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**Public Participation in
Local Authority Annual Planning:**

**'Spectacles and Acclamation' or
Prospects for Deliberative Democracy?**

A thesis presented in fulfilment
of the requirements for the degree
of Doctor of Philosophy
Massey University

Christine Maree Cheyne

1997

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ERRATA

PAGE	LINE	CORRECTION
vi	10	interchange The parameters of the research and The research question
5	1	replace accounability with accountability
6	Fn 6	replace amendeded with amended
14	17	replace Dep artment with Department
14	18	replace 1991 with 1991)
22	3rd from bottom	replace committee with committed
29	13	replace citizenFship with citizenship
37	15	replace decade. with decade and have
38	21	delete sentence beginning The specific weaknesses
48	Fn 31, line 2	delete that
49	2	replace enthusiams with enthusiasm
67	Fn 43	insert " after theory.
69	Fn 47	replace which endorsed with which is endorsed
70	4	replace possibilty with possibility
75	Fn 51, line 3 of quote	replace thought with though
75	Fn 51, line 7 of quote	replace connet with connect
75	Fn 51, last line	replace readly with readily
75	Fn 51, last line	replace in to with into
80	1	replace up a with up of a
88	5th from bottom	replace Rather with Rather than
98	20	replace modifications with modification
100	1	replace expresssions with expression
107	15	replace that a with that in a
111	3-9	delete text beginning Whereas ... coexistence
115	10	replace enteprise with enterprise
117	22	delete paragraph
122	20	replace moden with modern
127	22	replace here with her
127	26	replace being with be
131	10	replace theories with theories of
131	10	replace embodies with embody
150	20	replace GovernmentEconomic with Government Economic
162	20	replace committte with committee
163	10	replace Chapter with Chapter Three
164	3	replace amendements with amendments
165	20	replace Walsh, 1996 with Walsh (1996
183	Fn 121, line 3	replace preparers' with preparers
184	Fn 122, line 7	replace tolls with tools
186	17	replace o with of
200	2nd from bottom	replace Although with Although
205	Fn 139, line 2	replace myst with must
208	5	replace interview\s with interviews
215	20	replace suprisingly with surprisingly
216	5	replace described with described
216	9	replace from with for
217	11	replace Management with Manager
217	15	replace High with High priority
221	12	replace evoked with provoked
223	6	replace \$600,00 with \$600,000
224	6	replace as with has
224	19	replace list with list of
224	Fn 150, line	replace orgnisation with organisation
227	30	replace is with its
227	31	replace Committe with Committee
227	32	replace Annual . with Annual Plan.
229	10	replace submission with submissions
229	23	replace organisatinos with organisations
230	29	replace IN with In

231	8	replace Committe with Committee
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233	24	replace Committee with Committee
234	6	replace and and with and
240	19	replace sort on with sort of
241	15	replace demoonstrate with demonstrate
243	6	replace constraint with constrain
244	11	replace involved with involve
244	16	replace commitement with commitment
245	2	replace sort with sort of
245	12	replace worth while with worthwhile
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247	30	replace the at with the time at
248	2	replace ases with cases
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265	5	replace seek with see
265	25	replace election/ representation with election/representation
268	10	replace stuatory with statutory
275	15	replace represntative with representative
276	23	replace without with without
279	31	replace opinon with opinion
284	9	replace to as to with so as to
285	9	replace thtat with that
285	11	replace offered with offered
287	1	replace affront with affront to
288	Fn 175, line 3	replace measurement with measurement in
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294	Fn 177, line 8	replace was with Bill was
295	4	replace characterised with characterised by the
296	20	delete text begining As Ranson... through to end of quote
301	14	replace postive with positive
303	10	replace insufficient with insufficient
307	Fn 180, line 8	replace referndum with referendum
314	2	replace than with that
314	23	delete paragraph begining Deliberative democracy stands
317	12	replace onling with online
317	Fn 182, line 5	replace possibilities with possibilities
318	3	replace the the with the
320	29	replace application with application of
329	26	replace Government with Government
330	7	replace Government with Government
334	16	replace for of with for
338	15	replace communitie with communities
343	7 from bottom	replace 31-31 with 30-31
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349		replace 31-31 with 30-31
351	4	replace [D.] with [D., 1995,]
353	16	replace Macmi with Macmillan
360	12	replace 31-31 with 30-31
361	4	replace Postitivism with Positivism
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363	10	replace [Adrian,] with [Adrian, 1990,]
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370	16	replace Phenome with Phenomenon

ABSTRACT

This thesis examines the statutory annual planning process that local authorities are required to undertake as a result of the 1989 reform of local government in New Zealand. It explores the relationship between the annual planning process and the goals of enhanced democracy and accountability that are, along with efficiency, claimed to be promoted by public sector reform. Through a case study of local authority annual planning (involving observation, documentary analysis and interviews) and with accompanying interviews with key actors in the development and implementation of the 1989 local government reform legislation, the implementation of the annual planning provisions and the ideas shaping this approach to democracy are examined. The 1989 reform of local government in New Zealand was ostensibly concerned with introducing new structures and processes to strengthen local government. The annual planning process embodies a particular approach to governance. This thesis explores the nature of that form of governance. In so doing it considers the nature of democracy embodied in the designs of the reformers of local government and critically reviews the features of liberal democratic political processes and policy analysis.

A key finding of the research is that there are important weaknesses and limitations associated with the provisions for public participation in the annual planning process and that such provisions cannot be seen as sufficient for democracy. The thesis demonstrates that the prevailing conditions of public participation reflect a liberal pluralist strategy, in which democracy is linked with the aggregation of individual preferences, and which assumes that the ability to influence political decision-making is dispersed among individuals and interest groups. The opportunities for individuals and interest groups to make submissions on the annual plan and other significant policies of local authorities are based on the liberal assumption that people know their interests and that politics is a vehicle for the representation of those interests.

The thesis concludes that, while the annual planning process has resulted in information being available to citizens, there is considerable scope for the further enhancement of democracy through strengthening the obligations of local authorities to deliberate publicly and to enter into dialogue with citizens. The reform of local government has given considerable emphasis to the goal of efficiency and has treated the requirements of democracy less

comprehensively. Democratic governance, it is argued, involves more than the opportunity for citizens to make submissions to elected representatives. Instead, priority must be given to deliberative mechanisms and associated statutory supports. Attention must be given to alternative institutional arrangements and participatory and deliberative democratic procedures which are more appropriate, and indeed necessary for a more robust form of democratic governance, in a pluralistic society.

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ABBREVIATIONS

AGPS	Australian Government Publishing Service
ANOR	Another
CE[O]	Chief Executive [Officer]
CHE	Crown Health Enterprise
CIPFA	Chartered Institute of Public Finance and Accountability (UK)
CMS	Conservation Management Strategy
CP	Court Proceedings
GAAP	Generally Accepted Accounting Principles
GDP	Gross Domestic Product
IIR	Institute of International Research
LATE	Local Authority Trading Enterprise
LGA	Local Government Association (later, in mid-1996, renamed Local Government New Zealand)
LGC	Local Government Commission
MMP	Mixed Member Proportional
MP	Member of Parliament
n.d.	no date
n.p.	no page
NPM	New Public Management
NZ	New Zealand
NZLR	New Zealand Law Reports
OCCLG	Officials' Co-ordinating Committee on Local Government
ORS	Others
OECD	Organisation for Economic Co-operation and Development
PNCC	Palmerston North City Council
PPBS	Planning, Programming and Budgeting Systems
RMLR	Resource Management Law Reform
RS	Reprinted Statute
s	section
SRA[s]	Strategic Result Area[s]
SSC	State Services Commission
SOE	State Owned Enterprise
TVA	Tennessee Valley Authority
UK	United Kingdom
US	United States

CHAPTER ONE

EXPLORING DEMOCRACY IN LOCAL GOVERNMENT

Introduction

In the late 1980s there were major structural and organisational changes to the public sector in New Zealand. Much of the analysis of these changes has focused on central government, overlooking the considerable changes that occurred in local government. Common to the public sector reforms of both central and local government has been a goal of promoting efficiency and enhancing democracy. Considerable attention has been given to the intended efficiency aspects of the public sector reforms, with rather less interest being taken in the democratisation aspects of these reforms. In the reform of local government, the goal of democracy was pursued, arguably, in a more deliberate way than was the case in the reforms of the core public sector (that is, central government). The thesis, therefore, focuses specifically on the anticipated democratisation of local government through enhanced public participation.

The task of this chapter is essentially two-fold: it sets out to introduce the research question and then to outline the scope and structure of this enquiry into the implications for democracy of the annual planning process in local government. In the first part of the chapter, the parameters of the research are delineated, significant themes in the literature are identified, and the research process is described. The discussion of the themes in the literature on democracy is included in this introductory chapter because it is considered essential to highlight these from the outset. The landscape of democratic theory has a vast frontier and, by identifying these themes, some major boundary-pegs can be put in place. These themes anchor the analysis of the data in later chapters (especially Chapters Seven and Eight) and early identification of them is important for an appreciation of the distinctiveness of, and relationship between, such themes as democracy, participation, accountability, and transparency. In addition, by elaborating on these themes in this introductory chapter, the links between these themes and the research question and the fieldwork will be underscored. In the course of introducing the issues which have prompted this study, there is reference to other studies of

local government reform in New Zealand. The second part provides an overview of the subsequent chapters in the thesis.

Definition of local government

For the purposes of the thesis, and in general usage, local government in New Zealand is a separate tier of government. It has a statutorily-derived jurisdiction, distinct from that of central government. Local government is, therefore, cast in a subordinate relationship to central government. The powers of local authorities are conferred on them by central government.¹ Mulgan (1994) observes that, while central government is constitutionally dominant, local government has its own independent legitimacy secured through the electoral process and that, in general, central government respects the rights of local body members to represent their communities.

Generally, there are two main types of authority – territorial authorities (district or city councils) and regional authorities.² Until the 1989 reform of local government, there were numerous ‘special purpose’ authorities which existed to carry out one major function (for example, pest destruction, harbours administration, electricity supply, soil conservation and rivers control) but most of these have now been eliminated.

The specific purposes, functions and powers of local government in New Zealand are set out in the Local Government Act 1974 (reprinted in 1990 as RS 25³). The activities of local government, like those of central government, at a

¹ According to the *ultra vires* doctrine, local government may only do what it is statutorily empowered to do. The question of the functions of local government was to be addressed during the course of local government reform but in fact this did not occur. There was an expectation at the time that the reform process would lead to the introduction of a power of general competence and this remains, for many, an unfinished piece of the reform agenda.

² Community boards (first created by the 1989 legislation) and their predecessor under the 1974 Act, community councils, do not represent a third tier of local government. The role of community boards is primarily an advisory one although some decision-making power may be delegated by the parent authority as outlined by s 101ZZ of the Local Government Act 1974.

³ The Local Government Act was substantially amended by the reform legislation in 1988 and 1989. There were two key pieces of reform legislation: the Local Government Amendment Act (No. 3) 1988 and the Local Government Amendment Act (No. 2) 1989. The Local Government Act 1974 was reprinted in 1990 to incorporate the amendments. Since 1990 a number of Local Government Reform Bills have been introduced and there have been further Local Government Amendment Acts. One such Act discussed in this thesis is the Local Government Amendment Act (No. 3) 1996.

broad level, can be described as: service delivery, regulation, and policy. Reid (1994) makes a distinction between what he sees as two key roles of local government: a service delivery role (in which it does not have a monopoly) and a governance role.⁴ This latter role consists in "provid[ing] specific localities with a political voice" (Reid, 1994: 1).

The new mechanisms for public participation are designed to foster more democratic governance through public participation and to enhance the accountability of local authorities to citizens. Unlike local government in certain other parts of the world, local government in New Zealand is not (at least, at present) involved in the funding, administration or management of education, social welfare, police or urban fire services.

Central government is unable to review decisions made by local authorities but there is, nevertheless, considerable scope for central government to exercise power over local authority activities by legislative intervention. There is provision for the Ombudsman to investigate cases of misuse of powers or funds by local government, and the Auditor-General is able to investigate the performance of local authorities. As a consequence of the Local Government Official Information and Meetings Act 1987, local authorities are governed by requirements to have open conduct at meetings.

The focus of this research: the new mechanisms for public participation introduced during the 1989 reform of local government

The focus of the thesis is the statutory annual planning process and special consultative procedure introduced into local government by the Local Government Amendment Act (No. 2) 1989. This statute, which amended the Local Government Act 1974, represented the culmination of the reform process that had taken place during 1988 and 1989. The popular explanation for the reform of local government, like that for central government reform, was the claim that the public sector was not performing satisfactorily. The then Chairperson of the Local Government Commission, Brian Elwood, echoed

⁴ The two roles generate alternative conceptions of the residents of the locality: respectively, as consumers and as citizens. The distinction between a consumerist orientation and citizenship orientation in local government (and in the public sector more generally) has been frequently noted in the public policy literature (see, for example, Hambleton, 1988; Burns, Hambleton and Hoggett, 1994).

these justifications for reform and articulated the following themes in local government reform:

the belief that the process of good government may be both *less* government and *shared* government (emphasis in the original) [and]...

the possibility of seeing created a system of government where communities can practise more self-government, achieving both increased efficiency in resource use and service delivery, and extended democratic responsiveness but perhaps more relevantly for us as individuals, achieving a greater sense of democracy by participation in more decisions affecting our most obvious collective grouping, outside the family unit – the community. Properly structured around existing and recognised communities of interest, local government can be:

- (1) more responsive to citizens' views by increased accessibility;
- (2) more democratic, because more citizens can participate in decision-making; and
- (3) facilitating locally relevant decisions on local issues, because at the local level there is an opportunity for social and economic cohesion (Elwood, 1988: 109).

Criticisms of the inadequate performance of the public sector (which encompasses both local and central government), and the lack of clear accountability and clear objectives, had been raised by the Treasury in its post-election briefings to the incoming governments in 1984 and, in particular, 1987 (The Treasury, 1984; 1987). Extensive reform of central government subsequently took place in central government as a result of the State Sector Act 1988 and the Public Finance Act 1989 (the latter came into force on 1 July 1989). Structural change had, of course, begun somewhat earlier with the passage of the State Owned Enterprises Act 1986 which brought nine new state owned enterprises into existence on 1 April 1987 out of what formerly were departments in the core public sector. All of these statutes were to have their equivalent provisions in the legislation reforming local government.

The broad objectives of public sector have been summarised as follows:

Better management of publicly-owned resources under the control of [public sector] organisations; and

A higher standard of accountability of those responsible for managing organisations to those who are the real owners or providers of the resources (Controller and Auditor-General, 1991: 9).

In addition to efficient management and accountability to citizens, responsiveness was a key theme in the reforms of the public sector:

The way the Government responds to the public is intended to change. Departments and agencies will think more clearly about what it is their customers want from them... Like any other legislative changes, these will be effective only if they are used by the community. They provide the means for everyone to judge how well their political representatives, and the public service for which the representatives are responsible, are performing. *Everyone will have access to better information and thus the means to better express their wishes to those in charge of the public purse. These changes should permit members of the community to contribute more to decision-making than previously* (Controller and Auditor-General, 1991: 18, italics added).

Thus, the key goals of public sector reform, which applied as much to local government as to central government, were efficiency and democracy. As Bassett, the major architect of the reforms said in an address to the inaugural conference of the Local Government Association in June 1988:

The Terms of Reference do not embrace either the 'big is beautiful' prejudice or the 'small is worthy' nostalgia. We are determined to get the best of both - bigness where it can demonstrate efficiencies, and smallness where it guarantees community input.

The reforms focused not only on inefficiency but also on the perceived democratic deficit in contemporary political processes that characterised the liberal democratic state and, in particular, the Westminster system in which it was assumed that the parliamentary process provided an adequate mechanism for addressing individuals' political preferences. It was argued that local government, like central government, was not responsive to citizens. Efficiency was to be pursued through the new financial management practices and through the information, planning and budgeting requirements introduced by the reform statutes. Democracy was to be strengthened by new planning and

reporting obligations and by other responsiveness provisions (for example, in the good employer requirements of the State Sector Act 1988 and the State Owned Enterprises Act 1986). The reform statutes included new accountability arrangements between the Ministers and chief executives and between chief executives and staff in government departments. In addition, there was an emphasis on organisational restructuring to separate policy, service delivery and regulatory functions. In many cases, the new public management included introducing competition between public and private providers of services.⁵

Among the explicit goals of local government reform was to make local government more effective, more accountable and more responsive. As a result of the reforms local authorities are now required prepare a draft annual plan setting out their activities, programmes and funding for the coming financial year. As stipulated in the statutory special consultative procedure introduced by the Local Government Amendment Act (No. 2) 1989, local authorities must invite submissions from the public on the draft annual plan. The consideration of submissions is to be conducted in public meetings, and a final annual plan is then produced. At the end of the financial year, local authorities must report on their actual achievements in relation to their stated activities and objectives. According to Considine (1990: 174), the emphasis on planning reflected the view that:

all public organisations needed clear goals and a comprehensive planning process in order to service various client groups more efficiently and provide them with a better service.

In addition to the introduction of corporate planning in the core public sector and annual planning in local government⁶, there were similar provisions in legislation affecting other public sector bodies. The Education Amendment Act 1990 required university councils to prepare corporate plans and to consult with the

⁵ All of these features of new public management are evident in the reforms of the public health care system which occurred in the early 1990s in New Zealand. Hence, the matters being explored in this thesis, namely, the nature and scope of democracy, have a wider application. In particular, similar questions to those raised in this thesis need to be posed about the efficacy of the consultative processes associated with the development of core health services in New Zealand.

⁶ Corporate plans and annual plans are fundamentally the same thing. Although the Local Government Act 1974, as amended in 1989, refers to the preparation of an annual plan, the terminology 'corporate plan' was in fact used by many local authorities in the first year or two after the passage of the Local Government Amendment Act (No. 2) 1989.

relevant community of interest. The Conservation Act 1987 required the Department of Conservation to prepare a Conservation Management Strategy (CMS). In preparing the CMS the Department had to seek public views on a preliminary discussion document. The response to the discussion document would then become incorporated into a draft Conservation Management Strategy which would then be the subject of public consultation. Again the views received would be incorporated where possible into the final version of the CMS.⁷

In addition to these requirements relating to annual planning which is designed to ensure that information and decision-making is in the public domain, the purposes of the local government, as incorporated in the Local Government Act 1974 (section 37K) by the 1989 amendments, was "the effective participation of local persons in local government". This explicit commitment to participation by citizens is not found in other areas of the public sector corporate planning or public policy development. Thus, while the requirements for planning and reporting which were incorporated into the local government reform exercise were modelled on those introduced into the core public service, the "special consultative procedure" was novel.⁸

The research question

The objective of the thesis is to examine the nature and scope of the democracy that is provided for through the Local Government Act's requirements that local authorities undertake an annual planning process using

⁷ In resource management planning there is a traditional emphasis on public participation that is not typically found in other areas of policy development. Developing appropriate public participation provisions was a focus of the Resource Management Law Reform (RMLR) exercise that was taking place concurrently with local government reform in 1988-89. The resultant Resource Management Act 1991 requires local authorities to prepare a district resource plan. In the process of preparing a resource plan district and city councils are required to consult with the public about the content of the plan. In addition, the Act introduced the concept of "open standing" which meant that anyone could express an interest and present an objection. This was a departure from the former Town and Country Planning Act 1977 which required objectors to demonstrate that they had an interest greater than the public at large. The participation and consultation requirements of the Resource Management Act 1991, although different from those of the Local Government Act, as amended in 1989, are particularly far-reaching, as Tremaine (1994) notes. There will be further discussion of this statute in Chapter Eight.

