

Good governance and democracy—are you engaged?

Submission by Flash Langley on the *Local Government (Auckland Law Reform) Bill (2009)* to the Auckland Governance Legislation Committee

Supplementary Submission 03: Second Bill issues still remain

Select committee supplementary submission by Flash Langley on the *Local Government (Auckland Law Reform) Bill (2009)* to the Auckland Governance Legislation Committee

Version 01 date: Monday 15th February 2010

This supplementary submission provides a copy of my June 2009 submission on the Local Government (Auckland Council) Bill (the ‘Second Bill’).

Whilst that submission was written for a different time and place, the more fundamental issues remain to be addressed by the Third Bill.

This is provided for background; though is still relevant for issues such as

- Effective local governance reforms requiring the involvement of the people; which is critical for success. Now not only do we have disconnectedness from the Auckland Council, the third Bill creates public concern that arms-length CCOs will further distance power from the Auckland Council, Local Boards and the public at large. There are strong community concerns the average person will have less access to where decisions are made, eroding participatory democracy. The concerns relate both to what is done in the reforms, and the quality of public consultation during the reforms
- Role of Local Boards. They are still too disempowered (despite the Auckland Council Act and the Auckland Law Reform Bill)
- Concentrating on what needs doing (minimal changes required for effective outcomes).

Attached:

Flash Langley’s submission on the Local Government (Auckland Council) Bill. (14 pages)

Good governance and you—a shared commitment to democracy:
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to the Auckland Governance Legislation Committee

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Please help defend democracy—for your town, region and nation

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To: Clerk of the Committee
Auckland Governance Legislation Committee
Select Committee Office
Parliament Buildings
WELLINGTON

By e-mail: AGL@parliament.govt.nz

From: Mr Flash Langley

Issue 01 date: Friday 26 June 2009

Issue 02 date: Monday 29 June 2009

Issue 03 date: Wednesday 10 February 2010 [Spelling corrections; not re-submitted]

1 Submission on the Local Government (Auckland Council) Bill (2009)

This is a submission by Flash Langley.

I am a Papakura resident, who used to live in a suburb of Sydney. Now I live in Papakura which is over 30km south of Auckland City. I am strongly concerned for the welfare and identity of local communities. I believe the proposed changes will diminish Auckland or Papakura as an attractive place to live. I believe the effectiveness of Papakura and Auckland can both be improved if the right changes are made with the support of the people.

I wish to appear before the select committee (preferably in the Papakura area), to discuss my submission and answer your questions.

- To support the effective communication of some concepts in person that cannot be done in writing, a brief part of my presentation requires an interactive activity. The brief participation of committee members and some audience members is required (the activity will be respectively conducted and committee staff briefed beforehand).

Please find my contact details accompanying this submission.

P01. Overall I support the intent of this Bill. In this submission I offer suggestions on how that intent can be best achieved; and critically examine the consequences of options.

2 Executive summary: Developing a shared commitment

P02. Overall I support the goal of this Bill to strengthen regional local governance.

P03. In my opinion a unitary council structure is unnecessary, so long as powers and funding are slightly increased for tier one local government (regional).

