shaping future governance.

Before considering these three as the major immediate influences, we make a brief comment on some of the major long-term trends confronting New Zealand society.

### **Long-term trends**

Major long-term trends such as climate change, the impact of technology on work (and lifestyle choices generally), an ageing population, significant differences in population growth rates across the country and rising inequality each presents as extraordinarily difficult to resolve - indeed, the more we understand them, in some respects the harder they seem.

Each of these though has a common theme running through them. Any resolution or even substantial mitigation of the potential impact will depend critically on building understanding and consensus at a community level<sup>1</sup>. This underscores the critical need for lifting our game in local governance and local decision-making. **As local government reflects on its role in local governance, top of mind should be the reality that none of the major**

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<sup>1</sup> It might seem unusual to suggest that building understanding and consensus at a community level is critical for dealing with the impact of technology on work. Here the issue is that children from strong inclusive communities generally perform much better in education than children from dysfunctional communities. Preparing the future labour force to cope with the impact of technology on work depends critically on early and effective engagement with education hence the importance of strong communities for this purpose.

**changes facing New Zealand society can be addressed unless there is a quantum shift in the understanding and practice of local governance.**

### **The three immediate influences**

In this, the main section of this report, we look at the three immediate influences and the interactions between them.

#### *Local Governance for Community Well-being*

The Minister in her Cabinet paper noted what she saw as the clear alignment between the government's living standards framework and the role of local government in promoting community well-being. She went on to say: "This alignment creates a significant opportunity to harness local government's strengths and proximity to its communities. Local government is also able to take a practical, delivery-oriented approach to the well-beings. People and place connect at the local level, and this is where 'wellbeing' will be translated into lived experience."

Her statement can be seen as reflecting the reality that the well-being purpose is one of **promoting** community well-being, not just developing indicators to assess well-being (although that will also be an important part of local government's responsibility). Much of what influences community well-being is a result of central government intervention through its multifarious service delivery activities. The Minister's statement could be seen as a recognition that local government is uniquely placed to act as advocate and facilitator on behalf of its communities determining how services are best designed, targeted and delivered to local government's communities.

Separate from the Cabinet paper itself, there is also substantial evidence that promoting community well-being or for that matter developing solutions to address well-being issues identified as a consequence of measuring and assessing well-being requires taking a partnership approach to working with communities to agree and implement local solutions - what is commonly referred to as co-governance. This is the approach which has been adopted, for example, in Wales with the comprehensive approach that country is taking to well-being under the Well-being of Future Generations Act.

Getting to a position in which local government can both act as and be recognised as the advocate/facilitator for its communities requires not only that local government develop a practice and understanding of community governance which preferences co-governance. It also requires that central government itself understand not just the practice of community governance but both why it is important and why it is necessarily something to be led and facilitated by local government rather than central government. Current indications are that the scoping work being done by the Department of Internal affairs to advise the Minister on how to advance the local governance for community well-being agenda will not be adequate for this purpose. The primary reason is that the work will be undertaken in house and thus without the connections to international practice, especially practice beneath the radar, which is needed to understand the potential of community governance.

This opens up a significant opportunity for local government. First, it seems clear that the Minister does want an approach which results in genuine community governance. Next, and perhaps somewhat surprisingly for many in local government, there would be no need to change any of the provisions of the

Local Government Act for councils to be able to lead quite radical shifts in how they work with their communities and how they enable and support a co-governance approach to community governance.

It's a very real opportunity for local government to take control of the agenda and deliver on what ministers want rather than waiting for what is likely to be a suboptimal outcome because of the restricted brief under which officials are working. It's also an opportunity which can support more favourable outcomes, from a local government perspective, in respect of the other two influences, the three waters review and LGNZ's localism project.

#### *The Three Waters Review*

This review was always going to be controversial. It reflects an ongoing division of views between the water and wastewater profession on the one hand and local government as community representatives and decision-makers on the other. The professional view has increasingly become one that scale matters - dealing with the requisite technical challenges demands a calibre and experience of staff which small organisations are simply unable to attract and retain. It also will demand a balance sheet strength and skill in governance that again may be challenging for smaller organisations.