⁸ The special consultative procedure is more prescriptive than the statutory duty to consult which has just been described and it has since been incorporated into other statutes (for example, the Energy Authorities Act 1992).

a special consultative procedure. The special consultative procedure, set out in section 716A of the Local Government Act 1974, by requiring a local authority to provide opportunities for public scrutiny of its plans, activities and programmes for each financial year, reflects the aim of the architects of local government reform to provide for public participation and to ensure accountability by the local authority to the citizens. It is thus designed to enhance democracy. The underlying premise of the thesis is that participation by citizens in public policy development and planning, for those that seek it, is a prerequisite of democratic governance. Citizen participation is fundamental to effective decision-making and the subsequent successful implementation of policy; and it is a key instrument in political will-formation.

New Zealand's financial management reforms have been regarded as more radical than those of other countries which have embarked on public sector reform (see, for example, Schick, 1996). While corporate planning is not new, the statutory annual planning and reporting process, with the accompanying special consultative procedure, may, however, become a model for other countries. In the United Kingdom, for example, recent reform proposals and measures to reform local government have employed strategies similar to the annual planning process and provisions for public participation introduced in New Zealand.⁹

Clearly, these innovations were predicated on assumptions about the nature of democracy and the role of public participation in fostering accountability and effective policy and services. There are assumptions about the effectiveness of the new accountability arrangements which involve particular notions of democracy, and there are assumptions about the aspirations and capacity of citizens to participate in decision-making. It is assumed that, by providing citizens with the opportunity to contribute their views through the annual planning process in local government, decision-making will be more democratic because it will be more participatory and, in addition, there will be greater political and bureaucratic accountability. This, of course, relies on citizens being willing and able to utilise the opportunities extended to them. It is

⁹ Burton and Duncan (1996) note that the recent report of the Commission on Local Democracy in England and Wales proposed that local authorities should prepare an annual democracy plan in which they outlined the steps they took to increase public involvement in policy development and in elections.

assumed that politicians and public sector managers, as instigators of consultation, will be willing and able to incorporate the contributions of citizens.

In seeking to determine how extensive or how comprehensive democracy is, it is necessary to define democracy. The concept of democracy is strongly contested but even without resolving the question of the nature of democracy, it can be confidently asserted that the state of democracy is precarious and vulnerable. This much is clear from a survey of contemporary literature on democracy – even when there is no disagreement on the character of democracy. Taylor (1991) identifies three 'malaises of modernity': individualism/atomism; the primacy of instrumental reason and the subsequent disenchantment of the world; and, arising from these first two, a loss of freedom which accompanies the powerlessness of demotivated citizens – demotivated in the face of bureaucratic management. Burton (1996: 3) refers to mistrust and scepticism about democracy both in the United Kingdom and in other parts of the world. New Zealand is not immune from such tendencies, as is evident in the demand for more proportional representation and for greater political accountability (in particular, the call for the Minister of Conservation to resign in the wake of the Cave Creek tragedy in 1995).¹⁰

There is a certain paradox, as Burton and Duncan (1996: 8) suggest, in the fact that, despite measures designed to give greater influence to citizens, there is at the same time growing concern with the quality of democracy. There is a persistent assumption in contemporary writing about democracy that political participation is at an unacceptably low level and is unrepresentative. Concerns about deficiencies in political participation and in the responsiveness of public sector organisations have been reflected in demands for electoral reform and constitutional reform in many parts of the world. New Zealand recently introduced a proportional electoral system (MMP) for electing its Parliament, and the first general election held under this system took place in October 1996.

¹⁰ In April 1995 fourteen people, mainly young tertiary students, lost their lives when a viewing platform overlooking Cave Creek on the West Coast of New Zealand's South Island collapsed. A subsequent judicial enquiry found that the Department of Conservation, which built the platform and on whose land it was located, was responsible for the collapse (Commission of Inquiry into the Collapse of a Viewing Platform at Cave Creek Near Punakaiki on the West Coast, 1995). There has been continuing debate about the ambiguity surrounding the degree of individual ministerial or managerial accountability - with the suggestion that the accountability framework for the public sector has made it possible for individuals to evade taking responsibility. The distinction between accountability and responsibility will be discussed further in Chapter Eight.

The thesis thus begins with the goals of public sector reform. These goals include both efficiency and democracy. However, it is necessary to elaborate the particular sense in which democracy is understood by the policy-makers and to examine how this is given practical effect by local government managers and politicians. In addition, the thesis reviews the theoretical literature on democracy and considers alternative conceptions of democracy. The stated objectives of local government reform, as they relate to democracy, and the actual implementation of the public participation mechanisms, will then be assessed, with a view to evaluating the achievements of the reform process in relation to the democratisation of local government.

The methodological approach taken in this study of the nature of the public participation mechanisms introduced following the 1988-89 reform of local government, therefore adopts a two-pronged strategy. One part of this strategy involves making transparent the assumptions about democracy underpinning the development of the statutory annual planning process and special consultative procedure through a close analysis of the policy documents of the reform period and through interviewing key policy actors in the reform process. The other part of the research strategy involves a case study of the implementation of the provisions of the Local Government Act 1974 relating to annual planning (in which the special consultative procedure, set out in the Act, is to be employed).

This research strategy was adopted for a number of reasons. First, it allows a critical examination of the assumptions underpinning the Fourth Labour Government's views about what democracy in local government entails. Second, it highlights the policy implementation issues associated with the translation of the statutory provisions into practice; implementation issues arise in all areas of policy analysis and mediate the achievement of policy goals. Third, it provides scope to explore what appeared to be problematic aspects of public sector reform. These problematic aspects were apparent in the analyses of the reforms of the state sector in New Zealand imposed shortly prior to local government reform, and had also been highlighted in the more general literature on public sector reform which has characterised not just New Zealand but many other countries. Of particular relevance to this study of the mechanisms for enhancing democracy in local government, are the issues of the politics-administration dichotomy and, related to this, the nature of

accountability associated with the new management structures in the public sector. These are considered to have a mediating effect on the scope for democratic governance.

It is therefore necessary to set the local government reforms in the wider context of democratic theory and changing forms of public participation. The analysis the data gathered in both phases of the fieldwork is accompanied by critical discussion of the literature on the changing nature of public administration, planning and management. In particular, this literature highlights a contest between technocratic and participatory/dialogical approaches to political decision-making.

Through a careful examination of the mechanisms for democracy this research seeks to develop a theoretically-informed understanding of the limitations of current mechanisms for democratisation of local government and also to identify the requirements for the design of democratic public institutions. The research, therefore, has a wider application: the provisions for consultation and public participation in the development of a local authority's annual plan can be seen as a model for public participation in other forms of political decision-making and policy development.

The parameters of the research

The thesis is fundamentally concerned with one of the traditional preoccupations of political theory, that is, the question of the degree of participation versus representation. The thesis is also concerned with the democratisation of the state. There are compelling arguments put forward from a range of quarters in favour of moving beyond a preoccupation with the polity understood as the form, organisation and operations of the state. Feminists and others clearly demonstrate the existence of politics – challenges to the exercise of power – throughout the range of human interactions from the most intimate to the global level (see, for example, Pateman, 1970; Davis, 1991; Phillips, 1991). Notwithstanding these important reflections on the nature of power and politics, the specific focus of the thesis is on the exercise of power within and through the apparatus of the state. Accordingly, while politics is a phenomenon which is not confined to that sphere, at the same time the state constitutes a unique and indisputably influential sphere for the exercise of

power in liberal democracies which – as is outlined in Chapter Three – view politics as the separate sphere of the state. Any such view of politics, however, has had to be somewhat fluid because frequently the question of the need for economic and industrial democracy is closely tied to discussions of political equality (see, for example, Pateman, 1970; Gutmann, 1980; Bachrach and Botwinick, 1992; Lichtman, 1993). However, it is beyond the scope of the thesis to focus substantially on the issue of the need for industrial and economic democracy as pre-requisites of equal public participation.

In the course of undertaking research, boundaries are necessarily established and a major one involved the exclusion of the question of the need to expand the political realm into the sphere of economic life in order to achieve an egalitarian society.

Research on public participation in local government in New Zealand

Local government in New Zealand has not been prominent as a subject of scholarly enquiry. This much is clear from a survey of the number of courses in local government at higher education institutions and the number of publications. Until the end of 1995, there was only the one comprehensive text on local government in New Zealand. This was Graham Bush's *Local Government and Politics in New Zealand* which had been published in 1980. Bush updated and substantially extended this text in a second edition published in late 1995. In the literature more broadly focused on government and public administration in New Zealand, local government is generally given scant attention although in some of the critiques of the public sector reforms of the Fourth Labour Government – specifically Boston *et al.* (1991), Martin and Harper (1988), Kelsey (1989, 1990) and Boston and Holland (1990) – there are overviews of the local government reform process. This literature clearly confirms the strong linkage between local government and the more commonly acknowledged machinery of government, both of which were subject to the Fourth Labour Government's reforming zeal. In general, however, discussions of public administration and democracy in the New Zealand context neglect local government.

Until the work of Boston, Martin, Pallot and Walsh (1996), the major analyses of developments in the local government sector have been those by Bush (1980;

1989; 1990; 1995). Bush notes that local government is 'junior partner' in government and the approach taken by the 'senior' partner is to seek co-operation rather than to require subordination. Interestingly, despite the fact that the 1980 text appeared promptly at the end of the 1970s, a decade characterised by increasing pressures for citizen and consumer involvement in decision making, the index to the 1980 edition contains no entry for 'democracy' (although there is an entry for 'participation') while the more recent edition (1995) highlights both 'democracy' and 'democratisation' and there is extensive discussion of policy-making processes, consultation and public participation.

In the period since the enactment of the 1988 and 1989 amendments to the Local Government Act 1974 there has been the occasional academic dissertation addressing the reforms. Jansen (1992)¹¹ argues that the so-called reforms represent only the first phase in a process of reform, and as such they should be defined as restructuring rather than reform. 'Reform' he takes to mean far more thorough-going changes than what he considers to have resulted from the 1989 legislation.

Brown (1995) carried out research on the openness of government at the local level (the arena of "low politics") to complement that on "high politics" (issues relating to central government, ministerial responsibility to Parliament, constitutional rules and conventions and public participation in political life). Her research involved a study of three sets of organisations: two governed by elected bodies (district and city councils, and school boards of trustees), and one by appointed boards (Crown Health Enterprises). Brown's findings with regard to local government are of particular interest. She concluded (1995: 72) that considerable progress had been made toward more open government and that there was scope for "very open government indeed". While some local authorities were operating according to the spirit as well as the letter of the law, others were:

less convinced of the need for open government and see at least some participation and accountability measures as unnecessary and costly burdens that delay decision making, reduce efficiency and have been

¹¹ Sir Ross Jansen was the President of the Local Government Association from the time of its formation in 1988 (as a result of a merger of the former Counties Association and Municipal Association) and throughout the period of local government reform. He was also a member of the National Transition Committee which was set up to oversee the transition to the new local government structures in 1989.

imposed by a central government that does not understand that most members of the public either lack interest in local government or are happy to let their representatives make decisions on their behalf without the need for their input.

She further observed that this attitude may indicate a failure to perceive difference and debate as healthy manifestations of a democratic society (Brown, 1995: 8).

Alongside a relative dearth of academic interest in local government there is some government-sponsored research on the implementation of the new legislative arrangements. The Department of Internal Affairs has administrative responsibility for local government and its Local Government Business Group has conducted research on a number of facets of local government in the post-reform phase. Studies by the Department's staff and others associated with the Department include research on implementation of the separation of regulatory from other functions (Bridgeport Group, 1994), changes in service delivery (Department of Internal Affairs Local Government Business Group, 1993), the role of community boards (Department of Internal Affairs Local Government Business Group, 1991), the functions of regional councils (Officials Group on the Future of Regional Councils, 1991) and – of particular relevance to this thesis – the annual planning process (Department of Internal Affairs Local Government Business Group, 1992; Searle, 1995). In the course of developing the research design for the study, careful attention was given to the methodology employed by the Department of Internal Affairs in its 1992 survey (a survey of all local authorities) and the findings of this survey. Access was obtained to all the raw data (that is, the self-administered questionnaires returned by local authorities).

A follow-up survey was conducted by the Department of Internal Affairs (Searle, 1995), focusing on the 1994/95 annual planning process. By the time that the results of that study became available¹², the fieldwork and data analysis for the thesis had been completed. The 1995 survey employed a similar approach to that used in the 1991/92 survey so that the findings of the two surveys could be compared and trends identified. The main conclusions of the 1995 survey as reported by Searle (1995: 1) were as follows:

¹² At the time that the research design for this thesis was initially developed (1990-91), there was no indication that any such subsequent survey of local authorities' annual planning process would be conducted.

1. The process of consulting the public over the annual plan has continued to evolve and is basically sound.
2. Local authorities are generally using the intended flexibility in the legislation, which only sets minimum standards for consultation, and no major changes to the Local Government Act 1974 in this area are required.
3. Each local authority needs to address the role of annual plan consultation as part of a wider consultation to be undertaken, for example in association with longer term strategic planning.

Two points raised by these findings are of interest for the present study. First, the conclusion that no changes are needed to the relevant sections of the Local Government Act 1974 is significant because it signals a clear intention to retain the *status quo* and a fundamental acceptance of the current statutory framework by the current administration. Second, despite this degree of comfort with the legislation¹³, there is acknowledgement that there is scope for more extensive forms of consultation. Implicit in this is a recognition that there are limitations to the current practice of annual planning.

While the 1995 survey revealed that many other local authorities now adopt approaches to, and have experiences of, the implementation of the special consultative procedure that are similar to those described in this research, there is a key difference between the Internal Affairs survey and the thesis. The survey, as the title of the 1995 report suggests, seeks to address the question: 'Is public consultation working?' As such, the focus is on the consultation devices and the level of public involvement. While that question is of some importance, the thesis is more broadly concerned with the relationship between the statutory annual planning process and special consultative procedure, and the nature of democratic governance.

¹³ In a personal communication, the researcher who prepared the 1992 report indicated that a recommendation for continuation of the *status quo* in preference to any legislative reform was in part made because of the political climate at the time. Given the nature of the government (National administrations historically have been conservative about local government matters) and, in particular, the then Minister of Local Government (who was regarded by many as particularly conservative), it was seen as important not to open up any opportunity for the National Government to dilute the participatory mechanisms that were in place.

Local authority planners themselves have attempted their own reviews of their implementation of the annual planning and reporting requirements which are generally for in-house use (Crawley and Johnston, 1991), and perhaps made available to a wider audience through publication in 'industry' or professional publications (see for example, Carroll *et al.*, 1991; *New Zealand Local Government* 1991a), or through conference presentations (see, for example, Markham, 1995).

An Australian commentator took a particularly negative view of the local government reform process and its outcomes. He is quoted at some length here because the analysis is one of profound pessimism:

The public and councillors have been reduced to ceremonial status in New Zealand local government; the chief executive rules supreme. The central State demolished local government and rebuilt it in its own image without any meaningful consultation with local communities. It can re-order local structures at will. Local government has become local administration under the watchful eye of the State... New Zealand local government, after the reforms in the late 1980s, is an empty shell in terms of 'local government'. It has become local administration, and central guidelines are so tight that it has, at best, an agency role for central government. Democratic forces are so weak in New Zealand local government that it is surprising that the central government did not just abolish local government altogether and replace it with decentralised regions linked formally to the centre, with local advisory committees. The real issue was not amalgamation, it was about abolition of local government as an effective decentralised form of community government with a high degree of autonomy (Jones, 1993: 31-32).

Jones continues his assessment in a similar vein:

New Zealand rode roughshod over the rights of hundreds of small communities with its forced changes in 1989. There was no meaningful choice given to the people of New Zealand. The nature of Thatcherist conviction politics, transplanted to New Zealand in the late 1980s, means that no evaluation of the changes has taken place. The architects of the New Zealand changes have now become evangelists in Australia. National pride dictates that, in the presence of Australians, New

Zealanders only ever tell of how wonderful the amalgamations have been (Jones, 1993: 243).

This extremely negative assessment reflects a somewhat simplistic understanding of the reform process, and, in particular, an outsider perspective which does not appear to have a sharp appreciation of the differences between pre-reform local government in New Zealand and the post-reform environment. More than anything, Jones exposes a nationalistic suspicion of anything to emerge from the country which many Australians would prefer to regard as a small version of one of the Australian states rather than a nation with its own sovereignty.

Boston, Martin, Pallot and Walsh (1996) examine local government in the context of a comprehensive study of the "New Zealand model" of public sector management. Their project is to assess whether the contemporary (post 1989) form of local government has the capacity to perform the role that is expected of it in the following years. They rightly note that that role is not clear given the divergent expectations expressed by advocates of devolution who see local government as a partner of central government in the governance of the country, and those who seek a minimalist role for local government, along the lines of the 'enabling local authority' encountered in much British local government policy. Boston, Martin, Pallot and Walsh (1996) note that among the present trends in local government is a tendency towards reductions in the number of elected representatives.¹⁴ They attribute this partly to a desire found throughout the public sector to "depoliticise" the management of services. For this reason, significant areas of service delivery are now being transferred to local authority trading enterprises (LATEs) or being contracted out to other agencies.

The inclusion of provision for community boards in the 1989 amendment legislation is viewed by Boston, Martin, Pallot and Walsh (1996) as inspired to some extent by the same forces at work when community councils were established in 1974. These lower levels of community self-government were seen as vital in the wake of amalgamation of smaller units into larger units of local government. Community boards in the post-1989 era, and their predecessors, allowed smaller communities a voice in the larger administrative

¹⁴ This prospect is now looking far more certain in the wake of the 1996 Local Government Commission Review of North Shore City (Local Government Commission, 1996).

unit. However, this involved achieving a fine balance between giving opportunities for influence to the smaller unit and maintaining the integrity of the larger unit. Sections 101ZY and 101ZZ of the Local Government Act 1974 give community boards primarily an advisory function rather than a decision-making role, although the parent territorial authority may delegate functions, powers and duties to a community board. Boston, Martin, Pallot and Walsh (1996) note that any decision-making functions relate to service delivery rather than to policy and regulatory matters, although community boards do tend to have input into planning processes (which encompass regulatory matters). Storer (1996) argues that the governance role of community boards could be significantly expanded, if the full scope of section 101ZY(e), which states that one of the purposes of community boards is to perform such functions as are delegated to it by the (parent) territorial local authority, is realised.

Boston, Martin, Pallot and Walsh (1996) suggest that the prevailing form of representative democracy in local government, which is characterised by a low level of voter turnout in local authority elections (even under a system of postal voting)¹⁵, provides a justification for the annual planning process which seeks to foster accountability and participation by way of the statutory consultation processes. They see this as complementing other statutory mechanisms in the form of the Local Government Official Information and Meetings Act 1987.

For Boston, Martin, Pallot and Walsh (1996), the openness of local government will be an important consideration in future development of its role. In terms of the politics-administration dichotomy, they comment:

The task of establishing the 'proper' role of elected and appointed officials is, if anything, more difficult in local government than it is at the national level. The relative absence of electoral commitments and of cabinet collective responsibility leaves a policy vacuum into which officers can be expected to move (Boston, Martin, Pallot and Walsh, 1996: 190).

¹⁵ In the 1992 local authority elections, 55% of electors voted. This was slightly lower than the figure for the previous elections in 1989. However, it should be noted that the voter turnout differs according to the type of local authority. Mainly rural authorities have a higher turnout (for example, in 1992 in district councils with a population of less than 20,000 71% of electors voted) than urban authorities (for example, in city councils just under 50% of electors voted) (Department of Internal Affairs, 1992).