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- P04. Overall I support the goal of this Bill for increased local democracy and local representation.
- P05. In my opinion, a unitary council structure is unnecessary and damaging, with reduced outcomes compared to the present case instead of better outcomes.
- P06. I support second tier local government with similar rights and responsibilities to the existing territorial authorities.
- P07. In my opinion, there may be a case to consider splitting up some existing Local City Councils into smaller Local Councils to improve representation ratios and representation; although any changes would need to be very carefully considered due to the disruptions that can cause.
- P08. The Bill relies on a false assumption that amalgamation produces benefits or costs savings. The likely impacts are contrary to the intent of the Bill. This is one of the reasons I reject a proposed unitary Council.
- P09. I reject a unitary council model as this will not achieve the overall intent of the Bill. I prefer individual territorial authorities for promoting local democracy, local representation, focus, flexibility, efficiency, effectiveness and independence. The regional Council should similarly be independent for focus and independence. This is not the status quo as there would be small enough modifications as necessary for more effective regional governance without significantly impacting local independence.
- P10. The Bill does not adequately address governance and effective relationships with non-government. I would like local governance to be achieved, not tunnel vision on local government. Local government should be structured to effectively support local governance.
- P11. In my opinion, a majority of reform should be using existing Local Government Act (2002) provisions and processes, to minimise extra piecemeal legislation.
- P12. Any reforms will only be successful with the engagement and support of the people. The government's actions have been contrary to effective consultation. Even if the government comes up with a Mark II proposal that is the best thing since sliced bread, it will have lost the necessary support from the people for effective outcomes.
- P13. In my opinion, the most effective course of action for the government is to withdraw this Bill; repeal the previous Act and instead use the provisions and processes within the Local Government Act. The process should be conducted by the Local Government Commission under Schedule 3 provisions for consultation, a draft reorganisation scheme, and a binding poll.
- P14. I am strongly concerned that the current proposals lack any relevant impact assessments on costs, savings, benefits and risks for economic, social, cultural and environmental impact. I am also strongly concerned the government has been relying on what I believe are false assumptions.
- P15. I believe the present Papakura District serves as a good model for a local territorial authority. (There are also some other good places as well).

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4 Issues

4.1 Shared vision

- P16. I support the overall goal of this bill for increased regional effectiveness.
- P17. I support the intent of this bill for increased local representation.
- P18. I support the intent of this bill for increased local decision making.

4.2 Engagement and change management are pivotal for overall success

4.2.1 Current approach

- P19. The government wishes to hastily implement changes, to keep a momentum following on from the *Royal Commission on Auckland Governance*.
- P20. The government is pressured under a tight deadline, aiming for substantial transition to an Auckland Council (Supercity) for Local Government elections in October 2010.
- P21. The government has enacted the initial Act under urgency for establishing the Auckland Supercity without public consultation; instead offering an ‘opportunity’ to lodge select committee submissions on later bills (such as this Bill).

4.2.2 Difficulties with the current approach

- P22. The government has alienated the public in forcing through changes, without meaningful consultation.
- P23. The government does not have a mandate for this series of legislation. Indeed the National Party’s 2008 election policy had a commitment for public consultation to discuss the Royal Commission findings that has not yet been honoured.
- P24. The government’s tight legislation timetable has resulted in inadequate time for submissions under this select committee. Only about three weeks as compared to a typical six weeks.
- P25. The government’s timetable for introducing the next bill is long before the select committee is reporting back on this bill. Does the government intend to ignore the findings and constructive suggestions of the committee’s report under this bill, or disregard the consultation?
- P26. There are apparent contradictions in approaches. For instance, Hon Mr Hide is fervent in his discussion paper for local government on ensuring the public has a say (including binding polls) on any significant change within local government; yet is avoiding extensive consultation on the Supercity plans and is avoiding giving people their right to a binding poll. Why the contradictions?

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4.2.3 Key factors for success

- P27. The support and willing acceptance of the people (and within Local Government) will be critical for any changes to be successful. The culture, beliefs and attitudes of the people overrides any systems, structures and functions. If you don't bring on board the people, you are wasting your time and will get negative outcomes instead.
- P28. Support from the people will only come when they are empowered to contribute to the decisions for any change, which only comes about through meaningful consultation. It can also take time (depending on the processes used and the scale of the challenge).
- P29. It won't matter how good a series of legislation you put on paper and try to implement, if there is not the support of the people.

4.2.4 Suggestions for achieving success

- P30. The Bill at the moment will not achieve its stated intent due to the lack of meaningful engagement with the people in major decisions for their future.
- P31. Strong leadership is required to meaningfully engage with the people for them to contribute to solutions.
- P32. I suggest wide spread consultation happens first before formally enacting the formal provisions within the Local Government Act for a draft reorganisation scheme.

