

# The Role of the Councillor

## Understanding the Separation of Powers



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## ***Acknowledgments***

When deciding on what to research for my dissertation, my aim was to choose a topic where the findings may be of some benefit to my fellow councillors in NSW Local Government.

Previous research undertaken on the topic ***“The Role of a Councillor: understanding the “separation of powers”*** has shown there is a problem; it has suggested some of the reasons why this is the case, and outlined some suggestions how councillors, managers and administrators could improve this understanding into the future.

I started this journey of study in 2013 by undertaking the Executive Certificate Course being run by Local Government NSW and the University of Technology, Sydney. On learning that this could lead to further study at U.T.S., I enrolled into Social Planning and Development with Geraldine O’Connor, and came to realise that Social Planning was more than just a “tick the box” exercise for councils.

I must thank the Australian Centre of Excellence in Local Government at UTS for then encouraging me to apply, and then accepting me, to enrol in their Master of Local Government course.

Over the past 5 years, I have had the pleasure of attending lecture blocks with fellow students from all around NSW, interstate and overseas. As the only sitting councillor, I enjoyed the interaction with the other students who were managers and staff members in the local government sector.

Special thanks to my lecturers over that period, Tim Robinson, Roberta Ryan, Su Fei Tan, Alex Lawrie and Sophi Bruce, while after a lecture from Bligh Grant, I would call home and tell my wife that I had just learnt a few new words.

I must make special mention of the strong support of my Research Supervisor, Ron Woods, who has been with me through all the journey. Thanks, Ron. I have also really appreciated the support from Bligh Grant and his guidance through all the relevant literature.

The whole journey might not have happened without the support of the Temora Shire Council, General Manager, Gary Lavelle, and senior staff, along with Mayor, Rick Firman, and my fellow shire councillors of Temora Shire. Their assistance and encouragement has kept me going to the end goal.

During my research project in 2018, I had the assistance of Anne Sleigh with my research question layout, while Shirley Goulter had the huge task of converting my amateur typing into a more professional final dissertation. My sincere thanks to Shirley.

Finally to my wife, Helen, who has supported me through this journey, and has had to endure many periods of my mental frustrations, and papers all over the dining room table – a **BIG** thank you. We will now have more flexibility to visit our family and have time away.

### **Cover Photo**

*Pictured are Councillors Dennis Sleigh and Claire McLaren conducting the Temora Shire’s monthly “Coffee with a Councillor” community engagement exercise, with local resident and businessman, Gary Lynch.*

# Section 1: Introduction and Setting

## *The Role of a Councillor: Understanding the “Separation of Powers”*

**“Local Governments are the life blood of their communities”, and “the Australian Government recognises that communities are better served through improving the capacity of local government to deliver services to all Australians, by enhancing the performance and efficiency of the sector”** – Senator Fiona Nash, Federal Minister for Local Government, 2016.

### ***Introduction***

In researching the role of a councillor in local government, and the difficulty with councillors understanding the “separation of powers”, I have commenced with a background to the researcher, and some information about the region in which the research has been conducted.

I have then explained why I chose this topic and explained the aims, objectives and rationale for the research study. After a definition of the separation of powers and a brief methodology and design of the research, I have covered the historical perspective to the issue (Marshall, 2008, Grant and Drew, 2017) and the need expressed by many academics (Newnham And Winston, 1997) that the role of councillors needed to be better defined.

A similar research study on local government in Victoria is examined,(Tan, Morris and Grant 2017) while articles by Colin Copus (2016) on the role of a councillor were studied. Case studies from public inquiries into local councils gave an interesting insight into how some councillors think and behave, while a summary of what each state had included in their councillor handbooks in their effort to guide the councillor about their role and responsibility showed up some differences in the states.

Research was conducted with councillors and general managers, and they were asked three basic questions- Is there a Problem? Why? and How can we fix it? The results of these surveys have been reported and tabled into graphs, while the results of the interviews done with a selection of councillors and general managers has been listed.

Finally, an analysis of the findings from the research and the literature was conducted to allow the researcher to reach a number of recommendations and conclusions.

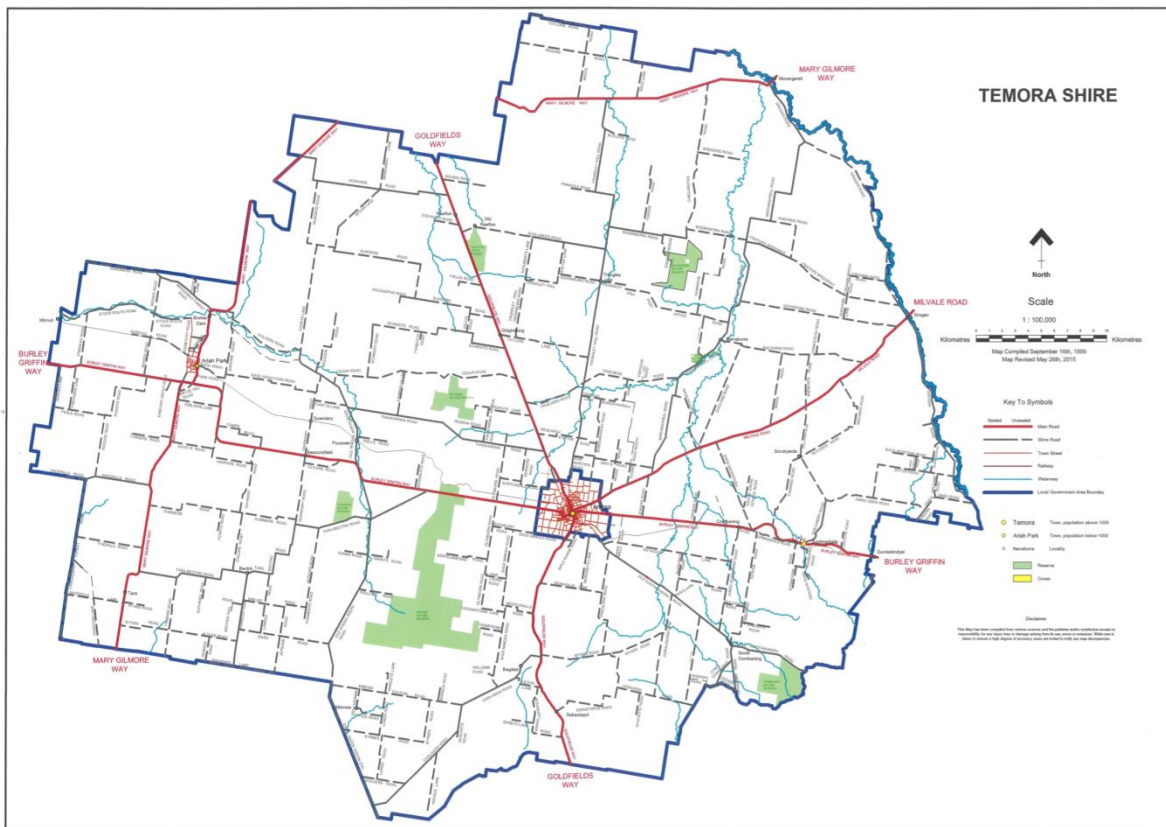
### ***About the researcher***

I have been a shire councillor for the past 41 years, being first elected to the Narraburra Shire Council in 1977, and then the Temora Shire Council in 1981. I had the privilege of being the Mayor of the Temora Shire from 2000-2006. I have been a life-long farmer and a resident of the Village of Aria Park.

The 2016 Australian Bureau of Statistics Census Data and Community Profile describes the Temora Shire as being situated in the North of the Riverina region of NSW, and as having an area of 2,802 sq km. It is located in the heart of the rich and productive southern wheat and sheep area of the state. Grazing and intensive animal production, work in parallel with cropping to provide the other major rural industries for Temora. Sheep production for wool and meat is the main livestock based industry, but other significant enterprises centre on cattle, including a major feedlot, and pig production on a large intensive piggery and three small operations.

The towns and villages are the major areas of population, being home to about two thirds of the Shire’s residents. From a total population of 6,110 (Australian Bureau of Statistics, 2016 Census), the population of Temora township is 4,600, while the villages of Aria Park (400) and Springdale (60) are home to the other non-rural dwellers.

Temora is the main service centre for the mixed farming area that surrounds it. Council was successful in attracting the internationally acclaimed Temora Aviation Museum to establish in Temora in 1999, and this major tourist attraction brings many thousands of visitors to the Shire. Coupled with that, Council has developed an Aviation Estate which now has over 60 homes and hangars. The Village of Aria Park is 37 kilometres west of Temora, at the junction of the Burley Griffin Way and the Mary Gilmore Way, has a basic shopping centre, and is known as being the Birthplace of Australian Bulk Grain, as well as the town of “Wowsers, Bowsers, and Peppercorn Trees”.



Source – Temora Shire Council website (n.d.)

## About my Local Region

The local region I decided to survey was the Eastern Riverina and South West Slopes region of southern NSW, which comprises 11 different local government areas. It includes two regional city councils, Wagga Wagga and Albury, four large regional councils over 10,000 residents, Hilltops, Snowy Valleys and Cootamundra –Gundagai, all of whom were amalgamated in 2016, and Greater Hume who were amalgamated in 2004, and five rural councils under 10,000 residents, Bland, Temora, Junee, Lockhart and Coolamon. The eleven councils comprise 101 councillors.

### Statistics of Research Region

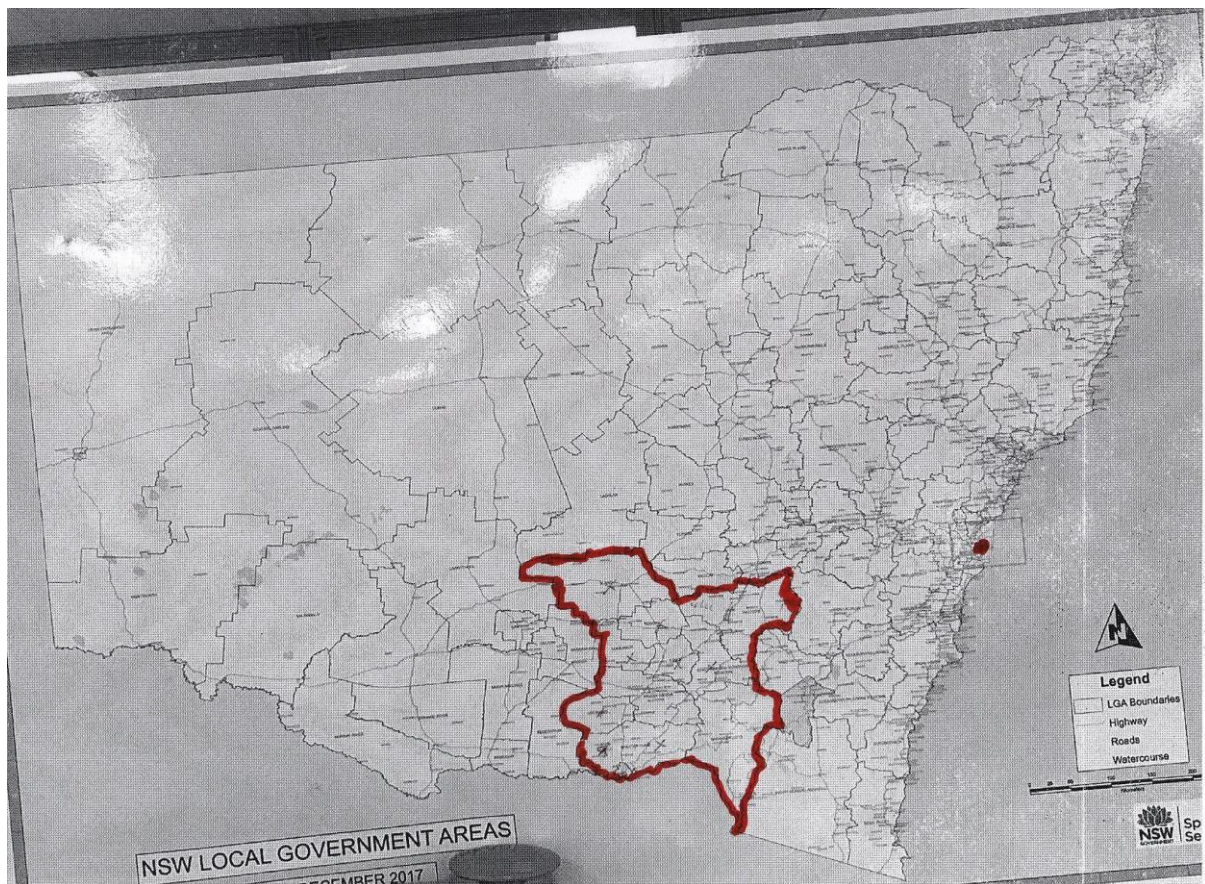
Local Government Area	Population	Area in Sq Km	Number of Councillors
Wagga Wagga City Council	62,385	4826	9
Albury City Council	51,076	306	9
Hilltops Regional Council	18,498	7139	11
Snow Valleys Regional Council	14,395	8960	9
Cootamundra/Gundagai Regional Council	11,141	3981	9
Greater Hume Shire Council	10,351	5746	9
Junee Shire Council	6295	2030	9
Temora Shire Council	6110	2802	9
Bland Shire Council	5995	8560	9
Coolamon Shire Council	4315	2433	9
Lockhart Shire Council	3119	2895	9
<b>TOTALS</b>	<b>193,680</b>	<b>49,678</b>	<b>101</b>

*Source: Australian Bureau of Statistics, 2016 Census of Population and Housing© 2017*

Council Websites: Albury City Council website (*n.d.*); Bland Shire Council website (*n.d.*); Coolamon Shire Council website (*n.d.*); Cootamundra –Gundagai Regional Council website (*n.d.*); Greater Hume Shire Council website (*n.d.*); Hilltops Council website (*n.d.*); Junee Shire Council website (*n.d.*); Lockhart Shire Council website (*n.d.*); Snowy Valleys Council website (*n.d.*); Temora Shire Council website (*n.d.*); Wagga Wagga City Council website (*n.d.*).



The area surveyed comprises all of the old footprint of REROC (the Eastern Riverina Regional Organisation of Councils) and adding Albury City and Hilltops Regional Council. Last month, the new Riverina Joint Organisation was formed.



Arguably, there is still considerable unrest in several communities in the forcibly amalgamated council regions with the Tumbarumba community (Snowy Valleys Regional Council) and the Gundagai community (Cootamundra/Gundagai Regional Council) actively campaigning the Government and the Opposition to have a referendum on the option to demerge.

See attached photos of peaceful demonstrations at the 2018 Local Government NSW Annual Conference at Albury, October 2018.



## Background

In looking at the role of the councillor and councillor behaviour in this region, research has found a number of councils report that a number of their councillors, and especially new councillors, despite more training and induction, still have a misunderstanding of the term, “separation of powers”, and are unsure of what their role entails, along with its responsibilities and restrictions. As a councillor at the Temora Shire Council for the past 41 years, and have seen the changes in the Act and the role, I am acutely aware of the problems that councillors have had in defining what their actual role is, and as a consequence, General Managers are dealing with councillors delving into “operational matters” when they should only be involved in the “policy development” of the Council.

**Tony Donoghue**, General Manager, Coolamon Shire Council recalls that,

*“while the original Local Government Act of 1919 did not spell out the separation between the operational activities of staff and the strategic requirements of Councillors to any great degree, the new 1993 Act, now 25 years old, separated any direct input into the day to day operational activities of council by Councillors.”*

Arguably, Mr Donoghue believes that some councillors took quite some time to comprehend this, while some Shire Clerks (as they were then) didn’t really push for any change to what had already been carried out –and in some cases worked quite perfectly - in the past. This applied to those councils that just kept operating with a ‘status quo’ attitude.

**Gary Lavelle**, General Manager of the Temora Shire Council, says that *Section 232* of the *NSW Local Government Act, 1993*, is explicit in saying “councillors must make themselves aware of the policies and operations of Council so they can make ‘informed decisions.’” Mr Lavelle asks the question about how can councillors make “informed decisions” if they can’t investigate the background to a particular project or issue? The General Manager believes there is conflict in the Act, and it is definitely a “grey area” in his management of councillors and staff.

## The Aims and Objectives of this Study – The Rationale

The overall purpose of this study is to look at the role of the ordinary councillor in local government in NSW, and examine this “grey area” in the NSW Local Government Act where many councillors are not sure of their role and responsibilities.

My objective is to conduct a study that will explore how the “**separation of powers**” between the political and the administrative branches of local government plays out on the rural areas of NSW.

My aim would be to research:

- **whether there really is** a problem with councillors knowing their role, and are they delving into “operational matters” when they should solely be concentrating on “policy development”?
- if there is a problem, the aim of our research would be to find out **why** many councillors find it difficult to stay within the bounds of “policy development” and stray into the area of “operational matters”,
- and then come up with a **strategy** that will assist councillors of the future about knowing their actual role.

It is my aim that this research will give some answers and solutions to what can be done to improve councillor's understanding of the "separation of powers", and therefore improve the relationship between councillors and management.

### ***Area of Research Interest***

The focus of my research would be on obtaining a better understanding of what the role that local councillors have with regard to the policy process in NSW local government.

There is some debate and considerable confusion about the "separation of powers", and questions are asked about:

- To what extent councillors can, should or should not be involved in the day to day operation of local government, beyond their clearly accepted roles as policy makers;
- What councillors need to do in order to make the "informed decisions" expected of them as democratically elected local representatives.

### ***Why is it important and relevant in the current Local Government context?***

In "Political Management In Australian Local Government", 2012,P.5, Martin and Aulich recount the bad media coverage that local government had received over the years when studying reports from ICAC in NSW and CMC in Queensland. These "failures" highlighted by the media still only represented a small proportion of the 560 plus councils and 180,000 employees delivering local services to their communities.

Martin and Aulich argue that the image of local government should be a matter of concern for councillor associations, especially those asking the community for recognition in the Australian Constitution, and for those professional officer associations responsible for implementing council policy, this image does not bode well for reform in local government.

Therefore, it is vitally important that each state has the appropriate training and councillor guides to ensure these "failures" are a thing of the past. This importance is summed in well in the Tasmanian Government's "Good Governance Guide for Local Government in Tasmania"(p.24-25), where it says that "councillors are responsible for setting and monitoring high level strategy and policy and they **are not** to be concerned with operational activities of the council administration.

The Guide emphasises the importance of elected members understanding and fulfilling their role as it is critical to good governance – **it promotes accountability, transparency, efficiency and effectiveness.**

## Section 2: The Literature Review

### *Definition of “separation of powers”*

The National Conference of State Legislatures, U.S.A., in their 2018 NCSL Podcast entitled “Our American States”, found that the term “trias politica” or “separation of powers” was coined by Charles-Louis de Secondat, baron de La Brède et de Montesquieu, an 18<sup>th</sup> century French social and political philosopher. His publication, *Spirit of the Laws*, is considered one of the great works in the history of political theory and jurisprudence, and it inspired the Declaration of the Rights of Man and the Constitution of the United States. Under his model, the political authority of the state is divided into legislative, executive and judicial powers. He asserted that, to most effectively promote liberty, these three powers must be separate and acting independently.

In a local government context, however, the term **separation of powers**, refers more to the separation or division of powers between the political roles, fulfilled by mayors and councillors, on one hand, and administrative roles, fulfilled by their newly managerialised appointed counterparts on the other (Grant and Drew, 2016, p.296). In “Dichotomy and Duality” 1985, p. 221, James Svava describes it as a “separation of responsibility for the definition of mission by elected officials, and the management of programmes by administrative staff”.

### *The Role of Literature in Research*

In looking at different research methods for this project, we considered the work by **Glenn A. Bowen** in 2009 (p.28) where he reported that document analysis is often used in combination with other qualitative research methods as a means of triangulation, i.e. “the combination of methodologies in the study of the same phenomenon” or a technique that facilitates validation of data through cross verification from two or more sources. Bowen goes on to say that the “qualitative researcher is expected to draw upon multiple (at least two) sources of evidence; that is to seek convergence and corroboration through the use of different data sources and methods. Apart from documents, such sources include interviews, participant or non participant observation and physical artefacts.

Apart from providing contextual richness in the research, documents were particularly useful in pre and post interview situations. In that regard, data was culled from documents to check interview data and vice versa. Documents supplied leads for asking additional, probing questions. Documents have a major advantage over interviews and observation, that is, their lack of reactivity. The documents analysed did not have the potentially distorting effects of the qualitative researcher’s presence in the field in terms of behaviours, attitudes and feelings.

**Tummers and Karsten**, in their 2012 research paper entitled, *Reflecting on the Role of Literature in Qualitative Public Administration Research: Learning from Grounded Theory*, (p.64), recommended that when undertaking qualitative research, public administration scholars must walk a thin line between being theoretically sensitive and imposing preconceived ideas on their work. They identified opportunities and pitfalls in using literature in qualitative public administration research.

In the first phase of research design, the authors first see an opportunity for reading literature to help researchers identify “knowledge gaps” (Hutchison 1993, pp.180-212). Subsequently,(p.73) it becomes easier to connect a research project to other research, to show the theoretical relevance of a study, and to integrate the evolved theory with other theories. Second, the use of literature can help explain to the reader why a particular question is important, and finally, using the existing literature can help focus a research project. Many proposed research questions require conceptual clarity.

In Phase 2 (p.76) Tummers and Karsten reveal that an opportunity arises in using literature in the data collection phase and that it can provide an additional data source, alongside interviews and observations. The authors warn to be careful, though, that you don't select data to suit your case, and be biased.

In the data analysis phase, Phase 3, p.77, the authors outline that the researcher has to order the data and determine their meaning. This interpretation is necessary because it enables the findings to be related to the original research question and research objectives, e.g. an insight may be enhanced through the literature increasing a researcher's sensitivity to latent relationships within the data, i.e. it strengthens *theoretical sensitivity*.

In this way, prior comprehension plays a positive role in analysing the new data, and helps the researcher to achieve the main goal of qualitative research (understanding).

## Historical Perspective

From the book, *Local Government Reform: A Comparative Analysis of Advanced Anglo-American Countries* (2008) edited by Dollery, Garcea and LeSage, Neil Marshall in Chapter 2 called "*Local Government Reforms in Australia*", (2008, p.38), writes that:

*"Many municipalities in Australia during the late 1970s were parochial in outlook and lacking in adequately trained personnel"; and further, that "apparently as late as the late 1980s some senior Victorian government officials still viewed their local government sector as 'a mediocre institution beyond redemption'".*

On Page 16, Marshall tells us that,

*"reforms in local government that were implemented over the period 1985 to 2005, effectively reshaped the municipal landscape in Australia. Changes to the internal governance structures of councils gave rise to the uncertainty about the relative responsibilities of elected representatives and appointed staff, and created ambiguity about democratic processes."*

Marshall relates on p.40 that New Public Management (NPM) principles were strongly evident in reforms to the internal governance of councils. All states revised their legislation between 1989 and 1996, which not only recast the roles of elected representatives and senior management, but also the relationship between them.

These changes addressed what was perceived as serious deficiencies:

- The first of these was that too many "**pothole**" **councillors** were being elected; that is, individuals who have an inadequate grasp of the increasingly complex issues facing municipalities
- The second was a growing concern that the existing boundaries between councillors and appointed staff were being too frequently compromised.

These new changes were seen to undermine the integrity of local government. Overly powerful managers weakened the democratic legitimacy of political decision makers, while councillors who interfered in administrative matters often significantly hindered the effective operation of the organisation.

On page 40, Marshall reported that the new prescribed roles and responsibilities of councillors and senior management were similar to the functions of board directors and the CEO in the private sector and as such policy and administrative functions were clearly separated. Now elected councillors were expected to fulfil three broad duties - to represent their constituents; to make decisions about policy directions for the municipality; and to oversee the implementation of policy proposals and to review the ongoing performance of the council as a whole.

Marshall saw this last role as representing a departure from previous activity in so far as it required individual councillors to understand the broader planning and budgetary processes of the organisation. As such, it was intended to encourage elected representatives to develop an informed, strategic overview of the council's functions. In contrast to elected members, the General Manager or CEO manages the day to day affairs of the council, and ensures that the organisation is run efficiently while quite extensive powers were provided to assist him or her with this task.

Bligh Grant and Joseph Drew in their 2017 publication, *Local Government in Australia – History, Theory and Public Policy*, p. 296, relate that in this period, local government was being “professionalised and in particular, a clear **separation of powers** was introduced between political roles, fulfilled by councillors and mayors on one hand, and administrative roles fulfilled by their newly managerialised appointed counterparts on the other, but still keeping that important concept of the council/manager form being about shared executive authority”.