Boston, Martin, Pallot and Walsh (1996) recognise that there are diverging views about the role of local government. At one end of the spectrum is the view that local government has only a minimal role to play. This has been promoted, in particular by the New Zealand Business Roundtable (1995). Another view (not necessarily the counterargument) is that local government has a 'governance' role. According to this view, local government has oversight, co-ordination and enabling functions in pursuing particular outcomes for sub-national communities. Boston, Martin, Pallot and Walsh (1996) suggest that the issue of governance is the subject that will dominate the debate about the future role of local government. Referring to Reid (1994), they note:

Good local governance is about managing the diverse interests reflected in the wider community; it is concerned with the future needs of citizens beyond this generation; and it embraces an obligation to assist citizens to participate meaningfully in the life of their communities... Above all, the governance role is synonymous with leadership (Boston, Martin, Pallot and Walsh, 1996: 202).

The future role of local government, and particularly the question of the nature of democratic governance is at the heart of the present study. The late 1980s reform of local government need to be viewed in the broader context of debates about the institutions and processes of liberal representative democracy. It has been suggested (Fukuyama, 1992: xi) that the ideal of liberal democracy cannot be improved upon and that it is the "final form of human government". That ideal is examined in detail, and the alternatives and challenges to it are explored.

Key Themes

The discussion thus far has identified a number of themes which are central in this exploration of the nature and scope of democracy in local authority annual planning:

- the public sphere (that is, the realm of political action)
- democracy
- participation (that is, political agency), accountability and citizenship
- representation and the issue of responsiveness

- openness and transparency

These themes may be regarded as components of democracy (Royal Commission on Social Policy, 1988; Wright, in Hirst and Khilnani, 1996). Through the mechanisms for public participation, it is thus assumed that the contemporary design of our public institutions fosters a democratic form of local government. The openness and accountability of this level of government are regarded as strategies for both efficiency and democratisation. These themes will be elaborated more fully in subsequent chapters, but it is appropriate to introduce them and outline their connection with the research question.

The public sphere

In exploring questions of the nature and scope of public participation in political decision-making, the realm of political action is of central importance. For some, this realm of political action encompasses the domain of party politics and government: in other words, the state. For others it refers to a term outside of these domains of conventional politics, that is, what is known as 'civil society'.¹⁶ The term has been elaborated most notably in the work of Habermas (1989) who seeks to document the emergence, transformation and decline of the bourgeois public sphere. The notion of the public sphere is regarded in this study as central to the analysis of the public participation provisions of the Local Government Act 1974 (as amended in 1989).

Habermas (1989) conceived of the public sphere as a domain which mediates between society and the state, in which public opinion is formed. The public sphere (and the related notion of public opinion), according to Habermas, first emerged in the eighteenth century. In particular, the public sphere was a forum for reflecting critically on the practices of the state. It was, literally, a physical space, namely coffee houses and salons in western Europe where a range of citizens discussed literary texts and political ideas. In Habermas's view of the

¹⁶ For a comprehensive analysis of the term 'civil society', see Keane (1988a) and Walzer (1992). Essentially, civil society is contrasted with the state. It is the sphere of autonomous action (where voluntary associations and new social movements are located). In some analyses the term also encompasses the market/economy while, in others, it is the sphere of voluntary associations distinct from both the state and the market. In many socialist and postmarxist theories, civil society is given a key role in the democratisation of both the state and the economy.

public sphere, participation and deliberation are essential for the development of political will-formation which is necessary for the democratisation of the state.

The public sphere was characterised by certain standards and modes of behaviour, including accessibility for all citizens, elimination of privileges, and the practice of rational argument. Thus, in this public space, publicity was given to ideas. As Stevenson (1993-1994: 224) describes, "publicity meant the exposure of domination through the use of reason..." Unlike the postmodern critics of modernity and its rationality, Habermas viewed modern rationality positively, assuming that consensus (political will-formation) would emerge from rational argumentation.

The public sphere, however, atrophied with the development of capitalism. Habermas argues that, in the late twentieth century, capitalism structures the silence of citizens and casts decision-making as requiring sophisticated technological capacity and scientific training. This is a further form of alienation associated with capitalism, further entrenching the alienation of labour found in industrial capitalism (Agger, 1991).

At the same time, however, Habermas seeks to move beyond the pessimistic analysis of domination associated with earlier critical theorists. His theory of communicative action (Habermas, 1984) was thus formulated as part of his refinement of a critical theory of late twentieth century capitalism and liberal democracy.

The theory of communicative action, through its vision of restructured, unconstrained communication, allows a counterhegemony to become established with which to challenge domination. Through dialogue and debate, that is, deliberative democracy, Habermas argues, bargaining and the force of better argument will lead to emancipation. This is the essence of deliberative democracy – a theory and practice in which democracy is associated with dialogue and deliberation.

The modernist value of reason underpinning Habermas's theory is evident. For some subsequent theorists of democracy, this modernist element is problematic. Nevertheless, the notion of a discursive or deliberative democracy has been taken up by a number of other theorists, including those who are critical of what they consider to be a naive modernist view of discourse and who

seek to incorporate deconstructionist, poststructuralist and postmodernist arguments. Fraser (1995b), Benhabib (1992) and Agger (1991) have drawn on Habermasian theory to explore the viability of a public sphere which provides scope for debate and the critique of domination. The notion of the public sphere is, therefore, viewed as a central theme in theorising democracy and in evaluating provisions for public participation in local government.

Democracy

The concept of democracy is one which results in a range of different definitions. At the most basic level is the notion of 'rule by the people' and also a state in which there is a degree of political equality between individuals. Beyond this level, though, many issues are vague: what does it mean to 'rule'? Who do we include when we refer to 'people'? Liberal democracy is fundamentally concerned with the equality of 'one person, one vote'. Despite the lack of clarity about how it is to be interpreted, democracy is notable for universally being positively regarded. According to Held (1987: 3), democracy is associated with a range of desirable conditions or goals, including:

equality, liberty, moral self-development, the common interest, private interests, social utility, the satisfaction of wants, efficient decisions.

Clearly, though, democracy is highly contested as the numerous dichotomous concepts reveal. Contrasts are drawn between two frequently oppositional types: for example, direct and indirect democracy, participatory and representative democracy, thick and thin democracy, strong and weak democracy (Barber, 1984). However, common to all these is a degree of influence over decision-making.

Direct and participatory democracy refers to contexts where there is actual involvement by the relevant individuals and groups in the decisions which affect them. The merits of participatory democracy are outlined by Heater (1990: 173):

From Rousseau onwards the argument in favour of participation has been two-fold. The first is that only by the committee involvement of the citizens will decisions be made by government in the interests of the community as a whole. The second is that if citizenship involves a sense

of responsibility, it is only by being trusted with some involvement in civic affairs that the citizen will develop this quality. These views were revived and became powerful stimulants to active demands throughout the western world in the 1960s.

Indirect and representative forms of democracy refer to political arrangements in which individuals and groups delegate to their representatives the responsibility for making decisions which subsequently affect them. Democracy is assumed to be provided for through individuals and groups having the power to change those whom they delegate to act on their behalf. What is necessary for effective democracy is the assurance of regular contested elections. In particular, this requires an examination of liberal representative democracy, which, as will be argued, is the theory shaping the development of New Zealand's political institutions and political culture. Public participation and democratic aspirations need to be understood in this theoretical and historical context. In entering the theoretical debates about democracy, the approach taken in the thesis is influenced by Arblaster's (1987) proposition that democracy is not so much about a system of government but the aspiration to bridge/abolish the gap between government and governed, that is, between state and society.

Representation

A key feature of liberal democracy is representation. Political decision-making is a function of elected representatives. Wagner (1994: 91) defines representation as the "rules of making 'present' in political deliberations those citizens who cannot directly participate themselves, who are in fact absent."

Bellamy (1992) explains the emergence of representative democracy through reference to the Weberian argument about the increasing specialisation in the division of labour under capitalism. Thus, a division of labour came to characterise the political sphere just as it did the economic sphere, and government became the domain of trained specialists rather than citizen amateurs.

There is a certain irony attached to the fact that, while in modern democracies there has been expanding enfranchisement, at the same time it became

necessary for individual voting to be harnessed to party organisations. As Bellamy (1992: 196) explains:

The far greater number of voters and the enhanced competition brought about by the broadening of interests demanding representation, made bureaucratic methods indispensable for their efficient functioning. As a result, the party boss and professional election agents gradually displaced the relatively disorganised and technically less rational arrangements of local dignitaries.

There are in fact two views of representation. One sees it as a device for limiting popular participation while the alternative view sees it as essential to the extension of democracy to mass societies. In this latter view, it was therefore important to ensure that elected representatives could not acquire too much independent power or become a self-perpetuating oligarchy. To this end, the advocates of representative democracy also insisted on periodic elections, prohibition on length of tenure of office, and a single chamber legislature, so that as far as possible, the substance of popular power was to be preserved.¹⁷

It is important to note that parliaments, based on the principles of representation, preceded the modern concept of democracy. In his Bristol Speech of 1774, Edmund Burke argued that a representative's job is to exercise judgement, not act on people's opinion (Arblaster, 1987). Parliament was regarded as a deliberative assembly of one nation, with one interest, that of the whole – where people are guided by the general interest, not local purposes or prejudices. The function of representation is distinguished from that of delegation by the fact of the representative's independence. Representation was subsequently put forward as a means of adapting the democratic principle to societies such as the United States which were too large to allow for personal participation by all citizens. Thus, representation became a substitute for direct democracy.

Arblaster (1987) considers that the Burkean notion of representation which has prevailed in Western democratic politics remains vague and undemanding:

¹⁷ Arblaster (1987) notes that even J.S. Mill, for all his apprehensions about public opinion and mass ignorance, never abandoned the basic democratic principle that as far as possible people should govern themselves and that therefore the ultimate objective had to be the maximum of direct, personal participation.

... it is not clear in what sense a Burkean representative is a representative at all. A true representative is surely someone who is authorised to speak and act on behalf of those (s)he represents, and who has been so authorised by them. A true representative, in other words, is a delegate, carrying a mandate and acting under instructions (Arblaster, 1987: 84).

He argues that the principle of parliamentary sovereignty means popular control and accountability are weak. Electors are unlikely to know or support all the policies of the party to which their representative belongs.

In a similar vein, Stewart (in Hirst and Khilnani, 1996: 47) is critical of the impact of representative democracy on democratic governance at the local level:

The key problem of local democracy is the attenuated conception of representative democracy on which it is based, which allows little or no place for that participatory democracy which is the potential strength of local democracy. Representative democracy in local government is seen too often not merely as being dependent on the local election, but as consisting of the local election and of little more. The act of being a representative is sufficient, removing any need for a continuing process of representation.

A key theme in democratic theory, then, is the appropriate balance between representation, which is a core liberal value, and the participation that is at the heart of aspirations for more effective political decision-making.

Participation, accountability and citizenship

Participation is central to participatory and republican political theory. Komberg and Clarke (1992: 214) described citizen involvement as “a sine qua non of democratic politics...” Participation is seen as part of the strategy of responsiveness and accountability. Participation theorists argue that through the input/contribution of citizens, the providers of public services (including local government) are assisted in the design of services that are relevant and appropriate. Participation involves processes which provide access for citizens

to government and actual involvement in political decision-making and policy development.

Public participation may be viewed as a way of improving decision-making by the participation of those who are affected by the decision(s) and as a way of generating accountability of decision-makers to those who are affected by the decision(s). The link between accountability, public participation and democracy is succinctly expressed by Lipsky (1980: 160): "Accountability is the link between bureaucracy and democracy." Hirst's (1994a: 74) definition of democracy as "informed decisions by public bodies through the continuous seeking of the consent of the governed" highlights the importance of accountability by those controlling public bodies to those who are subject to public bodies.

Although local government has since its beginnings been recognised as a vehicle for self-government¹⁸ and public participation, reflecting the principle of subsidiarity (according to which decisions should be made by those most closely affected by them), in fact there have been significant restrictions on public participation. Like the classical conception of citizenship, popular participation in local government was in fact confined to certain sectors of the population, even until recent times. For example, the property qualification on voting meant that electoral participation was restricted to ratepayers. In general, the participants in local government, as in central government, were overwhelmingly drawn from the middle-class, educated and male sections of the population.

Often what is not adequately addressed in the democratic theoretical literature is what form(s) participation takes. As Heater (1990: 212) notes:

The term citizenship is meaningless without some kind of participation in public affairs. There have, however, been enormously diverse interpretations of this function. What advantages are thought to accrue from citizen participation? How much participation and of what kind is desirable? and how practicable?

¹⁸ In 1991, the Council of Europe drew up the European Charter of Local Self-Government which is based on the idea that self-government by local authorities is a "touchstone of genuine democracy" (Cram and Richardson, 1994: 21).

Komberg and Clarke (1992: 231) point out that there are numerous “pathways to politics” in representative democracies:

Many of these routes lead to and through the electoral arena. Voting is, of course, the most basic form of electoral participation, but people also can try to convince others how to vote, campaign on behalf of candidates or parties, donate money to these individuals and organisations, or stand for elective office themselves.

They emphasise that elections are only one expression of the principle of democratic participation and in fact there has been increasing recognition of other forms of political action in western democracies since the late 1960s. In particular, with the growing influence of new social movements and consumerism, there has been recourse to more direct action such as petitions, marches, rallies, boycotts, strikes and demonstrations. This widening arena of politics, or the growing prominence of civil society, is noted by Jenson (1993: 138):

The new social movements of the 1970s and 1980s rejected the longstanding notion that the pre-eminent political spaces were Parliament, workplace and nation. As these movements now struggle to elaborate their own identities and to legitimate them in political discourse, the spaces for and of politics proliferate. But behind all of this is a renegotiation of citizenship, and in particular, the insistence that more actors ‘belong’ in the political process than can be recognised by a single countrywide undifferentiated definition of the citizen and that these actors, defined in categorial terms, will exercise their political rights well beyond electoral politics and intergovernmental institutions.

In New Zealand, a more proportionally representative electoral system has been adopted and there has also been legislation (Citizens Initiated Referenda Act 1993) requiring a non-binding referendum to be held if more than 250,000 voters sign a petition requesting a referendum.

There are several dimensions of accountability: there is the accountability of elected representatives to voters/citizens; accountability of managers/officials to citizens/users of services; accountability of managers to elected representatives. A distinction is frequently made between political and

managerial accountability. Political accountability is achieved through the triennial electoral process. Managerial accountability is achieved through annual planning and reporting and financial accounting. In exploring the mechanisms for public participation in the annual planning process, issues of accountability will also be highlighted.

Liberal democracy, as noted above, is associated with representative government and the right to vote (see, for example, Marshall, 1950) and not with a more participative role for citizens in a public realm. The concept of citizenship is one that has developed over a considerable period (Held, 1987; Heater, 1990). It was a concern of the ancient Greeks in pre-modern times and it re-surfaced as a key theme in the period of the Enlightenment with the emergence of nation-states and the liberal emphasis on equality of individuals. Theories of citizenship highlight both the notion of *rights* (such as entitlement to social welfare services) associated with the juridical status of citizen, but also, particularly in political theories (and specifically in the republican literature) the notion of *responsibility* or duty to participate in political decision-making, or at least a degree of political engagement and competence. The republican conception of citizenship has been somewhat eclipsed by the emphasis on citizenship rights and by pessimistic assessments of public participation. As Stivers (1990:87) points out:

... participation is typically treated as a cost to both citizen and bureaucrat rather than as a benefit to society. There is little evidence of substantive decision making by citizens – as distinguished from advice and support – and even less apparent awareness that active citizenship constitutes an end in itself.

While liberal citizenship refers to a limited range of civil liberties, there are differences among liberal democracies in the extent of these liberties and in the extent of political participation. For example, in Australia there has been considerably more political interest in citizenship education than there is to be found in New Zealand (see, for example, Senate Standing Committee on Employment, Education and Training, 1989, 1991; Macintyre *et al.*, 1994; Sawyer, 1996). At a basic level a distinction can be made between 'thin' conceptualisations of citizenship and 'thick' descriptions (or, respectively, formal/procedural democratic rights and substantive democratic rights) (see Barber, 1984; Atkinson, 1994). The archetypical exponents of these two

approaches, discussed in the thesis, are liberalism and communitarianism. An aspect of the thesis is consideration of the scope of political citizenship and participation that may be accommodated by liberal democratic political institutions.

Openness and transparency

Open government by which decision-making is transparent and where citizens have access to government information is a key component of democracy. This has been frequently underscored by Sir Brian Elwood, the Chairperson of the Local Government Commission (who subsequently became an Ombudsman). Access to government information is also seen as an important citizenship right. Indeed, Moore (1995) argues that the three citizenship rights identified by Marshall (1950) – civil rights, political rights, and social rights – are meaningless without a fourth citizenship right, that of access to information. Palmer (1987) notes that open government is necessary as a check and balance on the use of political power. He highlights the role of the law, the role of the media, the presence of ombudsmen, official information legislation, and scrutiny of Parliament by an independent auditor as important features of representative democracy.

The importance of information is underscored by Longley (1993: 7):

The central prerequisite for accountability is clearly openness, a transparency which needs to embrace all decision making from policy setting, through implementation to monitoring. A commitment to openness is of prime importance in order to counteract any tendency to control or distort information which might in turn prevent issues being the subject of proper debate and reduce capacity for reasoned choices to be made about priorities and resource distribution. This means that more than a basic provision for access to information is needed. To be successful openness requires the devising of mechanisms for the actual generation of information and its utilisation, in order to widen policy options.

Introduced prior to the 1989 reform of local government, the Local Government Official Information and Meetings Act 1987 is an important complement to the Official Information Act 1982. It extended the principles of open government,

which up to that time applied only to central government, to subnational bodies (for example, university councils, the former Area Health Boards, and regional and territorial local authorities). While this was a natural evolution of the principles applied in the core state sector, in part the extension of the legislation to subnational government became necessary because of the process of devolution that was in train during the term of office of the Fourth Labour Government.¹⁹ This devolution would subsequently result in the devolution of schools management to Boards of Trustees which would also be covered by the Local Government Official Information and Meetings Act.

While these statutes are key instruments for enhancing public participation in political decision-making and for strengthening the transparency and accountability of public sector decision-makers, nevertheless there are considerable limitations to open government legislation in New Zealand. As Buchanan (1993: 8) notes:

The [Official Information Act] has barely touched the tradition of Cabinet secrecy which ultimately dominates policy development. And the public relations machine – the politician's answer to open government – leaves doubts as to the objectivity, timeliness and usefulness (for the public) of much of the information which the system does produce... The state sector today is greatly different from what it was a decade ago. An open and willing attitude to information disclosure does not fit well with the current commercial approach, nor, necessarily, with the ethic of "contestability" which drives what is left of the core public service.

The open government legislation can be overridden, with a common method being the creation of new publicly owned bodies but corporatised (such as port companies, Crown Health Enterprises and local authority trading enterprises) which, as commercial enterprises at arms' length from the public sector, are not subject to the official information statutes.

¹⁹ Devolution was a key theme in public sector reforms of the Fourth Labour Government but any such transfer of power or decentralisation of public services was to be carefully controlled through accountability requirements (Martin and Harper, 1988; Schick, 1996).