4.3 *Local Government Act (2002) processes are essential*

- P33. The government has decided to legislate changes rather than rely (or improve) the Local Government Act provisions, claiming urgent haste. Yet the safeguards contained within the Local Government Act are not present in the Supercity legislation.
- P34. I believe it essential that the provisions and processes of the Local Government Act (2002) be used for any proposed changes; such as Schedule 3 involving consultation, development of draft reorganisation schemes, and resulting in a binding poll by the public.
- P35. To keep things consistent, I believe any changes should be through the Local Government Act (2002) and other relevant national pieces of legislation; and seeking to minimise any Auckland region specific legislation.

4.4 *Supercity proposals lack relevant supporting evidence*

- P36. There is a distinct lack of supporting evidence for the government's proposed changes. I am dismayed they would proceed without relevant analysis.
- P37. The government often appears to be relying on false assumptions. Such as without any supporting analysis; or inappropriate supporting data.

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4.5 Relevant impact analysis required for consultation and major decision making

- P38. The government has not got relevant impact analysis, assessing the economic, social, cultural or environmental implications of the proposed Supercity plans, whether on a regional or local level.
- P39. Whilst the government is leaving many decisions for the future time (such as by the future Auckland Council or the Local Government Commission), it does not even have relevant estimated projections for impacts which I find very alarming.
- P40. The community, the select committee and the politicians need good supporting information in order to make good decisions.

4.6 Governance overlooked in the pursuit of government

- P41. There does not appear to be a recognition that results will not be successful if viewing government in isolation; that outcomes cannot be achieved by government alone.
- P42. Governance should recognise that outcomes are achieved through the synergies and contributions of government, business, organisations and community.

4.7 Enhancing regional effectiveness

- P43. As previously mentioned, I support the intention for more effective Auckland region government.
- P44. I believe the basic structure of the Auckland Regional Council (ARC) to be a good starting point.
- P45. I suggest the regional Council should be independent of any lower-tier Councils or bodies. To retain a relevant focus for election, decision making and reporting.
- P46. I believe the regional Council will achieve more success with a greater level of investment or funding (should that be necessary).
- P47. I tentatively believe there may be a requirement for transfer of specific region wide responsibilities from individual territorial authorities to the regional Council. Whilst this will improve the speed for decision making, I have some reluctance. For instance, how well will the consultation be within the region or parts of the region? My higher preference would be to review the agreement mechanism between local territorial authorities and the regional Council and retain a mixed control at both levels, by cooperation.
- P48. I disagree with the proposed Supercity unitary authority. I believe decisions will be made faster than current, though poorer decisions will results. As there may be limited

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debate amongst the bureaucrats. And I don't believe the unitary authority provides any more advantages than a strengthened regional Council.

- P49. To some extent the public disagreements between layers of Local Government are a necessary outcome of public scrutiny and democratic participation. I believe the existing provisions for agreements and dispute resolution under the Local Government Act (2002) should be the basis.
- P50. The government in this series of legislation are assuming disagreement will be lessened by having a unitary authority. That is fanciful. The Royal Commission recognised there will be inherent tensions between local and regional (even within a unitary authority) requiring agreement provisions and dispute resolution mechanisms. They even provided some model legislation for that. These have all been ignored by the government in the proposed bill, deserving closer attention.
- P51. Conversely, the proposed unitary authority with an augmented Council spanning all the Auckland region, will lesson local democratic decision making and thus go against one of the outcomes sought by the Bill.
- P52. At a personal level, I used to live in Sydney before moving to Papakura. I have seen the result of all powerful higher levels of government and all powerful government authorities forcing through projects that disproportionately impacted local communities. So make sure there are appropriate checks and balances so the regional powers are beneficially used

4.7.1 Regional councillors must be ward based

- P53. The Bill is operating on a false assumption that the 'at large' councillors will have an increased regional focus. Evidence based data instead shows they will not be aligned with the region. The most likely case is those councillors (due to the campaign costs) will be aligned with sectional interest groups providing campaign funding (such as political parties or donors) making decisions in that alignment specifically. Another permutation is the people electing candidates that campaign to offer more benefits at a particular local level or to their specific demographic.
- P54. Ward based councillors, whilst having ward allegiances, can still operate (to some extent) in their regional decisions.
- P55. The regional Council should not be a unitary authority; otherwise there are divided loyalties and distractions between local ward based issues and regional issues. More so – decision making for local issues made at the regional level would be dysfunctional (too far removed from understanding the local issues; and only 1 vote among many councillors who are not from that part of the region).
- P56. Regional councillors should be elected on a ward basis only, preferably in multi-member wards for diversity of at least two councillors each where possible.
- P57. Regional councillors should have a representation level that is smaller than that proposed. For instance, Central government MPs have a representation ratio of about 1:67000. I believe the figure should be no more than about 1:50000 (and would prefer a lower ratio). I favour lower representation numbers despite having a large number of Councillors.
- P58. Election by Single Transferable Vote.