Councils on the other hand see the water and wastewater function both as an integral part of their overall business and as an important part of their decision-making role on behalf of their communities. Its loss would be seen as significantly undermining the representative role of councils. Important decisions about water and wastewater infrastructure and service levels could be taken by parties not directly accountable in the way councils are, and could exclude councils from decision-making on behalf of their communities - in practice that is a question of how governance arrangements are designed but the fear about loss of influence is nonetheless real.

Although the Minister has identified three possible options, it seems virtually certain that her preferred option will be the creation of an "aggregated system of dedicated, publicly owned drinking water and wastewater providers."

Rural and provincial councils, if they lost their current involvement with water and wastewater, would be significantly smaller entities with lesser capability. There is a real likelihood that they could find it difficult to attract and retain capable senior management staff if the scope and scale of their organisation were significantly smaller than it is now.

Some of this concern can look like over-dramatising the possible impact - Wellington Water provides an example of how councils working together can establish a collaborative management system for water and wastewater services which still retains much of their influence over decision-making on matters of concern to their communities and leaves asset ownership in the hands of individual councils. However, that's also an example of the time it can take to put in place a negotiated alternative to present arrangements. Government, especially given the public health risks involved, is likely to want a somewhat quicker and more comprehensive (countrywide) option hence the attractiveness of an aggregated system outside of although no doubt expected to work closely with local government.

Our understanding is that there is a growing interest within the local government sector itself in determining whether a trade-off can be found which would be

sufficiently attractive to at least the majority of smaller councils that they would be prepared to accept the loss of their water and wastewater responsibilities because they would have alternative and significant responsibilities which would preserve or enhance their role with their communities.

One element of this trade-off will undoubtedly involve decisions on funding especially for councils which are simply unable from the existing and likely future resources to afford to build/maintain water and wastewater service to acceptable modern standards. Another may concern the respective roles of local and central government. This is discussed below.

### *The Localism Project*

The importance of the localism project is that it directly addresses the proper role and function of local government, arguing that "Instead of relying on central government to decide what is good for our communities it is time to empower councils and communities themselves to make such decisions. This means strengthening local self-government, putting people back in charge of politics and reinvigorating our democracy." It is clear from the public statements about the project that the ambition is to have local decision-making (by councils) as an integral part of much of what is currently major government-controlled service delivery.

The general principle which is at the heart of the localism project could be addressed in a number of different ways. The preferred option advanced by the project is "an active programme of devolution and decentralisation."

It is certainly the case that local government in most other developed world jurisdictions has a much more significant portfolio of activity supported by significantly greater revenue streams (often involving options such as a local income tax and/or sales tax). However, these arrangements are often very much a function of historical and cultural context - for example the very different approach within civil law countries as opposed to the common law approach of Westminster jurisdiction countries. They are also often embedded in constitutions and thus very difficult for higher tiers of government to change.

It is likely that the closest parallel to what would result in New Zealand if central government agreed to significant devolution is the position of local government in England. It has significant major service delivery responsibilities including child and adult social care, police, education and social housing. For many years the understanding between central and local government was that central government would set parameters and provide adequate funding for local government service delivery responsibilities through what was known as the revenue support grant.

Since 2010 the traditional relationship between central government and local government has been significantly undermined as a result of what has been described as the austerity program, cutting central government public expenditure as a means of bringing a major deficit issue under control. Cuts have impacted disproportionately on local government (and ironically, within local government itself disproportionately on the least well-off councils serving the most deprived communities) but without any reduction in ongoing service responsibilities. The standout example is adult social care where under provision in relation to statutory entitlement is serious and growing (something like three quarters of a million adults who have been assessed as needing care in their home are not receiving it).

The English experience highlights both the dependency of local government (its service obligations and standards are largely dictated from the centre) and its vulnerability financially as funding arrangements were not entrenched and could thus be cut at the whim of central government with no ability for local government either to resist the cuts or to reduce their legal service obligations.

In assessing the merits of greater devolution in New Zealand, local government would need to consider both the degree of discretion which central government would be prepared to provide in terms of the design targeting and delivery of any services devolved to it and crucially the robustness of any associated funding arrangements. This highlights a very substantial risk. The track record of New Zealand governments suggests that local government could not have any confidence either that central government would not want to continue intervening in the minutiae of individual service arrangements or to be at liberty to cut funding as it saw fit.