In their 2012 article, ‘Political Management in Australian Local Government’, Martin and Aulich, (p.7) recall the statement by Weber when he said ‘*the relationship between democracy and bureaucracy created one of the most profound sources of tension in the modern social order*’ (Giddens, 1995: 22). “Although Weber wrote more than a century ago, the tension that he identified between politicians and public administrators remains, compounded by the situation in which the relationships between them are constantly in some state of flux. ‘Because government and the governing agenda do not stand still, neither do the relations between bureaucrats and politicians’ (Aberbach and Rockman, 2006: 978).

Grant and Drew, 2017, (p.297) argue that the redrafting of the Act in NSW in 1993 denuded the mayor of CEO roles, such that their functions fell squarely within what some would label the New Public Management (NPM) approach, separating political leadership from the administration of public sector organisations. The legislation also insisted that the role of mayor be more than “purely titular in function”

Marshall (2008, p. 41) recognises that these legislative reforms for both appointed and elected members of councils, met only with “mixed success”. “The root of the problem would seem to lie with a hybrid form of governance that involves elements of both private sector and traditional representative models”.

Marshall, (2003, p. 140-156), is of the opinion that many councillors are still unwilling, or unable, to contribute to a broad spectrum of policy matters and embrace a strategic overview of council activity. The respective roles and responsibilities of councillors and CEOs, similarly, remains an ongoing concern. While the new arrangements appear to work well in the majority of municipalities, lack of adherence to stipulated duties, and the ongoing instability that results, continues to plague many councils.

## ***The Need to Define the Role of Councillors***

Marshall cites Allan (2006, p. 190) on the need to “clarify whether governing bodies of councils are a corporate of board or a quasi-parliament”.

This is supported by Newnham and Winston (1997, p.106) who contend that “the redefinition of the role and function of councillors is in fact necessary under New Public Management because of the requirements to distinguish between policymaking and administration. They also argue, perhaps more importantly, that the complexity and professionalism of modern management has become such that most councillors have neither the background nor qualifications required. Ideally, the removal of these responsibilities enables councillors to concentrate on policy direction and strategic planning for the municipality.”

Grant and Drew (2017) continue on p.297 saying that it is clear that “it was certainly the intention of many of the drafters of the revised acts to introduce a clear political-administrative divide. Yet the council-manager form of local government, as it was devised in the United States and adopted in Australia, to the extent that it is the dominant arrangement for local government leadership, provides for a far more collegial relationship between the elected and appointed executives than the idea of a strict, political-administrative divide would allow.”

In his 2012 discussion paper, *Australian Mayors: What Can and Should They Do?* Graham Sansom, p.10, questions whether a ‘separation of powers’ between elected councillors and managers is meaningful and appropriate in the local government context. “Provisions to enforce such separation are also prevalent in recent legislation and again flow from New Public Management thinking – the idea that elected members should set policy and strategy and monitor performance, whilst management should be otherwise left alone to deal with implementation of policy and plans and service delivery. It is debatable whether such an approach is either workable or desirable in terms of a substantial number of the functions of local government, given the often fine line between policy and practice, the small scale of many authorities, the representative role of elected members, and the valuable skills at least some of them can offer.”

**Simpson and Bretherton** in their 2010 article entitled , “Reconciling Expert Advice and community Opinion in a Local Government Strategic Planning Process”,p.73, found that the eventual outcomes of local government strategic policy deliberations can often reflect the interplay between “expert” administrative staff, democratically elected politicians, and the community they jointly serve.

Dollery, Wallis and Allan in their 2006 research paper *The Debate that Had to Happen but never did: The Changing Role of Australian Local Government* ,p.17, cited Byrnes and Dollery (2002) who advanced five reasons for local government failure with one being “asymmetric information and councillor capture”, where part time elected councillors are dominated by better informed professional bureaucrats.

“**Asymmetric Information and councillor capture**” is amenable to the same line of logic. Since virtually all Australian elected representatives serve in a part time capacity, and are often burdened with other job responsibilities, superior insight and knowledge of council affairs will almost inevitably rest with general managers and other senior officials, who are thus in a position to manipulate councillors.



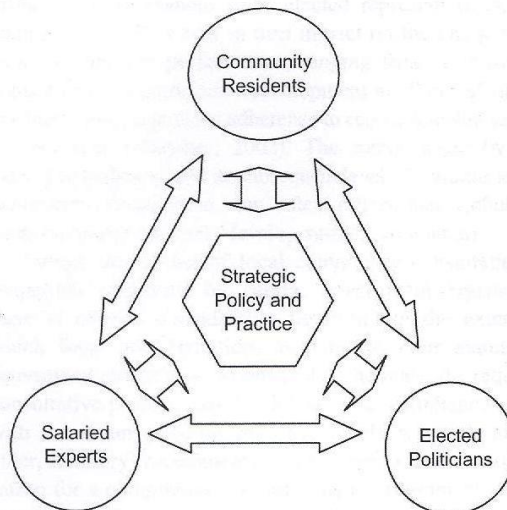


FIGURE 1 Stakeholder influences on local government strategy.

As **Figure 1** above shows, this relationship has reflected a complex pattern of tensions between the ability of salaried staff to apply their professional expertise to the planned development of spatially defined community; the desire of local residents to access a maximised range of local services at minimum possible cost; and the efforts of elected politicians to reconcile the wishes of paid professional planners with the demands of enfranchised community residents. In other words, to balance technical effectiveness with political legitimacy in the interests of continued popularity and consequent re-election.

Newnham and Winston, 1997, p. 106, expand on the role overlap and the potential conflict between elected representatives and managers, saying “there is basic tension between the role of elected representatives and the role of managers of local government. The roles can be defined and differentiated but when it comes to practice the boundaries are blurred. Both groups have concurrent responsibilities. The council has a direct obligation to serve the electorate, and the manager has a subordinate relationship to the council that makes the appointment.

Conflict will arise between councillors and the manager with their differing emphasis on resource use. Managers may aim for the most efficient allocation of public resources while councillors may consider potential factors and long term community needs and will not necessarily use financial efficiency criteria.

The challenge is to ensure that the **dual roles** are carried out in such a way that they do not become **dual roles** (Arnold 1993). Lack of role definition for both parties has led to confusion. The local manager does have a role in community policy making as recognised by Welborn (1971).”

## ***What have we learnt about the Role of a Councillor?***

The office of councillor is probably one of the most misunderstood, criticised and maligned positions; indeed many in government, the media and among the public would like to see fewer councillors. Yet, the office of councillor is one most fundamental political offices in any democracy, on which rest the (supposedly) higher offices of state, Colin Copus, (2016-Preface)

We strongly agree with Copus, when he says that “the recurrent theme that underpins all questions about the role of councillor is that this level of elected representative, unlike those at other levels of government, is somehow underdeveloped, in need of constant re-shaping and reappraisal , disconnected from those represented, and is a product of a lower level of governing capacity and ability, when compared to central government. Such views display a lack of clarity and understanding about the office of councillor that often arises from a disregard for local representative democracy as fundamental underpinning to a wider democratic state.”

Copus (2016, p.26) argues that we need to distinguish between role perceptions and role behaviour. The former include those tasks that are seen as important by councillors, while the latter are those that they fulfil well and indeed prefer (Klok and Denters, 2013). There can, however, be a **disjuncture** between councillor’s perceptions of their role, and their behaviour. (Heinelt, 2013a,b) In the UK, Copus reports that the Councillors Commission was set up in 2007, and suggested that the LGA should develop a clear set of role definitions for councillors and made a number of recommendations, including adopting modern business and meeting processes, and providing skill development for the members. Colin Copus was involved in drafting a Statutory Code in 2014 aimed at reforming Local Government, but it had little chance of success, and the debate continues in the UK about the recognition of Local Government on the overall governing system.

Neil Marshall (2003,pp 140-156) reports that legislative reforms have met with only mixed success in the decade following their introduction. It is clear that many councillors are still unwilling, or unable, to contribute to a broad spectrum of policy matters and embrace a strategic overview of council activity. He reports that State Ministers and state Local Government Associations are aware of the problem and have taken additional steps to try and lift the calibre of elected representatives. Such measures include introducing training programmes for new councillors.

David Simmons, the Commissioner in the NSW Office of Local Government 2006 Broken Hill City Council Public Inquiry, p.24, found that while councillors were able to demonstrate a theoretical understanding of their role, yet still engaged in contrary behaviours, may suggest that councillor training should not be seen as the panacea for all concerns about the manner in which councillors fulfil their role.

Higher levels of remuneration are also being considered as a means of attracting more professional candidates. This has been tried in Queensland in recent years, and reports are still to come in on whether the move has been successful.

**Simpson and Bretherton**, 2010, p.80, concluded that the most appropriate answer to this question lies with the building of political bridges between experts and residents, with an interpretation of the political role as one of facilitation rather than leadership. They believe in an ideal world, the political establishment will have made the permanent expert body fully and accurately aware of the direction and strength of community opinion, and will have simultaneously ensured that the community was advancing opinions and promoting subsequent actions that were as much as possible, based on high quality information.

**Tan, Morris and Grant**, 2016, p.36, say that councillors with a better understanding of how they conceptualise their role and how they represent their community will inform efforts to improve the quality of local government. There is clearly room for further research in this regard, in particular that incorporating greater detail concerning individual participants from which qualitative data is derived.

The most telling point from the Tasmanian Good Governance Guide, p. 42, is the request for those in local government to not just to understand their role, but it is important to understand the role of others. This is backed up by Queensland's request that it would help if the administration recognised the complex political environments in which elected members operate, and acknowledge that the whole system is based on democratic governance. Councillors similarly need to understand that it is a highly complex task to prepare information and provide quality advice on a very wide range of issues.

I believe the NSW Guidelines are still lacking, as the NSW Government's legislation and regulations tells councillors **what their role is**, and what they have to do, **but it does not mention what you should NOT do.**

The wording in the NSW Pre-Election Candidate Information Session is an improvement, as it tries to give the prospective councillor a solid understanding of the role before they nominate, and the legislative boundaries they must work within. The draft guidelines do emphasise the strategic nature of the roles of elected members compared to the operational roles of the general manager and council staff.

The NSW State Member for Heffron, the Hon. Ron Hoenig, argues that "the codes have now become so convoluted and complex that even experienced members of the bar have trouble reading them, let alone some punter who is working for a public authority. I have had my trouble getting my head around even the Parliament's one, and I might be a struggling member of the bar. There must be a better way to simplify a process that communicates to average people what is expected of them in an organisation, rather than these complex codes."

## Section 3: Comparing the Roles

**Table 8.2** Australian local government: Elections and roles of mayors and councillors

Jurisdiction	Method of Election and Term	Designated Role
<b>New South Wales</b>	<p>The mayor is elected: by and from the councillors, or by all the electors, if agreed by a local constitutional referendum.</p> <p>Popular election is for the full 4-year term of the council.</p> <p>Election of mayor by councillors takes place every two years.</p> <p>NB: In 2008, 27 out of 148 mayors (18%) were elected by electors. The Lord Mayor of the City of Sydney <i>must</i> be directly elected.</p>	<p>The role of a <i>councillor</i> is:</p> <p>to be an active and contributing member of the governing body; to make considered and well-informed decisions as a member of the governing body; to participate in the development of the integrated planning and reporting framework; to represent the collective interests of the residents, ratepayers and community; to facilitate communication between the local community and the governing body; to uphold and represent accurately the policies and decisions of the governing body; to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor; a councillor is accountable to the local community for the performance of the council.</p> <p>The additional role of the <i>mayor</i> is:</p> <p>to be the leader of the council and a leader in the local community,</p> <p>to advance community cohesion and promote civic awareness,</p> <p>to be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities,</p> <p>to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council [i.e.: as prior to 2016 amendments],</p> <p>to preside at meetings of the council [i.e.: as prior to 2016 amendments],</p> <p>to ensure that meetings of the council are conducted efficiently, effectively and in accordance with this Act,</p> <p>to ensure the timely development and adoption of the strategic plans, programs and policies of the council,</p> <p>to promote the effective and consistent implementation of the strategic plans, programs and policies of the council,</p> <p>to promote partnerships between the council and key stakeholders,</p> <p>to advise, consult with and provide strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council,</p> <p>in conjunction with the general manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community,</p> <p>to carry out the civic and ceremonial functions of the mayoral office [i.e.: as prior to 2016 amendments]</p> <p>to represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level,</p> <p>in consultation with the councillors, to lead performance appraisals of the general manager,</p> <p>to exercise any other functions of the council that the council determines [i.e.: as prior to 2016 amendments],.</p>

<p><b>Victoria</b></p>	<p>All mayors are elected by and from the councillors for terms of between 1 to 2 years, except for the cities of Melbourne and Geelong, where the mayor is directly elected for 4 years.</p> <p>The Mayor and Deputy Mayor of the City of Melbourne must stand for election as a team.</p>	<p>The <i>mayor</i> of a council takes precedence at all municipal proceedings within the municipal district, and must take the chair at all meetings of the council at which he or she is present.</p> <p>The role of a councillor is specified as:</p> <p>To participate in the decision-making of the council,  To represent the local community in that decision-making,  To contribute to the strategic direction of the Council through the development and review of strategic documents. Further, in performing these roles a Councillor must:</p> <ul style="list-style-type: none"> <li>Consider the diversity of interests and needs in the local community,</li> <li>Observe principles of good governance and act with integrity</li> <li>Provide civic leadership</li> <li>Participate in the responsible allocation of resources,</li> <li>Facilitate effective communication between the council and the community and</li> <li>Not perform any of the functions that are specified as the functions of the CEO</li> </ul> <p>The additional functions of mayors include:</p> <ul style="list-style-type: none"> <li>Providing guidance about what is expected of a councillor in relation to the role of a councillor and the observation of councillor conduct under the Code of Conduct,</li> <li>Acting as the principal spokesperson for the Council;</li> <li>Supporting good working relations between councils and</li> <li>Carrying out the civic and ceremonial duties of the office of Mayor</li> </ul> <p>Melbourne City Council may delegate some minor additional functions to the Lord Mayor.</p>
<p><b>Queens land</b></p>	<p>All mayors are directly elected for the full 4-year term of the council.</p>	<p>All <i>councillors</i> have the following responsibilities:</p> <ul style="list-style-type: none"> <li>ensuring the local government achieves its corporate and community plans</li> <li>providing high quality leadership</li> <li>participating in policy development</li> <li>being accountable to the community for the local government's performance.</li> </ul> <p>The <i>mayor</i> has the following extra responsibilities:</p> <ul style="list-style-type: none"> <li>leading and managing meetings</li> <li>proposing the adoption of the budget</li> <li>liaising with the chief executive officer on behalf of the other councillors</li> <li>leading, managing, and providing strategic direction to, the chief executive officer</li> <li>directing the chief executive officer, in accordance with the local government's policies</li> <li>conducting a performance appraisal of the chief executive officer</li> <li>ensuring that the local government promptly provides the Minister with information about the local government area</li> <li>representing the local government at ceremonial or civic functions.</li> </ul> <p>NB: The Lord Mayor of Brisbane has additional executive responsibilities as set out in the text</p>

<p><b>Western Australia</b></p>	<p>When a council is first established, the Governor specifies whether the first mayor or president is to be directly elected or elected by and from the councillors.</p> <p>A local government may change from election by the councillors to popular election by a special majority vote.</p> <p>A poll of electors is required to change from popular election to election by the councillors.</p> <p>The Lord Mayor of Perth must be directly elected.</p>	<p>All <i>councillors</i> are to:  represent the interests of electors, ratepayers and residents  provide leadership and guidance to the community  facilitate communication between the community and the council.</p> <p>In addition, the <i>mayor or president</i>:  presides at meetings  carries out civic and ceremonial duties  speaks on behalf of the local government  performs such other functions as are prescribed by law  liaises with the CEO on the local government’s affairs and the performance of its functions.  From July 2016 is required to participate in the City of Perth Committee chaired by Premier. The Committee is legislatively required.</p>
<p><b>South Australia</b></p>	<p>The principal member of a council is the mayor or chairperson.</p> <p>Mayors are directly elected for the full 4-year term of the council.</p> <p>Chairpersons are elected by and from the councillors: the term of office must not exceed 4 years.</p> <p>NB: In 2011 mayors were directly elected in 49 councils and by councillors in 18.</p>	<p>The role of all <i>members of a council</i> is:  to participate in the deliberations and civic activities of the council  to keep the council's objectives and policies under review  to keep the council's resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery, under review  to represent the interests of residents and ratepayers  to provide community leadership and guidance  to facilitate communication between the community and the council.</p> <p>The additional role of the <i>principal member</i> is:  to preside at meetings  if requested, to provide advice to the chief executive on implementation of council decisions  to be the principal spokesperson of the council  to exercise other functions as the council determines  to carry out civic and ceremonial duties  is required to participate in the City of Perth Committee chaired by Premier. The Committee is legislatively required.</p> <p>NB: The Lord Mayor of Adelaide has the additional executive responsibilities of [i] providing leadership and guidance to the City of Adelaide community and to participate in the maintenance of intergovernmental relationships at regional, state and national levels.</p>
<p><b>Tasmania</b></p>	<p>The Mayor and Deputy Mayor of all councils are directly elected for 2-year terms (half the Councillors are elected every 2 years) – unless there is no nomination, in which case the Councillors elect one of their number.</p>	<p>All <i>Councillors</i> have the following functions:  to represent and act in the best interests of the community  to facilitate communication with the community;  to develop and monitor the implementation of strategic plans and budgets  to determine and monitor the application of policies, plans and programs  to facilitate planning and development in the best interests of the community  to appoint and monitor the performance of the general manager  to determine and review the council's resource allocation and</p>

		<p>expenditure activities</p> <p>to monitor provision of services</p> <p>to represent accurately the policies and decisions of the council.</p> <p>The additional functions of a <i>Mayor</i> are:</p> <p>a leader of the community of the municipal area</p> <p>chairperson and spokesperson of the council</p> <p>to liaise with the general manager on the activities of the council and its performance</p> <p>to oversee the councillors in their functions.</p>
<b>Northern Territory</b>	<p>The principal member of a council has the title <i>mayor or president</i>.</p> <p>The principal member of a council is:</p> <p>in the case of a municipal council, directly elected</p> <p>in the case of a shire council, elected by and from the Councillors, or directly elected.</p> <p>A shire council is taken to have chosen to appoint its principal member unless a change is made by special resolution.</p>	<p>The role of all <i>members of a council</i> is:</p> <p>to represent the interests of all residents and ratepayers of the council area</p> <p>to provide leadership and guidance</p> <p>to facilitate communication between the members of the council's constituency and the council</p> <p>to participate in the deliberations of the council and its community activities</p> <p>to ensure, as far as practicable, that the council acts honestly, efficiently and appropriately in carrying out its statutory responsibilities.</p> <p>The additional role of the <i>mayor or president</i> is:</p> <p>to chair meetings of the council; and</p> <p>to speak on behalf of the council as the council's principal representative; and</p> <p>to carry out civic and ceremonial functions.</p>

Sources: Adapted from Sansom 2012, pp. 34–36; Sansom 2016 and various Local Government Acts.

In comparing the roles of the Local Government councillor between all the six states, I looked at the role as stated in each state's Local Government Act. Grant and Drew (2017) in their book, *Local Government in Australia – History, Theory and Public Policy*, outlined the roles of both councillors and Mayors in the above Table 8.2.

As noted by Grant and Drew (2017, p.298) the majority of local governments in Australia are grounded in a unitary arrangement for authority (effectively one representative electoral process). It can be seen in Table 8.2, the role of the councillor is very similar in all the states and territories. The main difference between the states is the role, responsibilities and the method of election of the Mayors. In NSW, councils have the option of proposing a referendum on whether to have directly elected Mayors, while the mayoral term has been extended to two years. In Victoria, the role for Mayors is not as rigorous as now in NSW, while it was it was only in 2015, that councillors were specified any roles at all. Queensland has directly elected mayors for four years, while their councillors are paid a full time allowance. In Western Australia, councils have the option of directly elected Mayors, while in South Australia; councils also have that option, plus can elect a Deputy Mayor for that term as well. In Tasmania, the Mayor and deputy are directly elected, while in the Northern Territory, they have Mayors in their municipalities and Presidents in their shires. All states have special Acts for their capital cities except Tasmania and the Northern Territory.

## Report on Efforts to Define the Role of Councillors

### *New South Wales – Changes to the Role*

Sansom et al. (2013, p. 61) explained that under Sec. 232 of the *Local Government Act 1993* (NSW) the role of a councillor is divided into two parts: as a “*member of the governing body*” and as an “*elected person*”. The authors see “the former as deliberative – planning, resource allocation, policy development and performance monitoring. These functions align with councillors performing and behaving as a “board of directors”.

The role of a councillor as an elected person includes community representation, leadership and communication. These are more clearly representative functions and encompass what most councillors would regard as a central part of their job and fundamental to being re-elected.”

In 2016, the NSW Government passed the Local Government Amendment (Governance and Planning) Bill 2016.

Grant and Drew (2017) p.296-7, outlined these changes in their book, *Local Government in Australia – History, Theory and Public Policy*. “The significant revision under the 2016 reforms can be described as the expansion of responsibilities for councillors alongside a heightened level of *individual* (as opposed to collective) responsibility. Previously under Sec. 232 of the Act, it specified “The role of **all councillors**” but under the 2016 reforms, Sec. 232 now specifies “The role of **a councillor**”.

It also stipulates that they (a) “be an active and contributing member of the governing body”; (b) “make considered and well informed decisions as a member of the governing body”; (g) “make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor”, with Sec. 232(2) specifying that “A councillor is accountable to the local community for the performance of a council”.

The NSW Office of Local Government (OLG 2016, p. 9) makes both the reasoning behind the changes, and the sources for the changes explicit, stating: “The amendments are intended to provide greater clarity for councillors and communities by pre-scribing councillors individual roles as elected representatives separately from their collective roles as members of the governing body, as recommended by the Independent Local Government Review Panel”. These roles and responsibilities also apply to the mayor as did the prescribed roles for councillors prior to the reforms.

The NSW Government “*Councillor Handbook*”(2016),p.17-19, sees the councillor’s role as an elected representative in providing an essential link between the community and council:-

- Councillors are expected to represent the interests of the community, provide leadership, and communicate and promote the interests of the council to other levels of government and relevant bodies.
- Councillors also need to provide leadership and guidance to the community. This is especially important when communities face challenges, such as climate change, drought, high unemployment or skill shortages.
- Councillors must attempt to find a balance between the obligation to represent the interests of individual constituents and the need to make decisions on behalf of the whole community. This dilemma can cause some interesting debates in council.
- Councillors need to display leadership and integrity to help ensure that the decisions they make as a member of the governing body are in the best interest of all the community.



- Councillors must work as a team to make decisions and policies that guide the activities of the council. Policies can be defined as the principles and intent behind the programs that a council implements. This includes setting the broad, strategic direction for the local community. To do this, councillors have to understand their community characteristics and needs, and the types of services required to meet these needs.

In the **Model Code of Conduct for Local Councils in NSW** in November 2015, the section on **Inappropriate interactions** p. 14, details that:

You must NOT engage in any of the following inappropriate actions:

- Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
- Council staff approaching councillors and administrators to discuss individual or operational staff matters other than broader workforce policy issues.

This is one of the few places where the word “NOT” is used – it should be used more in all areas.

On inspecting the **NSW Councillor Induction and Professional Development Guidelines** – December, 2017 Consultation Draft, p.15, the Statutory requirements for the Act prescribes the roles and responsibilities for mayors and councillors collectively as the governing body of the council, and as individual members of the governing body. It also places a responsibility on each mayor and councillor to make all reasonable efforts to acquire and maintain the knowledge and skills necessary to perform the roles.

The Pre-Election Candidate Information Session should give the prospective councillor a solid understanding of the role before they nominate, and the legislative boundaries they must work within. The draft guidelines do emphasise the strategic nature of the roles of elected members compared to the operational roles of the general manager and council staff.

The NSW Shadow Minister for Local Government, Peter Primrose, MLC, commented that “with regard to the latest version of the Model Code of Conduct, it is increasingly becoming clear that local councillors are being viewed in the same way as members of corporate boards. The difference, of course, is that councillors are elected by local constituents and have mandates to pursue often conflicting agendas. Of course, they have corporate responsibilities, but their first responsibility in a democracy is to the people who elected them, and not to a majority on a council/ corporation.”

## **Victoria**

With the **Local Government Act 1989** (Victoria) the role of councillors was **re-envisaged**. No longer were councillors expected to be involved in the day-to-day running of their councils. This was to be left to appointed ‘experts’. Councillors were now expected to focus on strategic decision-making.