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P59. Campaign budget not to exceed \$10000 per Councillor candidate.

4.7.2 Regional mayor

P60. I am concerned there is no comparable analogy for the type of Mayor that is intended, compared with international experience. (For instance: Mayor of London is not analogous in context, powers or checks & balances).

P61. If a Mayor is desired at the regional Council, then I believe the powers should be similar to other councils regardless of the size and power of the proposed regional Council for the Auckland region.

P62. I believe the Mayoral office also needs a budget for consultants to independently provide advice. (Though budget should be limited).

P63. Campaign budget not to exceed \$10000 per Mayoral candidate.

4.7.3 Who represents us is diminished under the proposed changes

P64. It is important for people to know who it is they are voting for. Papakura people would like to vote from a choice of Papakura people.

P65. The likes of John Banks may be the only candidates feasible to run. Papakura people do not want to vote for John Banks (that he would not understand Papakura or look out for Papakura's welfare; plus a dislike towards him). Yet the alternatives are likely to be unknowns from outside of the area or personalities from outside of the area. Either way, Papakura people are feeling disenfranchised from voting.

4.7.4 Increased oversight required

P66. Increased checks and balances are required, both on the Mayor and the proposed regional Council.

4.7.5 Integrated planning

P67. The Ministry of Environment has layered planning processes that provide for an effective planning. This includes regional decisions at the regional level; and appropriate local decisions at the local level.

P68. Those are designed to work well for the typical NZ case of regional Councils and Local Councils. A unitary authority is not required for success.

P69. The Bill does not account for changes in the Resource Management Act, for propagating central government policies through the tiers of Local Government. Some of the desired regional reforms under this Bill will be achieved by the Resource Management Act anyway.

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4.8 Enhancing local effectiveness

- P70. I support an intent of this Bill for increased local democracy and local representation
- P71. I believe the powers, duties, roles and functions should be similar to existing territorial authorities; including legal status.
- P72. There are mixed messages being given whether the proposed Local Boards are advocacy only (with all decision making powers held by the proposed Auckland Council unless voluntarily delegated); or whether the various statements in the governments literature and politicians signal their intent for this local tier to have substantial decision making powers for local decisions. (There are various statements I'd like to quote from Mr Hide etc though don't have time this initial submission).
- P73. I reject the notion of Local Boards if they are somewhere between the existing Community Boards and Councils in their roles and functions.
- P74. The Royal Commission considered a trade-off for transition in a smaller number of lower tier bodies – for scale.
- P75. This Bill intends to increase local democracy; that will only happen if the powers and benefits at the local level are greater than the existing councils. The current provisions are contrary to that objective of increased local democracy.
- P76. This Bill has a false assumption that amalgamation will produce greater benefits and decreased overall costs. That assumption is not substantiated by any relevant data and is contrary to international and local evidence. (Amalgamations are disruptive and fail to achieve their optimistic objectives; and the benefits are not from scale of organisation; only from scale of individual services. Also tend to be optimum figures for scale, though these differ by service type).
- P77. This Bill seeks greater democracy; yet produces one large and all powerful unitary Council.
- P78. I believe representatives should be elected on a ward basis (preferably multi-member wards of at least two members for diversity) and achieve a representation figure of about 1:5000 people.
- P79. Local Boards shall each have a Mayor.
- P80. I believe the lower tier of local government should be independent Local Councils, so local communities are fully empowered for local democracy. The aim is to align decision making, accountability, responsibility, duties and powers nearest to the people of that local community. As mentioned, there may be a small adjustment to a limited number of truly regional network functions to favour a regional Council's performance.
- P81. I recognise some of the larger Councils may be targets for breakup, so they are accountable to say 120000 people. Though that will need to be weighed up against a range of factors (location, efficiency, overall impact of the resulting changes) on a case-by-case basis. Whether it is feasible for Mr Hide to break them up is another story, and requires dialogue with affected communities.