The format of the thesis

Following this introductory chapter, the focus of the thesis turns to the public sector reforms which have swept much of the western world, and which in fact appear to be a continuing feature of western democracies. The reforms of the public sector are clearly intimately related to what Centeno (1993) refers to as two simultaneous revolutions that were occurring in the 1980s throughout much of the world, east and west, north and south, namely democratisation and marketisation. For the residents of former state socialist regimes, these trends were those of *glasnost* and *perestroika*. A preference for private sector management practices and market mechanisms dove-tailed with criticisms of government, bureaucracy and public management which permeated both state socialism and capitalist democracy. Chapters Two, Three, Four and Five survey bodies of theory which critically discuss bureaucracy, democracy, the public sphere, and planning. In Chapter Two, the theoretical influences on public administration historically are examined briefly. The focus then turns to public choice and related theoretical perspectives that have been influential in more recent times and which shaped the reforms of the public sector (including local government) in the late 1980s, and which continue to be influential in the 1990s. Public choice theory offers a critique of bureaucracy and interest group pluralism and, attendant upon this critique, a prescription for democracy and accountability. The public participation mechanisms introduced into local government, and the more general emphasis in the public sector reforms on strengthening democracy, which accompanies the goal of efficiency, need to be seen in this wider context of the public choice perspective of bureaucracy and democracy.

Having identified the theoretical impetus for the reforms of local government, the focus of Chapter Three is on the theoretical literature on liberal democracy. Here, the main objective is to delineate the key dimensions of liberal representative democracy. An essential task for this study of the nature of public participation in the annual planning process in local government, and of the degree to which this participation strengthens democracy, is to understand the nature of contemporary democratic institutions in New Zealand. Criticisms of liberal representative democracy, additional to the public choice and related perspectives discussed in Chapter Two, are outlined.

In Chapter Four the Habermasian concept of the public sphere is introduced. This concept, it is argued, can provide the basis of an understanding of democracy which is grounded in participation and dialogue and which therefore can be used to assess the annual planning process and the special consultative procedure utilised by local authorities. The notion of the public sphere emerged in the early work of Habermas and the subsequent theoretical development of this concept was displaced by Habermas's interest in the theory of communicative action. However, a common theme in this critical theoretical perspective is the discursive and dialogical nature of political will formation. The thesis employs Habermasian theory to analyse the nature of public participation in local authority decision-making.

The focus then turns to the development of local government in New Zealand, leading up to the 1989 reform legislation. A brief overview of the history of local government in New Zealand is first provided. The purpose of this overview is to reveal the historical pattern of participatory processes and, in light of the belated efforts (dating mainly from 1974) to provide for some measure of public participation (of a very limited scope), to throw into sharp relief the significance of the new developments arising from the 1988-89 reforms. The reform process itself, initiated by the Fourth Labour Government shortly after its re-election in 1987, and concluded in time for the 1989 triennial local body elections, is also recounted.

The earlier history has been extensively documented (most notably by Bush, 1980 and 1995), and the account in the thesis is indebted to that work. The record of the more recent events (from 1987) is based on the author's first-hand experiences, and on primary source material in the form of policy documents and other documents (such as ministerial press releases and submissions) generated in the 1988-89 period about the emerging statutory framework which incorporated the statutory annual planning process and special consultative procedure. In addition to the use of these documents for fleshing out the chronological account in Chapter Five, the analysis of the policy documents is a key part of the fieldwork and is presented in Chapter Eight. The aim of this part of the fieldwork, as explained in Chapter Six, is to illuminate the assumptions guiding the reformers of local government, in particular, assumptions about the nature of democracy which influenced the emphasis on a statutory annual planning process and special consultative procedure. To this end, the analysis

of the policy documents is complemented by interviews with key policy actors in central government and this data is also presented in Chapter Eight.

Various authors have identified a new strand of managerialism as having a major influence on public sector and local government reform both in New Zealand and in other western democracies. Gyford (1991: 49), for example, highlights the influence of new public management theory on local government reform in the United Kingdom. Critiques that have arisen of former public sector management techniques have generated a new emphasis on ensuring that local authorities respond effectively to "more complex and more pressing public demands." The outcome of the critique of management practices has been a wide-ranging new repertoire of policies and practices, including:

public participation, user involvement, consultation and co-option arrangements, decentralisation, privatisation, opting out, use of the voluntary sector, encouraging self-help and mutual aid, market research and opinion polling, changing the organisational culture, improving reception facilities developing customer relations and marketing, devising mobile and one-stop service systems (Gyford, 1991: 51).

All of these are evident in the on-going restructuring and reviews of local government in New Zealand since 1989. Yeatman (1990) and Considine (1988, 1990, 1994), among others, have documented and critiqued similar changes in the Australian public sector. Considine (1990) highlights the managerialism of what he refers to as the Corporate Management Framework. He describes its key features as: (i) programme budgeting; (ii) corporate planning; and (iii) the development of performance indicators. It is the second of these, the priority given to corporate planning, that is at the centre of the present research.

Writing in the local setting, Boston (1991a) identifies new public management as one of the bodies of theory underpinning public sector reform in New Zealand. Boston is primarily concerned with central government administration, yet it is clear that such trends have permeated all areas of the public sector, including local levels of government. The changing character of public administration and planning during the twentieth century and the emergence of the contemporary 'orthodoxy' of new public management are the focus of Chapter Five. The purpose of this historical account of the changing nature of

public administration is to explore the changing forms of political accountability and to provide the context for the focal activity of this study, namely, exploring the nature of the current provisions for democracy in local government (and, specifically, the mechanisms for public participation).

In Chapter Six the research design, methodology and procedures employed in the course of this study of public participation in local government are outlined. The fieldwork comprises two distinct strategies. The first is the collection of data about the reform of local government during 1988 and 1989 with the specific aim being to explore the reformers' assumptions and intentions in relation to democratisation of local government. In particular, the inclusion of the special consultative procedure is examined. The data gathered in this phase of the fieldwork is derived from interviews with policy makers associated with the changes to the Local Government Act 1974 and from analysis of documents generated in the reform process.

The second aspect of the fieldwork involves a study of the implementation of the new statutory requirement for annual planning (which must utilise the special consultative procedure). This entails a case study of the annual planning process in one local authority over a twelve month period. This case study employs several methods: observations of a series of meetings conducted from the first stages of the annual planning process through to the subsequent adoption of the annual plan and reporting back to citizens; interviews with key actors in the annual planning process; and analysis of documents generated during the annual planning process.

As noted in the discussion of the research question, a common thread running through both phases of the fieldwork is the aim of identifying the kind of democracy that is made possible by, and which is implicit in, the new legislation governing local authorities. There are numerous ways in which this special consultative procedure is designed to enhance democracy. These include:

- (i) The publication of a draft annual plan. This implies that no firm commitments are to be made about programmes and activities until after citizens have an opportunity to comment on them.

- (ii) Providing opportunity for citizens to make submissions. This implies that the organisation is expected to receive feedback about its proposed plans and activities.
- (iii) Being required to give an opportunity for submissions to be made and being required to consider these submissions in a public forum. The Council's deliberations are, therefore, to be open to public scrutiny.
- (iv) Stipulating that the final plan can only be produced after submissions have been received and considered. This is important in view of the fact that it is possible for final policy decisions to be taken before the period of consultation has concluded.
- (v) Imposing upon local authorities a statutory requirement to prepare an annual report at the end of the financial year, in which Councils are required to set out their achievements in the light of what they set out to do (as outlined in the annual plan). This annual report has to be submitted to the Audit Office.

The case study aspect of the fieldwork is incorporated in recognition of the fact that implementation of policy as set out in statutes requires interpretation by local policy managers. The significant role of policy managers in translating and giving effect to statutory prescription is recognised in the policy implementation literature but has not been extensively studied in the New Zealand public policy literature. A further reason for adopting the methodological strategies outlined above is to allow some insights into the perspectives of policy managers and elected political representatives about their roles in the governance process. This is important in shaping the effectiveness of policy as set out in legislation and also for understanding the particular exigencies faced by policy managers; sometimes it is difficult for these to be fully appreciated by those with other roles in the governance process (citizens and elected representatives). At the same time, policy managers and other officers – who may collectively be referred to as the bureaucrats – may fail to recognise the extent of the influence they wield in governance matters. This study seeks to explore the scope of that influence through moving beyond some of the conventional formulations of liberal representative democracy and instead considering the dialogical component of democracy.

In Chapters Seven and Eight the empirical and theoretical work are brought together in an analysis of the implementation of the statutory annual planning process and special consultative procedure. The aim of this analysis is to make transparent and to assess the scope of the annual planning process and special consultative procedure for strengthening democratic governance. The assessment of the democratic character of the 1989 reform of local government draws on Habermasian theory, particularly the notion of a public sphere in which political will formation occurs. In Chapter Nine, the conclusions of the study are reported, and the implications of these for the design of public institutions which foster a democratic public sphere. In particular, the further refinement of the annual planning process and special consultative procedure are addressed. Finally, there is discussion of directions for further research.

Conclusion

The thesis is fundamentally concerned with the goal of local government reform to enhance democracy. It seeks to outline how that goal was understood by the reformers and how it is linked with the subsequent incorporation into the reform legislation of a statutory annual planning process and special consultative procedure. The implementation of the annual planning process is also examined, with the aim being to highlight the results of the reform legislation on political decision-making in local government. Drawing on the theoretical literature on democracy, the thesis considers whether the practical application of the new statutory provisions fosters more democratic governance. The task now is to explore the nature of, and impetus for, public sector reform, and the changing character of public administration, in order to establish the context in the pursuit of democracy was included as part of the reform of local government in the late 1980s.

CHAPTER TWO

PUBLIC SECTOR REFORM: THE PURSUIT OF DEMOCRACY AND ACCOUNTABILITY

Introduction

Democracy is one of two goals – the other being efficiency – which are explicitly acknowledged as the objectives of the reforms of the public sector. Prior to the reforms, it was argued (in particular by the Treasury, 1984) that there was scope for improvement of both democracy and efficiency in the public sector (including both local and central government). Accordingly, the reforms were designed to enhance both aspects of the functioning of public sector organisations. Although this thesis is primarily concerned with the goal of democracy, it is necessary, given that the two goals are pursued in tandem, to consider the connections between the two goals and to explore the extent to which they may be mutually reinforcing or mutually exclusive. This chapter will review the key instruments of public sector reform, discuss the changing nature of public administration, and will explore the theoretical underpinnings of public sector reform in the late 1980s in New Zealand. The reforms of the public sector in New Zealand have close parallels with developments in the public sector in many other parts of the world in the same decade. been referred to as “reinventing government” by Osborne and Gaebler (1992).²⁰ The purpose of the chapter is to identify the broader historical and theoretical context in which the statutory annual planning process and special consultative procedure is located. Clearly, understandings about what is required for democratic governance in the public sector have evolved over time.

A major impetus for the public sector reforms was the increasing currency of theoretical perspectives highlighting deficiencies in the achievement of democracy and efficiency by public sector organisations. While there are several such perspectives, prominent in theoretical explanations of the deficiencies of public sector organisations is public choice theory, and it is this

²⁰ In New Zealand, the major influence on the public sector reforms was the Treasury's post-election briefing paper, *Government Management* (The Treasury, 1987). The reinvention of government and the popularity of new public management has been extensively addressed in public policy texts and others scholarly publications in the 1990s. See, in particular, Yeatman, 1990; Kaufmann, 1991; Corbett, 1992; Pollitt and Harrison, 1992; Davis *et al.*, 1993; Marsh, 1993; Self, 1993; Hughes, 1994; Considine, 1994; Clarke *et al.*, 1994; Farnham and Horton, 1993; Boston, 1995; and Walsh, 1995.

perspective which is the key focus of this chapter. Public choice and related theories endeavour to explain dysfunctions in bureaucratic government and interest group politics. In New Zealand there were major structural and organisational changes in the public sector, including local government, reflecting public choice prescriptions for the redesign of the public sector. As well as claiming to enhance efficiency, the reforms were intended to enhance the responsiveness of the public sector to citizens and to prevent bureaucratic or interest group capture.

The nature of the public choice critique of bureaucracy is discussed, with reference to the historical context in which public choice theory gained currency. Attention is also given to related theoretical developments such as agency theory and transaction costs theory. These theories are widely acknowledged as being profoundly implicated in the reforms of the public sector in New Zealand in the 1980s and 1990s (see for example, Boston *et al.*, 1991; Kelsey, 1993, 1995; Boston, 1995; Boston, Martin, Pallot and Walsh, 1996; Schick, 1996). In outlining these theories, the main objective is to highlight the public choice prescription for enhancing democracy and accountability as this is a significant influence on the particular statutory provisions subsequently introduced into local government. First, though, a brief sketch of the key features of the public sector reforms serves to highlight the impact of the reforms on the design of public institutions and their democratic character. The specific weaknesses of the pre-reform environment in the public sector, as articulated in the public sector management literature of the 1980s, and the initiatives for redressing will then be discussed. The specific weaknesses of the pre-reform environment in the public sector, as articulated in the public sector management literature of the 1980s, and the initiatives for redressing this will be discussed. An implicit question underpinning this review of public sector reform and the theoretical influences relates to whether the reforms contribute to the democratisation of the public sector, and, in particular, local government.

Accountability and democracy in public sector reform in New Zealand

In the late 1980s, public sector reform modified both the structure and administrative practices of central and local government in New Zealand. The reforms, particularly those of the state sector (central government) have been extensively described and evaluated (see for example, Holland and Boston,

1990; Boston *et al.*, 1991; Kelsey, 1990, 1993, 1995; Sharp, 1994; Boston, 1995; Boston *et al.*, 1996). Martin (1990) argues that the success of corporatisation (based on the principles of clarification of objectives; separation of policy from administration or delivery; clear lines of accountability; and systems of incentives and disincentives linked to performance) led to interest in the same approach being taken in the core public service, not just in the government's trading activities. Because the Fourth Labour Government had achieved corporatisation without what Martin describes as "electoral retribution", the Government then proceeded to reform the core public service. What then occurred was, in Martin's terms, "a frontal attack on the position of the Public Service in the New Zealand system of governance" (Martin, 1990: 126). Likewise, Boston (1995: ix) observes that although there has been widespread interest in government renewal throughout the western world, in fact New Zealand's approach has been more radical and comprehensive than anywhere else in the OECD countries.

Two central elements of the reforms of central government, upon which local government reform has been modelled, are the State Sector Act 1988 and the Public Finance Act 1989. As mentioned in Chapter One, public sector reform was not confined to these two pieces of legislation and changes had already been initiated with the corporatisation of a wide range of state trading activities as a result of the passage of the State Owned Enterprises Act 1986. The Reserve Bank Act 1989 is also viewed as a significant instrument in the achievement of the goals of the public sector reformers but is not analysed here. Similarly, it is clear that the reforms have been further reinforced by the passage of the Fiscal Responsibility Act 1994. In addition, there have been changes proposed to the operation of local government in the Local Government Amendment Act (No. 3) 1996.²¹

The key features of the State Sector Act 1988 include:

- recasting of department permanent heads as chief executives with employment contracts of five years

²¹ There is further discussion of this in Chapter Five.

- the chief executive is the employer and has responsibility for personnel (under the requirements of the 'good employer'²² provisions)
- creation of a Senior Executive Service.

The key features of the Public Finance Act 1989 include:

- devolution of responsibility for resource management
- replacement of cash-based accounting with accrual accounting
- new reporting requirements (for example, six monthly and annual Crown Financial Statements).

Enhancement of efficiency is associated with financial management reforms which emphasise managerial flexibility within a framework of central controls. Enhancement of democracy would appear, in the absence of clear statements about the nature of democracy, to be associated with the emphasis on improved accountability and responsiveness by the public sector.

Accountability was demanded in two directions: from the Public Service to Ministers (managerial accountability) and from politicians to the electorate (political accountability). It was to be achieved through a variety of mechanisms including transparency and clarity of objectives (for example, through publicly available corporate plans), reporting of departmental performance, and linking chief executives' performance to departmental outputs.

²² According to s 56 of the State Sector Act, each chief executive is required to be a good employer and operate a personnel policy which complies with the principle of being a good employer. Such a policy is required to contain provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring:

- (a) Good and safe working conditions; and
- (b) An equal employment opportunities programme; and
- (c) The impartial selection of suitably qualified persons for appointment; and
- (d) Recognition of:
 - (i) The aims and aspirations of the Maori people; and
 - (ii) The employment requirements of the Maori people; and
 - (iii) The need for greater involvement of the Maori people in the Public Service; and
- (e) Opportunities for the enhancement of the abilities of individual employees; and
- (f) Recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and
- (g) Recognition of the employment requirements of women; and
- (h) Recognition of the employment requirements of persons with disabilities.

The reformed Local Government Act 1974 contains identical provisions in s 119F.

As noted, one of the major features of the reforms is the separation of the political function and responsibilities from the management function and responsibilities. The State Sector Act clearly provides for accountability between a chief executive and the appropriate minister responsible for a government department (s 32). In establishing this accountability relationship and giving responsibility to chief executives for the management function, the intention is to underscore the role of politicians in setting broad policy directions which are then implemented by chief executives. This is a theme that has been further developed in the popular text *Reinventing Government* (Osborne and Gaebler, 1992) in which it is argued that politicians should steer, not row, and is a contemporary expression of the politics-administration dichotomy (discussed later in this chapter). Accountability of public sector managers to politicians, as mentioned above, is achieved through the explicit articulation of results (outputs) and objectives which are to be delivered by managers.

McLeay (1995) describes the State Sector Act and Public Finance Act as 'quasi-constitutional' statutes²³ and argues that they enhance the openness and democratic quality of policy development although at the same time they do not weaken parliamentary sovereignty. There is a sense, then, in which the Public Finance Act 1989 and the Fiscal Responsibility Act 1994, in particular, rein in the managerial discretion and flexibility that is elsewhere embodied in the public sector reforms.

In order to understand the reforms of the public sector it is essential to explore the theoretical assumptions guiding the changes that were mooted. This is the focus of the remainder of this chapter. Specific attention is given to issues of democracy and accountability. This discussion commences with consideration of the public sector in the period prior to reform and from there moves to examine the concept of bureaucracy and critiques of bureaucracy and public administration.

²³ The term also encompasses the State Owned Enterprises Act 1986 and the Reserve Bank Act 1989, and, although McLeay does not mention it, it can be argued that the Fiscal Responsibility Act should be included also. See the discussion later in this chapter on constitutional constraints.

Public administration and the pre-reform public sector

Critiques of bureaucratic statism

The economic recession and widespread crisis of capitalism that afflicted many western industrialised countries by the late 1970s reinvigorated the neo-liberal critique of the welfare state and indeed of all forms of central planning.²⁴ This neo-liberal critique (see, for example, Bacon and Eltis, 1976; Brittan, 1977; Alt, 1979; Olson, 1982) also coincided with a neo-marxist critique and other social democratic criticisms of the welfare state and of state bureaucracy, arising from the new social movements of the 1960s and 1970s, such as the women's movement, and consumer movements more generally (see, for example, Wilson, 1977; Hadley and Hatch, 1981). Bureaucracy and its adjunct, professionalism, were seen as anti-democratic. Together, these critiques from the left and the right hastened the breakdown of the postwar consensus surrounding the need for state economic management and intervention by governments in markets. By the 1980s the constitutional framework of western parliamentary democracies was increasingly subject to criticism in many parts of the world, with constitutional reform a prominent agenda item (see, for example, Marsh, 1993; Barnett *et al.*, 1993; Turner, 1995; Boston, Levine, McLeay and Roberts, 1996). The need for constitutional reform was exacerbated in unitary systems like New Zealand's which lacks the checks and balances found in federal systems. New Zealand has no written constitution and there has been widespread concern about the scope of executive power (Palmer, 1987; McLeay, 1995).²⁵

Calls for the redesign of public institutions may be seen as being prompted by numerous intellectual and political developments including:

²⁴ Pre-eminent among the neo-liberal critiques of government is Hayek (1944). For a thorough account of the neo-liberal case against central planning, collectivism and government intervention in economic affairs as it unfolded over several decades from the 1930s see Cockett (1994).