Below are some very helpful excerpts from the **Victorian Good Governance Guide (2012)** p.32-33. The Guide outlines a number of factors that will contribute to a good Council /Administration relationship:-

- Because the relationship between council and the administration is complex and fragile, it requires **commitment from both sides** to make it work.
- **Understanding roles is critical for good governance:**
  - (a) The elected body and the administration must have a clear and sophisticated understanding of their different roles, and the fact that these operate within a hierarchy.
  - (b) The administration is accountable to the CEO, who in turn, is accountable to the council. While the functions of the administration, which should be based on mutual respect and co-operation, complement the work of the council, it is not a partnership of equals.
  - (c) A good understanding of the different roles in local government will contribute to

good governance. The council's role is firstly to develop the vision and then come up with the strategies and policies to achieve it.

(d) The administration's role is to advise the council, implement council decisions and to oversee service delivery.

(e) It helps if the administration recognises the complex political environments in which elected members operate and acknowledge that the whole system is based on democratic governance. Councillors similarly need to understand that it is a highly complex task to prepare information and provide quality advice on a very wide range of issues.

- **Understanding roles helps local government function better**

It is the natural inclination for both the council and the administration to fill any gaps which the other side leaves in the performance of its functions. This can lead to role confusion and stress. For example, if councillors don't believe the administration has a good system in place for recording and addressing residents' complaints, they will raise residents' complaints at council meetings rather than focusing on more strategic matters. If the administration believes there is an inadequate policy framework to deal with an issue, it will try to create one by delivering services and addressing issues in a particular way. Neither approach is ideal. It is far more desirable for each to perform their functions properly in the first place.

The Victorian Good Governance Guide (2012, p.32) reinforces that "while the elected body and the administration have different roles, this doesn't mean that they don't have a legitimate interest in each other's role. The elected body will be interested in the organisational structure and how effectively it can implement the council's policies. While the Local Government Act 1989 clearly states that the organisational structure is the CEO's responsibility, if the CEO does not properly consult the elected body before implementing or changing a structure, the council is likely to find some way of expressing its opinions. And most of these will not promote good governance. Similarly, if the administration is not properly involved in policy or strategy development there is likely to be confusion and delays in implementing the policy.

## **Queensland**

In Queensland, the Department of Infrastructure, Local Government and Planning, in their guidelines, "*Councillor responsibilities under the Local Government Act 2009*", p.7-9, clearly distinguishes between the roles and responsibilities of the executive (elected councillors) and the administrative (council employees) arms of local government. This demarcation of roles is sometimes referred to as the "**separation of powers.**" It goes on to explain that "the primary role of councillors is to focus on policy development and strategic delivery of services in the public interest. Local government decisions are made to direct the operational work and realise the planned goals that are set out in the local government's corporate plan. The internal day-to-day work of the local government is carried out by local government employees under the direction of the chief executive officer. This operational work is directed by the decisions of the local government through its annual operational plan. Councillors are responsible for planning for the future and developing corporate plans and strategies to achieve their goals and deliver outcomes to the community.

The councillor's role is to demonstrate and provide strategic vision and leadership by putting in place principles, policies and local laws that enable the delivery of outcomes promised by the local government. Councillors and mayors are not responsible for overseeing the work done by local government employees. This is done by the chief executive officer and senior staff."

## **Tasmania**

In looking at its importance in the local government context, the Tasmanian Government's "Good Governance Guide for Local Government in Tasmania" (2016, p.25) sums it up well, where it says

that “councillors are responsible for setting and monitoring high level strategy and policy and they are not to be concerned with operational activities of the council administration.

The Guide defines the specific roles of the elected members collectively:

- Developing and monitoring strategic plans and budgets
- Determining and monitoring policies, plans and programs
- Setting the organisational structure
- Representing the best interests of the community in strategic land use planning
- Appointing and monitoring the performance of the general manager
- Determining and reviewing the council’s resource allocation and expenditure and
- Monitoring the manner in which services are provided by council.

On Page 24 of the Good Governance Guide it emphasises that understanding and fulfilling their role as an elected member is critical to good governance – **it promotes accountability, transparency, efficiency and effectiveness**. Not only is it important to understand their role, it is important to understand the role of others. The best of intentions can be undermined when elected members act outside of their role. It is important that you understand and respect the limits of your role, and do not encroach on the roles of council officers. This ensures efficiency and accountability, and it will help maintain the reputation of the individuals and the organisation.

“Acting outside of that role can be a breach of the Local Government Act 1993.”

## Section 4: Other Research

One of the best research findings I have come across on this topic is one called “*Mind the Gap: Australian Local Government Reform and Councillor’s understanding of their role*” by **Tan, Morris and Grant** in 2016. The authors found “that despite the evolving legislative requirements framing councillors as policy makers, not managers, most councillors continued to seek involvement in **the day to day management of councils** (p. 22). They argue that this gap may be linked to the diversity of views concerning the role of the councillor, and the idea of representation, and how both play out at the local level. It may also signal a lack of local awareness as to how the legislatively inscribed role has changed over time.”

The authors conducted research in Victoria and their analysis came from data drawn from 17 semi-structured in-depth interviews with councillors and two focus group discussions. Twelve councillors were interviewed alongside five senior local government staff (CEOs and Directors). The interviewees were drawn from 18 councils in Victoria. Senior staff were interviewed to provide a different, yet informed perspective of the effects of local government reform on the role of councillors.

The main aim of the interviews and focus groups was to examine councillors’ understandings of their roles. They indicated that there is a considerable discrepancy between the prescribed roles of councillors under the *Local Government Act 1989* (Victoria) – which has been significantly amended over time – and how councillors **perceive** the ambit of their authority and their roles.

**Tan, Morris and Grant** (2016,p.31) reveal that “one aspect that has the potential to shape how councillors understand their role is whether they are perceived as ‘**laymen**’ carrying out their representative roles on a voluntary part-time capacity, or alternatively as ‘**professionals**’ who are remunerated and expected to carry out their duties on a full-time basis.

In the Australian context the legislatively inscribed role of councillors as either laymen or as professionals differs by jurisdiction. In the state of Queensland, locally elected members are expected to dedicate their time and expertise on a full-time basis and receive a commensurate payment. In Victoria, however, councillors are expected to fulfil their position on a voluntary basis and are paid a moderate allowance. These differences have a bearing on the kinds of citizens who are able to or are interested in standing for election and influence how councillors perceive their role. Most of the interviewees recognised that the low allowances may be a barrier to attracting a more diverse range of local government candidates.”

The importance of informed decision making was raised by interviewees. Informed decision making requires adequate consultation with the community so that councillors have the knowledge required to make decisions that are in line with the desires of their constituents. The authors found that the research undertaken for this article emphasises that the introduction of New Public Management approaches and the associated structural changes to promote efficiency have aimed to shift the historical role of local government councillors. Councillors have been legislatively directed to move away from involvement in the day-to-day running of their councils and have been prescribed a more strategic function, identifying long-term goals and setting direction.

However, the interviews and focus groups indicated that the reforms have not engendered the intended effect as to how councillors understand their roles. The NPM reforms have focused on the strategic policymaking roles of councillors while neglecting the broader community leadership aspects of the position. The research indicated that the way councillors understand their roles is not necessarily altered by legislative reforms.

They cite a quote by Laffin (2008 pp. 120–121) where he stresses that,

*“political modernisation illustrates an old lesson of administrative reform: while it is relatively easy to change organisational forms, the underlying institutional patterns usually prove less tractable”.*

The authors concluded by saying the research demonstrated that there is a gap between the roles local government reforms prescribed for locally elected members and the actual practice of representation, and what the interviewees understood what representation involves does not concur with the local government reforms.

In *Local Representation in Australia: a View from Victoria*, S.F. Tan, 2013, p.iii, the author also points to the gap between the practice of local government and its conception in the legislation which needs to be better understood. Tan questions whether the structural and managerial reforms of local government are able to achieve their objectives if elected members’ understandings of their role does not align with the objectives of the reform.

## Section 5: Case Studies

In researching councillors knowledge of their role and the “separation of powers, the NSW Office of Local Government website was investigated to see if there were any Public Inquiries which asked whether councillors in the Councils involved carried out their roles and responsibilities in the best interests of all ratepayers and residents.

The Independent Commission Against Corruption (ICAC) was established by the NSW Government in 1988 in response to growing community concern about the integrity of public administration in NSW. ICAC's principal function is set out in the *Independent Commission Against Corruption Act 1988*. In summary, it is to investigate and expose corrupt conduct in the NSW public sector.

Naturally, the majority of cases in the Public Inquiries and I.C.A.C., featured councillors being corrupt, or had interaction concerns with staff, but the research task was able to find examples of where councillors did not understand their roles and were delving into operational matters.

In the **Broken Hill City Council Public Inquiry Report**, dated 13 December, 2006, by the Hon. David Simmons O.A.M., p.3, the Commissioner was asked to inquire into the conduct of the councillors, their relationships with staff and whether the elected representatives have adequately, appropriately and reasonably carried out their roles and responsibilities in the best interest of all ratepayers and residents. In particular, the Terms of Reference No. 2 asked whether the elected representatives fully understand their roles and responsibilities and have adequately, appropriately and reasonably carried out their roles and responsibilities in the best interest of all ratepayers and residents.

In an initial “Promoting Better Practice Review”, two departmental officers found many of the councillors the review team spoke to, appeared to lack a clear understanding of their role or their obligations under the council’s code of conduct. Councillors were unable to demonstrate an understanding of council’s strategic direction and many appeared to be unable to focus on the “big picture”. At the preliminary hearing, all of the councillors demonstrated a strong theoretical understanding of their role. Most councillors also demonstrated a good understanding of the strategic issues affecting council and of council’s strategic and management planning processes.

In its report, the Department’s “Promoting Better Practice Review” expressed concern that councillors were inappropriately involving themselves in matters that could be characterised as “operational” in nature. There is evidence to suggest that there is a substantial gap between councillors’ understanding of their role and the manner in which they conduct themselves in relation to operational matters.

Staff, in their submission to the Inquiry complained of a lack of commitment to, and an understanding by councillors of their roles and responsibilities, as well as an ongoing tendency to widely interpret these to suit a particular agenda or situation. They added that there was a lack of focus on strategic issues and the importance of long term planning; disregarded the clear advice of council’s professional officers; lack of confidentiality in councillors’ dealings, and council decisions were often undermined by councillors who did not support the majority decision.

In their evidence, a number of senior staff complained of a tendency by councillors to ‘micro-manage’. In her evidence, council’s tourism manager provided an example of this on page 28: . . . *they just were very hands on, they wanted to become involved in what I would see from my management career as being micro management issues, as to when the streets were weeded and*

*when the footpaths were cleaned, and all those sorts of things rather than the bigger picture of strategic direction for the city.*

Another area where councillors have intruded into operational matters was through the activities of its *Special Projects Working Group*, where the stated aim of the Committee on page 32, was to “address all ratepayer complaints or requests and formulate recommendations for consideration at the following full council monthly meeting”.

At its first meeting on 24 May 2006, attended by all six councillors, the special projects working group unanimously adopted resolutions about weeds and rubbish on the footpaths and nature strips, computer operating systems, storm water drains and moved that an advertisement be placed in Saturday’s paper asking public to contact the Committee if they have any problems, complaints or ideas they would like addressed by Council. The Commissioner found it was inevitable that residents will approach their elected representatives with concerns or suggestions about operational matters. Consistent with their representative functions, councillors should forward these to the general manager for his or her consideration and any follow up action he or she considers appropriate.

However, for councillors to require resident complaints to be referred to them “for action” and to actively encourage residents to do so, by placing advertisements in the media, represents an unacceptable intrusion by councillors into operational matters. Given the respective roles of councillors and the general manager as defined in the Act, day to day operational matters should not be the subject of deliberations and decisions at council and committee meetings.

In response to concerns raised in the Promoting Better Practice Report, the special projects working group no longer exists. However, the resolutions are indicative of what the group became involved in and it highlights how the councillors involved perceived their role.

## ***Final Report***

In his Final Report, Commissioner Simmons found that Councillors generally demonstrated that they had a good theoretical knowledge of their roles and responsibilities. However, the evidence suggests they are either unable or unwilling to apply that knowledge in the proper exercise of those roles and responsibilities. This was particularly apparent from councillor involvement in operational matters, the manner in which the council implemented its code of conduct and in the use of the media.

## ***Councillor Training***

The Inquiry examined whether a lack of councillor training may have been a causal factor in the current situation faced by Broken Hill City Council. While the Inquiry has not been able to reach a definitive view on the quality of training delivered to councillors, it is apparent that the council has afforded the councillors a range of training opportunities. The fact that councillors were able to demonstrate a theoretical understanding of their role, yet still engaged in contrary behaviours may suggest that councillor training should not be seen as the panacea for all concerns about the manner in which councillors fulfil their role.

In the **Brewarrina Shire Council Public Inquiry Report – 2 December, 2005** conducted by Commissioner Ross Woodward, the Inquiry was to have particular regard to:-

**Terms of Reference 1** on page 19:

*“Whether the elected representatives fully understand their role and responsibilities and have adequately, appropriately and reasonably carried out their responsibilities in the best interests of all ratepayers and residents.”*

## **Response by the Commissioner**

- Finding 44, p.13 *“The proper role of councillors historically has been to reflect community desires. It is acknowledged that some councillors have a direct connection with the community by being involved in business and/or being part of community activities and participating in social events.”*
- Finding 45, p.13 *“However, the Act provides that a councillor’s role includes the overall responsibility for establishing and guiding policies, allocating resources, setting service delivery standards and overseeing the council’s performance.”*
- Finding 46, p.13, *“However, some councillors do not appear to have a clear understanding of their role and responsibilities, and do not appear to be able to distinguish between policy making and operational matters.*
- Finding 47, p.13, *“Councillors should concentrate on policy making and strategic planning for the Shire. Councillors have involved themselves in minor administrative matters that should be dealt with by the general manager in the day-to-day operations of the council.”*
- Finding 49, Recommendation 1, p.12, *“That the Department of Local Government and the Local Government and Shires Associations develop a compulsory professional development course for all councillors on the role and responsibilities of councillors. This should be provided within six months of a councillor being elected.”*
- Finding 107, Recommendation No. 9, p.20, *“That the General Manager initiate a written request form to allow councillors to bring operational matters to his attention, rather than at Council Meetings.”*
- Finding 115, Recommendation No. 10, p.20, *“That the General Manager review all committees that councillors are involved in, to see if they are operational in nature, and if so, the councillor should resign.”*

Similarly, a **Public Inquiry Report** into the **Shellharbour City Council** by Commissioner, Richard Colley on 4 July, 2008, p.27, found that:

*“while in a broad sense, some councillors, exhibited an understanding of the fundamentals of their roles and responsibilities, as between themselves and the body of the Council under the Act, Regulations and the Council policies and guidelines, there is marked incongruence between this understanding and the reality of the way in which council has operated.”*



## Section 6: Research Design and Methodology

### *The Role of Literature in Research*

In looking at different research methods for this project, I considered the article “Document Analysis as a Qualitative Research Method” by **Glenn A. Bowen** in 2009, p.28, where he reported that document analysis is often used in combination with other qualitative research methods as a means of triangulation, i.e. “the combination of methodologies in the study of the same phenomenon” or a technique that facilitates validation of data through cross verification from two or more sources. Bowen goes on to say that the “qualitative researcher is expected to draw upon multiple (at least two) sources of evidence; that is to seek convergence and corroboration through the use of different data sources and methods.

Bowen (2009) argues on p.36 that literature will provide contextual richness in the research, and documents will be particularly useful in pre and post interview situations. In that regard, data will be culled from documents to check interview data and vice versa, while documents will supply leads for asking additional, probing questions. Documents have a major advantage over interviews and observation, that is, their lack of reactivity. The documents analysed do not have the potentially distorting effects of the qualitative researcher’s presence in the field in terms of behaviours, attitudes and feelings.

### *Methodology*

Colin Robson in his book, *Real World Research: A Resource for Social Scientists and Practitioners/Researchers*, 2011, p.4 defines methodology as referring to the sampling strategies, measurement instruments, comparisons, statistical techniques, and other procedures that produce research evidence and that we need to understand methodology to judge the quality of the research.

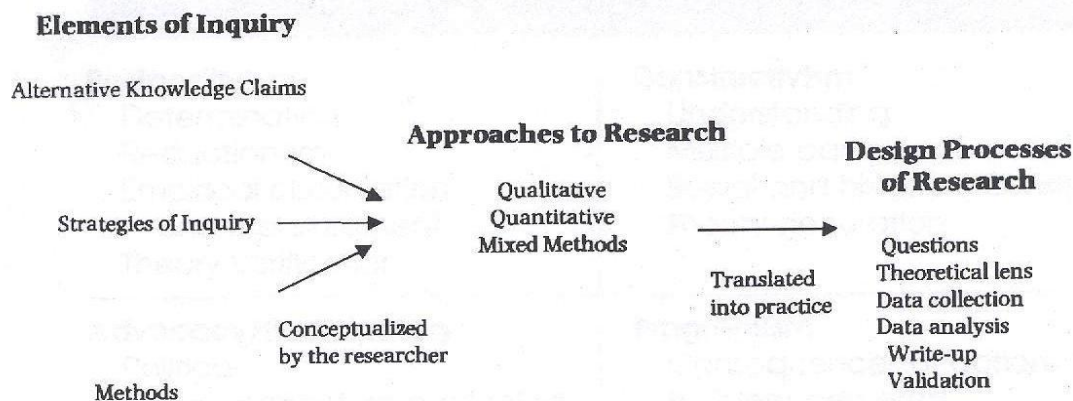
He outlines on p.8 that secondary research is the search for published sources describing the results of research or information provided by others, while primary research is the original collection or analysis of data to answer a new research question or to produce new knowledge. He qualifies that by saying primary research can involve primary data (collecting new data) but it can also involve the original analysis of secondary data. Much research involves numerical measurements and statistics, but research can also involve language, images, and other forms of expressing meaning that researchers then interpret. The former is referred to as **quantitative research, the latter qualitative research.**

**John W. Creswell** in his 2003 publication, *Research Design – Qualitative, Quantitative and Mixed Method Approaches*, p.4-22, outlined three approaches to research:

- A Quantitative Approach primarily uses postpositivist claims for developing knowledge (i.e. cause and effect thinking, reduction to specific variables and hypotheses and questions, use of measurement and observation, and the test of theories), employs strategies of inquiry such as experiments and surveys, and collects data on predetermined instruments that yield statistical data.
- A Qualitative approach is one in which the inquirer often makes claims based primarily on constructivist perspectives (i.e. the multiple meanings of individual experiences, meanings socially and historically constructed, with an intent of developing a theory or a pattern). The researcher collects open ended emerging data with the primary intent of developing themes from the data.

- A Mixed Methods approach is one in which the researcher tends to base knowledge claims on pragmatic grounds (e.g. consequence oriented, problem centred and pluralistic). It employs strategies of inquiry that involve collecting data either simultaneously or sequentially to best understand research problems. The data collection also involves gathering both numeric information (e.g. on instruments) as well as text information (e.g. on interviews), so that the final database represents both quantitative and qualitative information.

Creswell includes a very good diagram, Figure 1.1, outlining the elements of inquiry, approaches to research and the design processes of research.



**Figure 1.1** Knowledge Claims, Strategies of Inquiry, and Methods Leading to Approaches and the Design Process

Cresswell favours a mixed methods design as being useful to capture the best of both quantitative and qualitative approaches, e.g. a researcher may want to both generalise the findings to a population and develop a detailed view of the meaning of a phenomenon or concept for individuals. In this research, the inquirer first explores generally to learn about the variables to study and then studies those variables with a large sample of individuals. Alternatively, researchers may first survey a large number of individuals, and then follow up with a few of them to obtain their specific language and voices about the topic. In these situations, the advantages of collecting both closed ended quantitative data, and open ended qualitative data prove advantageous to best understand the research problem.

In her 2010 publication, *Research and Evaluation in Education and Psychology: Integrating Diversity with Quantitative, Qualitative and Mixed Methods*, p.2, **Donna M. Mertens** tells of two parallel genres of inquiry in the educational and psychological communities that have grown side by side: research and program evaluation. The relationship is not simplistic. Much of evaluation can look like research and vice versa, but both make use of systematic inquiry methods to collect, analyse, interpret, and use data to understand, describe, predict, control or empower.

Mertens, p.10-38, defined the four different paradigms:<sup>1</sup>

postpositivism – emphasis objectivity, experimentation and generalisability

- constructivism – emphasis constructed realities, interaction with participants, and rich description
- transformative researchers focus on issues of social justice, human rights and cultural complexity
- pragmatic researchers match the research questions with the choice of research methods.

The pragmatic paradigm is the most recent addition as a philosophical base for some mixed methods research.

In 2005, **Hsieh and Shannon**, outlined on p.1277 the *Three Approaches to Qualitative Content Analysis*, and elaborated that current applications of content analysis show three distinct approaches: Conventional, directed and summative. All three approaches are used to interpret meaning from the content of text data and hence adhere to the naturalistic paradigm.

- **Conventional** – is generally used with a study design whose aim is to describe a phenomenon. This type of design is usually appropriate when existing theory or research literature on a phenomenon is limited.
- **Directed** – or as some would categorise as “deductive”. The goal of a directed approach to content analysis is to validate or extend conceptually a theoretical framework or theory. Existing theory or research can help focus the research question.
- **Summative** – A study using a summative approach to qualitative content analysis starts with identifying and quantifying certain words or content in text with the purpose of understanding the contextual use of the words or content.

The next step of the analysis is synthesis, in which data from the various data sources are brought together in order to provide a clearer picture. It was emphasised that the composition of the research questions is extremely important to ensure that the synthesis is focused and does not stray into unproductive territory.

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<sup>1</sup> Merten(2010) defines paradigms as ways of viewing the world; Kuhn(1962) paradigm is an intellectual framework that makes research possible; while Guba (1990) defines paradigm as a basic belief system that guides actions. According to Guba, there are three main research paradigms – ontology (what is reality?), epistemology (how do you know something?) and methodology (how do you go about finding it out?)

As Diagram 2 shows below, once the data from the different methods is analysed, it is brought together in the synthesis, and then compared and contrasted with the insights and findings from the literature review.

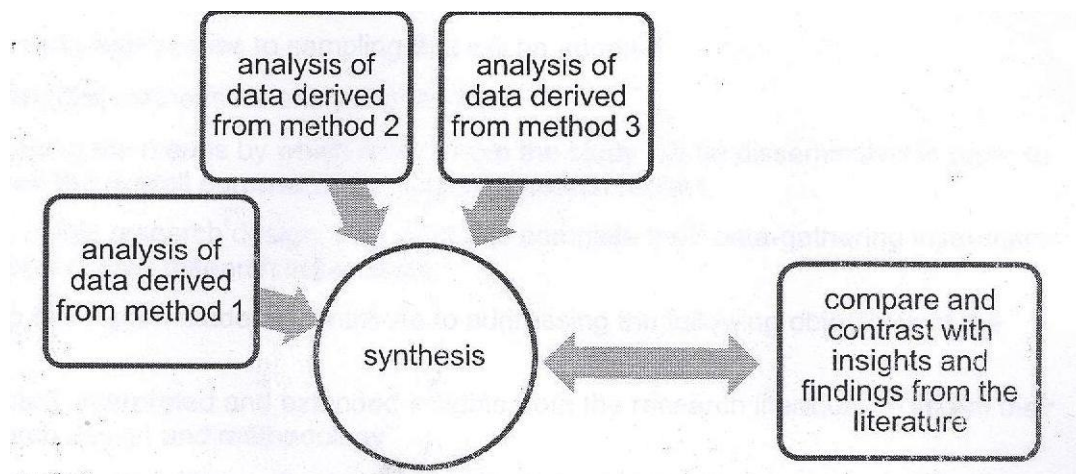


Figure 2 – Diagram of Synthesis

### ***Proposed research design and methodology***

To commence the journey into a research project in local government, the first step was to formulate a research proposal, apply for ethics approval, while the second step was to develop the research design and methodology for the project. Step three was the literature review on the topic, and this was very helpful in formulating the final research design and methodology, so as I had the best chance to answer my research objectives.

The decision was made that this will be an **exploratory case study** using the mixed methods approach outlined above. It will include what other states are doing in this area, what other research has been conducted, and will also include a study of a number of Code of Conduct breaches in NSW where councillors have been reported for overstepping that line.

It was decided to use electronic, both email and phone, and tried and true physical research methods, incorporating a mail survey to 101 councillors and 11 General Managers from 11 councils in the Eastern Riverina, to be followed up by one-on-one interviews with seven councillors and two General Managers from the three different council categories in the Eastern Riverina.