### **Interrelationships**

It is clear that there are strong interrelationships between these three areas of influence on the future of local government. Each is very much concerned with how best to improve outcomes at a community level. Each confronts significant questions about the adequacy and permanence of funding arrangements for local government. Each is affected by current understandings of the respective roles and functions of the two levels of government, with local government, at least until very recently, too often seen as primarily concerned with local infrastructure and regulation, rather than with the quality of life in its communities.

The difference between now and the situation 18 months ago is that local government has a much greater opportunity to take charge of the agenda for shaping the future governance of New Zealand's communities.

International experience and practice with well-being highlights the pivotal role of the local in assessing well-being and developing solutions to address any issues which well-being assessments identify. Central governments are generally seen as lacking the networks, connections and understandings required to work effectively in a co-governance mode. Although it is not yet clear that central government understands the implications, the evidence is strong that adopting well-being as the principal objective of public policy necessarily requires a substantial rethinking of the nature and practice of governance. Specifically it implies a shift away from centrally directed top-down practice to locally directed bottom-up practice.

For LGNZ's localism project this suggests rethinking devolution, and a greater direct involvement by local government in service delivery, in favour of a different approach to ensuring a strong community voice in decision-making about service design targeting and delivery. Specifically the think tank argument is unquestionably that the better approach is to build on the new statutory purpose of promoting community well-being, understanding local government's future role as one of working with its communities to identify how best central government services can be designed targeted and delivered to meet local needs in a way which best suits local circumstances.

The opportunity for local government is to make the case that this is not just a better option in terms of the localism project, but could also be at the core of a trade-off with central government over the management of water and

wastewater services. Local government would accept the aggregated service approach (whilst taking some care over governance and in particular protecting the community voice in service delivery) in return for central government supporting local government's role as the advocate/facilitator on behalf of its communities in ensuring that central government service delivery was attuned to meeting local need, and respecting local voice.

Among other things this will require local government to take the lead in advising the Minister on how best to deliver on her local governance for community well-being initiative. As already noted, this is not a question of changing legislation. It is a question of understanding how best individual councils can work effectively with their communities in a co-governance mode. Most of the leading-edge experience in this area is offshore and typically beneath the radar.

Tapping into this will require utilising existing networks and relationships such as those the local government think tank has to identify what constitutes best practice and to provide assurances to individual councils that a co-governance approach is in fact in the interests of councils as well as the interests of the communities they serve.

There are significant risks which stand in the way of realising such an approach. They include:

- lingering central government concerns especially on the part of some officials that local government lacks the necessary skills and capability.
- Reluctance within local government itself to share decision-making with communities - there is still a tendency to see this as a zero-sum game. Experience demonstrates the exact opposite, that councils which do build good co-governance relationships benefit not only in terms of more effective service delivery and greater confidence in the Council itself, but also fiscally - good co-governance almost invariably leads to co-production, shifting loads from the Council itself to its community partners because its community partners want to play a greater role.
- The potential difficulty with achieving a sufficient measure of consensus within the local government sector to advance an alternative agenda.
- Uncertainty within central government itself about how its well-being initiative will play out at a community level including who should take the lead.
- The lack of capability within central government regarding community governance including co-governance and effective community engagement. This is very much a consequence of years of operating within a top-down approach to policy-making and delivery so that there has not been a perceived need to develop either the skills or the understanding of working collaboratively at a local level.

## **Conclusion**

The mix of influences currently affecting local government can be seen in one of two ways. From a pessimistic approach, the generation of additional uncertainty likely to undermine the role of local government and a failure to address the funding and other challenges the sector currently faces. From an optimistic perspective local government has a unique opportunity to take control of the community governance agenda especially as no legislative change is required.

The potential role for the local government think tank is to act as the advocate and trailblazer for a new approach to local governance based on the learnings and experience available through the think tank's extensive international networks and the initiatives which the think tank currently has underway. The most significant of these is the forthcoming inclusive growth conference which should do much to set the scene for greater local decision-making in areas of activity of greatest importance to the communities which local government serves.