²⁵ While New Zealand has no written constitution in the sense of a single unified document which is above ordinary law, there are constitutional provisions in the NZ Constitution Act 1986 and NZ Bill of Rights Act 1990 which, being ordinary statutes, are not entrenched. McLeay (1995: 204) notes that under the first-past-the-post electoral system with single-party majority governments, along with the convention of collective cabinet responsibility and "loyalty to one another and the Prime Minister, rather than responsibility to Parliament and public", Cabinet was able to control Parliament. In addition, "the absence of constitutional constraints upon the power of cabinet, outside the triennial election, has permitted cabinets to avoid 'taking responsibility' for their decisions in their pursuit of fulfilling their policy agendas (McLeay, 1995: 204).

- the breakdown of the post war consensus and widespread concern about the level of government intervention in social and economic life, the costs of public services and the size of government bureaucracies (see, for example, Hood, 1990; Self, 1993; D. Miliband, 1994; Chapter 1 in Ranson and Stewart, 1994; Offe, 1996);
- postcolonial theory and the aspirations of indigenous peoples which challenge liberal democratic institutions and processes (see, for example, Turner, 1995; Wilson and Yeatman, 1995);
- the subsequent demand for electoral reform, which in New Zealand resulted in a referendum to ascertain public support for a change from a first-past-the-post electoral system to mixed member proportional representation (Boston, Levine, McLeay and Roberts, 1996);
- the increasing marketisation of social life, prompted by the view that markets are responsive and flexible (see, for example, Walsh, 1995; Self, 1993);
- growing interest in the notion of citizenship and the opportunity for citizens to shape the decisions that affect their lives (see, for example, Held and Pollitt, 1986, 1994; Keane, 1988a; Royal Commission on Social Policy, 1988; Yeatman, 1990; Hadley and Young, 1990; Turner, 1990; Gyford, 1991; Wirth, 1991; Hirst, 1994a; Held, 1995; Milne, 1996); and
- growing acknowledgement of the diversity within society and political communities, and the resultant assertion by marginalised groups of their needs which are typically overlooked or denied in mainstream policy production and service delivery (see, for example, Keane, 1988b; Mouffe, 1992; Butcher, 1995; Fraser, 1995b; and Turner, 1995) .

In a slightly different prescription, Giddens (1994) identifies three basic contemporary societal changes: globalisation the emergence of a post-traditional social order, and the expansion of social reflexivity. By 'social reflexivity' is meant the development of a more active and interactive agency by

citizens and, among other things, it is associated with the challenges to bureaucratic domination of citizens.²⁶

Demands for political reconstruction, for the eliminating of corruption, as well as widespread disaffection with orthodox political mechanisms, are all in some part expressions of social reflexivity (Giddens, 1994: 7).

The next part of this chapter attempts to chronicle some of the changing approaches in public administration, highlighting the eclipse of bureaucratic government.

Traditional public administration and institutional design

Self (1985) identifies four groups of theories which expose defects in modern governments: public choice theories, pluralism, corporatism and theories of bureaucracy. He distills the following key criticisms:

- the lack of responsiveness by governments to both the political wing and the needs of disadvantaged citizens (while at the same time being too responsive to the needs of organised private interests);
- the lack of autonomy for political parties as a result of strong pluralist and corporatist influences; and
- the tendency for bureaucracies to be manipulated by private interests rather than serving the public interest and thus an inability of governments to effectively address social problems (Self, 1985: 164).

In the light of such weaknesses, there are two alternative strategies for reinvigorating modern governments. One broad strategy is predicated on reducing the role of government; the other is concerned with enhancing the effectiveness of government. The former in fact became, in Self's words (1985: 165), the "orthodox wisdom of the 1980s." The latter, according to Self, suffers through being still underdeveloped as a coherent framework.²⁷ The following

²⁶ Giddens advocates the emergence of more radical forms of democratisation, among which he includes the concept of dialogic democracy. This has elements in common with deliberative and discursive notions of democracy considered in Chapter Four.

²⁷ In essence, the focus of this thesis is on developments to enhance the effectiveness of government. In assessing different strands of democratic theory and the practical efforts to

discussion outlines the character of public administration as it had evolved up to the 1980s when a new policy paradigm reflecting a market philosophy emerged.

In the first six or seven decades of the twentieth century in liberal parliamentary democracies, representative government and impersonal bureaucracy arguably have been viewed as key instruments of accountability and respected as sufficient and indispensable for democracy. Indeed, for some commentators (see, for example, Fukuyama, 1992) the anti-communist revolutions and subsequent democratic transformations in Eastern Europe and the former Soviet Union represent the triumph of liberal democracy. The characteristics of liberal democracy are discussed in some detail in Chapter Three. Here it suffices to say that liberal democracy is a form of representative government in which there are periodic elections of representatives to a Parliament. That Parliament, according to the theory of liberal representative government, develops legislation that is administered by a public service which is based on an ethical code which embodies concepts such as duty to the government of the day, freedom from direct political manipulation and free and frank advice.

This particular ethical code was reflected in the provisions of the Public Service Act 1912. This Act was a response to previous legislation (the Civil Service Act 1866) which had resulted in serious weaknesses in public administration in New Zealand because of the scope for heavy political and, in particular, ministerial influence in the appointment of public servants. The 1912 Act established a centralised system of human resource management which was characterised by clear rules and procedures governing employment practices. A further aspect of this codification of employment practices involved the development of a standardised approach to remuneration through formal salary scales. The aim was to ensure a non-political career service (Walsh, 1991a).

The emphasis on a non-political public service reflects the notion of the politics-administration dichotomy. This concept was emphasised by Woodrow Wilson and the scientific school of public administration that emerged in the early twentieth century²⁸ and is based on Weber's means-ends distinction (Holton

enhance democratic governance by providing opportunities for public participation, the thesis draws on literature concerned with affirming and strengthening the democratic role of the public sector.

²⁸ The developments in organisation and planning theories which include this school are discussed in more detail in Chapter Five.

and Turner, 1989). It is argued that politics and administration are separate activities and that a clear distinction should be maintained. Accordingly, appointed public servants are responsible for implementing the political decisions made by elected politicians. Efficient administration will result from the recruitment, on the basis of merit, of competent public servants. Political interference in recruitment and appointment of public servants is likely to mean that factors other than efficiency and competence influence appointments. Moreover, traditional public administration, as it developed in the early decades of this century viewed public involvement in the managerial process very negatively (Thomas, 1995). The type of accountability associated with traditional public administration was thus a hierarchical, top-down model, rather than a bottom-up model by which administration would be responsive to citizens' input. Thomas (1995: 18) notes that there were no major initiatives to encourage administrative responsiveness and that:

... [while] public administrators were viewed as ultimately accountable to the public, that accountability was to be indirect, that is, mediated through elected officials.

Political influence could be exercised by individuals or groups through voting in elections and through putting pressure on politicians.²⁹

The Weberian theory of bureaucracy

This 'traditional' school of public administration shaped the public sector in New Zealand from 1912, when the Public Service Act was passed, to 1988 when the State Sector Act was passed, displacing the traditional school. The traditional form of the public service in New Zealand reflects certain assumptions found in Weber's view of bureaucracy. Weber's theory of bureaucracy should be seen as part of his broader theory of the state which is an attempt to understand the emerging role for the state in the seventeenth and eighteenth centuries (Gerth and Mills, 1991). For Weber, the key element of the state's role was the task of administering a territory and its resources. This theory of the state as a rational agent is itself encompassed within a wider project of theorising the transition

²⁹ The politics-administration dichotomy later comes under sustained criticism by incrementalism (Dahl and Lindblom, 1953; Lindblom, 1959) but is reasserted by public choice theorists seeking to remove the bureaucracy from political manipulation.

from premodern to modern society. Modernity is characterised by the development of rational organisational forms. In economic life, the emergence of capitalism represents the application of rational techniques (such as rational modes of work, the separation of property from political power, and calculation of resource use in the form of improved cost accounting). Indeed, for Weber, capitalism and democracy are both specific expressions of the more profound transformation associated with rationalisation (Holton and Turner, 1989).

In the area of government, rationalisation is seen in the centralisation, generalisation, and abstraction of power. In modernity the exercise of power is based on legitimate authority (as opposed to traditional, aristocratic authority in pre-modern times). The emergence of the nation-state to replace absolute monarchies is a result of the centralisation, generalisation and abstraction of power concomitant with the process of rationalisation. There is an emphasis on the legality of rules and the right of those in authority to issue commands. Those in authority occupy an 'office' and the commands issued are impersonal and governed by rules. It is through this application of rules and procedures to the tasks of government that rationality is achieved. Weber's description of bureaucracy is one of an ideal type, that is, a theoretical construct which describes a form of organisation. It is an organisation which incorporates a means-ends distinction as being both rational and efficient. Bureaucracy thus comprises:

a strict hierarchy of offices with well-defined functions for each office and a clearly specified set of controls. Authority is attached not to individuals but to the "office" that they occupy; conversely, obedience is due not to the individual bureaucrat but to the impersonal authority of the rules and laws. Administrative acts or decisions are recorded and preserved for future reference (Keating, 1990: 389).

Weber argued that bureaucracy had a democratising effect; because public authority was seen as involving rule-governed impersonal administration, there was equality in the way people were treated (Mommson, 1974). Thus, bureaucracy with its emphasis on technical rationality was advocated as superior to the pre-modern emphasis on aristocratic privilege and seniority. The practical effect of this was the development of a public service as a guaranteed career based upon the merit principle.

At the same time, however, there was also a tendency for bureaucratic efficiency to conflict with the requirements of democracy. This is where the negative aspects of rationalisation become apparent. Weber considered that the pervasive rationalisation of human life resulted in disenchantment. In addition, despite the emphasis on merit as the basis of appointment of an apolitical public service, the centralised administration of human resource management practices led to the development of a protected workforce where employees in one part of the public service easily moved to jobs in another, where a job in the public service was often regarded as a 'job for life', and where applicants from within the public service workforce had greater assurance of successful appointment to positions than applicants from outside the public service workforce (Holton and Tumer, 1989).

Bureaucracy is a much criticised concept particularly, as Self (1985: 154) notes, as bureaucracies have grown larger and more complex. Bureaucratic administration may be associated with objectivity and predictability, but there is also a tendency for bureaucrats to be more preoccupied with procedures than results. In contrast with Weber's emphasis on the rationality of bureaucracy, for example, March and Olsen (1984), whose work represents a new development in theories of policy-making known as 'the new institutionalism', argue that the logic of bureau operations is irrationality.³⁰

In the wake of these vigorous critiques of bureaucracy, du Gay (1994) calls for an appreciation of the values underpinning bureaucracy. He argues that the critique of bureaucracy in organisation theory, particularly in contemporary managerial discourse³¹, is, in fact, misplaced. Central to this critique of bureaucracy is the assertion that bureaucracy is inimical to efficiency and effectiveness. Du Gay (1994: 656) identifies the following "norms of conduct" associated with bureaucracy:

³⁰ The new institutionalism rejects both the comprehensive rational model and incrementalism, and instead seeks to highlight the complexity of policy decisions and the need for models of policy implementation to take into account institutional features such as the relationships between policy actors, all of which affect subsequent policy-making and which ensures that rational procedures are not followed (Lane, 1993). Because policy-making is such a fluid process, characterised by uncertainty, it is argued that tactics and strategy are key factors in shaping policy outcomes (Davis *et al.*, 1993).

³¹ Du Gay cites, by way of example, the text *In Search of Excellence* by Peters and Waterman (1982) and describes that the critique in such populist approaches to management as "bureaucracy bashing".

strict adherence to procedure, acceptance of hierarchical sub- and superordination, the abnegation of personal moral enthusiasms – contemporary managerial discourse stresses the importance of individuals acquiring more 'market-oriented', 'proactive' and 'entrepreneurial' predispositions and capacities.

Du Gay draws on new interpretations of Weber's work on bureaucracy to argue that, rather than seeing bureaucracy as demanding a separation of values and personal ideals and involvements – where impersonality and adherence stifle individual initiative and enterprise – it should be seen as providing a means of countering economic rationalism. The new economic rationality, according to du Gay, produces a tendency to treat all of human life as enterprise; this tendency involves a process of de-differentiation, in contrast with the differentiation and separation of spheres with specific ethical protocols which are characteristic of bureaucracy. He explains how the process of de-differentiation occurs by the following:

enterprise allows an alignment of what traditionally have been recognised as separate realms of human endeavour by representing an individual human life as an enterprise of the self. Because a human being is considered to be continuously and exclusively engaged in a project to shape his or her life as an autonomous individual driven by motives of self-fulfilment, life for that person is represented as a single, essentially undifferentiated arena for the pursuit of that endeavour. ... The character of the entrepreneur is no longer represented as one among many ethical personalities but assumes an ontological priority (du Gay, 1994: 662).

The effect of this is what du Gay calls the 're-enchantment' of work. Work in the new entrepreneurial organisation (whether public or private) becomes a place for autonomy, self-regulation and self-fulfilment through the exercise of initiative and enterprise. Bureaucracy, by contrast, is viewed in economic rationalism as repressing these things because it emphasises the separation of reason and emotion, with the former being privileged.

However, this perspective of bureaucracy, du Gay argues, is based on a selective or distorted reading of Weber's work on instrumental rationality and the emergence of modernity. To rectify this, du Gay directs attention to Weber's

own awareness of the misuses of this theory of rationalisation. There is a positive case to be made for the value of bureaucracy and the associated ethical norms of impersonality, strict adherence to procedure, and objectivity. For du Gay, drawing on the work of Weberian scholars, the “normative scope of Weberian ‘bureaucratic rationality’ is quite particular” (1994: 667). Bureaucracy is advocated as an alternative to patronage. Rationality is advocated as an alternative to irrational forms of conduct which made it legitimate to privilege certain private groups and their interests.

In the light of criticisms of bureaucracy, Self (1993) argues that there are two possible directions in which administrative reform can go. One approach is to promote more decentralised forms of political control and accountability; the other is to achieve better performance by bureaucracy through reorienting public administration practices, particularly those associated with accountability and ethics.

The most decentralised form of political control is that which has been proposed by public choice theorists who apply arguments from micro economics to political life and behaviour in order to make the case for significant limits on government.

The public choice project

The political market place

By the 1970s there were intensifying criticisms of bureaucracy and of government intervention in markets. As we have seen, social democratic theorists and grassroots consumer movements had mounted a critique of statism, calling for decentralisation, devolution and pluralism in the delivery of public services. These were not entirely new criticisms. From the 1950s there had been a strong case against bureaucracy made by public choice theorists (Downs, 1957; Buchanan and Tullock, 1962; Olson, 1965; Niskanen, 1971, 1994).

These critiques of statism represent a shift in thinking about bureaucracy with public choice theory mounting a major challenge to earlier theories of bureaucracy, most notably the notion that bureaucrats selflessly serve their

political masters and implement the policies of elected governments. More precisely, public choice theory is concerned with problems arising from collective action, or social choice, or, to approach the issue from a positive direction, from how to secure co-operation for mutual benefit.

Public choice theory addresses the behaviour of politicians and bureaucrats, the behaviour of voters, and the behaviour of interest groups. Bureaucrats are defined in public choice theory as employees of a bureau. A bureau is a particular kind of organisation; the organisation has the following characteristics:

- (1) The owners and employees of the organisation do not appropriate any part of the difference between revenues and costs; and
- (2) Some part of the recurring revenues of the organisation derive from other than the sale of output at a per-unit rate (Niskanen, 1994).

This definition differs from that of Weber, which encompasses profit-seeking, as well as public sector, organisations. Niskanen (1994) argues that Weber's definition is too broad as it does not allow differences in the cost and output of modern organisations which have different legal and financial characteristics.

Put most simply, public choice theory is the application of neo-liberal economic arguments to government.³² Hence it is also described as the economic theory of political decision-making because of the assumption that instrumental or economic rationality determines public life. According to this rationality, politicians and bureaucrats (like economic actors in a marketplace) are motivated by self-interest. They are entrepreneurs in much the same way as economic actors are.³³ Van den Doel and van Velthoven (1993: 6) highlight

³² The close connection between public choice theory and economic rationalism is very evident. Economic rationalism refers to the belief that market principles can and should be extended to as many aspects of human life as possible (Battin, 1991). Battin (1991: 295) argues that "economic rationalism actually relies on transcending politics." Politics is reduced to economics and economics becomes a technical or engineering science concerned with achieving optimal conditions.

³³ Petraccia (1991: 294) acknowledges that "In rational choice theory, the precise qualities of human nature vary somewhat. Definitions range from the crude and unbridled pursuit of self-interest to utility maximisation to purposive behaviour." Indeed, Niskanen himself has reassessed his understanding of self-interest. By the mid-1980s, according to Mansbridge (1990a) he had come to the realisation that the political actor's social context needed to be taken into account in explaining motivations. More recently, Niskanen (1994: 273, 274) wrote: "Over time, I have also come to recognise that the three behavioural assumptions in my initial

what they term a 'structural isomorphism' between the economic theory of political decision-making and microeconomics as is evident in their common use of the deductive method, their shared assumption that individuals seek to maximise self-interest, their positivism (assumed to be value-free), and their methodological individualism (in which public choice is simply the sum of individual choices).

The significance of public choice theory is in its critique of the notion that politicians, bureaucrats and public bodies act in the public interest. The implication of this is that the pursuit of self-interest that characterises private sector organisations can be found in public sector organisations. However, the public sector does not have the incentives to address the needs of consumers of its services in the same way that the private sector does, as Gamble (1988: 52) explains:

The difference between private and public bodies was not that one had a special relationship to the public interest denied the other, but that the pursuit of self-interest by private bodies was qualified by the existence of a framework of rules and by competition. These constraints did not exist for public bodies.

Just as markets have externalities, so, too, do governments. There are three types of government failure. First, because politicians and bureaucrats are self-interest maximisers, and because there is particular pressure applied by sectional interests on politicians, it cannot be assumed that the goods and services produced by the public sector contribute to the public or collective interest. Second, even if politicians do seek outcomes that enhance the public interest, there is no guarantee that bureaucrats will implement policy as required – since their own interests are likely to be different.³⁴ This raises the question of why bureaucrats advocate and implement deregulatory policies but does explain why a central control agency, such as the Treasury or the State

framework lead to conclusions that are both theoretically inelegant and inconsistent with the available evidence." He realised that the assumption that bureaucrats act to maximise the budget of their bureau (which was based on the observation that the opportunities for promotion within each bureau increase with the level of that bureau's budget) was "not the best assumption on which to build a theory of the behaviour of bureaus".

³⁴ This assumption about the self-interested behaviour of bureaucrats leads public choice theorists to adopt strategies which reassert the separation of politics and administration. Foremost among these are the analyses of transaction costs and the use of contracts (discussed below in this chapter).

Services Commission, can impose down-sizing and other constraints on other government departments. A third type of government failure is the failure of bureaucrats to act efficiently in producing particular goods or services. Again, public choice theorists would argue that it may be in bureaucrats' interests to be inefficient. The practical application of this body of theory is summarised succinctly by Martin (1990: 134):

One implication is that action through governments is not to be favoured. Where it does take place governmental systems should be designed and operated so that the preferences of citizens are reflected in policies and actions. Arrangements should be made to minimise the discretion of politicians and to ensure that bureaucrats are subordinate to elected officials. The actions of governments should be 'transparent' (cross-subsidisation is to be avoided) and 'contestable' (government monopolies are disadvantageous to the common welfare). 'Capture' by interest groups is a particular danger to be guarded against.

Thus, it is clear that there is considerable antipathy in public choice theory to the impact of interest groups on political decision-making. Interest groups in the public arena comprise both providers and clients of public services, and public choice theorists refer to both provider capture and client capture. (It is pointed out later in this thesis that there may be a somewhat paradoxical aspect of the provision of statutory mechanisms for public participation in local authority decision-making because these statutory mechanisms clearly make it possible for interest groups to advance their cause.)