### ***Survey by Mail***

In an effort to limit the scope of my research, hard copy surveys were delivered to all 11 councils in the Eastern Riverina research area and the 101 councillors. This area comprised the old REROC area, the Riverina Eastern Regional Organisation of Councils, plus two adjoining councils, Albury City and Hilltops. This meant that the research area comprised two regional cities, four regional councils over 10,000 population, and five rural councils under 10,000 residents. To give balance to the research, it was decided to survey the 11 General Managers as well. Stamped addressed envelopes were provided to all the 112 councillors and general managers surveyed.

The proposed questionnaire, see [Appendix 6, The Role of a Councillor – Survey Questions for Councillors](#), had:

- Two questions establishing the councillor’s category
- Seven questions with only a Yes, No or other alternative
- One multiple choice question
- One Scenario question seeking councillor’s views
- A final question asked if the councillor would be interested in a one on one interview with the researcher.

### Ethics Approval

Ethics approval for the study was applied to the University of Technology, Sydney and approval was given to conduct an exploratory case study of councillors and general managers from 11 councils in the Eastern Riverina, and seeking their co-operation to respond to my mail survey and interview request. Copies are attached in the Appendices:

[Appendix 1 – UTS:IPPG Ethics Program Form](#)

[Appendix 2 – UTS:IPPG Project Information Sheet](#)

[Appendix 3 – UTS:IPPG Consent Form.](#)

### The Response

It was anticipated, that as the survey was only voluntary, the response rate on returns was hoped to be around 50%, but the actual response was 29 councillor returns (29.10%) and six (6) General Manager returns (54.55%) but this has still been sufficient to give a definite trend on councillor’s and General Manager views on the research questions. The councillor surveys were coded alphabetically as they arrived, while the General Manager returns were coded numerically as they arrived in the mail.



**Survey Forms Returned**

As the survey was anonymous, all responses for each question were tabulated, and the results calculated. As well as the tabulated results from the Yes/No questions, the main thing the researcher needed from these surveys were the answers to the open question/s and the contacts and category for the councillors interested in participating in a one-on-one interview with the researcher.

Once the physical research of the mail survey and the personal interviews were collated, I compared and contrasted the results with insights and findings from the literature.

### ***Personal Interviews with Councillors and General Managers***

Seven councillors and two General Managers agreed to participate in the on-on-one interview process, and for the councillor interviews, there has been one new councillor, and a mix of experienced councillors from the three categories of Councils interviewed i.e. Regional City, Regional Council over 10,000 residents, and Rural Council under 10,000 residents. Efforts to interview other new councillors were limited by the time available.

The main purpose of the personal interviews was to follow up on the results of the mail survey, and establish whether:

- Was there indeed a problem with councillors understanding the “separation of powers”?
- Why is it a problem?
- Is it a problem that is unique or more prevalent in new councillors?
- What measures can we recommend that will eliminate this “grey area” in the NSW Local Government Act?
- What training can we recommend that councillors are better informed about their role and responsibilities?

### ***Research Timeline***

<b>Dates</b>	<b>Research activity</b>
April 9, 2018	Research Proposal and Ethics Application
May 7, 2018	Research Design and Methodology
June 18, 2018	Literature Review
July 15, 2018 August 15, 2018	Commence Research with Mail Surveys Commence individual interviews
August 31, 2018 September 24, 2018	Final return date for Mail Surveys Completion and Analysis of surveys Draft Dissertation
September 28, 2018 October 8, 2018	Completion and Analysis of interviews Verbal Presentation of Study (viva voce)
November 5, 2018	Final Dissertation

## Section 7: Research Responses

When the Exploratory Case Study commenced in the chosen research area, an explanatory letter from the researcher, [Appendix 4, The Role of the Councillor Letter](#) and the [Appendix 2, UTS: IPPG Information Sheet](#), accompanied all the councillor surveys.

The survey commenced with a Scenario Question based on the Broken Hill City Council Public Inquiry Report, 2006, [Appendix 5, What Do You Think? Scenario Questions](#).

### Responses to the Scenario Question

#### What Do You Think?

In the **BROKEN HILL CITY COUNCIL PUBLIC INQUIRY REPORT**, 2006, Commissioner David Simmons was asked to inquire into the conduct of the councillors, their relationships with staff and whether the elected representatives have adequately, appropriately and reasonably carried out their roles and responsibilities in the best interest of all ratepayers and residents.

One area he was asked to investigate was the activities of its *Special Projects Working Group*, where the stated aim of the Committee was to “address all ratepayer complaints or requests and formulate recommendations for consideration at the following full council monthly meeting”.

At its first meeting on 24 May 2006, attended by all six councillors, the special projects working group unanimously adopted resolutions with weeds and rubbish on the footpaths and nature strips, computer operating systems, storm water drains and that an advertisement be placed in Saturday’s paper asking public to contact the Committee if they have any problems, complaints or ideas they would like addressed by Council.

The Commissioner found it was inevitable that residents will approach their elected representatives with concerns or suggestions about operational matters.

**BUT what do you think the Commissioner should do in this situation?**

Table 1 – Responses to what the Commissioner should do		
	Councillor	Response
<b>Give advice to Councillors on correct procedures</b>	Cr B	<i>The Commissioner should not sack the councillors but instead give clear guidelines on how the Working Group should operate.</i>
	Cr E	<i>Should emphasise their role in governance, not operational, and have them undergo compulsory training.</i>
	Cr F	<i>The Commissioner should realise Councillors must ask the relevant questions if they are to achieve tasks as listed below, but also pass on their conclusions/ recommendations through the relevant Shire Officers.</i>
	Cr J	<i>Advise Councillors that the problems need to be directed to staff to be logged, and then necessary items referred to the Committee for consideration, while others may be acted on via delegated authority.</i>
	Cr M	<i>The Commissioner should advise Council to inform</i>

	<p><b>Cr N</b> <i>ratepayers to contact Council staff directly with these types of matters.</i></p> <p><b>Cr R</b> <i>Recognise that councillors have a community connection, will be given information, and this information is important – Councillors and staff need to be aware of how to deal with the information.</i></p> <p><b>Cr T</b> <i>Advise committee to refer operational matters to the appropriate person in council if deemed important.</i></p> <p><b>Cr T</b> <i>Suggest the Committee formulate policy to address this.</i></p>
<b>Just pass information on</b>	<p><b>Cr A</b> <i>Councillors should note their suggestions and pass them onto the General Manager.</i></p> <p><b>Cr G</b> <i>Point to Council's Customer Action Request / Complaints System.</i></p> <p><b>Cr K</b> <i>Residents will always approach councillors about problems – they should then send this matter to Council.</i></p> <p><b>Cr O</b> <i>Councillors can be informed and pass information onto senior staff, but should not be passing resolutions that are direct operational matters.</i></p>
<b>No action required</b>	<p><b>Cr C</b> <i>Nothing. The Committee was engaging with the community and then forming recommendations for the full Council meeting to decide on. Nothing inappropriate here.</i></p> <p><b>Cr D</b> <i>Do nothing in this situation.</i></p> <p><b>Cr S</b> <i>He should have found that the councillors did their job properly.</i></p>

Remember that the NSW Local Government Act prescribes the role of an individual councillor as follows:

- To make considered and ***well informed decisions*** as a member of the governing body
- To represent the collective interests of residents, ratepayers and the local community
- To facilitate communication between the local community and the governing body

**Cr L** commented about the three dot points “making considered and well informed decisions”,  
*“Not all Councillors actually do, while they will all purport to. Many act for personal gain, or do not read all their reports.”*

<b>Table 2 – Was the Committee out of line?</b>		
	<b>Councillor</b>	<b>Response</b>
<b>Was this Committee out of line by finding out this information and taking this action?</b>		
Yes	<p><b>Cr A</b> <i>If councillors were acting on their own, then yes, they were out of line.</i></p> <p><b>Cr G</b> <i>I think “touting” a bit strong in this instance, it can lead to a reactive council, biased towards negatives, and less likely to receive positive feedback.</i></p> <p><b>Cr H</b> <i>Yes, problems and complaints should be referred to the GM and staff.</i></p> <p><b>Cr M</b> <i>Yes</i></p> <p><b>Cr O</b> <i>Yes, if there is an issue, change the policy.</i></p>	



	<b>Cr R</b>	<i>Yes, they should listen and refer items to the appropriate person.</i>
No	<b>Cr B</b> <b>Cr C</b> <b>Cr D</b> <b>Cr E</b> <b>Cr F</b> <b>Cr I</b> <b>Cr N</b> <b>Cr S</b> <b>Cr T</b>	<i>No, the Committee were not out of line, but should have passed the information onto the appropriate staff.</i> <i>No, They were actually doing their work, just linking the community concerns with the full council.</i> <i>I don't believe so.</i> <i>Not out of line finding out the information, but should have referred findings to Council staff for action.</i> <i>Not at all in collecting data, but problem could arise in how they then acted.</i> <i>No</i> <i>No, they took no action except to formulate recommendations to Council.</i> <i>No, and they were only making representations to the full council for decision.</i> <i>No</i>
Other	<b>Cr J</b>	<i>This is not necessarily black and white . . .</i>

**If that Council Committee is determined by the Commissioner to be out of line and delving into “operational matters”, then how do councillors source information so they can make well informed decisions?**

<b>Table 3 – How do Councillors source information to make informed decisions?</b>	
<b>Councillor</b>	<b>Response</b>
<b>Cr A</b>	<i>There should be workshop/training involving the LGA/consultant to lead the training session.</i>
<b>Cr B</b>	<i>It makes it very difficult for councillors to do their job properly.</i>
<b>Cr C</b>	<i>It is difficult to get information if you don't engage the community and ask them.</i>
<b>Cr D</b>	<i>If their decisions are based on what the majority of the public wants, then they have made a well informed decision.</i>
<b>Cr E</b>	<i>Getting the information is not necessarily delving into operational matters, but it goes close and care is needed.</i>
<b>Cr F</b>	<i>No problem in delving; communicating this knowledge is a potential problem. To maintain separation, this must be done by senior staff.</i>
<b>Cr G</b>	<i>Create informal opportunities to engage, e.g. “pop-ups”, community barbeques, a council stand at community events.</i>
<b>Cr H</b>	<i>Call on GM / staff to investigate and report back to the committee or full council for a decision.</i>
<b>Cr I</b>	<i>Councillors must listen to the community.</i>
<b>Cr J</b>	<i>Councillors and staff must resolve appropriate courses of action and work together – no “us’ and “them” mentality.</i>

<b>Cr K</b>	<i>We would not be concerned about operational matters if we were told what was going on. Management should not be secret society. We may be only councillors, but we are also a Board of Management.</i>
<b>Cr L</b>	<i>Staff are there to provide information and answers to councillors' questions. Once councillors have relevant information, they can effect change in policy to the effect of modifying operational matters.</i>
<b>Cr M</b>	<i>Council Committee should have asked staff for a report before making a decision.</i>
<b>Cr N</b>	<i>Rely on staff only? This may be coloured by conflict of interest.</i>
<b>Cr O</b>	<i>Councillors can source the information, but use policy to effect an outcome.</i>
<b>Cr R</b>	<i>By understanding your policies and talking to council.</i>
<b>Cr S</b>	<i>There is no other way.</i>
<b>Cr T</b>	<i>Work policy and discuss with management.</i>

## Responses to the Councillor Survey Questions

The second part of the survey sent to Councillors contained the questions that were relevant to the research topic: The Role of a Councillor: Understanding the “separation of powers”.

See [Appendix 6, The Role of a Councillor – Survey Questions for Councillors](#)

Table 4 – Survey responses to Councillors’ understanding of their roles			
Question 1		Councillor	Response
<b>Are you a Councillor in a</b>			
Small Rural Council (under 10,000 residents)	19		
Large Rural Council (over 10,000 residents)	5		
Regional City	5		
<b>Question 2</b>			
<b>How long have you been a Councillor</b>			
New Councillor, elected 2016 or 2017	11		
Experienced Councillor	17		
2012	1		
<b>Question 3</b>			
<b>Are you aware of the Role of a Councillor as set out in Section 232 of the 1993 Local Government Act and the NSW Government “Councillor Handbook”?</b>			
Yes	24		
No			
Vaguely	4		
Mostly	1		
<b>Question 4</b>			
<b>As a Local Government Councillor do you understand the term “separation of powers”?</b>			
Yes	26	Cr L	<i>But most councillors do not</i>
No	1		
Vaguely	2		
<b>Question 5</b>			
<b>Do you agree that a Councillor’s primary role is to focus on policy development and the strategic delivery of services in the public interest?</b>			

Yes	27	Cr A	<i>Yes, it is also to be advocate of council's policies and plans and act to lobby State and Federal Governments.</i>
		Cr B	<i>Yes, but must have a good relationship with the community and maintain good communication links.</i>
		Cr L	<i>Yes, and secondly to ask the right questions to elicit information to then formulate policy to effect change in policy to meet changing community needs.</i>
		Cr Q	<i>Yes, councillors are community representatives to formulate policy from community expectations - not state directives.</i>
No	2	Cr S	<i>No, that is the major role, but we can get things fixed for ratepayers who have issues.</i>
<b>Question 6</b>			
<b>Do you agree that the primary role of the General Manager and Senior Staff is to carry out the day to day operations of Council?</b>			
Yes	28	Cr Q	<i>Yes, the trend is changing so that GMs are now taking direction from the NSW Government and directing policy to councillors.</i>
		Cr V	<i>Yes, though there is frequent need to monitor, check and correct.</i>
No	1		
Other – Please explain	2	Cr S	<i>They have an important role in Strategic Planning with the councillors as well.</i>
<b>Question 7</b>			
<b>There have been reports of Councillors not understanding their role and getting involved in "operational matters." Have you seen or heard of this happening in local government?</b>			
Yes	26		
No	3		
<b>Question 8</b>			
<b>Do you see this as a concern?</b>			
Yes	1		
Yes, with comment	20	Cr A	<i>Yes, will undermine the authority of the GM with staff – can cause confusion with staff.</i>
		Cr B	<i>Yes, but it is impossible for councillors to get</i>

			<i>a full picture of an issue sometimes without crossing into “operational matters”.</i>
		<b>Cr C</b>	<i>Yes, councillors need to understand their legislative responsibilities and know that they have to set priorities that they can enforce.</i>
		<b>Cr D</b>	<i>Yes, operational matters are that of the General Manager and staff.</i>
		<b>Cr E</b>	<i>Yes, the possibility exists that you will use your position to influence matters as benefit or favour to self or friends. This is most clearly seen in matters of procurement.</i>
		<b>Cr F</b>	<i>Yes, the distinction is (until recently) been stressed, but now is seen as essential: sadly old habits die hard on both sides.</i>
		<b>Cr G</b>	<i>Yes, it is an ongoing issue and a difficult one. Often councillors have helpful ideas but they are excluded as “operational”. The flip side is that they need to “stay in the helicopter” and focus on the bigger picture, and many have trouble doing so.</i>
		<b>Cr H</b>	<i>Yes, but it is becoming less of a concern as the years pass.</i>
		<b>Cr I</b>	<i>Yes, as a councillor, our council works as a team – we have a job to do, while the management and staff have a job to do.</i>
		<b>Cr M</b>	<i>Yes, while there may be grey areas of concerns at times, in the main councillors and staff must know their boundaries, otherwise it will be the start of a breakdown of the relationship between them.</i>
		<b>Cr O</b>	<i>Yes, It detracts from the proper role of a councillor, and puts staff in difficult situations.</i>
		<b>Cr P</b>	<i>Yes, some councillors feel they have the right to influence what takes place in the operational area and feel that this is why they were elected. Yes, I know that we could have influence if we wished to, but do realise that this is not my role as a councillor.</i>
		<b>Cr T</b>	<i>Yes, councillors feel sometimes they can manage things better than staff.</i>
		<b>Cr U</b>	<i>Yes, new councillors should be made aware of their roles and responsibilities.</i>
		<b>Cr W</b>	<i>Yes, I have seen the GM and councillors come to loggerheads about differences re operational issues.</i>
		<b>Cr X</b>	<i>Yes, it is senior staff’s role for operational issues.</i>
		<b>Cr Y</b>	<i>Yes, councillors can become involved in matters where they have no authority to act.</i>

		<b>Cr Z</b>	<i>Yes, the Mayor thinks the role allows for running of all aspects/operations of council. New councillors, in particular, take a while to address this.</i>
		<b>Cr A3</b>	
No, with comment	8	<b>Cr K</b>	<i>No, when operational matters start to affect the running of council, we should be involved to help sort the problem out.</i>
		<b>Cr Q</b>	<i>No, although clear definition is required – my concern is the reverse in that GMs are directing councillors on policy.</i>
		<b>Cr R</b>	<i>No, if you understand the policy, you may be able to explain how and why and resolve the issues.</i>
		<b>Cr S</b>	<i>No, if there are things going wrong, we should be able to facilitate fixing those things.</i>
		<b>Cr V</b>	<i>No, our first obligation is to protect the rights of the ratepayer. We need to act as required.</i>
		<b>Cr A2</b>	<i>No, I don't care what the OLG says I should or should not do. My role is to bring "community expectations" to Council. Council still seriously attempts to carry out operational matters which do not meet the standard.</i>
Potentially	1	<b>Cr J</b>	<i>Potentially, but not always.</i>
Yes and No	1	<b>Cr N</b>	<i>Councillors who become aware of operational issues should raise those issues appropriately – if they don't, it becomes an issue.</i>
<b>Question 9</b>			
<b>Is it an area of concern primarily for new Councillors?</b>			
Yes	7		
No	5		
All Councillors	17		
<b>Question 10</b>			
<b>Why do you think this is?</b>			
Yes	7	<b>Cr B</b>	<i>Yes, it is natural to want get fully involved in council's operations and be an effective councillor. It is also natural for the community to make representations to their local councillor. That is why they are elected.</i>
		<b>Cr D</b>	<i>Yes, I think new councillors are keen to make a difference. However, I don't think they fully understand their role of a councillor</i>

		<p><b>Cr H</b> <i>straight up.</i></p> <p><b>Cr V</b> <i>Yes, lack of understanding of, and appreciation of the role of a councillor.</i></p> <p><b>Cr A1</b> <i>Yes – what are the options? To tolerate incompetence?</i></p> <p><b>Cr A2</b> <i>Yes, it is not knowing when to, and not to, have input.</i></p> <p><b>Cr A3</b> <i>Yes, too many councillors are hoodwinked by staff. Too many councillors swallow crap reports as “gospel”. More critical input is required.</i></p> <p><b>Cr A3</b> <i>Lack of understanding of the role; too much to learn at first; which is normal for any new role or job.</i></p>
No	4	<p><b>Cr O</b> <i>No, many experienced councillors do not understand their role also, and push into the operational area many with trivial complaints regarding operational matters.</i></p> <p><b>Cr R</b> <i>No, in small shires as said, you might be able to explain the policy and reasoning, and resolve any issue.</i></p> <p><b>Cr Z</b> <i>No, Old Bulls find it hard to accept times have changed.</i></p>
All Councillors	17	<p><b>Cr A</b> <i>All councillors – we all need to be reminded of our role at times particularly in councils like ours where councillors know staff socially.</i></p> <p><b>Cr C</b> <i>All Councillors – I think there is a lack of understanding on how to formulate policy from the legislation.</i></p> <p><b>Cr E</b> <i>All Councillors, because ratepayers often want things changed or fixed, so they approach a councillor first, and the councillor may wish to “gain favour” by lobbying for their position.</i></p> <p><b>Cr F</b> <i>All councillors – at least some of us were not previously conscious of the issue and bad habits were allowed to grow.</i></p> <p><b>Cr G</b> <i>All councillors – They just want to help (mostly).</i></p> <p><b>Cr I</b> <i>All councillors are trying to do the best for our community.</i></p> <p><b>Cr J</b> <i>All councillors – we all need to know our obligations, roles and responsibilities – it depends on the GM, too.</i></p> <p><b>Cr L</b> <i>All councillors – some councillors never learn. I have been on four terms with another council also. They still seem not to resist the temptation to delve into operational matters as and when it suits them. Why? Power and the sort of person</i></p>

		<p><b>Cr M</b> <i>who (the vast majority) are attracted to council because they think they alone can make decisions.</i></p> <p><b>Cr N</b> <i>All councillors – for new councillors, it’s not fully understanding their role. For experienced councillors, it’s thinking they can get away with more and more.</i></p> <p><b>Cr P</b> <i>All councillors, I have seen both new and old not know the distinction.</i></p> <p><b>Cr Q</b> <i>All councillors, obviously it’s a concern for new councillors, but if educated the right way it is not that big a deal. For experienced councillors, they are a bit more educated and can tend to get their way with certain items as they know how to go about certain things.</i></p> <p><b>Cr S</b> <i>All councillors – democracy is being broken at local government level.</i></p> <p><b>Cr T</b> <i>All councillors – there is no clear definition of “operational”.</i></p> <p><b>Cr W</b> <i>All councillors – many in the community do not understand this role.</i></p> <p><b>Cr X</b> <i>All Councillors – it is the older councillors who have wanted to become involved in operational matters.</i></p> <p><b>Cr Y</b> <i>All councillors – because it is a senior staff matter.</i></p> <p><b>Cr Z</b> <i>All councillors – Issue can be exacerbated by a desire to help/assist or by other motives.</i></p>
<b>Question 11</b>		
<b>What can be done to improve the situation?</b>		
<b>(Please choose all that you feel apply)</b>		
Better wording of the pre-election details and requirements?	13	
A clearer induction and training by the General Manager and Mayor?	16	
Better wording of the Councillor Handbook?	10	<p><b>Cr A</b> <i>Not necessarily “better” but perhaps “clearer”. Examples could be a good inclusions – external training – e.g. use of consultants , have clear processes and systems in place for councillors to communicate with staff /executive team.</i></p> <p><b>Cr Q</b> <i>I have never seen a Councillor Handbook.</i></p>
Better wording of the Local Government Act?	11	<b>Cr A2</b> <i>Office of Local Government? – a pack of idiots</i>



Other actions?	13	<p><b>Cr B</b></p> <p><b>Cr C</b></p> <p><b>Cr E</b></p> <p><b>Cr F</b></p> <p><b>Cr G</b></p> <p><b>Cr I</b></p> <p><b>Cr L</b></p> <p><b>Cr N</b></p> <p><b>Cr O</b></p> <p><b>Cr P</b></p> <p><b>Cr S</b></p> <p><b>Cr V</b></p> <p><b>Cr W</b></p>	<p><i>The LG Act and Handbook does not say that you should NOT do this.</i></p> <p><i>Out of Council level training e.g. by the Office of Local Government. You need it at arm's length from Council to ensure checks and balances.</i></p> <p><i>Training by LGNSW or other experts in this area.</i></p> <p><i>A specific treatment of the importance of this issue must be conducted.</i></p> <p><i>Regular reminders at meetings.</i></p> <p><i>Media and social media.</i></p> <p><i>Need "negative marketing" e.g. Don't stand for council if you want to dictate what potholes get filled, but stand for council if you change the policy so that potholes will be fixed in x days.</i></p> <p><i>Training for staff.</i></p> <p><i>Formal training of all councillors that is marked and recorded.</i></p> <p><i>All of the above, sometimes it is just people's pig headed nature of the fact that once in a position of power i.e. the Mayor, it is easier to manipulate what they want from time to time.</i></p> <p><i>What is "operational"? If the GM is so inclined, he can say that everything is "operational" and we have to butt out.</i></p> <p><i>Active feedback is necessary.</i></p> <p><i>Clearer induction and training by OLG or the equivalent.</i></p>
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## Responses to the General Manager Surveys

An adapted set of questions was sent to the 11 General Managers in the subject research area. See [Appendix 7, The Role of a Councillor – Survey Questions for General Managers](#)

Table 5 – GMs Understanding of Councillors' roles			
Question 1		GM	Response
<b>Are you aware of the Role of a Councillor as set out in Section 232 of the 1993 Local Government Act and the NSW Government "Councillor Handbook"?</b>			
Yes	6		
No			
Vaguely			
<b>Question 2</b>			
<b>As a General Manager, do you understand the term "separation of powers"?</b>			
Yes	6		
No			
Vaguely			
<b>Question 3</b>			
<b>Do you agree that a Councillor's primary role is to focus on policy development and the strategic delivery of services in the public interest?</b>			
Yes	6		
No			
Other – Please explain			
<b>Question 4</b>			
<b>Do you agree that the primary role of the General Manager and Senior Staff is to carry out the day to day operations of Council?</b>			
Yes	6		
No			
Other – please explain			
<b>Question 5</b>			
<b>There have been reports of Councillors not understanding their role and getting involved in "operational matters." Have you seen or heard of this happening in local government?</b>			
Yes	6		
No			

<b>Question 6</b>			
<b>Do you see this as a concern?</b>			
Yes with comment	5	<b>GM 1</b> <i>Yes, a Council should not only act in a responsible and transparent manner, it should be seen to do this. Any direction of staff by an elected person only undermines this process.</i> <b>GM 2</b> <i>Yes, it is only a concern if the councillor goes beyond simply conveying the complaint/concern to Council and seeks to direct/intervene staff on how to deal with it.</i> <b>GM 3</b> <i>Yes, each part of a team has a role. If councillors are involved in operational issues, it makes it difficult for the person responsible (staff) to achieve their performance target. I have seen some terrible examples of conflict between policy and operational (thankfully not in my Council) These have not provided positive outcomes for the community.</i> <b>GM 5</b> <i>Yes, where councillors seek to interfere in operations. I have no issue in supporting councillors following up concerns raised with them by community members, provided they do so via nominated staff.</i> <b>GM 6</b> <i>Yes, it's not the issue so much, more the amount of involvement. Of course councillors need an understanding on day to day issues to inform their policy and strategic decision making. Unfortunately, councillors sometime can involve themselves in too many operational issues to try and solve a ratepayer's concern rather than using shared information for the purpose of policy and strategic outcomes.</i>	
Yes	1		
No			
<b>Question 7</b>			
<b>Is it an area of concern primarily for new Councillors?</b>			
Yes			
No	2		
All Councillors	3		
<b>Question 8</b>			
<b>Why do you think this is?</b>			
Yes			
No		<b>GM 5</b>	<i>No. It can be challenging for new</i>

			<p><i>councillors to understand their role initially and to build capacity to know where it starts and stops. I have heard of other councillors (not my council) maintaining a desire to be involved in operational matters.</i></p> <p><b>GM 6</b> <i>No. It all comes down to the individual and their ability to work co-operatively with the organisation.</i></p>
All Councillors			<p><b>GM 1</b> <i>All councillors – even well meaning long term councillors can sometimes fall into the trap of directing staff. It is better if this is directed through the GM and protects all people concerned.</i></p> <p><b>GM 2</b> <i>All councillors – because it is inevitable that all councillors will be approached by residents and ratepayers regarding operational matters, and they need to know how best to manage this.</i></p> <p><b>GM 3</b> <i>All councillors – Strategic thinking does not come naturally to most people. The operational functions are more easily understood. Additionally, there can be a feeling of disempowerment by being excluded from the operational side.</i></p> <p><b>GM 4</b> <i>All Councillors – because the public have not been educated on the role of a councillor and the “separation of powers”.</i></p>
<b>Question 9</b>			
<b>What can be done to improve the situation: (Please choose all that you feel apply)</b>			
Better wording of the pre-election details and requirements?	3		
A clearer induction and training by the General Manager and Mayor?	4		
Better wording of the Councillor Handbook?	4		
Better wording of the Local Government Act?	3		
Other actions?	4		
<b>Question 10</b>			
<b>Are you a General Manager in a</b>			
Small Rural Council (under 10,000 residents)	5		
Large Rural Council (Over 10,000 residents)			
Regional City?	1		

## Summary of Interviews with Councillors

After the Councillor and General Manager Surveys were received, seven councillors, covering the three different categories of councils in the research area, were interviewed, along with two general managers.