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- P82. Existing Community Boards (where they exist) are highly variable in their performance, and is a function of how empowered they are. Community Boards given significant amounts of delegated responsibility tend to perform well due to the wider cooperation and respect. Community Boards that are disenfranchised and not given delegations instead tend to be captivated by angry interest groups attacking the Council.
- P83. If Local Boards are to be favoured instead of Local Councils, it is no good just having a consultation or advocacy role if they cannot effect change. And not much good if they don't have a meaningful role in the decision making processes (preferable within a bulk funding arrangement).
- P84. A large number of second tier local government bodies may pose consultation problems in coordinating with the regional Council.
- P85. The second tier of local government (Local Councils or more powerful Local Boards) need to be effective and efficient to be able to make decisions for their area. I do not support the case of a Local Board with constrained functions such as mainly advocacy, as it is inefficient. For instance, if there is a local level need requiring a decision outside of its delegated responsibility, then it is necessary for the Local Board to try and influence the divided loyalties of their Auckland Councillor for their area. That Councillor is then challenged with communicating the change with Auckland Council bureaucrats to prepare options; and competing with other Auckland Council Councillors to attract a decision. Not only is this inefficient and ineffectual communication remote from the point of need; it is highly likely to result in dysfunctional decision making that can only be achieved through political factions; or a decision rejecting the proposal due to lack of enough support.
- P86. If an aim of the bill is to promote local democracy through greater representation, it is not good enough to look solely at representation ratios. It is also the quality of the representation to achieve successful outcomes for those represented which is of higher importance.
- P87. The Bill's intent for increasing local democracy will not be achieved, as the Local Board's powers, roles and functions are less than territorial authorities leading to increased disempowerment. For decisions under the realm of the Auckland Council, there will be less representation. For any decisions under the Local Board, it may not necessarily result in increased representation ratios.

4.9 Costs, benefits, risks and change management

- P88. No relevant cost-benefit analysis (economic, social, cultural, and environmental) has been conducted to analyse the estimated impacts of the government's proposed Supercity plans.
- P89. The government has been relying on the limited economic analysis contained within the Royal Commission on Auckland Governance report. I reject the limited scope, limited accuracy and non-relevant limited set of assumptions underlying that desktop analysis. The transition costs are severely underestimated. Even with the report's figures, the Royal Commission concluded direct cost savings were small and uncertain (in other words, there is a high degree of variability).

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- P90. The central government appears largely unconcerned at the level of costs, since it is imposing the changes yet passing almost all costs back to the local government organisations (present and future) within the Auckland region.
- P91. I suggest a starting approach could be that central government absorb the one-off transition costs and budget for at least \$700m over four years for its imposed unwanted changes; and not be able to pass on those costs in any way (direct or indirect). This aim is to encourage central government to re-prioritise spending among all the nation's programs. It should also consult taxpayers prior to embarking on this ambitious spending program. There is little support for the central government's unmandated reform plans, so at least it should be held accountable for its decisions and not wait until the next election for people to indirectly make their determination through voting.
- P92. Regardless of the cumulative impact of transition costs; Papakura ratepayers are concerned about rate hikes under a Supercity, and their ability to be able to pay for the increases without mortgage failure (impacting residents and businesses alike). The levels of Papakura's rates are lower than other districts or cities within the Auckland region; and the income demographics tend to be lower by population.
- P93. The people of Papakura believe under a Supercity, they will pay higher rates and receive less benefit. Despite the rhetoric of effective regional decision making, they believe all that will happen is they will be part of a larger rating base (and debt funder) for Auckland City and that Auckland City will attract a bulk of investments.
- P94. I am dismayed the government has done no estimated analysis on rates and rate impacts, despite their concerns and discussions over the rates inquiry, reaction to rates announcements, and Mr Hides enthusiasm for New Zealand local government reform in trying to curb rates (by curbing services and decision making frameworks).
- P95. I am concerned the government has not performed any debt projections. The people of the Papakura area will be worse off under the Supercity plans, as Papakura District Council's debt levels and rate levels are lower than other parts of the Auckland region.
- P96. I am concerned how assets and liabilities will be redistributed under the Supercity plans. Such as if it is a raid by Auckland City proponents to fund its investment by selling off Manukau Council's airport shares. I think the proposed Auckland Council unitary authority will mask disproportionate transfers of assets and liabilities; whereas retaining existing territorial Council assets and liabilities within those current boundaries provides a more retrospective and prospective accountabilities, and provides recognition for the past pains and past rewards by people in those areas.
- P97. I believe there are better ways of making and delivering the changes, which are less costly, less disruptive, quicker to implement, even more effective and appropriately manage risk. It would also require prioritising what needs changing and what does not. (The Pareto principle or so called '80:20 rule' is a heuristic that 80% of benefits come from 20% of the changes. There are significant implications for cost, benefits, time, quality and risk. There are significant differences in outcomes depending on the methodology used to deliver changes.)