Interest Groups

Public choice theorists argue that interest groups seek to use the government's regulatory power to advance their own interests. This is referred to as 'rent seeking'. In local government, it is argued that zoning and other planning regulations protect the privilege (such as the property values) of residents or businesses.

Rent seeking is also seen as a contributing factor to the public deficit. Through the political process, interest groups make demands on the government for services, benefits and subsidies. In a democratic system interest groups proliferate because the benefits of government initiatives and interventions tend

to be directed to a relatively minor section of the population but the costs are spread across the whole taxpaying population. By contrast, individual taxpayers/voters are less well-organised and the electoral process (periodic elections in which there is majoritarian government) does not offer an effective mechanism for expressing their preferences. Thus, pressure groups are able to exercise considerable influence over politicians who themselves are acting out of electoral self-interest.

Boston (1991b) notes that concerns about interest group capture have featured prominently in analyses of the weaknesses in the machinery of government in New Zealand, and have prompted certain responses in the public sector reforms. The public service is seen as a provider which manipulates the politicians who are assumed to be "passive and helpless targets of manipulative and expansionist bureaucrats" (Boston, 1991b: 261). Boston, however, rejects such a view of politicians and the public choice prescription for the perceived problem (namely, functional separation). Instead, more consultation rather than less should obviate the tendency for a few groups to capture decision-makers.

Bureaucrats and Politicians

As already noted, public choice theorists regard bureaucrats and politicians as undisciplined by the usual restraints found in the market place and, because they act on the basis of self-interest, that they seek to increase their power and control of resources. In other words, they 'empire-build'. They are preoccupied with budget-maximising and resist pressures to trim expenditure.

Self-interested behaviour for politicians is fundamentally concerned with vote maximisation – even if it is motivated by the desire for power, prestige, income and the enjoyment of conflict (Downs, 1957). This often involves 'log-rolling' (Buchanan and Tullock, 1962), or vote-trading, in which individual politicians agree to enter into coalitions and vote for the policies of other politicians in order to obtain reciprocal support.³⁵

Another deficiency of government is that politicians have a short term perspective, and are dominated by the next electoral horizon. Therefore, they

³⁵ Downs (1957) pointed out, however, that there is a tendency in two party systems for both parties to converge in the centre. This means that party politics is not an effective mechanism for giving voters influence over political decision-making.

are not concerned about the long-term consequences of their policies. This is regarded as being in large part the cause of the growth of public debt.

Likewise, public choice theorists regard bureaucrats as being driven by self-interest, arguing that they are monopolistic suppliers of services to whom the usual rules of monopoly apply. Without the constraints of competition, they tend to oversupply services and provide them inefficiently. It should be noted that public choice theorists, in contrast with other critics of bureaucracy, criticise all bureaucracy, not just malfunctioning or inappropriately-applied bureaucracy.

The Logan Report³⁶ clearly indicated that this public choice perspective underpinned the public sector reforms in New Zealand which were intended to overcome the problem of the tendency of individuals:

to maximise budgets, to encourage long-term strategic growth and to enhance control over resources. ... In such an environment neither Ministers nor public servants are rewarded for cost savings. An associated feature is a bureaucratic culture of padding budgets, resisting cuts and spending up at the end of the year (Steering Group for the Review of State Sector Reforms, 1991: 103).

In a more recent review of the state sector reforms, Schick (1996) also observes the influence of public choice theory (or, as he refers to it, new institutional economics). He observes that while the public sector reformers in New Zealand were influenced by managerialist doctrines that were current in places such as the United Kingdom and Australia, what is of particular significance is the extent to which the reformers were influenced by contractualist theory, particularly as articulated in *Government Management* (The Treasury, 1987). Schick notes that the managerialist theories and contractualist theories may lead to similar prescriptions for the organisation of the public sector, but he also states that managerial changes could have been made without the contractual reforms. In New Zealand, the Treasury's

³⁶ The Logan Report was the report of a Review team established to review the state sector reforms. The review was published in mid 1991 and surveyed the first three years after the introduction of the State Sector Act 1988. The terms of reference of the Review team required it to report on whether the reforms had improved efficiency and effectiveness of the Public Service.

preoccupation with the perceived problems of opportunistic behaviour in the public sector resulted in a heavy emphasis on contractualism.³⁷

Voters

Public choice theorists argue that because voters are utility-maximisers they are unlikely to become informed about policy matters because the return on the investment of their time and effort is very minimal. This is because a single vote does not have much influence on the outcome of an election or referendum. This means that in general voters are unlikely to vote wisely; furthermore, those who do take the time and effort to participate (become informed and vote) are invariably ones who have a particular interest in advocating government intervention. This means that a minority can often press for public goods, to which a much greater number of taxpayers have to contribute, to be provided. There are also concerns about the infrequency of elections and the deficiencies of democratic elections as a mechanism for expressing voter preferences.

Public choice theory is, therefore, a theory of government failure.³⁸ It is argued that the public sector is inherently inefficient because of the absence of market incentives and discipline that are found in the private sector. Whereas there are direct and proportionate results arising from the actions of economic actors, in the political sphere voting (the action of a political actor) is heavily weighted. Benefits are concentrated and costs are diffused, so that actors do not have to bear the consequences of their individual actions.

A further development of public choice criticisms of representative democracy is found in studies of collective action (for example, by Olson, 1965) which seek to demonstrate that political actors (individuals and interest groups) are motivated by self-interest. Those individuals who can benefit from acting in concert with others will have an incentive to do so. Such studies point to the tendency for distributional coalitions to form to advance particular interests which then dominate others. For example, producer cartels are established to procure regulatory regimes that protect the producers' interests. This theory of

³⁷ The issue of the particular impacts of the contractualist aspects of the public sector reforms will be discussed again in Chapter Eight.

³⁸ Weimer and Vining (1992) provide a concise outline of the sources of government failure.

collective action is a critique of pluralist theory which assumes that a diversity of interest groups is viable.³⁹ Instead, Olson highlights the difficulty in organising interest groups which then means that it is unlikely that there will be strong consumer groups to counterbalance dominant producer interests (Olson, 1982). This clearly complements the public choice argument about the operation of public bureaucracy as exemplified by Niskanen's economic theory of bureaux, which holds that bureaucrats do not act to maximise the public interest or general social welfare, but to maximise their own budgets (see Niskanen, 1994: 36-42).

Public choice theorists such as Downs (1957) and Arrow (1963) have highlighted the perverse and paradoxical outcomes that arise from majoritarian electoral systems. Downs argues that political parties are analogous to firms selling products to consumers. In two-party political systems, there is a tendency for both parties to converge in terms of policy manifestos, because they seek to maximise votes by appealing to the median voter. Thus, Downs's work further challenges liberal pluralist theory by demonstrating that party politics is not an effective mechanism for giving voters influence over political decision-making.

A further collective action problem is highlighted by Arrow's work (first published in 1951) which highlights the perverse outcomes of majority voting (Downs, 1957: 51-74). Arrow (1963) argues that it is not possible to determine what is in the public interest because majority voting does not produce uniquely consistent, maximal rankorderings of people's preferences. Given that legislation is a form of collective choice, that is, a "device for mapping individuals' choices into social choices" (Levine, 1981: 50), this aspect of public choice theory has implications for the role of voters and citizens more generally in political decision-making. Social choices made by majority rule are regarded as detrimental for democracy. As Levine (1981: 53) explains, this aspect of liberal democracy:

³⁹ As Self (1985: 51-52) points out, the public choice conception of a political market is also found in liberal pluralism and in fact, "public choice theory has difficulty over articulating a political system of this kind, because individual egoism will continually inhibit or destroy effective political action by pressure groups, parties, political leaders, etc., thereby producing a much darker and less predictable Hobbesian type of political universe."

can hardly be defended for maximising interest satisfaction, if it is itself literally incoherent, and if its incoherence is manifest in collective choices that may not in fact be socially preferred.

Constitutional Constraints

There is, in public choice theory, an unambiguous preference for the market over democratic government because the market is seen as more efficient at representing individual choices. The logical extension of this is that democratic political institutions must be constrained, as Gamble (1988: 52) explains:

A key theme of New Right writing is the necessary limits of democracy and how different areas of policy can be removed from democratic control. Much ingenuity has been spent devising constitutions and entrenched bills of rights. Such reforms would remove from democratic governments the right of taking certain decisions and would require them to operate certain policies within prescribed limits.

While New Zealand, unlike Australia, the United States, Canada, Holland and numerous other democracies, has no written constitution, nevertheless it is possible to identify ways in which legislative changes have generated the kind of constraints envisaged by public choice theorists. The accountability provisions of the State Sector Act 1988 and Public Finance Act 1989 (many of which were also incorporated into the Local Government Act 1974, as amended by the No. 2 Amendment Act 1989), for example, the planning and reporting processes, full accrual accounting and the purchase agreements – clearly constrain managers in the public sector. The constraints have been further reinforced by the passage of the Fiscal Responsibility Act 1994 which was explicitly intended by its architect, the former Finance Minister, Ruth Richardson, to rein in governments and to impose fiscal discipline. Effectively this commits the government to a falling ratio of government debt to GDP.⁴⁰ In

⁴⁰ Gamble (1988) refers to a proposal that there should be a constitutional amendment to oblige the United States Government to balance the budget. He describes this as one of the "more modest" of such developments (Gamble, 1988: 53). Possibly a less modest example is the Reserve Bank Act 1989 which commentators (see, for example, Mulgan, 1991) regard as somewhat extraordinary in the way in which it demands conformity to a policy goal. In this case the Reserve Bank Governor's salary is linked to his achievement of a certain underlying inflation target. Up until the formation of a National-New Zealand First Coalition Government in December 1996, the target for underlying inflation was specified as being in the 0-2 per cent range. The Coalition Agreement now specifies the range as 0-3 per cent.

addition, the Local Government Amendment Act (No. 3) 1996 introduces further financial reporting obligations on local authorities.⁴¹

One of the characteristics of the public choice perspective of government is an emphasis on the use of constitutional devices to determine the scope of government authority (see, for example, Buchanan and Tullock, 1962; Institute of Economic Affairs, 1978; Hardin, 1988; Vanberg and Buchanan, 1989; Mueller, 1996). Not only do public choice theorists seek to obtain the accountability of administrators/managers to politicians, they also seek to constrain politicians (given the tendency of politicians to want to maximise their power and their susceptibility to capture by interest groups). Without the limits on the scope of government action that a constitution can provide, it is likely that governments will extend their activities and this is likely to be detrimental to the freedom of individuals. Public choice theorists therefore look to the judiciary in states where there is a written constitution to maintain constitutional protections of individual freedom and market competition but it is also possible that judges, through their decisions, are complicit in the expansion of regulatory regimes. Thus, it is also important for public choice theorists to ensure that constitutions limit governmental authority.

Privatisation

Alongside such entrenched constraints, public choice theorists also favour privatisation of what were formerly government-provided services so that the tendency of public enterprises to expand and to be inefficient is averted. However, it is recognised that privatisation and controls on public expenditure may be unpopular with both politicians and the electorate who benefit from particular programmes and services. Therefore, a further strategy for restraining government intervention and expenditure is invoked, namely, tax cuts. If the government's revenue through taxation decreases, then it is not difficult to insist on decreased expenditure.

⁴¹ There is some further discussion of this in Chapter Five.

Transaction costs theory and agency theory

Public choice theory is closely associated with what is known as transaction costs theory (also referred to as the 'new institutional economics'). The theory focuses on exchanges or agreements at the core of social and economic life and in particular the costs associated with the agreement made by the two parties, the principal and agent (Williamson, 1985; North, 1990). Put another way, transaction costs theory focuses on the costs of measuring and enforcing agreements. Five categories of transaction costs are recognised (Wistow, *et al.*, 1996):

- structural losses
- informational losses
- bargaining costs
- costs of selective intervention; and
- costs of implementing and operating regulation.

The key goal of transaction costs theorists is to develop institutions which minimise the costs of transactions because this is essential for economic productivity. There are a number of factors which shape exchanges: uncertainty and bounded rationality, complexity, opportunism and asset specificity (Boston, 1991a; Walsh, 1995). It is argued that a particular type of exchange will lend itself to a particular kind of institution (market or bureaucracy). In essence, these reflect different systems of governance. The application of transaction costs theory leads to an emphasis on evaluating the relative merits of the alternative forms of delivery of services.

In markets, exchanges are based on the price mechanism whereas in public sector bureaucracies, exchanges generally are determined by authority and planning. Again, this theory is based on certain assumptions of classical economics; it is argued that private sector firms in capitalist economies will act in their self-interest. In some cases that means that they will not endeavour to produce certain goods and services because of the costs associated with them. There is therefore a discipline associated with competition in the private sector which is not found in the public sector.

In addition, it is difficult to measure what is being exchanged and to enforce agreements. As North (1990: 362) explains:

What is being exchanged are promises for votes. The observable dimensions of the promises are agreements between constituents and their representatives (in a democracy), between the representatives, between representatives and the executive, etc. The agreements result in legislative enactments, regulations, executive decrees, etc. that presumably embody the interests of the principals.

North argues that there are numerous problems in measuring and enforcing agreements between constituents and politicians and between the politicians and officials who implement the policies. One instrument for enforcing agreements is the judicial system. Another instrument, in the case of agreements between constituents and politicians is periodic elections in which elected representatives can be held accountable and where there is an incentive for opposition candidates to expose the shortcomings of those representatives. North does not consider periodic elections to be a very effective instrument for enforcing agreements.

It has been accepted by some neo-liberals that many services (for example, health care) cannot be adequately supplied by the private sector and that there are quasi-monopolies in these areas. However, it is then argued that contracts can substitute for the market by giving power to the consumer. Mulgan (1991: 16) explains that, for neo-liberals:

The underlying principle is that law and contract are better mechanisms for regulating quality and disciplining providers than regulation or bureaucratic control.

Through a contractual approach it is possible to have much clearer specifications of the goods or services to be provided and therefore the obligations of the agent are transparent and enforceable.

Public sector reform's twin goal: efficiency

While for Weber bureaucracy was associated with the highest level of efficiency and rationality, for others bureaucracy is seen as undermining efficiency. Public choice theorists, as discussed above, see bureaucratic behaviour as

inefficient and wasteful. To the extent that public sector reform is influenced by public choice perspectives, there is a de-emphasising of bureaucracy and the forms of accountability associated with traditional public administration. Accountability is often reduced to performance measurement and efficient management of resources. Furthermore, efficiency is often regarded as conflicting with democracy. Democracy is perceived as imposing obligations to consult citizens and to exercise other forms of social responsibility with the result that managers may not manage resources in the most efficient way. As Yeatman (1990) notes, the democratic agenda points to the need for openness and responsiveness of bureaucratic processes to individuals and communities while the efficiency agenda tends to privilege guidelines and techniques for controlling inputs and for ensuring outcomes in line with centrally imposed priorities.

The apparent conflict between democracy and efficiency (highlighted, in particular, in public choice analyses) is generated by a narrow interpretation of efficiency. It is important to note that economists generally recognise four distinctive types of efficiency:

- *allocative efficiency*, which refers to the optimal allocation of scarce resources among alternative ends at some point in time;
- *x-efficiency*, or operational efficiency, which refers to obtaining the greatest amount of output that is possible from a given set of resources;
- *dynamic efficiency*, which refers to the allocative and x-efficiency of resource usage through time; and
- *social efficiency*, or pareto efficiency, which refers to an allocation of resources and output which results in one or more individuals being disadvantaged if there is any change.

Public choice theorists, on the other hand, focus on two particular interpretations of efficiency in their analyses of the shortcomings of the public sector. They argue that the public sector is inefficient in the area of allocative efficiency and x-efficiency. That is, it does not produce the optimum set of outputs for a particular given resource and what it does produce is less than what could be produced for the amount of resource because of the lack of

competition faced by the public sector (which would otherwise provide an incentive to be more efficient in x-efficiency terms).

While efficiency is clearly important, and arguably predominates, as a goal of public sector reform, it is important to note that efficiency takes several forms. The specific form in which efficiency is implemented in the course of reforming public sector organisations will have implications for the pursuit of democracy.

In a critical analysis of economic rationalism (which is based on the assumptions of public choice theory), Battin highlights a tendency by neo-classical economists to view efficiency as a technical matter rather than a normative concept. Furthermore, he draws attention to a difference between, on the one hand, the pursuit of efficiency *per se* and, on the other, the efficient delivery of services which citizens have endorsed. Finally, Battin points out that democracy cannot be subsumed under efficiency considerations, as economic rationalists appear to desire it to be. Democratic politics, he argues, is:

bound up with identifying and deciphering the interests within society. Few would be bold enough to argue that because democracy is less 'efficient' than other forms of government in its cherishing of procedure rather than on mere outcomes, it (democracy) should be scrapped. We value democracy because, although it is 'inefficient' on non-democratic terms, it is the only form of government (on democratic terms) which can allow for the expression of interests (Battin, 1991: 303).

Implications for democratic governance

Public choice theory, however, seeks to highlight the impossibility and undesirability of democracy. It adopts an economic approach to democracy, seeing it as a political system which should merely provide for the aggregation of individual preferences. The public choice project endorses certain liberal values, to the extent that it sees democracy as requiring competition among individuals and interest groups and therefore constraints on state power.

In addition, public choice theory seeks to expose the 'dangers' of bureaucracy and by so doing establish the case for a freely competitive political market place. It is primarily concerned with outputs whereas traditional public

administration focuses on inputs. This is reflected in an emphasis on accountability through markets, contracts and performance measurement.⁴² The assumption is that public choice theory will ensure that the public have choice in the matter of the services they receive, particularly where those services are publicly funded. This is the essence of democracy in public choice theory. Producers of services are accountable to the consumers of services. Thus, for public choice theorists, as far as possible, the sphere of politics should be organised along the lines of markets, with competition between providers, consumer rights, the use of the price mechanism, and contractual bases of accountability.

A further implication for democracy of public choice theory, related to the public choice emphasis on applying technical and scientific rationalities to administration and governance, is that it leads to the emergence of technocratic policy-making elites. This development is perceived by the critical theorists of the Frankfurt School as threatening democracy. Similarly, Bobbio (1987: 37) argues that technocracy and democracy are "antithetical". The increasing domination of instrumental rationality arguably constitutes a new form of social control. Centeno (1993) explores the use of administrative rationality in societies formerly governed by authoritarian or totalitarian regimes which are in the process of democratisation. He questions whether the administrative rationality (imported from the liberal democracies of the capitalist west) that is being applied will foster freedom or whether it will simply replace one form of domination with another. This is a question that is equally relevant to the reforms and restructuring/reinvention projects underway in western capitalist liberal democracies. He argues (1993: 308-309) that the expansion of technocratic rule "is not only a simply functional response to increasing technical and scientific complexities but... also reflects changes in legitimisation strategies and institutional distributions of power".

Conclusion

The neo-liberal critiques of bureaucracy and representative democracy have been influential in the reforms of the public sector that occurred in the late 1980s both in New Zealand and elsewhere. These critiques have undoubtedly

⁴² These developments will be considered in more detail in the discussion of new public management in Chapter Five.

shaped the reform of local government as much as they have the reform of the core public sector. There are, without doubt, substantial counter-arguments to be made in response to the claims of public choice theorists. Some of the counter-arguments, particularly the critique of the economic rationalism and managerialism inherent in the reforms will be highlighted in subsequent chapters.

The next stage in the survey of the contextual influences on local government reform and the pursuit of the goal of democracy is to consider the implications of liberal democratic theory which shaped the representative political institutions of both local and central government in New Zealand. The discussion in the next chapter, therefore, examines the key components of liberal democracy. Among other things, the discussion highlights the concept of the individual underpinning theories of democracy. As will become clear, the public choice school is not the only theory to have advanced the notion that the individual is a rational, self-interested actor, or to have advocated the notion that 'capture' of politics is to be avoided.