[Appendix 3 – UTS: IPPG Interview Consent Form](#)

[Appendix 8 – The Role of a Councillor – Interview Covering Letter](#)

[Appendix 9 – The Role of a Councillor – Interview Questions](#)

### Interview with Cr F

**Summary** – Cr F is an experienced councillor from a rural shire

- Only became aware of the legislative wording in the past twelve months
- Could not locate it anywhere in the Local Government Act
- Our training was very limited – “You blokes already know this”
- We used to have breakfasts with staff – soon we were crossing over into “operational matters”
- It is high time someone wrote a more practical guide – presently no mention of the problem

#### **Q. 1 What point in your councillor career, did you become aware of this legislative wording?**

*I really only became aware of it during the last twelve months, when it became an issue in our Council.*

*My examination of the LG Act – I can’t locate it anywhere in the Act, and in my preparation for the role, I was not given any briefing on the wording about the boundary between operational matters and the development of policy.*

*The Local Government Act 1993, No. 30 Section 23, says that “A council may do all such things as are supplemental or incidental to, or consequential on, the exercise of its functions.”*

*This seems to say that a council (or, logically, a councillor?) might, in the performance of normal roles, do related activities that might cross over any policy/operational divide.*

***I am more than just confused** – it came to my attention in the past twelve months that certain behaviour was deemed to be inappropriate.*

#### **Q. 2 Separation of powers?**

*This dividing line between policy development and operational matters can be an important issue. It really only becomes a point of dissent when someone gets their nose out of joint. Then we’re told we have a problem on our hands because councillors are failing to keep these two things separate. It became an issue in our Council when several councillors were approached for advice on certain issues. This raised all sorts of hackles – begs the question – how come our councillors are actually talking to people in the community?*

*Maybe it was a misunderstanding, it was merely an exercise in gaining more background information about an issue that Council was facing, and it was surprising that someone should take umbrage at that. In light of the Sect 23 above, I was surprised at the reaction.*

*In light of the fact that we councillors are now treated like members of a Board of Directors, it is high time someone wrote a more practical book or guide for councillors to understand and follow. It seems strange that we don’t have specific mention of this potential problem in the guidelines.*

#### **Q. 4 What can we do to make things clearer?**

*Let’s cut to the chase – what Councillor Handbook are you referring to? I did not receive a copy. However, I did get a copy of Bluett’s Handbook.*

*I have seen guidebooks for members of other organisations – so, we really need one that is designed for our Shire so that we councillors know the history, and also what is expected of us.*

**Q. 5 How to improve the situation?**

*If it is seen as an important issue, there is a need to have better training for the new councillor. Our training was very limited – “you blokes already know this – so we won’t worry about all of this” so we need to include all the necessary guidelines.*

*This recent eruption of “crossing over the boundary” has started because we had a councillor asking questions that maybe we all should have been asking?*

*That scared some people.*

**Supplementary Questions**

**Q. You made a comment that old habits die hard**

*Councillors who were in the habit of being involved in operational matters, seemed to be able to keep on doing it. Directors seemed to have changed their thinking, too.*

*For example, we used to have breakfasts with the outdoor staff, but nothing for the past twelve months. At those breakfasts, we were questioned about different issues. So, all at once, we were asked to delve into operational matters. When you get into these discussions, it is very hard to stop. This crossover is a useful daily experience.*

**Q. Your comment about the Broken Hill Enquiry Scenario questions?**

*What do you say when you start talking to people? As result of that, you get a crossover. Suddenly, the boundary between policy and operational becomes an “artificial boundary” – it depends on what side you are, how you determine that boundary.*

**Interview with Cr Q**

**Summary** – Cr Q is an experienced councillor from an amalgamated regional council

- Only had the Bluett’s handbook, haven’t seen the new one
- Biggest worry is the language used – too much legalese – need words that councillors understand
- General Managers are taking direction from the State Government, and directing policy to councillors
- Senior staff are not coming to councillors to find out what the community want
- We need to stop and listen to the residents
- The power of the elected member has been broken down

**Q. 1 What point in your councillor career, did you become aware of this legislative wording?**

*Only had the Bluett’s handbook, haven’t seen the new one.*

**Q. 2 Separation of powers?** *Luckily I had a good General Manager when I started, and learnt from him. Certainly not from any specific training, though.*

**Q. 3 Reports of involvement in “operational matters”?** *This happens especially with road works, and especially with road works in a councillor’s area where they live. I have heard the same sort of thing in other councils.*

**Q. 4 What can we do to make things clearer?**

*The first step would be to have a system in place so the new councillors would have the latest handbook. I have never seen one.*

*The biggest worry with this handbook or any local government documents is the language used – too often they get caught up in “legalese” and a lot of words that many ordinary councillors don’t understand.*

### **Supplementary Questions**

**In survey Q. 6 , you answered that “the trend is changing so that general managers are taking direction from the NSW Government, and directing policy to councillors”.**

***(Could you elaborate?)***

*Yes, the trend is changing so that General Managers are taking direction from the NSW Government and directing policy to councillors. It is very evident in our council. The State Government is very much controlling local government.*

*We need to stop and listen to the residents, which has been lost during the administration. A number of things happened during the administration that should have gone to the community for comment – a legacy of the administration period.*

*One of my concerns, which is a legacy of the administration, is that senior staff are not coming to councillors looking to find out what the community want.*

*Democracy is being broken down at local government level. Over the administration period, we, as councillors have been channelled into thinking and operating a certain way.*

### **Comments**

*I did a governance course for councillors – they are very strong on the “leadership” aspect, but I think it is another way of controlling. I am more into working with people and then coming to some agreement. Again I think this trend is coming down from the State Government.*

*We were talking about a new item of infrastructure being needed – a new project site was identified, but after problems started to emerge, we couldn’t work out how it all started. In the end we had to come back and start again. These things are happening now too much in Local Government.*

*With the Code of Conduct, we have to abide by a set of rules, and are being told to act and behave in a certain way. I believe the powers of the elected member have been broken down, and there is an ongoing breakdown in democracy. Unfortunately, no-one is listening to us.*

## **Interview with Cr C**

**Summary – Cr C** is a new councillor

Understanding of the wording was not in my induction course

- The induction course should be done by an external body
- There is a lack of understanding on how to formulate policies from the legislation
- Staff also need to adhere to their role – can start acting like councillors and wanting to develop policy
- Councillors should be more involved in developing programmes to implement policies
- We should have a number of community engagement strategies to find out what the community wants

**Q. 1 What point in your Local Government career were you aware of this legislative wording?**

*It was only when I did the regional training course that I learnt about the different roles. It certainly wasn’t in my induction course when I became a councillor.*

*If I hadn’t done that course, I would still be none the wiser.*

**Q. 3 Have you seen this happening anywhere else?**

*No, I haven’t seen it happening .*

#### **Q. 4 What can we do to make things clearer?**

*The induction training should be done by an external body, so it is the same right across the state. It wasn't until later that I was given a Bluett's handbook. I certainly didn't know anything about the Local Government Act. Have not seen any legislation or guidelines at all, so I didn't really understand what was operational and what wasn't. Lack of clarity around the definition of operational versus actions to achieve policy, creates confusion between the role of staff and councillors.*

#### **Comments**

*Even though Councillors are there to set the policies, I believe Councillors should have more involvement in developing programmes to achieve these policies. Councillors and staff should work together in consultation with the community to develop programmes to achieve policy outcomes. At the moment, there is no work-shopping ideas on a project, so councillors can have more input into the programmes. Councillors need to be more involved. Staff seem to be reluctant to involve councillors in the workings of a project.*

*Sometimes claims of 'operational' are not actually operational, but ideas from Councillors for programmes and actions to achieve policies. The definition of operational is not clear and can be stretched to include many things that are in the grey area between operational and policy, and this can be limiting for Councillors.*

*While Councillors should not be involved in operational matters, it is also true that staff need to ensure they are not involved in influencing the Policy settings of Council.*

*Councillors should not be just on Council just to push their ideas, but rather be reflecting the ideas and needs of the community. They should be fully informed what the community wants. Not pushing their own personal agendas.*

*We should have a number of community engagement strategies to find out what the community wants. It is difficult to get information from the community, if you don't engage the community and ask them. Without getting community input, it is hard to know if you are developing the right policies. As a new councillor, I was unaware of the need to develop policies, how to develop policies, how to make sure they are correct, and that they are adhered to. There is a lack of understanding on how to formulate policies from the legislation. Maybe we should have a programme called "Hit the ground running" for all new councillors.*

### **Interview with Cr N**

**Summary** – Cr. N is an experienced councillor from a regional city council

- You are elected to take the views of your constituents forward
- It means asking staff to consider your request rather than telling
- More training for staff – I think they struggle with the various roles as well
- Some councillors don't get it at all – make life difficult for the GM and staff
- Nothing the Government can do to change wording can overcome personality issues
- I have seen GMs who have seen things as black and white, but nothing is black and white

#### **Q. 1 Are you aware of the role of a Councillor as set out . . . in the Act and the Handbook?**

*Yes, I do have a copy of the Handbook. I did the Executive Certificate some years ago.*

**Q. 2 Separation of powers** *I have heard the phrase quite regularly. Basically it is Councillors making the decisions, then staff spend the money.*

#### **Q. 3 Reports of Councillors getting involved in "operational matters"**



*We see it at a very regular basis at our council and at others. It is difficult at times to keep to keep to that line. You are elected to take the views of your constituents forward.*

***BUT***, there is difference between saying to the GM – Grade this road, and asking would you consider this request? It means asking rather than telling.

#### **Q. 4 Ideas to improve the situation?**

*More training for staff – I think staff struggle with it just as much as councillors. I still see them shaking their heads – how do you deal with this situation? You can't ignore it, walk away from it.*

*Staff think the separation of powers gives them the right to their stance.*

*Staff training is just as important as councillor training – they can't just dismiss a request.*

*If there is continuing problem, whether it be councillors or staff, personality differences, you just have to come together as a group to resolve. No good just leaving it sit there as an unresolved issue.*

#### **Supplementary Questions**

**Q. 8** You answered Yes & No in the original survey about getting involved as a concern.

#### ***(Could you elaborate?)***

*It is a concern depending on the councillor concerned and the GM, and their ability to have a discussion and handle it. I have seen some Councillors don't get it all, and would make life really difficult for the General Manager and staff. The GM will say I will have a look at it and our priorities – but even still the Councillor thinks the job should be done.*

*Some Councillors will put their case very forcefully, but will still let the staff work through the priorities, and work out where that item sits in the priorities.*

*Yes and No – because if both parties have the right personalities, it is not an issue, but if they don't, it will become an issue.*

#### **Q. 9 New or Old Councillors?**

*I have seen both new and old councillors – I have seen councillors that have been there several terms and they still don't get it i.e. understand the "separation of powers" – They still think to this day, that it is their job to instruct staff what to do.*

*Ultimately if a councillor thinks strongly about an issue, he can raise it at council, and instigate a motion for staff to do a report. Council can then vote on it. Staff then have the opportunity to say where it sits in the priority list.*

*Just because someone is annoying them on a daily basis, doesn't mean it is the highest priority. I would still expect that person to be contacted and explained to by staff where an issue sits in the scheme of priorities.*

#### **Q. Any other ideas?**

*Nothing the government can do to change legislation etc., can overcome personality issues. I have seen General Managers who have seen things as purely black and white, but nothing is black and white.*

*The biggest problem comes when there is a breakdown in relationships, and usually it needs a third party to negotiate.*

*We all have to be reminded what has been put in the budget and the Operational Plan.*

*With regard the term "Pothole Councillors" – councillors have to bring issues of maintenance forward that need to be addressed. Staff need to be able to respectively respond to those requests. They should not get any higher priority than anyone else.*

*Still need to show constituents that you are active – when you email staff with the issue, copy it to the ratepayer.*

*In the old days the Council put the whole works programme together. This is one of the reasons the Act was changed – so that there was no favouritism*

*Need to educate Councillors on aspects of modern communication. I recommend an App that shows a trouble spot on the road, and will also show the GPS co-ordinates. Then this photo etc gets logged in, and staff know exactly where it is.*

## **Interview with Cr G**

**Summary** – Cr. G is an experienced councillor with a rural council

- Fortunate in REROC to have combined in house training using local General Managers
- Hate those presenters who use acronyms – impossible for a new councillor to understand
- Often councillors have helpful ideas, but are excluded as “operational”
- Some councillors want to be on the ground, interviewing everybody, trying to fix everything
- Not confined to new councillors – some adapt very quickly, some will never adapt.
- Professional development for councillors should be mandatory

**Q. 1 Are you aware of the Role of a Councillor as set out in Section 232 of the 1993 Local Government Act and the NSW Government “Councillor Handbook”?**

**At what point in your councillor career, did you become aware of the legislative wording about the role of a councillor?**

**Q. 2 As a Local Government Councillor, what is your understanding of the term “separation of powers”?**

**Q. 3 There have been reports of Councillors not understanding their role and getting involved in “operational matters.”**

**Can you provide examples of where you have seen or heard of this happening in local government?**

*It’s an ongoing issue and a difficult one. Often Councillors have helpful ideas, but they are as excluded as operational. The flip side is that they need to “stay in the helicopter” and focus on the bigger picture, and they have trouble doing so.*

**Q.4 Listed below are suggestions for improving or rectifying this perceived confusion of the councillor role. *What are your thoughts on these?***

- Better wording of the pre-election details and requirements?
- A clearer induction and training by the General Manager and Mayor?  
*Better to have training done by a common consistent source. Also better to learn all together in a classroom, rather than be singled out at a council meeting.*  
*We are fortunate in REROC to have training done by in house in REROC and using local Mayors and GMs.*  
*If you don’t learn the skill levels early, you tend to keep repeating the same mistakes*
- Better wording of the Councillor Handbook?  
*I think the language is a problem, we need to be using lay terms. I hate those presenters who use Acronyms all the time – makes it impossible for any new councillor to understand*
- Better wording of the Local Government Act?
- Do you have any further suggestions for improving the understanding of the Councillor role and the “separation of powers” with the council management role?

**Q. 5 Supplementary Question/s – *(based on your comments in your survey return)***

**From Q. 7 & 8**

You answered Yes to the question that you have seen instances of where councillors are getting involved in operational matters. **(Would you mind elaborating?)**

*That operational and policy divide, it's an ongoing issue and a difficult one, and it is one of the biggest thing councillors struggle with.*

*I remember one councillor who visited the local Tip, and came back to staff with detailed ways of improving efficiencies. Some councillors want to be on the ground, interviewing everybody and trying to fix everything. My concern is then the General Manager can have 9 masters instead of one. The reverse side of this is when Council is not going well, and councillors are ignorant of the situation. Eg when the GM and staff don't have their eye on the ball.*

*In some situations, there are incompetent staff, and the General Manager doesn't have the willpower to do anything about it.*

#### **From Q. 9 & 10**

You answered this was an issue for all councillors, not just new ones,

To the question, why do you think this is? You commented "They just want to help"

**(Would you mind elaborating?)**

*No. It is not confined to just new councillors. I have one councillor from pre 1993, who still wants to the do things the old way – remember going through the vouchers?*

*Some adapt very quickly, some will never adapt.*

**From Q. 11** What can be done to improve the situation? You ticked Boxes 1 & 2 ( see p. 2)

And added – "regular reminders at meetings".

**(Would you mind elaborating?)**

*I think what they have done to encourage professional development is good, but is still up to the individual if they do it. I think it should be mandatory*

#### **Q. 6 Is there anything else you would like to add that has not been addressed in this interview?**

*The General Manager takes a lot on their shoulders without sharing it, and it sometimes would be good to bring councillors into their confidence. But unfortunately, some councillors are better keeping their mouths zipped than others. But when the Mayor tells half and not all, it is a dangerous situation, and you get accused of keeping them in the dark.*

*As a Mayor, I have a pretty good handle on what to share and what not to, but sometimes you find that when divulging a little bit of information, they want to know more and more. It becomes a time consuming exercise trying to keep everyone on the same page at the same time.*

*From a Mayor's position, I have identified the different skills and interests of each councillor – give jobs to the appropriate people.*

*The General Manager takes a lot on their shoulders without sharing it, and it sometimes would be good to bring councillors into their confidence. But unfortunately, some councillors are better at keeping their mouths zipped than others. But when the Mayor tells half and not all, it is a dangerous situation, and you get accused of keeping them in the dark.*

### **Interview with Cr E**

**Summary** – Cr E is an experienced councillor with a regional city council

- Most new councillors do not have much an idea of what is in store for them with respect to compliance with the Electoral and Local Government Acts when they stand
- Handbook could be better done with examples and case studies – a layman's guide
- Briefing by the Mayor and an experienced councillor would be invaluable
- Councillors may wish to gain "favour" with ratepayers by lobbying their position
- Councillors who ask staff directly to carry out a specific action, rather than bringing a matter to the attention of staff for their action

**Q. 1 Are you aware of the Role of a Councillor as set out in Section 232 of the 1993 Local Government Act and the NSW Government “Councillor Handbook”?**

**At what point in your councillor career, did you become aware of the legislative wording about the role of a councillor?**

*Prior to standing for Council in 2012 I purchased a copy of the Local Govt Act and Regulation*

**Q. 2 As a Local Government Councillor, what is your understanding of the term “separation of powers”?**

*In general it means that one part of an organisation has its role and the elected Councillors have another role. In a more widely understood position it means for example that the Government can enact laws but only the courts have the right to rule on them.*

**Q. 3 There have been reports of Councillors not understanding their role and getting involved in “operational matters.”**

**Can you provide examples of where you have seen or heard of this happening in local government?**

You answered Yes in the survey – **(Would you mind elaborating?)**

*Councillors who ask staff directly to carry out a specific action. It is different to bringing a matter to the attention of staff for their action*

**Q. 4 Listed below are suggestions for improving or rectifying this perceived confusion of the councillor role. What are your thoughts on these?**

Better wording of the pre-election details and requirements?

*I think it would be true to say that many, if not most Councillors have much idea of what is in store for them with respect to compliance with Electoral and Local Govt Acts when they stand.*

A clearer induction and training by the General Manager and Mayor?

You answered “Maybe a new councillor?” **(Would you mind elaborating?)**

*It would be good if the GM gave a detailed outline of the organisation structure, the key staff, budget etc. A briefing from the Mayor can be problematic because it could be a first time Mayor however if it is the incumbent who stands and is re-elected it would be good to hear her/his first hand experience of the role and the issues involved.*

Better wording of the Councillor Handbook? **Yes, Any Ideas?**

*It contains all the things a Councillor needs to know but perhaps could be better done with examples and case studies.*

Better wording of the Local Government Act? **Yes, Any Ideas?**

*It’s an Act of Parliament so it will always be somewhat arcane to those have not ever had to read/understand/use legislation. Perhaps a layman’s guide might be good.*

Do you have any further suggestions for improving the understanding of the Councillor role and the “separation of powers” with the council management role?

You answered “Training by LGNSW and others in this area” **Any other Ideas?**

**Q. 5 Supplementary Question/s – based on your comments in your survey return.**

**From Q. 7 & 8**

You answered Yes to Councillor involvement in operational matters being a concern.

You then commented

*“The possibility exists that you will use your position to influence matters as a benefit or favour to self or friends. This is mostly seen in matters of procurement.”*

***(Would you mind elaborating?)***

*In the last 2 years of my council a number of Councillors voted to award a large (several million) contract to a company which had contacted all councillors prior to the Council debating the matter. I believe this has happened again recently with local developer who was not recommended in the staff report but who contacted one or more Councillors.*

*This is a critical issue as can be seen by a number of Councils in and around Sydney for example. Whether behaviour was corrupt or not, it leaves a bad smell in the eyes of the public and that taints all Councillors.*

**From Q. 9 & 10**

And commented –

*“Because ratepayers often want things changed and fixed, and they approach a councillor first and the councillor may wish to “gain favour” by lobbying their position.”*

***(Would you mind elaborating?)***

*If you are thinking of being re-elected then it might be tempting to go out of one’s way to achieve a result for a ratepayer rather than just bringing the issue to the attention of staff for their attention.*

**6) Is there anything else you would like to add that has not been addressed in this interview?**

*All good thank you.*

## **Interview with Cr O**

**Summary** – Cr O is an experienced councillor with a rural council

- As a new councillor then, the General Manager was not interested in giving councillors too much information
- The problem was you did not know what you did not know
- You are part of the governing body, not part of the work crew
- The current standard of training for councillors is very weak – they can attend training, but can sit there all day fiddling with their phone. Need a more formal way to test
- The lack of formal training becomes evident when councillors take a populist approach to their role

**Q. 1 Are you aware of the Role of a Councillor as set out in Section 232 of the 1993 Local Government Act and the NSW Government “Councillor Handbook”?**

***At what point in your councillor career, did you become aware of the legislative wording about the role of a councillor?***

*It took me about 2 years to become aware of the legislative role of a councillor, there was not a lot of education available at the time of my first term and not much was offered. At the time the GM was not interested in giving councillors too much information. The problem was that you do not know what you do not know.*

**Q. 2 As a Local Government Councillor, what is your understanding of the term “separation of powers”?**

*Separation of powers defines the roles of elected members, in that you should be involved in policy and governance and not day to day operations. You are part of the governing body and a representative of residents, not part of the work crew.*

**Q. 3 There have been reports of Councillors not understanding their role and getting involved in “operational matters” in local government?**

*Yes, on many occasions in the past and the present.*

**Q. 4 Listed below are suggestions for improving or rectifying this perceived confusion of the councillor role. What are your thoughts on these?**

Better wording of the pre-election details and requirements?

*Yes, candidates need to have a full understanding of what they are getting into, it would save time in the long run. Many councillors have some platform or pet project when they get on council, this may show them that all is not possible.*

A clearer induction and training by the General Manager and Mayor?