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4.10 Provide, preserve and protect

P98. Any proposals should be assessed for their effectiveness with the principles of provide, preserve and protect.

4.11 Consulting required to determine effective Maori participation and partnership

I don't have time in this initial submission; though Mr Hide supports Maori participation yet doesn't believe that will be achieved under the existing Local Government Act (2002) provisions.

P99. I support the intent of the Royal Commission that formal Maori representation is necessary under Treaty of Waitangi obligations; and is consistent with the principle within the Local Government Act (2002) to encourage Maori participation in decision making.

P100. I suggest there be continuing consultation with Maori to determine how to implement that intent.

P101. I disagree that the provisions in the Local Electoral Act are adequate enough.

P102. Whilst some of these changes are best addressed under Local Government Act reforms; since the Bill already departs then should be no problem with leading on this issue. An alternative view is the international significance expressed for Auckland demands a higher visibility for Maori partnership.

P103. I recognise and support important formal relationships between Papakura District Council and Maori such as Te Roopu Kaitiaki o Papakura; and Whaitiaki. This included the mutual support and funding necessary for success.

4.12 New names for organizations

P104. I recognised the name of the first Bill was modified during its progression with Tamaki Makaurau substituted for Auckland Council. I recognise at this time the proposed name of the new council is still Auckland Council.

P105. I reject the name of Auckland Council as the new unitary authority name, and suggest consultation to determine a name that is not alienating the majority of the population that resides and works outside of the city known as Auckland.

P106. Until consultation has finalised, I believe it prudent to call the proposed unitary authority Tamaki Makaurau Council. This starts to signify a larger region and distances from Auckland city. Though consultation will need to review that starting point, since even Tamaki Makaurau is only covering a portion of the area of the proposed Tamaki Makaurau Council region (though at least it is significantly more regional).

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- P107. Second tier local government names would need reviewing if some of the existing Local Councils are broken up under the proposals.
- P108. I believe Papakura should be retained as the name for the second tier local government name, for an encompassing the present Papakura District (combining both urban and rural areas).

4.13 Boundaries

- P109. I believe the boundaries for Papakura for second tier local government should encompass the present Papakura District (combining both urban and rural areas).
- P110. I reject amalgamation or splits that would absorb Papakura (or portions of Papakura) into unrelated areas. Papakura should retain its identity.
- P111. Mandatory consultation for internal or external boundary or representation is required. I reject that it should be optional for the Local Government Commission to consult. The significance of changes is as high as the Southern external boundaries; and the Local Government Commission should be given full powers for all investigations.

4.14 Relationships are critical

- P112. Relationships between people and across organisations are extremely important for the effectiveness of local governance. That has to be nurtured over time based on mutual respect. The proposed changes would disrupt that significantly and would take a long time to only partially recover. The loss of relationships will lead to lower quality governance and more costly outcomes.
- P113. Relationships cannot be effectively legislated for.