CHAPTER THREE

LIBERAL REPRESENTATIVE DEMOCRACY AND ITS CRITICS

Introduction

Public choice and related theories have a specific set of criticisms of liberal representative democratic institutions such as those which inhabit the political landscape of western democracies such as New Zealand. An assessment of the prospects for democratic governance in the wake of the public sector reforms outlined in the previous chapter cannot proceed without a more detailed consideration of the concept of democracy, the evolving nature of democratic politics, the role of local government in the democratic project, and the nature of contemporary forms of public participation in local government. The task of this chapter is to highlight key themes and preoccupations in the literature on democracy and to establish the relationship of this thesis to those concerns. As Hirst (1990: 23) observes:

There is no 'democracy' in the singular, rather there are a variety of doctrines of democracy and a variety of political mechanisms and decision procedures which are claimed to be democratic.

The wide terrain of literature on democracy is mapped out by examining key dimensions of liberal representative democracy and then highlighting the major critiques of liberal democracy. This approach is adopted primarily because liberal democracy is the form found in New Zealand. In addition, despite having obvious flaws in its practical implementation, liberal democracy enjoys substantial popular support, as well as extensive dominance in both the realm of theoretical formulations and the domain of practical manifestation. While local government is regarded as a form of self-government (and, therefore, a form of participatory or direct democracy), the size of the units of local government, particularly in the wake of the 1989 reforms, means that local government is arguably another tier of representative government. At the same time, certain provisions of the new statutory framework introduced into local government in 1989 may be regarded as a response to perceived shortcomings of representative government. Specifically, the annual planning process which provides for public participation highlights the tension between representative

and direct democracy. Thus, it is imperative to examine the character of representative democracy.

This chapter is in two parts. Part One begins by briefly exploring the origins of liberal democracy and then moves on to consider key dimensions of liberal democracy. The following themes are highlighted:

- popular sovereignty
- the rule of law and restraints on state power
- individualism and individual freedom
- political equality
- rationality
- representation and contested elections
- pluralism, interest representation and expression of dissent
- elite theory objections to mob rule

In the second part of the chapter, the major alternative theories of democracy are outlined. Foremost among the alternative political theories are civic republicanism (which has classical and modern variants) and participatory democracy which are considered by their supporters to be the authentic form of self-government. Additional perspectives including communitarianism and associative democracy are also referred to because they exemplify attempts to acknowledge the importance of the pluralist aspects of liberal democracy while overcoming the risks associated with interest group pluralism associated with liberal pluralist democracy.

Part 1: Liberal Democracy

The origins of liberal democracy

Liberal democracy emerged in the eighteenth century⁴³, and, as the term suggests, is a merging of two distinct, and somewhat heterogeneous, phenomena: liberalism and democracy. Democracy is a pre-liberal idea, dating

⁴³ The exact timing of the emergence of liberal democracy is contested as Levine (1981) notes. Liberalism and democracy are themes in texts produced in the seventeenth and eighteenth centuries although the combination of the two strands of political philosophy is, arguably, a more recent phenomenon. Levine regards John Stuart Mill's *On Liberty* as "the *locus classicus*, along with *Considerations on Representative Government*, of liberal democratic theory.

from the era of the classical Greek city-states. Liberal democracy is a much more recent political system, arising in the wake of the dismantling of feudal power, the emergence of the nation-state, and the pursuit of popular power (Levine, 1981). Bridges (1994), however, argues that liberal democracy, which became established in the western world in the early modern period is in fact an evolution of classical republican forms of political association.⁴⁴ It is also strongly shaped by Christian moral ideals (such as the emphasis on equal dignity of persons). The relationship between liberal democracy and these older historical roots will become clear when the specific dimensions of liberal democracy (for example, individualism, individual freedom, rule of law) are considered in greater detail. While these dimensions are treated individually in the discussion that follows, it is also important to note the linkages between them.

Notwithstanding these historical roots, contemporary liberalism is a modern social theory preoccupied with different concerns from older political theoretical traditions. While classical republican thinkers like Aristotle and Plato in their reflections on democracy were fundamentally concerned with questions of the good life, the early modern political theorists are concerned with the question of the relationship between the individual and the state, that is, legitimacy (Frazer and Lacey, 1993). Another significant element in modern social theory is the different scale of the polity. In classical republicanism and later European republican states, citizenship was much more exclusive than in modern times and thus the polity was much smaller. Finally, the character of social relations in the modern era is considerably different from social relations in pre-modern times.⁴⁵

The rise of democracy is subsequent to the process of separating the state from the person of the ruler. Absolutist government in Europe began to decline

⁴⁴ As R. Miliband (1994: 88) points out, classical democratic theorists understood participation to mean participation in the process of electing representatives. John Stuart Mill (1865, cited in Miliband, 1994), for example, conceded that in any type of community larger than a small town, individuals could practicably participate in a small part of the public business and that ideal government was representative government. Held (1995) notes that it has been during the nineteenth and twentieth centuries that the contemporary representative form of democracy emerged to replace the classical conception which was participatory and founded on active citizenship. Held also emphasises that the contemporary form of democracy in the West has taken shape only, in fact, in the late twentieth century.

⁴⁵ The modern era is generally considered to date from the Italian and other renaissances in fifteenth and sixteenth centuries. See Frazer and Lacey (1993: 26-28) for a discussion of the emergence of modernity and the Enlightenment.

gradually, approximately from the time of the English Revolution of the 1640s. As part of the dismantling of absolutism, legal and constitutional limits on the scope of government were introduced and individuals gained protection from arbitrary interference by the state (Salvadori, 1972; Arblaster, 1987; Dunn, 1992). In England, the revolution led to the development of a constitutional monarchy while towards the end of the eighteenth century the American revolution produced liberal representative democracy. In both cases the superseding of absolutism is underpinned by an emphasis on individual civil and political liberties and democratic government with representation and participation by at least some of the governed. Liberalism was concerned to oppose tyranny in the form of despotic monarchies⁴⁶ and thus sought to restrict the powers of the newly emergent liberal state. In the course of limiting the sphere of state action it was inevitable that a private sphere was constructed. This was essential if individuals were to exercise their freedom in relation to religion, politics and economic activity.

Central to liberal theory, with its concern for limited government, is the exercise and advancement of individual freedom; this is intrinsically linked to representative democracy.⁴⁷ The freely given consent of citizens underpins the legitimacy of representative democracy (Kornberg and Clarke, 1992). It needs to be stressed, however, that liberalism is not a unitary theory and in fact it is more accurate to recognise that a number of different liberalisms have been articulated reflecting the different historical and cultural contexts in which liberal ideas have taken root. Frazer and Lacey (1993) contend that a particular version of liberalism has dominated political theory since the early 1970s – a version reflected in Rawls's *A Theory of Justice* (Rawls, 1971). This form of liberalism is deontological, that is, grounded in the Kantian view of the rights-bearing, autonomous individual. It is, they observe, a version which privileges certain themes in liberal thinking and excludes others. In particular, it de-

⁴⁶ For some liberals, all forms of tyrannical power were to be opposed, although Bobbio (1987) takes this view that it was tyrannical monarchical power that was the problem for liberals. On the basis of this, he argues in favour of the liberal democratic state.

⁴⁷ To the extent that certain strands of liberal democracy (for example, interest-group pluralist liberal democracy) advocate limited representative government, there are similarities with public choice perspectives (Self, 1977). Likewise interest-group pluralism shares with public choice theory the notion of a political market in which there is open contest between preferences and opinions (Self, 1985). However, public choice theorists depart from pluralist and corporatist perspectives, arguing that increased public expenditure results from the expansion of state-interest-group bargaining which endorsed by those perspectives. Such growth of bureaucracy and state expenditure, public choice theorists argue, is greater than that which the median voter would accept (Pollitt, 1990).

emphasises themes in Rousseau's work such as the notion of equal political liberties and the idea that society has a status over and above that of the individuals who comprise it. According to Frazer and Lacey (1993: 43):

The belief in the possibility of a rationally and scientifically organised society which has been an important motif of much welfare liberalism of the late nineteenth and the twentieth centuries tends to be marginalised as the value of individual liberty is given a central place, ruling out too much state intervention.

When the two traditions of liberalism and democracy are compared, it is clear that there are conflicting views and internal paradoxes in liberal democracy. For example, within liberalism, some, like Rousseau, regard people as not truly free if they do not govern themselves, while others see participatory democracy as encroaching on individual freedom. Another paradox which emerges from the emphasis on the rule of law and individual equality is the tendency towards homogeneity – which conflicts with the principle of liberal individualism (which affirms individual uniqueness and difference). The liberal view of equality is one of a number of key themes, and indeed central values, in liberal democratic theory and practice which are examined in the next section of this chapter.

Popular sovereignty

Popular sovereignty holds that sovereignty lies with the people themselves and not with a monarch. Thus, notions of collective action and collective will are central to the concept of democracy. Related to this is the view that citizens are the source of legitimacy of political institutions and political decisions. Held (1989: 61) suggests that the core meaning of democracy is the “popular control of collective decision-making by equal citizens”. Likewise, Arblaster (1987: 105) describes the democratic principle as the notion “that people should as far as possible make or participate in making the decisions that affect them most closely and importantly.” Thus, democracy embodies the notion of ‘control from below’. The inextricable link between popular sovereignty and democracy is expressed by Hanson and Marcus (1993: 6):

Implicit in the idea of democracy is the belief that a sovereign people knows what it wants and is able to communicate its desires to political

leaders, who then respond or are held accountable for their failure. If the public does not know what it wants there is no popular will to reflect, and the whole idea of popular sovereignty is called into question. Similarly, if the public is incapable of expressing its views, political leaders can hardly be charged with making policies congruent with majority sentiment.

Democracy thus refers to rule by the people, or a section of the populace. However, in modern liberal theory there are additional assumptions such as the rule of law and ontological individualism which provide a ground for arguments about the exercise of popular sovereignty and the scope of representative democracy. The people delegate power to an assembly/ parliament of representatives which, in theory, represents the people's will. These and other key features are embodied in the liberal representative democracy that characterises New Zealand and other western democracies.

The rule of law and restraints on state power: the separation of state and society

The rule of law and restraints on state power are considered together in this discussion because they are two sides of the one coin. The law constructs persons as autonomous individuals and, while liberalism is concerned to uphold individual freedom (see the discussion below), nevertheless this freedom is circumscribed. The state clearly has a regulative and coercive right, which can threaten individual freedom. A key theme in liberal theory, then, is the restriction of the state's role and, by extension, the establishment of its legitimacy.

The modern state consists of a set of checks and balances on both rulers and ruled. Governments are entrusted to govern but at the same time are expected to uphold the rule of law which is premised upon equal treatment of all before the law (in contrast with arbitrary and inconsistent application of coercive power by absolutist rulers). Law, in liberal thinking, is seen as rational, impartial, and universal; again, this is in contrast with pre-modern views of law in which laws are applied arbitrarily and are claimed to be divinely-inspired. This centrality of the rule of law is expressed by Frazer and Lacey (1993: 50) thus:

All individuals are equal before it; its content and implications do not chop and change from one case to another; it is public – in principle every individual can discover what the law is, and knows what is and what is not permitted. ... Currently in liberal thought law is conceived of as a touchstone of legitimacy, as the institutionalisation and line of defence of individual freedom, and as an instrument of progress.

At the same time as liberalism is cautious of state power, it associates state power with the capacity to direct change and foster progress. This generates a problem for liberalism, for which the solution is the restriction of the state's activities to a clearly demarcated public sphere.⁴⁸ As Frazer and Lacey (1993: 48) emphasise:

The priority of doing justice also ties in with the strong focus in liberal thought on the rule of law: the idea that all laws should meet certain procedural requirements such as clarity, generality, publicity, and prospectivity. All citizens should be equal before the law, having the same laws applied to them in accordance with the dictates of procedural fairness.

A key strategy for liberals is the separation of powers between the executive, legislative and judicial branches of government. In addition, the legal guarantee of individual civil and political liberties is a fundamental feature of liberal democracies. The importance of individual freedom is discussed in the next section. The effect of such constitutional arrangements is to protect private property rights although, as R. Miliband (1994: 75) notes:

The age-long struggle for the extension of democratic rights has largely been a struggle against the eighteenth-century formulation, to do 'what we will with our own'.

Liberal democracy emerges in the early modern period, as noted earlier in this chapter, a period characterised by a process of separation of state and society. In this period, the separation of government and the governed was established.

⁴⁸ Another way of dealing with the tension between individual freedom and state power is to confine the state's role to that of establishing procedures, rather than adjudicating between different conceptions of the good. (This concern with procedural issues is taken up later in this chapter). Liberalism therefore establishes a separation of the right and the good - with the priority being given to the right.

Parliament, the legislature, is the assembly of representatives, who are delegated power by the people. Parliament makes laws which take the form of universally applicable general rules.

Individualism and individual freedom

Electoral reform in the nineteenth century resulted in an enlarged number of potential participants in political decision-making (that is, voters and representatives). With this enlargement, public opinion came to be regarded as a threat (in the form of majoritarian tyranny) to the freedom of the individual. In the wake of this, for some advocates of representative democracy (as is discussed later in this chapter), the delegation of power to representatives was an essential mechanism for enhancing individual freedom because it ensured that the tyranny of the will of the majority did not encroach unreasonably on the individual's enjoyment of autonomy.

The importance attached to individual freedom in liberalism reflects the the doctrines of ontological and ethical individualism which result in a rejection or neglect of the embodied and collective nature of social relations emphasised in feminist and communitarian perspectives (Frazer and Lacey, 1993: 99; McMahon, 1994). Liberalism is thus grounded in the abstracted and transcendent aspects of personhood. This is an ahistorical view of the individual: individuals are considered to have pre-social or natural rights which are antecedent to their social experience. This view of the human person (which includes the potential for rational autonomous action and the capacity to make choices and enter into contracts and agreements) has implications for political structures, as Frazer and Lacey (1993: 46) emphasise:

... the ontological conception of the person as pre-social feeds into an ethical conception of the paramount importance of individual rights and negative liberties, and the value of individuality.

This Kantian conception of the person characterised by individualism and universalism is the source of the confinement of liberalism to questions of *procedure* or *form* rather than *substance*. Individuals are seen as the best judges of their own interests and because individuals have different conceptions of the good life it is not possible for the state to determine the

substance of social and political relations; instead, it is charged with ensuring the procedures which allow individuals to pursue their own choices with the individual's exercise of his or her freedom being restrained only where it encroaches upon the freedom of others. This procedural liberalism is a liberalism characterised by an ethic of the *right* rather than an ethic of the *good*. Liberal democratic theory is agnostic about notions of the good and of the ultimate human purpose.⁴⁹ This is consistent with the pluralism also characterising liberalism. Society is made up of individuals freely associating with other individuals, engaging in spontaneous, autonomous and freely-chosen collective action.

The individualism of liberal democracy excludes consideration of social structure. Social structures are patterned social relations and institutions which have a more or less determinate shape and autonomous existence and which exert an influence on the individual's social identity and experience. Feminist political theorists, for example, highlight the structural nature of gender oppression. Liberalism, however, grounded as it is in methodological individualism, focuses on the relations between individuals and excludes consideration of such patterned social phenomena. The freedom that is inherent in the individual produces in liberal theory an emphasis on the voluntarist nature of social action.

Liberalism is fundamentally concerned with liberation from arbitrary power; in particular, liberalism is opposed to absolutism. Even in the modern state, individual freedom requires protection from state power. This is obviously related to the dimension of democracy discussed above, that is, the rule of law. The liberal concept of freedom is distinguished from the social democratic concept of freedom⁵⁰ because of its preoccupation with freedom from interference. This freedom is secured by a structure of negative rights (such as the right not to be coerced), or basic civil liberties, whereas the social democratic freedom is secured by a structure of positive rights (including the

⁴⁹ Kymlicka (1990: 206) argues somewhat differently, suggesting that "[t]here is a 'common good' present in liberal politics... since the policies of the liberal state aim at promoting the interests of the members of the community."

⁵⁰ Levine (1981: 2) defines social democracy as a political theory that is "committed at once to liberalism, democracy and justice (or equality)" whereas liberal democratic theory is less directly concerned with distributional values (justice and equality). He regards social democracy as the core of liberal democratic theory with a theory of justice combined.

right to welfare). The liberal concept of freedom is therefore described as negative freedom (Berlin, 1969).

While freedom is of central importance in liberal democratic theory and politics, all liberal theorists recognise the need for some constraints on freedom. Here, the liberal value of the rule of law mediates the exercise of freedom. The restraint of the law, within which freedom is exercised, is in turn constrained as a result of the separation of political powers (between the three branches of government) and the distinction between public and private spheres.

Political equality

In tandem with their views about the freedom and rationality of individuals, and their rejection of absolutist power, liberals emphasise the equality of individuals. Rousseau emphasised the inextricable link between freedom and equality although this equality was not absolute but was confined to certain individuals (men and those who owned property), while John Stuart Mill suggested that those individuals who had greater intellectual ability and higher levels of education should have a greater influence in decision-making (Mill, 1972 [1861]; Kinder and Herzog, in Marcus and Hanson, 1993: 350).⁵¹

Graham (1986) identifies a number of dimensions of equality. There is the formal equality expressed in the voting procedure of 'one-person-one-vote'.

⁵¹ Mill ([1861], 1972: 284-287) suggests that those with education should have a superior degree of influence through plural voting, although the precise mechanics of this (how education/intellect is to be defined; how the votes are to be exercised) still required specification:

A person may have a double vote by other means than that of tendering two votes at the same hustings; he may have a vote in each of two different constituencies: and though this exceptional privilege at present belongs rather to superiority of means than of intelligence, I would not abolish it where it exists, since until a truer test of education is adopted it would be unwise to dispense with even so imperfect a one as is afforded by pecuniary circumstances. Means might be found of giving a further extension to the privilege, which would connect it in a more direct manner with superior education. In any future Reform Bill which lowers greatly the pecuniary conditions of the suffrage, it might be a wise provision to allow all graduates of universities, all persons who have passed creditably through the higher schools, all members of the liberal professions, and perhaps some others, to be registered specifically in those characters, and to give their votes as such in any constituency in which they choose to register; retaining, in addition, their votes as simple citizens in the localities in which they reside (1972 [1861]: 287).

Mill, nevertheless, recognised dangers in plural voting and acknowledged that it would not readily be incorporated in to voting in elections to Parliament.

However, formal equality, which is indifferent to the identity of proposers or supporters of any particular measure which might be proposed, and neutral as regards the nature of the proposals themselves, can lead to inequality of outcome. In terms of electoral procedures, as New Zealanders are well aware, in a first-past-the-post system, particularly where there are differences in the size of constituencies, there is not political equality. Instead, there is significant inequality of electors with some votes (for example, a vote for minor parties) having little or no value.

Graham makes the point that political equality is likely to require not just material equality but also equality of influence, for example, the ability to persuade voters or legislators. This may necessitate education about democratic processes and political influence.

Rationality

Rationality is associated with the notion of impartial judgements and the instrumental pursuit of goals through the choice of appropriate means. As Frazer and Lacey (1993) note, this is a modern conception of rationality and as such can be distinguished from earlier, classical understandings in which rationality is associated with the recognition of 'truth'. This modern conception is linked with the priority given to scientific method and the goal of progress.

The liberal concept of the rational individual thus assumes that the individual knows what is in their self-interest and is able to achieve it through the exercise of the vote.⁵² The institutions of representative government, along with the rule of law and the exercise of political freedom, thus furnish the means for individuals to realise their goals. More participatory systems of government would in fact, liberals argue, undermine political equality.