*By the GM and senior staff*

Better wording of the Councillor Handbook?

*Does anyone read it? Personally, I have never seen one or been offered one although I do know it exists.*

Better wording of the Local Government Act?

*No, I think it is very clear*

Do you have any further suggestions for improving the understanding of the Councillor role and the “separation of powers” with the council management role?

*I agree with most of the above and suggest some form of formal training so that councillors are fully aware of their role, currently getting your name ticked off for sitting in a room is not acceptable.*

*Councillors should be able to prove that they understand the legislation so there should be no issues further on in their term. The lack of formal training becomes evident when councillors take a populist approach to their role.*

**Q. 5 Supplementary Question/s – based on your comments in your survey return.**

**From Q. 7 & 8**

You answered yes to the Question about knowing of instances where councillors were getting involved in “Operational Matters”

You commented that *“it detracts from the proper role of a councillor and puts staff in difficult situations”*

***(Would you mind elaborating?)***

*Q. 7 On many occasions throughout my terms I have witnessed councillors pushing their own agenda by politicking and grandstanding populist themes such as how often grass is mown, design of signage, pressuring staff to fix roads in a certain way, junior staff appointments, wandering around council offices confronting staff on personal issues.*

*Q. 8 When an elected members berates a staff member for the grass not being mown often enough, or demands sensitive information that is not needed to fulfil their role, it causes conflict between staff and councillors and amongst the councillors themselves. It is extremely frustrating and time wasting when a councillor puts these demands on staff and detracts from agreed programs and projects that council has agreed to in their IP&R documents.*

**From Q 9&10**

You answered No to the question “was it a concern mainly for new councillors?”

You commented that

*“many experienced councillors do not understand their role also, and push into the operational area, many with trivial complaints regarding operational matters”*

***(Would you mind elaborating?)***

*Q. 10 It has been my experience that many councillors who have been long term representatives refuse to do additional training, as one told me he did not need training as “he knew everything”. Early on in my elected career, I looked to experienced councillors for advice, most of the time it was a disappointment as many had no idea about their role and just had their own agenda to pursue. One example was an experienced councillor harangued and intimidated an engineer so much regarding a*

road that the councillor regularly used for his transport company that the engineer went over budget by \$800,000 and then resigned. I refer to these councillors as table thumpers. No brains and happy without them.

Another example is the mowing of town entrances, an ex mayor called a special meeting to discuss the lawn mowing practices of council, the colour of signage, pot holes not being repaired, nothing bright and shiny was being done and questioned the GM over staffing matters that had nothing to do with the role of a councillor. Trivial matters that arose purely because these councillors did not understand their role and refuse to be told otherwise, unfortunately, this type of behaviour is passed down to new councillors who may think that this is how things are done.

#### **From Q. 11**

In the question about what can be done to improve the situation?

You answered – “formal training of all councillors that is marked and recorded”

#### **(Would you mind elaborating?)**

The current standard of training for councillors is very weak. By that I mean that councillors can attend training, for instance by LGNSW. They can attend and sit there all day on their phone and pay no attention at all. They are then marked off that they have completed training but may still be none the wiser for attending. There must be, in my opinion, a more formal way to test that they have fully understood the training given. Similar to the Executive certificate for elected members. I would also suggest some form of formal feedback on councillors performance, similar to that of the GM review, to identify training needs and professional development, although I am not sure who would undertake such a review and how the results would be enforced.

#### **Q. 6 Is there anything else you would like to add that has not been addressed in this interview?**

Personally, I would welcome formal feedback, probably from a committee made up of Mayor, GM, and possibly one other councillor with experience.

## **Summary of Interviews with General Managers**

### **GM3**

**Summary** – GM3 is an experienced General Manager.

- The concept of strategic Planning is foreign to most councillors at the start, and they need to be trained and mentored through the process
- One councillor may be happy with a staff report as comprehensive, whereas another may require additional detail to “make considered and well informed decisions”
- Trust in the staff plays a part ,however, this is a difficult issue to quantify or legislate – there is always going to be a degree of pragmatism in their reports, and not always correct or comprehensive

#### **Q. 3 There have been reports of councillors not understanding their role and getting involved in “operational matters”.**

**Can you provide examples of where you have seen or heard of this happening in local government?**

*There has been significant improvement in the operational/strategic divide in the past two decades, due primarily to:*

- *Greater education of stakeholders leading to a clearer understanding of roles*
- *Introduction of clear guidelines through the Code of Conduct and associated documents.*

*In the past I have witnessed examples where the Mayor of a Council would go onto worksites and direct the teams to other sites, without the knowledge or approval of supervisory staff. This has led to very poor community outcomes, as the unscheduled jobs were usually favours and based on nepotism.*

*We have all seen examples of elected members having roads sealed or upgraded based on personality not policy. Thankfully, examples of this type are largely in the past.*

**Q. 4 Listed below are suggestions for improving or rectifying this perceived confusion of the councillor role.**

**What are your thoughts on these?**

- Better wording of the pre-election details and requirements?
- A clearer induction and training by the General Manager and Mayor?
- Better wording of the Councillor Handbook?
- Better wording of the Local Government Act?
- Do you have any further suggestions for improving the understanding of the Councillor role and the “separation of powers” with the council management role?

A. I believe that the improvement we have seen in recent times have come about due to process clarification through documents such as the Code of Conduct and the knowledge and training implemented. The use of scenario training is particularly beneficial and reinforces the message.

**Supplementary Questions**

**Q. In your initial survey return you commented that: “strategic thinking does not come naturally to most people. The operational functions are more easily understood. Additionally, there can be feeling of disempowerment by being excluded from the operational side”.**

**(Could you elaborate?)**

*In terms of the comment on strategic planning, I noted that this is not a skill that many people are comfortable with, believing that operational functions are more readily understood. The elements of strategic planning include an holistic approach, identification of needs, proactive problem solving, forward thinking (vision), clearly identified goals and a way of measuring progress. In an informal way, we all do these steps in daily life (some better than others) however few actually map the process.*

*Therefore the concept of strategic planning is foreign to most and certainly not readily identified as a formal process in most people’s lives. To stand back and take a high level, analytical view of how, why, when and if, is not something that most do. Those that successfully negotiate the process are generally trained and/or mentored through the process.*

**Q. In your interview, you asked the question “how can councillors make ‘informed decisions’ if they can’t investigate the background to a particular project or issue?” You believed that there is conflict in the Act, and it is definitely a “grey area” in your management of councillors and staff.**

**(Could you elaborate?)**

*In reference to the “grey area” there is a significant area of contention relating to the interpretation of the Local Government Act and its application in the handbook / Code of Conduct.*

*The handbook provides a clear understanding of the role of Councillor, articulating the policy making role of the Councillor and giving very good direction.*

*The Act provides that Councillors role includes:*



- *“to make considered and well informed decisions as a member of the governing body”.*
- *The challenge is – how can this be achieved without becoming involved in the operational matters?*
- *It is probably best to include an example.*
- *If a decision is to be made on say, the increase of fees at a local oval, is it reasonable for a Councillor to discuss/poll/contact users to determine their views. At what stage does this move into the operational arena?*

*This is the “grey area” I mentioned. Councillors need the information to make decisions however the appetite for depth of knowledge varies. One Councillor may be happy to accept a staff report as comprehensive whereas another may require additional detail to feel able to “make considered and well informed decisions”.*

*The question of how to make grey black and white is difficult due to the individual Councillors approach. Trust in the staff plays a part however this is a difficult issue to quantify or legislate. That is not to say that the staff are always correct or comprehensive in their assessment. There is always going to be a degree of pragmatism in the reporting of staff. Simply resources would not enable (or justify) a comprehensive assessment of every issue. I am not sure the Councillors would want this either.*

### **Concluding Comment**

*Back to the role of Councillor and the strength of Local Government. I believe the strength of Local Government is the wide background of people who effectively donate their time to the community good. These people come from different occupational, educational and social backgrounds and all have a valid and valuable input into the process. In many instances however, the level at which they are most comfortable is in the operational area – the here and now.*

*An excellent example of this is when dealing with road priorities. The determination of policy based on quantitative data is sometimes difficult to comprehend until the implications (at road level) is understood. Most people are more comfortable discussing a road rather than the metrics that underpin the decision process.*

## **GM1**

**Summary** – GM1 is an experienced General Manager.

- Even well meaning long term councillors can sometimes fall into the trap of directing staff.
- The same applies to general managers and staff. They should be aware of their roles and responsibilities and be careful not to overstep boundaries.
- Sometimes, honest and well-meaning councillors who are trying sort out problems for their constituents, question how the operational staff are acting to facilitate outcomes. This can be perceived as bias and can create unwanted precedent.
- Training could include real examples as a result of case law or via hypotheticals or anecdotes
- A good council team works best when there is trust in everybody’s role. When you get a side full of people who know their role, play it well and support the other team members – you generally get a winning side.

**Q. 1 Are you aware of the Role of a Councillor as set out in Section 232 of the 1993 Local Government Act and the NSW Government “Councillor Handbook”?**

***At what point in your councillor career, did you become aware of the legislative wording about the role of a councillor?***

*I am aware of the Handbook and the relevant section of the Act that describes the role of a councillor.*

**Q. 2 As a Local Government Councillor, what is your understanding of the term “separation of powers”?**

*A councillor must undertake the role that they are required, but must do so in a way that does not compromise the integrity of the office that they hold. In order to ensure this is clear the role of day to day management of the operations of Council are delegated to the General Manager. The role of strategic development, employment of the General Manager and any associated performance review are how the councillors contribute to the running of the governing body.*

*It should be like teamwork, the Councillors have employed and delegated a role (operational activities) to the General Manager. The General Manager undertakes this role and reports back to the council*

**Q. 3 There have been reports of Councillors not understanding their role and getting involved in “operational matters.”**

***Can you provide examples of where you have seen or heard of this happening in local government?***

*Whilst I personally am fortunate to not see many of these examples in my working life, I have had many discussions with colleagues who have indicated examples such as*

- *Councillors wanting to get involved in employing or firing certain individuals*
- *Councillors wanting certain roads graded/maintained/sealed ahead of schedule or works programs*
- *Councillors wanting to get involved or asking for reports on planning matters that have been delegated to staff under the appropriate provisions*

**Q. 4 Listed below are suggestions for improving or rectifying this perceived confusion of the councillor role. *What are your thoughts on these?***

- Better wording of the pre-election details and requirements?
- A clearer induction and training by the General Manager and Mayor? ***Yes, Any Ideas?***
- Better wording of the Councillor Handbook? ***Yes, Any Ideas?***
- Better wording of the Local Government Act?
- Do you have any further suggestions for improving the understanding of the Councillor role and the “separation of powers” with the council management role?

You answered

***“A signed declaration to be included in the taking of the Oath by new councillors.” (Yes, any further ideas?)***

*One of the easiest ways to explain is through examples and these can be touched on in each of the above (with the exception of better wording of LGA). It could be that these are real examples as a result of case law or via hypotheticals or anecdotes as I have highlighted in response 3*

**Q. 5 Supplementary Question/s – based on your comments in your survey return.**

**From Q.5 & 6**

You answered Yes to seeing Councillors being involved in operational matters as a concern. You then commented:

***“A council should not only act in a responsible and transparent manner, it should be seen to do this. Any direction of staff by an elected person only undermines the process.”***

***(Would you mind elaborating?)***

*This is a similar situation to Pecuniary/Non-Pecuniary interest. It is the responsibility of the Councillor to uphold the Office of their role and when there is any real or perceived conflict of their power, this should be managed.*

*It does not look good if a councillor is ensuring themselves or a friend/relative is getting preferential treatment by way of their position. If this involves directly controlling or directing councils operational staff do certain actions without going through the General Manager than this position is compromised. The actions of a Councillor directly affect the integrity of a Council.*

**From Q 7 & 8**

You answered this was a concern for all councillors, not just new councillors and commented: *“Even well meaning long term councillors can sometimes fall into the trap of directing staff. It is better if this is directed through the GM and protects all people involved.”*

***(Would you mind elaborating?)***

*I generally deal with honest and well-meaning councillors who are trying to consider and sort out problems for their constituents, so I understand that on most occasions they are asking for, or questioning how the operational staff are acting to facilitate outcomes.*

*What needs to be remembered is that this can be perceived as bias, can create unwanted precedent (‘they got it so why can’t I’), or gives the perception that once elected as a councillor you can do whatever you want.*

*I recently had one of our newest councillors ring and ask me if he could talk to the Planner about a certain issue that had arisen with an individual ratepayer that was causing concern. I asked what the issue was about and why the councillor believed he needed to address the planner. On considering their response and reasons, I was happy for the interaction to proceed and granted permission for it to occur. It was primarily about the interpretation of the policy and what this might mean for future outcomes.*

*In my eyes this is a good way of handling the ‘grey area’ of councillors getting facts, in that it allowed the councillor to talk directly to the staff member about a situation that was causing concern in relation to the policy presented to and adopted by Council and how staff were interpreting and enforcing it. This protected the Councillor from any perception of bias and allowed a discussion about how the policy was being enforced.*

***Q. 6 Is there anything else you would like to add that has not been addressed in this interview?***

*Whilst the questions you ask (and the basis of your work) relate to how Councillors should act and acknowledge the separation of powers, the same applies to general managers and staff. They should be aware of their roles and responsibilities and be careful not to overstep boundaries. They are in place for a reason and hopefully create a productive and prosperous LGA that provides for its communities.*

*The Councillors are the representatives of the community, elected to set the policy and strategic direction. The staff are employed to carry out the expectations of the community, keeping in mind the laws and statutory powers that we all exist under.*

*As mentioned above, like all good teams a council works best when there is trust in everybody’s role. To take a football analogy, not everyone is the ruckman or the goal kicker or the fullback, but when you get a side full of people who know their role, play it well and support the other team members – you generally get a winning side.*

## Section 8: Analysis of Findings

My objective as stated earlier on page 10 was to conduct an exploratory case study that explored how the “*separation of powers*” between the political and the administrative branches of local government played out on the rural areas of NSW.

My aim was to research:

- **whether there really was** a problem with councillors knowing their role, and are they delving into “operational matters” when they should solely be concentrating on “policy development”?
- if there is a problem, the aim of my research was to find out **why** many councillors find it difficult to stay within the bounds of “policy development” and stray into the area of “operational matters”,
- and then come up with a **strategy** that will assist councillors of the future about knowing their actual role and improve their understanding of the “separation of powers”.

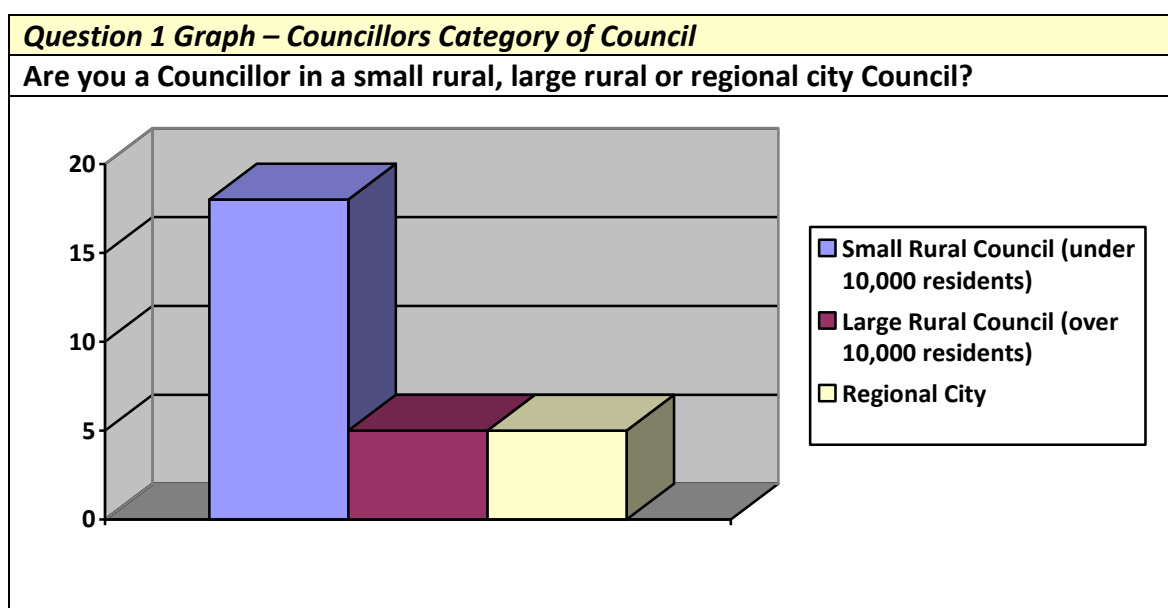
Now that I have completed the Research Proposal, the Research Design and Methodology, the Literature Review, gained Ethics Approval for the research, gained actual research project information from the surveys and interviews and that has been collated, it is time to summarise and analyse the results and those findings.

### Details about the Survey Participants

Of the 101 councillors in the research region given a survey, 29 returned them at a response rate of **29.10%**. Even though the researcher was aiming for a 50% return, it still compares favourably with the research industry average of 30%, and is still an adequate response to allow the researcher to achieve a satisfactory result.

Of the 11 General Managers surveyed, 6 responded, giving a response rate of **54.55%**.

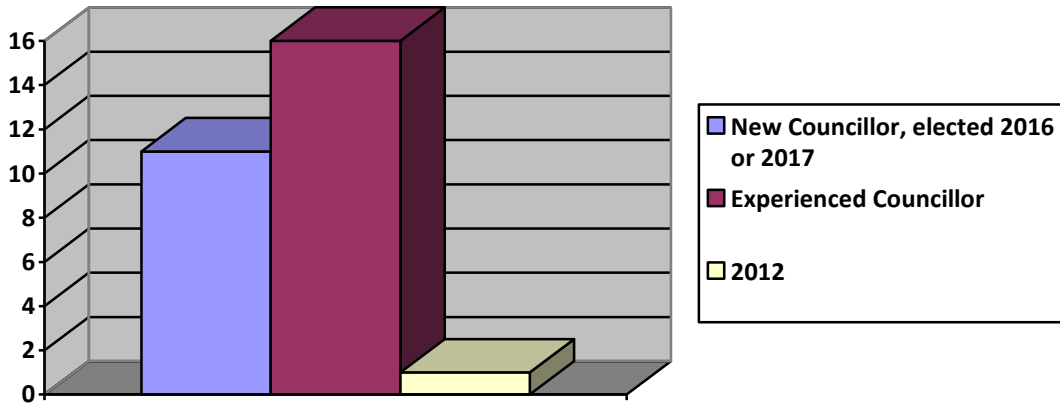
**Table 4 Graphs for Survey Response Findings**



Out of the 29 respondents, 19 were from rural councils, 5 from large regional councils and 5 were from regional city councils. This may be skewed in favour of rural councils, but could be because of the fact the researcher was better known in the rural councils in the region.

**Question 2 Graph – Length of service as a Councillor**

**How long have you been a Councillor?**



11 were new councillors, 17 were experienced councillors and one elected in 2012, which was a good mix of new and experienced councillors.

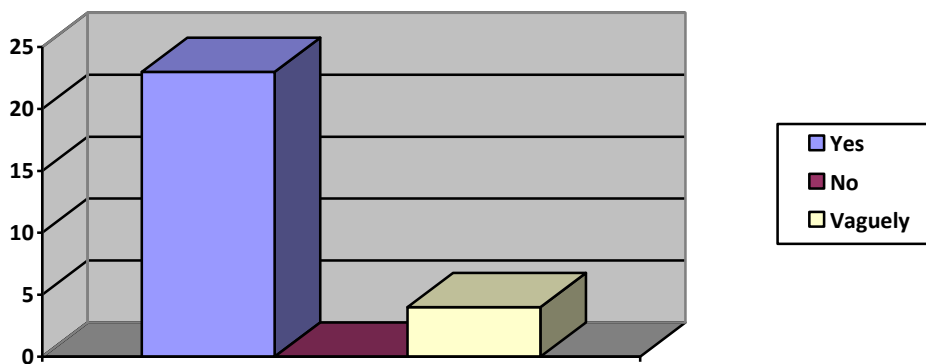
**Is there a Problem?**

**Survey Response**

The first task of the research project was to establish if there really is a problem with councillors understanding their role. This involved asking a number of basic questions to find out their level of knowledge and awareness of what fellow councillors understood and behaved.

**Question 3 Graph – Awareness of the Role of a Councillor?**

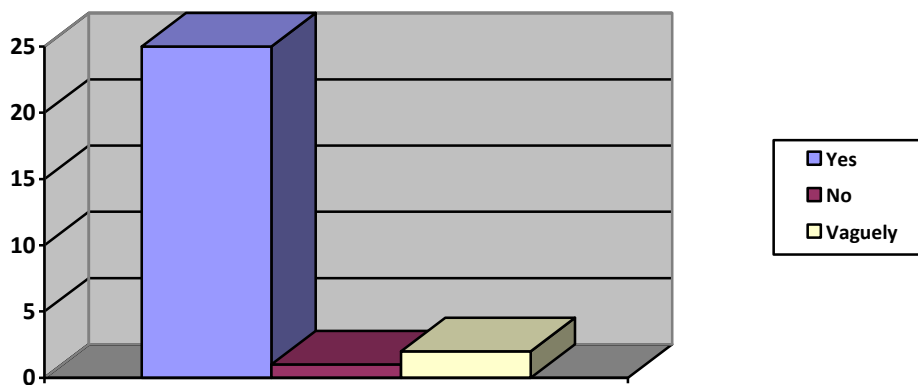
**Are you aware of the Role of a Councillor as set out in Section 232 of the 1993 Local Government Act and the NSW Government “Councillor Handbook”?**



24 or 82.76% were aware of Sect 232 of the Local Government Act and Handbook, while 5 or 17.24% only had a vague knowledge.

**Question 4 Graph – Understanding of term “separation of powers”**

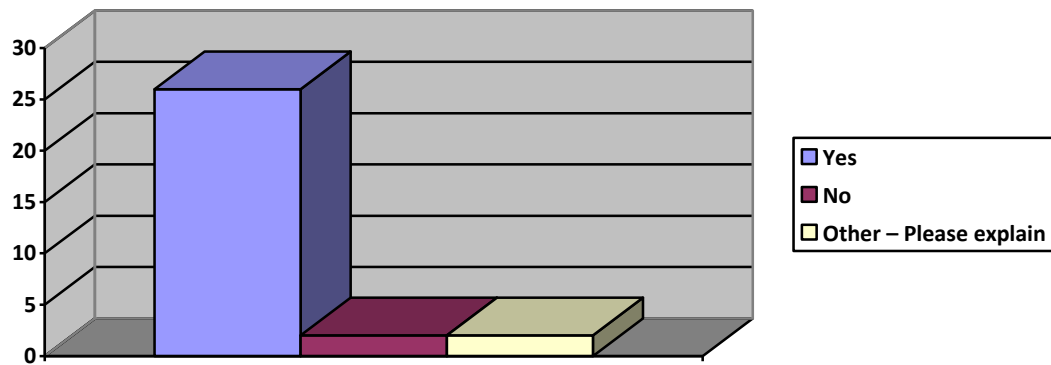
**As a Local Government Councillor do you understand the term “separation of powers”?**



26 or 89.65% understood the term “separation of powers”, while one councillor did not, and two others only had a vague knowledge of the term.

**Question 5 Graph – Councillor’s Primary Role is policy development**

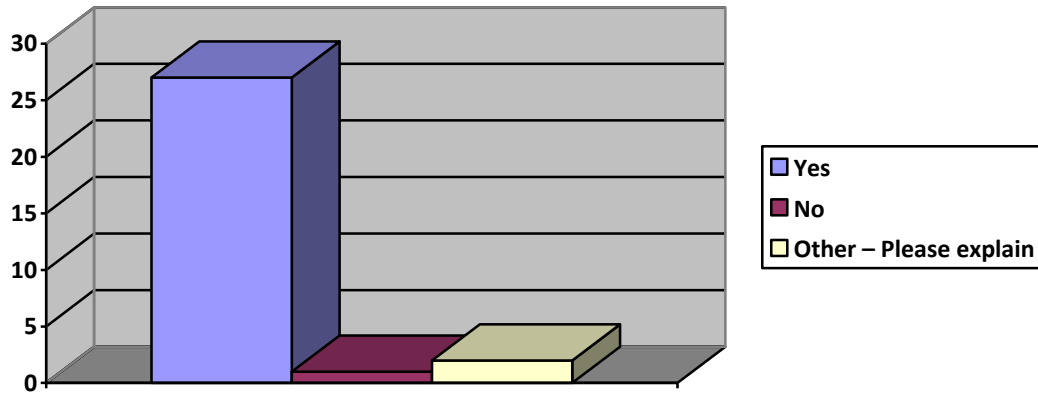
**Do you agree that a Councillor’s primary role is to focus on policy development and the strategic delivery of services in the public interest?**



27 or 93.10% agreed it is the primary role of the councillor to focus on policy development, with only 2 disagreeing with one making a comment “we can get things fixed for ratepayers who have issues.”

**Question 6 Graph – General Manager’s and Senior Staff’s Role**

**Do you agree that the primary role of the General Manager and Senior Staff is to carry out the day to day operations of Council?**

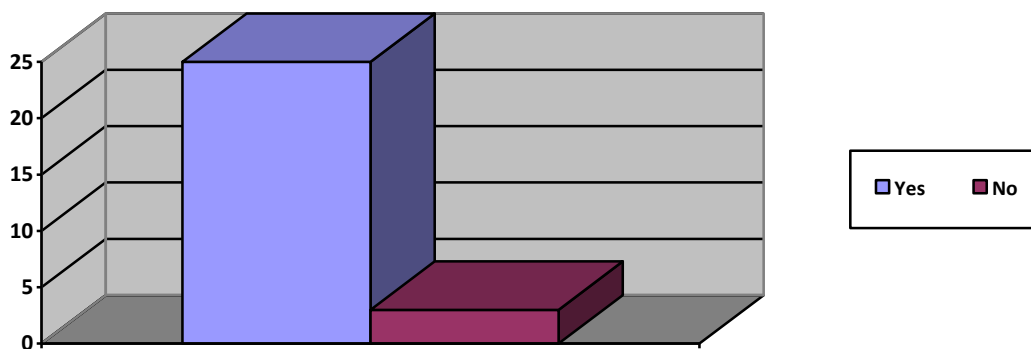


28 or 96.55% agreed the primary role of the General Manager and senior staff was to carry out the day to day operations of the council, while one councillor said staff should also have an important role in strategic planning as well.

The next group of questions were designed to find out if councillors thought there was a problem with other councillors understanding their role.

**Question 7 Graph – Involvement of Councillors in Operation Matters**

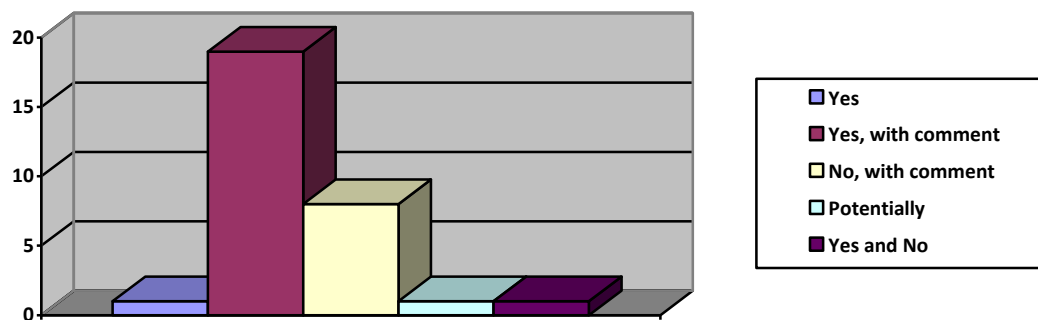
**There have been reports of Councillors not understanding their role and getting involved in “operational matters.” Have you seen or heard of this happening in local government?**



Surprisingly, 26 or 93.10% of councillors have seen instances of this happening in local government. This leads to the follow up question of “did they see it as a concern?”

**Question 8 Graph – Level of Concern regarding this involvement**

**Do you see this as a concern?**



**Councillors Response**

20 or 68.97% replied Yes, this was a concern, and made a comment:

*“Yes, it is an ongoing issue and a difficult one. Often councillors have helpful ideas but they are excluded as “operational”. The flip side is that they need to “stay in the helicopter” and focus on the bigger picture, and many have trouble doing so.”*

A surprising 8 or 27.59 % answered No, with a comment, that a “clear definition is required”, “my concern is the reverse in that General Managers are directing councillors on policy.”

*“No, I don’t care what the Office of Local Government says I should or should not do. My role is to bring community expectations to Council.”*

**General Managers Response**

*Council should not only act in a responsible and transparent manner, it should be seen to do this.*

*It is only a concern if the councillor goes beyond simply conveying the complaint/concern to Council and seeks to direct/intervene staff on how to deal with it.*

*Yes, it’s not the issue so much, more the amount of involvement.*

*I have no issue in supporting councillors following up concerns raised with them by community members, provided they do so via nominated staff*

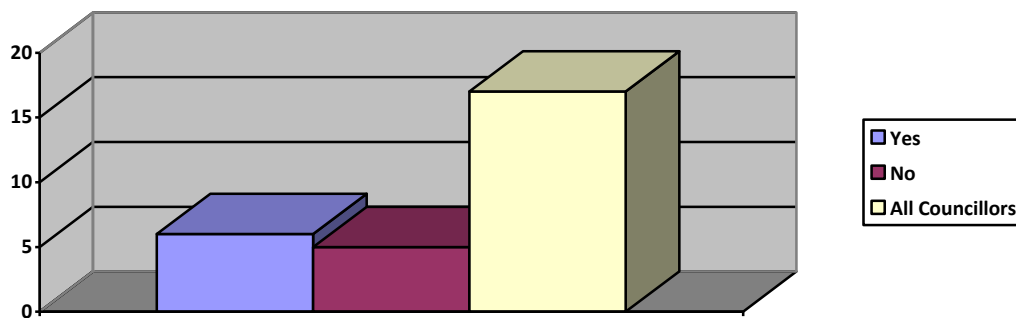
*Councillors sometime can involve themselves in too many operational issues to solve a ratepayer’s concern rather than using shared information for the purpose of policy and strategic outcomes.*

This led onto a follow up question on whether it was a concern primarily for new councillors?



**Question 9 Graph – Level of concern for new Councillors**

**Is it an area of concern primarily for new Councillors?**



**Councillors Response**

7 (24.14%) answered Yes, that it was an area of concern mainly for new councillors, with comments:

*“it is natural to want to get involved”*

*“keen to make a difference”*

*“lack of understanding of, and appreciation of, the role of a councillor”*

*“too many councillors swallow crap reports as ‘gospel’- More critical input is required.*

*“Yes, it is not knowing when to, and not to, have input.”*

5 (17.24%) Councillors said No , it wasn’t a concern primarily just for new councillors:

*“Old Bulls find it hard to accept times have changed.”*

*“Many experienced councillors do not understand their role as well, and push into the operational area, many with trivial complaints regarding operational matters*

17 (58.62%) thought it was a concern for “all councillors”:

*“I think there is a lack of understanding on how to formulate policy from the legislation.”*

*“because ratepayers often want things changed or fixed, so they approach a councillor first, and the councillor may wish to “gain favour” by lobbying for their position.”*

*“some of us were not previously conscious of the issue and bad habits were allowed to grow.”*

*“they just want to help”*

*“trying to do the best for our community”.*

*“some councillors never learn - they still seem not to resist the temptation to delve into operational matters as and when it suits them. Why? Power and the sort of person who (the vast majority) are attracted to council because they think they alone can make decisions.”*

*“for experienced councillors, they are a bit more educated and can tend to get their way with certain items as they know how to go about certain things.”*

*“there is no clear definition of “operational”.*

*“democracy is being broken down at a local government level.”*

*“can be a problem where councillors know staff socially.”*

### General Managers Response

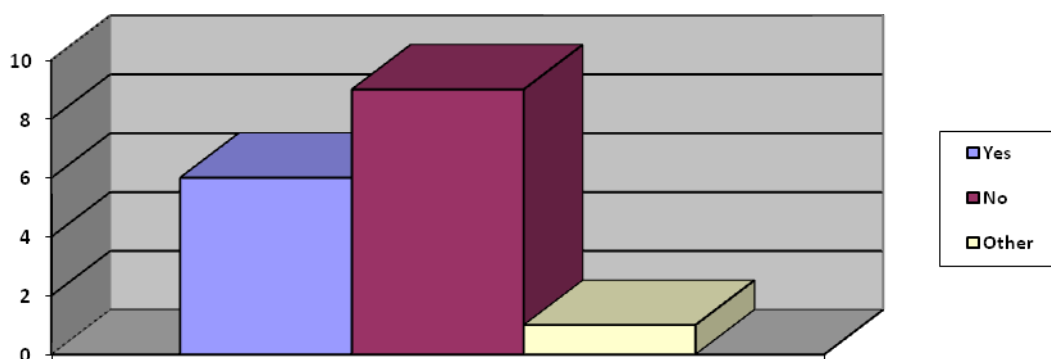
*It can be challenging for new councillors to understand their role initially and to build capacity to know where it starts and stops. I have heard  
It all comes down to the individual and their ability to work co-operatively with the organisation.  
Even well meaning long term councillors can sometimes fall into the trap of directing staff.  
It is better if this is directed through the GM and protects all people concerned.  
All councillors – Strategic thinking does not come naturally to most people.  
It is a problem because the public have not been educated on the role of a councillor and the “separation of powers”.  
There can be a feeling of disempowerment by being excluded from the operational side.*

### Scenario Question

While doing the Councillor Survey, Councillors were also asked to take on a Scenario Question based on the Broken Hill City Council Public Inquiry in 2006, where the Commissioner was asked investigate the activities of its *Special Projects Working Group*, where the stated aim of the Committee was to “address all ratepayer complaints or requests and formulate recommendations for consideration at the following full council monthly meeting”. The SPWG adopted resolutions about weeds and rubbish on the footpaths, computer operating systems, storm water drains and moved that an advertisement be placed in Saturday’s paper asking public to contact the Committee if they have any problems, complaints or ideas they would like addressed by Council. The Commissioner found it was inevitable that residents will approach their elected representatives with concerns or suggestions about operational matters.

**But was the Committee out of line by taking this action?**

**Table 2 Graph – Was the Committee out of line by taking this action?**



Surprisingly, 9 respondents thought the Committee was NOT out of line, while 6 believed they were out of line. Not all councillors took up the challenge of this scenario.

## Is it a Problem?

### Interview Response

- *I have seen both new and old councillors – I have seen councillors that have been there several terms and they still don't get it i.e. understand the "separation of powers" – They still think to this day, that it is their job to instruct staff what to do.*
- *Many experienced councillors do not understand their role also, and push into the operational area, many with trivial complaints regarding operational matters.*
- *I remember one councillor who visited the local Tip, and came back to staff with detailed ways of improving efficiencies. Some councillors want to be on the ground, interviewing everybody and trying to fix everything. My concern is then the General Manager can have 9 masters instead of one.*
- *What do you say when you start talking to people? As result of that, you get a crossover. Suddenly, the boundary between policy and operational becomes an "artificial boundary" – it depends on what side you are, how you determine that boundary.*
- *I think it would be true to say that many, if not most Councillors, would not have much idea of what is in store for them with respect to compliance with Electoral and Local Government Acts when they stand.*
- *On many occasions throughout my terms I have witnessed councillors pushing their own agenda by politicking and grandstanding populist themes such as how often grass is mown, design of signage, pressuring staff to fix roads in a certain way, junior staff appointments, wandering around council offices confronting staff on personal issues.*
- *It has been my experience that many councillors who have been long term representatives refuse to do additional training, as one told me he did not need training as "he knew everything". Early on in my elected career, I looked to experienced councillors for advice, most of the time it was a disappointment as many had no idea about their role and just had their own agenda to pursue.*
- *One example was an experienced councillor who harangued and intimidated an engineer so much regarding a road that the councillor regularly used for his transport company that the engineer went over budget by \$800,000 and then resigned. I refer to these councillors as table thumpers. No brains and happy without them.*
- *Nothing the government can do to change legislation which will overcome personality issues. I have seen General Managers who have seen things as purely black and white, but nothing is black and white.*

## Is it a Problem?

### Literature Response

In "*Mind the Gap: Australian Local Government Reform and Councillor's understanding of their role*" by **Tan, Morris and Grant** in 2016, p.22, the authors found "that despite the evolving legislative requirements framing councillors as policy makers, not managers, most councillors continued to seek involvement in **the day to day management of councils**."

In his final Report for the **Broken Hill City Council Public Inquiry**, 2006, Commissioner Simmons found that:

*"Councillors generally demonstrated that they had a good theoretical knowledge of their roles and responsibilities. However, the evidence suggests they are either unable or unwilling to apply that knowledge in the proper exercise of those roles and responsibilities. This was particularly apparent from councillor involvement in operational matters, the manner in which the council implemented its code of conduct and in the use of the media."*

Similarly, in a **Public Inquiry Report** into the **Shellharbour City Council** , 2008, p.27, Commissioner Colley found that:-

*“while in a broad sense, some councillors had exhibited an understanding of the fundamentals of their roles and responsibilities, as between themselves and the body of the Council under the Act, Regulations and the Council policies and guidelines, there was a marked incongruence between this understanding and the reality of the way in which council had operated.”*

## **Is it a Problem?**

### **Summary**

The survey of councillors revealed that those who had responded had a very good knowledge of their role and the workings of Local Government.

- 82.76% aware of Sec.232 of the Local Government Act and the Handbook
- 89.65% understood the term “separation of powers”
- 93.10% agreed Councillor’s primary role is policy development
- 96.55% agreed role of General Manager and staff is day to day operations

### **BUT**

- 93.10% have seen instances of councillors still being involved in “operational matters”
- 68.97% saw this as a real concern

The Interview excerpts shown above have come from a number of different councils in the region so it appears the problem is reasonably widespread, and this is reinforced by the 93.10% of councillors in the survey who were aware of councillors getting involved in “operational matters”.

From the 2016 research done in Victoria by Tan, Morris and Grant, the authors still concluded that most councillors continued to seek involvement in the day to day management of councils while Public Inquiries in Broken Hill and Shellharbour Councils show that despite training and experience, councillors were still getting involved in “operational matters”.

## **Why is it happening?**

### **Survey Response – Councillors**

- “it is natural to want to get involved”
- “keen to make a difference”
- “trying to do the best for our community”
- “lack of understanding of the role of a councillor”
- “there is no clear definition of ‘operational’”
- “I didn’t really understand what was ‘operational’ and was not”
- “yes, it is knowing when to, and not to, have input.”
- “many experienced councillors do not understand their role”
- “some councillors never learn”
- “old bulls find it hard to accept times have changed.”
- “too many councillors swallow crap reports as ‘gospel’”
- “more critical input is required.”
- “can be a problem where councillors know staff socially.”

## Interview Response

- *It took me about 2 years to become aware of the legislative role of a councillor, there was not a lot of education available at the time of my first term and not much was offered. At the time the GM was not interested in giving councillors too much information. The problem was that you do not know what you do not know.*
- *Because ratepayers often want things changed and fixed, they approach a councillor first and the councillor may wish to “gain favour” by lobbying their position.”*
- *My examination of the Local Government Act – I can’t locate it anywhere in the Act, and in my preparation for the role, I was not given any briefing on the wording about the boundary between operational matters and the development of policy.*
- *How can councillors make “informed decisions” if they can’t investigate the background to a particular project or issue?*

## Literature Response

- Marshall (2008, p.41), says these new reforms met only with “mixed success”. The root of the problem would seem to lie with this hybrid form of governance that involves both private sector and traditional representative models.
- Marshall (2003) is of the opinion that many councillors are still unwilling or unable to embrace a strategic overview of council activity. Lack of adherence to stipulated duties and the ongoing instability that results, continues to plague many councils.
- Marshall continues “changes to the internal governance structures of councils gave rise to the uncertainty about the relative responsibilities of elected representatives and appointed staff, and created ambiguity about democratic processes.”
- Tan, Morris and Grant, 2016, p.22 argue that this gap may be linked to the diversity of views concerning the role of the councillor, and the idea of representation, and how both play out at the local level. It may also signal a lack of local awareness as to how the legislatively inscribed role has changed over time.”
- Tan et al, 2016, indicated that there is a considerable discrepancy between the prescribed roles of councillors under the *Local Government Act 1989* (Victoria) – which has been significantly amended over time – and how councillors perceive the ambit of their authority and their roles.
- Their research indicated that the way councillors understand their roles is not necessarily altered by legislative reforms. They cite a quote by Laffin (2008 pp. 120–121) where he stresses that “*political modernisation illustrates an old lesson of administrative reform: while it is relatively easy to change organisational forms, the underlying institutional patterns usually prove less tractable*”.
- Martin and Aulich, 2012, p.7, recall a statement by Weber who said that “*this new relationship between democracy and bureaucracy created one of the most profound sources of tension in the modern social order.*”
- Copus (2016, p.26) argues that “the recurrent theme that underpins all questions about the role of councillor is that this level of elected representative, unlike those at other levels of government, is somehow underdeveloped, in need of constant re-shaping and reappraisal , disconnected from those represented, and is a product of a lower level of governing capacity and ability, when compared to central government.  
*Such views display a lack of clarity and understanding about the office of councillor that often arises from a disregard for local representative democracy as fundamental underpinning to a wider democratic state.*”
- The Broken Hill Public Inquiry (2006) found that councillors were able to demonstrate a theoretical understanding of their role, yet still engaged in contrary behaviours may suggest

that councillor training should not be seen as the panacea for all concerns about the manner in which councillors fulfil their role.

- Dollery et al, 2006, advanced five reasons for local government failure with one being “asymmetric information and councillor capture”, where part time elected councillors are dominated by better informed professional bureaucrats.
- Newnham and Winston, 1997, p. 106, expand on the role overlap and the potential conflict between elected representatives and managers, saying “there is basic tension between the role of elected representatives and the role of managers of local government.”
- It is a natural inclination on both sides to fill any gaps the other side leaves in the performance of its functions

## Why is it happening?

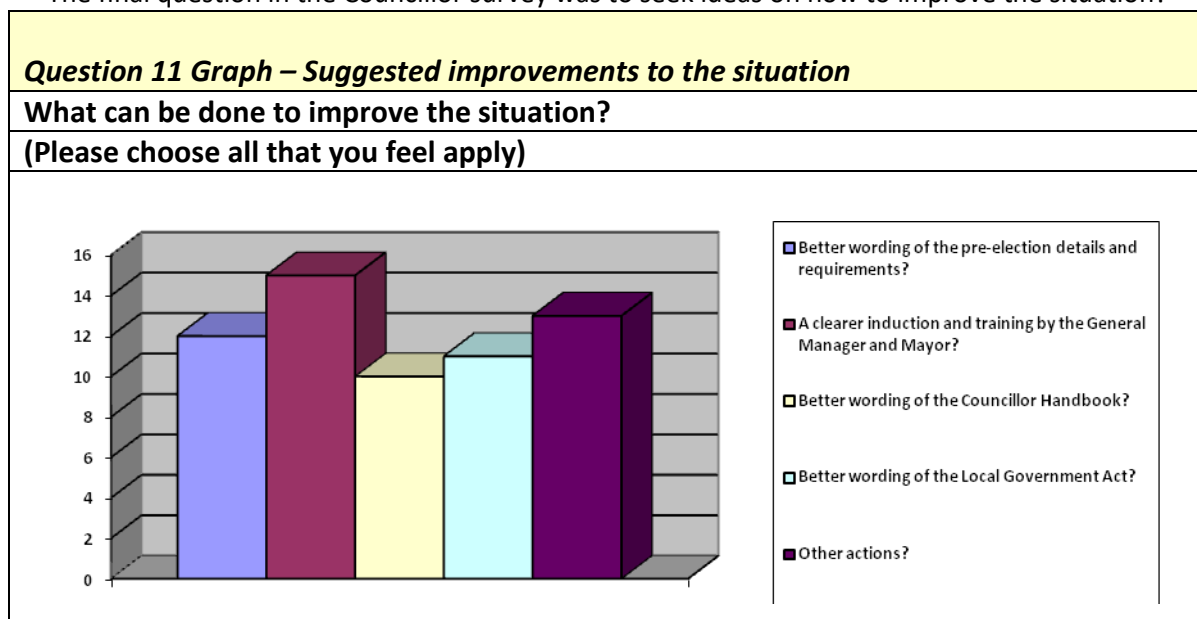
### Summary

There are numerous reasons why some councillors are still getting involved in “operational matters”, and it could be as simple as “old bulls find it hard to accept times have changed”. I tend to agree with Marshall that we are trying to work with this “hybrid form of governance that involves both private sector and traditional representative models” which would be okay in a perfect world, but we are dealing with councillors who relate that “it is natural to want to get involved”, “keen to make a difference” and most of all, “trying to do the best for our community”.

## What can be done to improve?

### Survey Response

The final question in the Councillor survey was to seek ideas on how to improve the situation?



- 13 respondents favoured Better Wording of the Pre-Election details and requirements
- 16 favoured a clearer induction and training by the General Manager and Mayor
- 10 favoured a Better wording of the Councillor Handbook
- 11 favoured a Better Wording of the Local Government Act
- 13 favoured other actions

- Clearer Induction and training by the Office of Local Government or LGNSW approved experts, so all training is consistent, rather than “in house”.
- “Clearer” wording of the Act and Handbook - too much legalese at the moment – needs to be understood
- It is high time someone wrote a more practical guide for councillors – the present guide does not mention this problem
- What is “operational”? Needs to be defined
- Councillors need to stay in the “helicopter” and see the “bigger picture”
- Have clear processes and systems in place for councillors to communicate with staff/executive team
- Training of staff as well so they know their role.
- Regular reminders at council meetings about the importance of this issue.
- Formal training of all councillors that is marked and recorded.
- Active feedback is necessary.
- Need “negative marketing” e.g. Don’t stand for council if you want to dictate what potholes get filled, but stand for council if you can change the policy so that potholes will be fixed in x days.

## **Interview Response**

### **Councillors**

- *better information on the role of a councillor before they even think about standing*
- *The first step would be to have a system in place so the new councillors would have the latest handbook. I have never seen one.*
- *I think the language is a problem, we need to be using lay terms. I hate those presenters who use acronyms all the time – makes it impossible for any new councillor to understand*
- *As a new councillor, I was unaware of the need to develop policies, how to develop policies, how to make sure they are correct, and that they are adhered to. There is a lack of understanding on how to formulate policies from the legislation.*
- *some form of formal training so that councillors are fully aware of their role, currently getting your name ticked off for sitting in a room is not acceptable. Councillors should be able to prove that they understand the legislation so there should be no issues further on in their term*
- *The lack of formal training becomes evident when councillors take a populist approach to their role.*
- *Better to have training done by a common consistent source. Also better to learn all together in a classroom, rather than be singled out at a council meeting.*
- *We are fortunate in REROC to have training done by in house in REROC and using local Mayors and GMs.*
- *More training for staff – I think staff struggle with it just as much as councillors. I still see them shaking their heads – how do you deal with this situation?*
- *the same applies to general managers and staff. They should be aware of their roles and responsibilities and be careful not to overstep boundaries.*

### **General Managers**

- *One of the easiest ways to explain is through examples and these can be touched on in each of the above (with the exception of better wording of LGA). It could be that these are real examples as a result of case law or via hypotheticals or anecdote.*

## Literature Response

- Samson (2012) It is debateable whether such approach is either workable or desirable in terms of a substantial number of the functions of local government, given the often fine line between policy and practice,
- Simpson and Bretherton,( 2010, p.80), concluded that the most appropriate answer to this question lies with the building of political bridges between experts and residents, with an interpretation of the political role as one of facilitation rather than leadership.
- The importance of “informed decision making” was raised in the Victorian research. It emphasised that to achieve “informed decisions”, there needs to be adequate consultation with the community.
- Need to lift the calibre of elected representatives and introduce appropriate training programmes for new councillors
- Need to find councillors who are community leaders and visionaries setting the long term direction for the community.
- The NSW Guidelines tells councillors what their role is, but does tell them what NOT to do. See Tasmanian Guide for a good example
- Governments need to get their training more attuned to the ordinary councillor out there
- Tan, Morris and Grant, 2016, reveal that “one aspect that has the potential to shape how councillors understand their role is whether they are perceived as *‘laymen’* carrying out their representative roles on a voluntary part-time capacity, or alternatively as *‘professionals’* who are remunerated and expected to carry out their duties on a full-time basis.
- The Victorian research found that these differences have a bearing on the kinds of citizens who are able to or are interested in standing for election and influence how councillors perceive their role, and that low allowances may be a barrier to attracting a more diverse range of local government candidates.”

## Summary

The most telling point from the Tasmanian Good Governance Guide, p. 42, is the request for those in local government to not just to understand their role, but it is important to understand the role of others. This is backed up by Queensland’s request that it would help if the administration recognised the complex political environments in which elected members operate, and acknowledge that the whole system is based on democratic governance. Councillors similarly need to understand that it is a highly complex task to prepare information and provide quality advice on a very wide range of issues.

## *What is being done?*

In an interview with Cr. Linda Scott, President of Local Government NSW, Cr Scott reported that the Association has a number of measures to assist councillors in understanding their role. These include:

- Referral to appointed Local Government Mentors to give guidance to the councillor.
- Availability of the Local Government Capability Framework Booklet as a reference and a guide. It is PD in a Box (personal development).
- LGNSW also has a range of Mayoral and councillor training courses

Cr Scott appreciates that with rate capping it is very hard for Councils to allow much money to fund all the councillor training that may be required. She also appreciates that many councillors have many other responsibilities, and can’t always afford the time for extra training.



The REROC group of councils have instigated annual training for councillors using the resources of local General Managers and other professionals as a way of delivering uniform training at a reasonable cost.

Grant and Drew (2016) report that the recent amendments to the Local Government Act where now s232 now specifies the role of a councillor, rather than the role of all councillors as it was before. The NSW Office of Local Government, 2016, p9, says the changes were needed to provide more clarity to the role.

The latest NSW Model Code of Conduct goes part way when it says there should not be any interaction between councillors and staff on operational issues

The wording in the NSW Pre-Election Candidate Information Session is an improvement, as it tries to give the prospective councillor a solid understanding of the role before they nominate, and the legislative boundaries they must work within. The draft guidelines do emphasise the strategic nature of the roles of elected members compared to the operational roles of the general manager and council staff.

I believe the NSW Guidelines are still lacking, as the NSW Government's legislation and regulations tells councillors what their role is, and what they have to do, but it does not mention what you should NOT do.

### **The Grey Area** (with thanks to GM3)

There is a significant area of contention relating to the interpretation of the Local Government Act and its application in the handbook / Code of Conduct. The handbook provides a clear understanding of the role of Councillor, articulating the policy making role of the Councillor and giving very good direction.

The Act provides that the Councillor's role includes:

*"to make considered and well informed decisions as a member of the governing body"*

The challenge is – how can this be achieved without becoming involved in the operational matters?

The question of how to make grey black and white is difficult due to the individual councillors approach. Trust in the staff plays a part, however this is a difficult issue to quantify or legislate.

More needs to be done on this issue.

## Section 9: Summary, Conclusions and Recommendations

### *A Summary of the Research Project*

As a long term councillor in the eastern Riverina region of NSW, I endeavoured to find a research project that could be of some benefit to present and future councillors who serve and may serve in local government in NSW.

With many changes in local government in NSW after the 1993 Local Government Act, I had been aware that a number of councillors in the region were having difficulty understanding the new role. There were reports of councillors being involved in “operational matters” rather than keeping to their designated role of developing the policies of council. Thus, the title of my research –

#### ***The Role of a Councillor: understanding the “separation of powers”***

The project started in Semester 1 with the development of the research proposal, the research design and methodology, the literature review and the application for ethics approval. In Semester 2, the real research began by delivering hard copy surveys to 101 councillors and 11 general managers in the 11 local government areas of the Eastern Riverina and the South West Slopes region of NSW. All surveys were enclosed in an envelope, and contained a stamp addressed envelope inside to be mailed back to the researcher. All survey responses were anonymous, but there was an option to be ticked if the councillor or general manager would be willing to take part in the next stage, the one on one interviews.

With a 29.10% return from councillors, and a 54.55% return from general managers, there was more than sufficient information to establish any trends in the responses. After the results were tabulated, it was evident that the majority of those who responded did have a good grasp of the term “separation of powers” and knew their role as a councillor. But, it was also evident that those councillors knew of many other cases where councillors were unsure of their present day role, and were getting involved in “operational matters”.

This finding was reinforced when the one on one interviews were conducted with seven councillors and two general managers. It backed up a similar 2016 research study on local government in Victoria, and the findings of several public inquiries in NSW.

After establishing there was a problem, the survey and interviews then sought answers to the question “*Why are councillors getting involved in “operational matters”?*” and there were some very interesting and humorous reasons given in response.

The final part of the survey sought to find the answers to “*What can be done to improve the situation?*” and once again, the respondents were able to give some thoughtful recommendations to improve the situation in the future.

Armed with this research information, it is planned to forward a number of recommendations onto the appropriate organisations involved in local government so that the path for future aspirants to serve their community through local government will be that much clearer.

## Conclusion

In striving to establish the answers to my research project entitled ***The Role of a Councillor: understanding the “separation of powers”*** I had divided the task into three main questions to be answered:

- **whether there really is** a problem with councillors knowing their role, and are they delving into “operational matters” when they should solely be concentrating on “policy development”?  
**Answer** Even though all respondents had a good knowledge of the role and the term “separation of powers”, over 90% knew of reports of other councillors getting involved in “operational matters”. We then concluded there was a problem, but maybe not a huge one.
- If there is a problem, the aim of my research would be to find out **why** many councillors find it difficult to stay within the bounds of “policy development” and stray into the area of “operational matters”,  
**Answer** Many varied answers were given as to the reasons, but mainly centred around inadequate induction and training, and the lack of clear guidelines. Many councillors still expressed the concern that they were still unsure about what was “operational” and what was not.
- and then come up with a **strategy** that will assist councillors of the future about knowing their actual role.  
**Answer** This section had a very good response, and some very good constructive suggestions for improvement were put forward.

This research project and the associated literature review has confirmed the concern out there amongst academics and state governments that there is still a problem in how councillors see their role, and despite better training, many don't understand the “separation of powers”. The research also revealed that governments still need to get their regulations, governance guides and training more attuned to the ordinary councillor out there, and realise that it is the councillor's main priority to represent their constituents.

With more and more regulations being put onto the role of a councillor, this problem is not going to go away. I would hope that we may be able to achieve outcomes that will become beneficial to councillors, Mayors and General Managers and the local government sector as a whole.

As Newnham and Winston, 1999, p. 123, concluded, that with a bit of thoughtful planning, *“the scope is there for increased focus on particular tasks to make the “pot hole” councillor a thing of the past, and lead us to having councillors as community leaders and visionaries setting the long term direction for the local community.”*

## Recommendations

“That the training programmes for councillors in local government in NSW be developed to include more information on the term “separation of powers” so that councillors have a clear understanding of their role and responsibilities, especially with regard to the definition of “operational matters” and the development of policy.

1. To REROC and the Riverina Joint Organisation - REROC has been running annual councillor training days utilising local General Managers and other professionals. It is recommended they include this aspect in their training programmes.

2. Local Government NSW and “Learning Solutions” - It is recommended they include this aspect in their training programmes.
3. NSW Office of Local Government - It is recommended they include this aspect in their training programmes.
4. NSW Office of Local Government - It is recommended they improve the wording in the Councillor Handbook and Guidelines by including this aspect.
5. That the NSW Electoral Commission and the NSW Office of Local Government improve their Pre-Election Information for potential candidates so if they stand for council election, they are fully aware of their role and responsibilities.
6. It is recommended that Local Government NSW and the NSW Office of Local Government support external uniform councillor induction and training for all new councillors.

### ***Disseminating the Results of the Research Project***

After finalising the results and recommendations from the research project, it is anticipated that the following actions will take place:

- A summary paper to be produced that would be available on line for all councillors and officials in local government would be able to access.
- Email all councillors in the Research Area who received the initial email survey, and attach a copy of the summary paper, with a link to the full findings. Special thanks to those councillors and general managers who made themselves available to be interviewed.
- Make it known to the President, Executive and Board of Local Government NSW and ask them to lobby for any changes that are recommended.  
Take it to the next Local Government NSW Conference if necessary to get support.
- Recommend to the Office of Local Government about any changes needed in their councillor training programmes
- Recommend to the Local Member, Minister for Local Government and the Premier about any recommended changes to the Local Government Act and its regulations.

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## APPENDICES

### Appendix 1 – UTS:IPPG Ethics Program Form

## IPPG ETHICS PROGRAM FORM

USE THIS FORM EVERY TIME YOU INITIATE A RESEARCH PROJECT AS AN IPPG STAFF MEMBER, STUDENT OR ASSOCIATE.

Title of research project: The Role of a Councillor: Understanding the “separation of powers”  
 Chief Investigator: Nigel Judd  
 Additional researchers: N/A  
 Funding body (including client): N/A  
 Project start date: Monday, 2<sup>nd</sup> July, 2018

Is your project classified as research for reporting purposes?	X Yes	<input checked="" type="checkbox"/> No → No need to use this form
Does the research involve humans?	X Yes	<input type="checkbox"/> No → No need to use this form
Does the research support evidence-based policy formulation, promote informed debate on key policy issues and help address major challenges facing the local government sector?	X Yes	<input type="checkbox"/> No → Need to go through the HREC
What method/s does your proposed project use?	Please describe briefly, including description of participants:	
<input type="checkbox"/> Focus groups		
<input type="checkbox"/> Interviews (structured and semi-structured)	<p>The researcher plans to personally interview 7 local government councillors from the Eastern Riverina Region. These will be selected from the list of respondents who answered positively to the last question on the email survey as being available for an interview. It is anticipated that at least two new councillors will be selected, plus at least one from each of the three council categories - Regional City, Large Rural (10,000 plus) and Small Rural (less than 10,000).</p> <p>The length of the interview will be no longer than one hour, and those taking part will be asked to elaborate more on the questions in the email survey. The interviews will be face to face, but if time and circumstances have to change, it will be done over the phone.</p>	
X Analysis of secondary data	Once the physical research of the email survey and the personal interviews are collated, they will be compared and contrasted with the insights and findings from the literature review.	
X Surveys	It is the researcher's intention to send an on-line survey to 83 local government councillors from nine councils in the REROC region. The proposed	

	<p>questionnaire has 12 questions comprising</p> <ul style="list-style-type: none"> <li>* two questions establishing the councillor's category</li> <li>* seven questions with only a Yes, No or Alternative</li> <li>* One Multiple choice question</li> <li>* One open question seeking councillor's views.</li> <li>* a final question asking if the councillor would be interested in a one on one interview.</li> </ul> <p>The email survey would be done on line</p>	
<input type="checkbox"/> Deliberative panels		
x Desktop literature reviews	Once the physical research of the email survey and the personal interviews are collated, they will be compared and contrasted with insights and findings from the literature review.	
<input type="checkbox"/> Other → Need to go through the HREC		
Does the research target any members of the following groups? <input type="checkbox"/> Women who are pregnant and the human foetus <input type="checkbox"/> Children and young people (clarify definition) <input type="checkbox"/> People in dependent or unequal relationships <input type="checkbox"/> People highly dependent upon medical care who may be unable to give consent <input type="checkbox"/> People with a cognitive impairment, an intellectual disability or a mental illness <input type="checkbox"/> People who may be involved in illegal activities <input type="checkbox"/> Aboriginal and Torres Strait Islander Peoples <input type="checkbox"/> People in other countries.	No	<input type="checkbox"/> Yes → Need to go through the HREC

Please complete the following ethics checklist and submit your application for ethics approval to the Delegated Approving Officer.

Are all researchers competent and familiar with the Australian Code for the Responsible Conduct of Research, the UTS Privacy Principles, the National Statement on Ethical Conduct in Human Research 2007 (Updated December 2013) and the UTS Ethical Conduct of Research Policy? Yes

Have you developed appropriate Project Information sheets and Consent forms for all participants (or alternatives when methods are not undertaken face to face) Yes

Does your project plan detail whether the data collected will be anonymised and at what stage? Yes

Have you identified appropriate storage for the data (physical and electronic)? Yes

ONCE APPROVED, SAVE THE FORM IN THE APPROPRIATE WORK FOLDER FOR THE PROJECT

## APPROVAL

x Ethics form and checklist reviewed  
 x Any issues discussed with the chief investigator (please note below)  
 x Approved on 7 June 2018. by Yvette Selim. (Delegated Approving Officer)

Notes:

## Appendix 2 –UTS:IPPG Project Information Sheet



# Project Information Sheet

Thank you for agreeing to participate in the research project entitled

## **The Role of a Councillor: Understanding the “separation of powers”**

being conducted by **Nigel Judd**, a postgraduate student at the Centre for Local Government (CLG) at the University of Technology Sydney, and is self funded.

The purpose of the research is to obtain a better understanding of what the role that local councillors have with regards the policy process in NSW Local Government.

Your participation will involve responding to a survey (A4 Sheet – 9 actual questions) while after that Nigel will be hoping to interview a small number of councillors individually.

You can contact Nigel's research supervisor, Ronald Woods (0419 414 868)

If you have any concerns about the research. You are also free to withdraw your participation from this research project at any time without giving a reason.

Please contact researcher, Nigel Judd, on 0428 741 026, or email, [nigeljudd@bigpond.com](mailto:nigeljudd@bigpond.com) if you have any questions about the project.

The research data gathered from this project may be published in a form that does not identify you in any way. You will be given the opportunity, though, prior to publication, to check any text that is to be used in the published report that identifies you or your organization to ensure the meaning was interpreted correctly by the researcher.

### Note:

Studies undertaken by the Centre for Local Government (CLG) and the Institute for Public Policy and Governance (IPPG) have been granted program approval by the University of Technology Sydney, Human Research Ethics Committee. If you have any complaints or reservations about any aspect of your participation in this research you may contact Ronald Woods (0419 414 868) or the UTS Ethics Committee through the Research Ethics Officer, [tel: 02 9514-9772]. Any complaint you make will be treated in confidence and investigated fully and you will be informed of the outcome.

Appendix 3 – UTS:IPPG Consent Form



## Consent Form

I, .....

agree to participate in the research project entitled

**The Role of a Councillor: Understanding the “separation of powers”**

being conducted by **Nigel Judd**, a postgraduate student at the Centre for Local Government (CLG) at the University of Technology Sydney, and is self funded.

I understand that the purpose of the research is to obtain a better understanding of what role that local councillors have with regard to the policy process in NSW Local government.

I understand that my participation will involve an email survey (30 minutes) and a personal interview that will take approximately one hour of my time.

I am aware that I can contact Nigel's research supervisor, Ronald Woods (0419 414 868) if I have any concerns about the research. I also understand that I am free to withdraw my participation from this research project at any time I wish without giving a reason.

I agree that the researcher, Nigel Judd, has answered all my questions fully and clearly. I agree that the research data gathered from this project may be published in a form that does not identify me in any text that is to be used in the published report that identifies me or my organization to ensure the meaning was interpreted correctly by the researcher.

Signature ..... Date .....

**Note:**

Studies undertaken by the Centre for Local Government (CLG) and the Institute for Public Policy and Governance (IPPG) have been granted program approval by the University of Technology, Sydney, Human Research Ethics Committee. If you have any complaints or reservations about any aspect of your participation in this research you may contact Ronald Woods (0419 414 868) or the UTS Ethics Committee through the Research Ethics Officer, [tel: 02 9514 9772]. Any complaint you make will be treated in confidence and investigated fully and you will be informed of the outcome.

## ***Appendix 4 – The Role of the Councillor Letter***

### **THE ROLE OF A COUNCILLOR**

Dear Fellow Councillor,

For the past five years I have been studying the Master of Local Government Course at the Centre for Local Government, University of Technology, Sydney. This is my final year, and as such, I have to research some aspect of local government. The topic I have chosen is:

#### ***The Role of a Councillor: Understanding the “separation of powers”***

I have become aware that some Councillors in some councils have trouble understanding the term “separation of powers” which basically means Councillors should be responsible for developing the policy of council, and not be involved in “operational matters”, which is the responsibility of management.

**The aim of my research is to find out if this lack of understanding really is a problem, and if it is, what can be done to improve the situation.**

I attach, on the back of the Ethics Approval Information Sheet, some excerpts from Public Inquiries conducted by the NSW Office of Local Government, which will give you a better idea of the misunderstanding that may arise. An exercise to think about is on the back of this letter.

I encourage you to assist my research by filling out this three page survey and returning it in the stamped addressed envelope. It is completely voluntary and anonymous, and any comments printed will only be attributed to Councillor A, B or C etc.

I am also looking for six to eight Councillors to participate in Stage 2 of the research which is “one on one” interviews, either face to face, or over the phone. Once again, these participants will only be referred to as Councillor 1, 2 or 3, and even then, if quotes from the individual interviews are used, I will be double checking with the participants to make sure I have quoted correctly.

Many thanks for your assistance,  
Kind Regards,

***Cr Nigel Judd***  
1 Coolamon Street,  
Ariah Park, NSW 2665

**Please return the completed survey in the enclosed stamped addressed envelope, ASAP, no later than 17th August 2018.**

## Appendix 5 – What Do You Think? Scenario Questions

### What Do You Think?

In the **BROKEN HILL CITY COUNCIL PUBLIC INQUIRY REPORT**, 2006, Commissioner David Simmons was asked to inquire into the conduct of the councillors, their relationships with staff and whether the elected representatives have adequately, appropriately and reasonably carried out their roles and responsibilities in the best interest of all ratepayers and residents.

One area he was asked to investigate was the activities of its *Special Projects Working Group*, where the stated aim of the Committee was to “*address all ratepayer complaints or requests and formulate recommendations for consideration at the following full council monthly meeting*”.

At its first meeting on 24 May 2006, attended by all six councillors, the special projects working group unanimously adopted resolutions with weeds and rubbish on the footpaths and nature strips, computer operating systems, storm water drains and that an advertisement be placed in Saturday’s paper asking public to contact the Committee if they have any problems, complaints or ideas they would like addressed by Council.

The Commissioner found it was inevitable that residents will approach their elected representatives with concerns or suggestions about operational matters.

BUT what do you think the Commissioner should do in this situation?

.....  
.....

Remember that the NSW Local Government Act prescribes the role of an individual councillor as follows:-

- To make considered and ***well informed decisions*** as a member of the governing body
- To represent the collective interests of residents, ratepayers and the local community
- To facilitate communication between the local community and the governing body

Was this Committee out of line by finding out this information and taking this action?

.....

If that Council Committee is determined to be out of line and delving into “operational matters”, then how do councillors source information so they can make well informed decisions?

.....

**Please return this completed survey as well in the enclosed stamped addressed envelope  
A.S.A P., no later than 17th August 2018.**

## ***Appendix 6 – The Role of a Councillor – Survey Questions for Councillors***

### **THE ROLE OF A COUNCILLOR – SURVEY QUESTIONS**

Please place a cross or tick in the square that best represents your response.

1) Are you a Councillor in a

- Small Rural Council (under 10,000 residents)
- Large Rural Council (Over 10,000 residents)
- Regional City?

2) How long have you been a Councillor?

- New Councillor, elected 2016 or 2017?
- Experienced Councillor

3) Are you aware of the Role of a Councillor as set out in Section 232 of the 1993 Local Government Act and the NSW Government “Councillor Handbook”?

- Yes
- No
- Vaguely

4) As a Local Government Councillor do you understand the term “separation of powers”?

- Yes
- No
- Vaguely

5) Do you agree that a Councillor’s primary role is to focus on policy development and the strategic delivery of services in the public interest?

- Yes
- No
- Other – Please explain:

---

6) Do you agree that the primary role of the General Manager and Senior Staff is to carry out the day to day operations of Council?

- Yes
- No
- Other – Please explain:

---

---

7) There have been reports of Councillors not understanding their role and getting involved in “operational matters.” Have you seen or heard of this happening in local government?

Yes

No

8) Do you see this as a concern?

Yes

No

Please explain your response.

---

---

9) Is it an area of concern primarily for new Councillors?

Yes

No

All Councillors

10) Why do you think this is?

---

---

1) What can be done to improve the situation: (Please choose all that you feel apply)

a. Better wording of the pre-election details and requirements?

b. A clearer induction and training by the General Manager and Mayor?

c. Better wording of the Councillor Handbook?

d. Better wording of the Local Government Act?

e. Other actions?

---

---

2) Would you be willing to undertake a one on one interview with the Researcher on this subject?

a. Yes

b. No

3) If Yes, please add your contact details. Please note that these interviews will also be anonymous, e.g. respondents referred to as Councillor A, B or C.

---

---

**Please return this completed survey in the enclosed stamped addressed envelope A.S.A P., no later than 17th Aug**



## ***Appendix 7 – The Role of a Councillor – Survey Questions for General Managers***

### **THE ROLE OF A COUNCILLOR – SURVEY QUESTIONS**

Please place a cross or tick in the square that best represents your response.

1) Are you aware of the Role of a Councillor as set out in Section 232 of the 1993 Local Government Act and the NSW Government “Councillor Handbook”?

- a. Yes
- b. No
- c. Vaguely

2) As a General Manager, do you understand the term “separation of powers”?

- a. Yes
- b. No
- c. Vaguely

3) Do you agree that a Councillor’s primary role is to focus on policy development and the strategic delivery of services in the public interest?

- a. Yes
  - b. No
  - c. Other – Please explain:
- 
- 

4) Do you agree that the primary role of the General Manager and Senior Staff is to carry out the day to day operations of Council?

- a. Yes
  - b. No
  - c. Other – Please explain:
- 
- 

5) There have been reports of Councillors not understanding their role and getting involved in “operational matters.” Have you seen or heard of this happening in local government?

- a. Yes
- d. No

6) Do you see this as a concern?

- e. Yes
- f. No

Please explain your response.

---

---

7) Is it an area of concern primarily for new Councillors?

- g. Yes
- h. No
- i. All Councillors

8) Why do you think this is?

---

---

9) What can be done to improve the situation: (Please choose all that you feel apply)

- j. Better wording of the pre-election details and requirements?
  - k. A clearer induction and training by the General Manager and Mayor?
  - l. Better wording of the Councillor Handbook?
  - m. Better wording of the Local Government Act?
  - n. Other actions?
- 
- 

10) Would you be willing to undertake a one on one interview with the Researcher on this subject?

- o. Yes
- p. No
- q.

11) If Yes, please add your contact details. Please note that these interviews will also be anonymous, e.g. respondents referred to as General Manager A, B or C.

---

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**Please return this completed survey in the enclosed stamped addressed envelope A.S.A P., no later than 17th August 2018.**

## ***Appendix 8 – The Role of a Councillor – Interview Letter***

### **THE ROLE OF A COUNCILLOR**

Dear Fellow Councillor,

For the past five years I have been studying the Master of Local Government Course at the Centre for Local Government, University of Technology, Sydney. This is my final year, and as such, I have to research some aspect of local government. The topic I have chosen is:

#### ***The Role of a Councillor: Understanding the “separation of powers”***

I have become aware that some Councillors in some councils have trouble understanding the term “separation of powers”, which basically means Councillors should be responsible for developing the policy of council, and not be involved in “operational matters”, which is the responsibility of management.

**The aim of my research is to**

- (a) find out if this lack of understanding really is a problem, and**
- (b) if it is, what can be done to improve the situation?**

#### **The Next Stage**

After getting a good response to the councillor survey, the next phase of my research involves interviewing a small select number of councillors, and then go into a bit more depth on some of the issues.

Thank you for being agreeable to be interviewed. These interviews will be either conducted face to face, or over the phone, and should take no longer than 30 minutes. I will be taking notes for the purposes of accurately documenting what we discuss. All data and comments collected will be **strictly confidential** and you will remain **anonymous**.

On the next page I have listed some common introductory questions to start the discussion. It is intended to be semi-structured and free flowing. I will then follow up with supplementary questions tailored to some of the comments you have made in your survey response.

I also attach the UTS Ethics Project Information Sheet.

My contact numbers are

Home	02 6974 1026
Mobile	0428 741 026

Thank you for agreeing to participate in this discussion.

Regards,

***Cr Nigel Judd***

1 Coolamon Street,  
Ariah Park, NSW 2665  
10/09/2018

## **Appendix 9 – The Role of a Councillor – Interview Questions**

### **THE ROLE OF A COUNCILLOR**

#### **INTERVIEW QUESTIONS**

- 1) Are you aware of the Role of a Councillor as set out in Section 232 of the 1993 Local Government Act and the NSW Government “Councillor Handbook”?

*At what point in your councillor career, did you become aware of the legislative wording about the role of a councillor?*

- 2) As a Local Government Councillor, what is your understanding of the term “separation of powers”?

- 3) There have been reports of Councillors not understanding their role and getting involved in “operational matters.”

*Can you provide examples of where you have seen or heard of this happening in local government?*

- 4) Listed below are suggestions for improving or rectifying this perceived confusion of the councillor role.

*What are your thoughts on these?*

(Please choose all that you feel apply)

a. Better wording of the pre-election details and requirements?

b. A clearer induction and training by the General Manager and Mayor?

c. Better wording of the Councillor Handbook?

d. Better wording of the Local Government Act?

e. Do you have any further suggestions for improving the understanding of the Councillor role and the “separation of powers” with the council management role?

- 5) **Supplementary Question/s**

*May be based on your comments in your survey return.*

- 6) Is there anything else you would like to add that has not been addressed in this i