⁵² In liberal theory, interests are expressed which are already perceived, whereas for participationists (including socialists) participation is required in order for citizens to discover what their real interests are (see the discussion on participatory democracy later in this chapter).

Representation and contested elections

The separation of politics and society, and specifically the separation of the state and the individual, was seen as necessary for the protection of individual freedom. It is also central to the state's legitimacy. The key mechanism by which liberal democratic governments obtain legitimacy is the institution of representation. Through representation, the consent of the governed is obtained and, in theory at least, the will of the people is implemented.⁵³ At the same time, it was recognised by liberals that individual freedom required protection against the tyranny of the opinion of the majority of citizens, so representative government was devised to ensure that there was some distance between the particular interests (that is, policy preferences) of particular persons, and the interests of the whole. Elections were the means for citizens to express their view about the way representatives resolved conflicting interests and defined or interpreted the public interest.

To this end, liberal democracies are characterised by free and contested elections, in which there are competing parties and freedom of speech. In democratic theory there are conflicting understandings of representation: on the one hand, there is the anti-elitist view which holds that government is 'by the people' and on the other there is the view that representation is incompatible with substantive participation.

Of relevance here is the fact that representative democracy is associated with the idea of formal democracy where the emphasis is on generating satisfactory *procedures* and not on the actual outcome of politics. The *substance* of political decision-making is not the concern of liberal democracy.

Liberalism thus conflates a procedure for selecting political decision-makers and a procedure for selecting policies. Moreover, the expansion of the franchise led to a tendency for individual rights of participation to become rather meaningless as 'organs of mediation' of the 'will of the people' – in particular, political parties (in which the party-in-parliament tends to manipulate the party organisation) and interest groups – come to dominate (Poggi, 1978; Bobbio, 1987).

⁵³ Barber (1989: 62) states that "... the language of consent is in principle an attempt at bridging the liberty of liberalism and the demos of democracy..."

In liberal representative democracy, choosing one means choosing the other. Reflecting this view of representation, Schumpeter therefore takes issue with the classical (participatory) doctrine of democracy which he sees as grounded in a proposition that is untenable, the idea of a definite and rational general or individual will. The classical, eighteenth century, formulation, he explains (1947: 250), defines democracy as:

that institutionalised arrangement for arriving at political decisions which realises the common good by making the people itself decide issues through the election of individuals who are assembled in order to carry out its will.

Schumpeter, however, disputes the idea, rooted in utilitarianism, that there is a common good or public interest.⁵⁴ Moreover, he casts doubt on the idea that individuals have an independent and rational will:

There is, first, no such thing as a uniquely determined common good that all people could agree on or be made to agree on by the force of rational argument. This is due not primarily to the fact that some people may want things other than the common good but to the much more fundamental fact that to different individuals and groups the common good is bound to mean different things (Schumpeter, 1947: 251).

Fundamentally, he rejects the expectation that political decisions conform to the will of the people or even a fair compromise. Instead he puts forward an alternative definition of democracy in which the stress is on the selection of representatives. In Schumpeter's formulation, the essential element is that the people produce a national executive or government:

... the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote (Schumpeter, 1947: 269).

⁵⁴ Mansbridge (1980; in Marcus and Hanson, 1993) describes Schumpeter's rejection of a concept of the public interest as reflecting a position she describes as 'adversary democracy'. She notes that the theory of adversary democracy shares many assumptions in common with neo-classical economics.

Thus, elections are a choice between political parties and personnel, but not about self-government. Decision-making is, instead, carried out by elite representatives who should be able to exercise their rightful power without influence from voters between elections. As Schumpeter says (1947: 284-5), "Democracy means only that the people have the opportunity of accepting or refusing the men who are to rule them."

Another key feature of liberal democracy is the emphasis (in theory, at least) on majoritarian decision making. The 'accountability element' of representative democracy is linked to the system of periodic elections and majoritarian decision-making. Thus, a strength of representative democracy, according to Hirst (1990: 30) is that it:

has the limited virtue of enabling certain of the leading decision-making and policy-initiating personnel in the state to be changed periodically or threatened with change.

Representation is viewed as a *sine qua non* of democracy in contemporary mass societies with the challenges of time, scale and complexity which characterise political decision-making in such societies. Representation is thus viewed as the only feasible vehicle of collective action in large-scale society.⁵⁵

Pluralism, interest representation and expression of dissent

Another important aspect of the history of liberalism is its historical link with pluralism. Rosenblum (1989: 220) notes that:

... pluralism – the existence of diverse centres of social influence and political power – has always been at the heart of liberalism. It is the political condition for limiting government and insuring personal freedom, and the occasion for doing so.

⁵⁵ The argument that participation is not feasible (given the problems of time, scale and complexity of political decision-making) is now increasingly being challenged by those who see possibilities associated with electronic information and communication technologies (see, for example, Fishkin, 1991).

In pluralist theory it is assumed that society is made up a number of groups representing different interests, among whom power is relatively evenly distributed, and which negotiate with each other and with the state in an open policy making process. The state's role is that of a fairly neutral arbiter.

Pluralism, argues McLennan (1984: 47), is a response to the reality of political processes. Classical democratic theory, while ostensibly about popular participation, was an ideal that did not provide a feasible model of political organisation and could be realised only in capitalist societies and then only partially. Even Athenian democracy did not extend participation to all citizens.⁵⁶ Pluralism, however, is a response to the historical process by which the democratic state has developed in capitalist economies. As noted earlier, in Chapter Two, in public choice theory it is argued that interest group politics is favoured as a mechanism for preventing the development of bureaucracy.

The pluralist character of the state is fundamental to an analysis of the nature of democracy in New Zealand. Pluralism underpins the commonsense notion that political decision-making is an open process, subject to scrutiny and influence by a range of interest groups.⁵⁷ This assumed openness is itself an element in the accountability of the political system which is derived from the apparent opportunities for any citizens, individually or collectively, to have access to elected decision-makers.

With its emphasis on equal competition between interest groups, pluralism implies certain requirements of democracy. Cochrane (in Held and Pollitt, 1994: 67-68) argues that pluralism:

⁵⁶ See Sinclair (1988), Hansen (1991), Dunn (1992), Nichols (1992), and Harrison (1993) for accounts of Athenian democracy and the Aristotelian (classical republican) conception of politics. Hansen notes that while many Greek city-states had democratic constitutions the historical evidence is based mainly on Athens. Democracy was introduced in 508/7 BC and then abolished by the Macedonians when they conquered Athens in 322/1. Nichols (1992) notes the ambivalence in the Aristotelian view of participation which stems from assumptions in that classical theory about the inequality of individuals.

⁵⁷ Hirst (1990) is very scathing of the crudely conceived pluralist hypothesis that power is widely diffused and that individuals can influence political decisions. Instead, he seeks to retrieve pluralism by emphasising that the theory does not assume that all individuals do have such influence but that certain groups do, namely, those that are active and legitimate. This, then, is used to explain the marginalisation of other groups (which are not viewed as legitimate). By contrast, Hirst (1990: 47) defines pluralism as "a theory of democratic political competition and its conditions, and not an account of all social and political phenomena."

... challenges the notion that the election of a particular party to government even by an absolute majority is the end of the political process, since that continues through the activity of interest groups mobilised on sectional issues; secondly it challenges the idea that a majority decision is necessarily more democratic than one which allows those minorities most affected by or concerned about a decision to have a greater say than those for whom the issue is fairly marginal. In other words, 'differential preference intensities' need to be taken into account, and can be if interest groups as well as political parties are an accepted part of the process.

As will be discussed later in this chapter, democracy is widely criticised on the grounds that in fact it is not responsive when minorities do not have influence over decisions.

The elitist case for liberal representative government

Before leaving this discussion of liberal democratic theory, it is important to record the support for liberal representative government associated with elitism. This theory holds that it is inappropriate for unqualified people to exercise decision-making power. Since the writings of James Madison in America in the 1780s, in which representative democracy with a division of powers is defended as a means of preventing mob rule, there have been objections to the reliance on public opinion in its raw form. It was instead emphasised that raw public opinion should be refined and enlarged by being processed by the body of elected representatives. Furthermore, it was recognised that such raw public opinion might constitute impulsive and irrational expressions of views and as such would not lead to good decisions.

Elite theorists effectively assume that "the masses are asses" (Hothschild, in Marcus and Hanson, 1993: 187). They cite empirical evidence from surveys of political attitudes and voting behaviour to support their arguments that many citizens have a poor knowledge of politics, are preoccupied with self-interest, are unwilling to consider the public good, and are inconsistent, conformist and illogical in their voting. Furthermore, elite theorists and others who object to participatory democracy emphasise the complexity of public policy and instead advocate the benefits of restricting public participation. Even without

subscribing to elitism there are many who are reluctant to support self-governance. It is suggested, for example, that participation encourages the development of factions which are concerned with the parochial interests of their own members. Within these factions, individuals may have regard for the interests of the group but there is likely to be conflict between that group and other groups. Thus, participation, according to the critics, can lead to instability in political systems whereas representation means that political leaders are able to resolve conflicting claims in a rational way and with regard to the interests of the whole group. Representation, it is argued (drawing on the empirical evidence from political surveys), also upholds the value of political equality, because participatory mechanisms are exploited by those with resources and power. Notwithstanding the public choice objections to interest groups, representative governments with electoral systems based on one-person one-vote, on the other hand, are claimed to be egalitarian because every person's opinion has equal weight.

Finally, in addition to the issue of the complexity of decision-making, there are also concerns about democratic "overload": in this situation, the vast amount of issues requiring deliberation is seen to threaten freedom and leisure. The sheer time required suggests that participatory democracy is not feasible. Instead, for the elite critics of participatory democracy, as for other theorists of liberal representative democracy, the key democratic activity of citizens is to select their leaders. It is important to acknowledge the distinction between thinking that elite rule is inevitable and promoting it as desirable.

Liberal democracy or polyarchy?

Dahl (1989) argues that Western nations, including New Zealand, are not liberal democracies but instead are what refers to as polyarchies. A polyarchy ('rule by many') is characterised by seven institutions which he describes as follows:

1. Control over governmental decisions about policy is constitutionally vested in elected officials.
2. Elected officials are chosen and peacefully removed in relatively frequent, fair, and free elections in which coercion is limited.

3. Practically all adults have the right to vote in these elections.
4. Most adults also have the right to run for the public offices for which candidates run in these elections.
5. Citizens have an effectively enforced right to freedom of expression, particularly political expression, including criticism of the officials, the conduct of the government, the prevailing political, economic, and social system, and the dominant ideology.
6. They also have access to alternative sources of information that are not monopolised by the government or any other single group.
7. Finally, they have an effectively enforced right to form and join autonomous associations, including political associations, such as political parties and interest groups, that attempt to influence the government by competing in elections and by other peaceful means (Dahl, 1989: 233).

Dahl argues that while these institutions are requirements of a democratic form of government, they are not sufficient for democracy. He accepts that large-scale governments are likely to continue to characterise contemporary nation-states. Given this, citizens need to experience democracy through participation in the government of economic enterprises. To the extent that he supports participation in appropriate-sized settings (such as small local authorities and economic enterprises, where self-government and self-management are feasible), Dahl shares the views of participationist critics of liberal democracy.

As part of this growing recognition of the deficit of liberal representative democracy, a number of contemporary theorists have revisited Tocqueville's observations about the importance of associations as a vehicle for interest representation and for preventing the tyranny of the majority. For example, Bumheim (1985) argues for an entirely new form of democracy in which the traditional mode of representation is superseded by a system of representation of interests. He rejects the idea that democratic control should be exercised through central authorities elected on the basis of one person, one vote.

That system gives people too little and too much: too much, because everybody has a say even in matters that do not affect them; too little, because it gives them only a generalised say through voting for a political party, and no great influence in the specific matters that are important to them. People in effect hand over everything to power-brokers, professional politicians, who trade off votes on various issues more in accordance with the needs of maintaining alliances and access to power than in accordance with the needs and desires of those affected by specific issues (Bumheim, 1985: 227).

He argues that people should have a say about matters in relation to their material interest in those matters.

Essentially this embodies a corporatist form of government. This raises the question of whether corporatism and interest representation are opposed to pluralism (for example, whether they are a quasi-elitism) or whether they are a form of pluralism.⁵⁸ Clearly, liberal pluralism and '*laissez-faire*' pluralism do not represent the only forms of pluralism. Communitarians, postmarxists and other 'radical democrats' also advocate a pluralist democracy which accommodates groups difference. In doing so, they highlight the need for theories of democracy and citizenship to confront the challenge of recognising differences among citizens (see, for example, Young, 1989, 1990; Mouffe, 1992; Turner, 1995). Rather than viewing citizens as constituting a homogeneous public and constructing citizenship as universal, feminist and other radical democratic theorists advocate a 'politics of difference' in which certain kinds of group difference are recognised formally in the political process; they argue that the liberal pluralist conception of citizenship ignores or denies difference and particularity. Politics of difference theorists, clearly endorse some aspects of communitarianism and highlight the need for dialogue. For example, Turner (1995: 93) advocates what she calls:

a relational politics of difference... in which citizens constitute a dialogic community linked by complex political processes that express and mediate their contested versions of public policy.

⁵⁸ Habermas (1989, 196-198) is particularly critical of the development of corporatism.

Part 2: Critiques of Liberal Representative Democracy

The criticisms of interest-group liberalism discussed in Part 1 are of interest because they highlight the way in which although liberalism emerged from an individualistic conception of society and the state, in which it was assumed that there were intermediary bodies intervening between a sovereign people and the state, in fact, representative government and the development of political parties was in direct contrast with that individualistic conception. However, despite the criticisms of liberal pluralist representative government raised by corporatism, associationalism and consociationalism, the strengths of liberal representative democracy were largely unchallenged until the reassertion of participation in the 1960s. At this time, concerns intensified about the way in which representative democracy excluded the majority of people from the decision-making process, the distance it created between representatives and those whom they represented, and the propensity for corruption of elected representatives. It is argued that undemocratic political systems are responsible for engendering undemocratic inclinations in mass publics. Wright (in Hirst and Khilnani, 1996: 11) rejects the idea that size and complexity can be the basis of objections to direct democracy:

If old arguments in support of direct democracy seemed to have been trumped by the problems of both size and power in the big state, then arguments in support of almost any kind of effective democracy can easily seem to have been trumped by the problems of both size and power in the big world.

He argues that the classical notion of democracy as self-government “was transmuted (and abbreviated) in modern times into the struggle for electoral democracy.”

A key influence on the development of liberal democracy, in addition to the unique aspects of history and the cultural context of specific liberal democracies, has been the critiques of liberalism which have been generated by socialists and republican theorists. The remainder of the chapter discusses some of the major critiques.

Democracy in classical and modern republican theory

The classical republican theory of democracy is grounded in the experience of the Greek city-states in the fifth and fourth centuries BC, where democracy was understood to mean the administration of civic affairs by the collective body of property owners (free men). Citizens were those members who exercised their duty of deliberating on matters related to governance of the people. In this way, citizenship developed in such a way as to indicate civic virtue and to embody the notion of the involvement of members of a political community in the public affairs of the community. Farrar (1988) emphasises that classical republican democratic processes were based on a belief in the fundamental interdependence of freedom for individuals and social order. Furthermore, while there was by no means social or economic equality, there was a degree of political equality.⁵⁹

Accordingly, the classical republican notion of citizenship emphasises civic engagement and active political deliberation. This concept of citizenship also embodies the notion of nationality. Citizens were those who were inside the political community (as opposed to those who were outside the bounds of the urban area, say in rural areas). The citizenry of a democratic polity, in the classical conception, is relatively homogeneous (Farrar, 1988; Hansen, 1991). Participation in politics is associated with the development of the individual citizen's character. Unlike the liberal view of politics as the expression of self-interest, for republican theorists politics is associated with virtue (Racine, 1995).

In republican theory, political life is equated with the goal of human life and therefore the highest good. The most significant feature of human beings, as Aristotle and Plato had argued, is their capacity for speech and reason and the greatest application of these is in government (Philp, 1994). Such a conception of human beings is echoed in the work of subsequent political theorists such as Machiavelli, Rousseau, de Tocqueville and Arendt.

Thus, civic republicans view participation as having an intrinsic value for the participants themselves; political participation is seen as the path to the 'good

⁵⁹ Dryzek (1994) notes that classical republicanism was situated in homogeneous and exclusive societies (from ancient Greece through to eighteenth century America); he proposes the notion of inclusive republicanism by which republican ideals of mixed government, the rule of law and active citizenship, can be adapted to culturally diverse societies.

life'. Republican theorists therefore seek not only the development of the relevant structures to facilitate democracy; they also seek the development of the appropriate skills and values – the political culture – which underpin effective participation by citizens (see, for example, Sandel, 1996). They assume that all citizens aspire to participate or should aspire to participate in public affairs.⁶⁰

It has been suggested that the institutional-procedural mechanisms for securing democracy (for example, separation of powers, judicial review) are inadequate and that a certain degree of civic virtue and public spiritedness is required (Kymlicka and Norman, 1994). It is pointed out that public policies (for example, health promotion, recycling) already assume that people will exercise such civic mindedness.⁶¹

In summary, republican theorists have a positive view of the desirability and feasibility of all citizens engaging in public life. This benign view of participation and, in particular, the value placed on public debate, is also found in the work of Habermas on the public sphere⁶², and in the work of other theorists of deliberative democracy discussed in Chapter Four.

Kymlicka and Norman (1994: 361) consider the modern civic republican tradition to be “an extreme form of participatory democracy”. There is a sharp contrast, Kymlicka and Norman (1994) note, between this positive evaluation of participation and the tendency for citizens in contemporary liberal democracies to regard political participation as:

an occasional and often burdensome activity needed to ensure that government respects and supports people's freedom to pursue their

⁶⁰ Civic republicanism is more clearly visible in citizenship debates and initiatives in Australia than in New Zealand. The civic republican value of participation is seen, for example, in documents such as the Commonwealth of Australia Parliament's *National Well-being: a system of national citizenship indicators and benchmarks* (1996).

⁶¹ Civic mindedness and public participation in political decision-making should not be seen as one and the same thing. This is particularly so if, as has been suggested, if public participation is reduced to consumerism. The whole notion of civic mindedness is undermined by the emphasis on the individual's pursuit of his or her self-interest.

⁶² While attributing an important role to the public realm, Arendt, a prominent republican theorist, does not offer a clear exposition of the institutional form of the public sphere; this remains for Habermas and subsequent theorists (for example, Dryzek) to develop.

personal occupations and attachments. In the modern view of citizenship politics is a means to private life.

For Kymlicka and Norman (1994), the republican approach which sees civic mindedness as incorporating the duty to participate in political decision-making is not a viable form of reconstructed citizenship.

Additional objections to liberal representative democracy have come from political traditions not exclusively grounded in republican theory. The discussion now turns to communitarianism and anti-individualism, and then to more general critiques of representative democracy by participationists.

Communitarianism and anti-individualism

Clearly, there are close connections between the classical republicanism and communitarianism. Communitarians, like republicans, promote a participatory form of citizenship (see, for example, Sandel, 1996). However, it is also acknowledged, particularly by Walzer (1992), that it may not be feasible to insist on the desirability of participatory citizenship in contemporary society:

... despite the singlemindedness of republican ideology, politics rarely engages the full attention of the citizens who are supposed to be its chief protagonists. They have too many other things to worry about. Above all, they have to earn a living. They are more deeply engaged in the economy than in the political community (Walzer, 1992: 92).

In particular, communitarians critique liberalism and liberal pluralism. Broadly speaking, communitarians reject the individualistic conception of the person in liberalism (the 'unencumbered self') and instead underscore the way in which the individual is 'situated', or embodied, historically, culturally, and geographically (Sandel, in Avineri and de-Shalit, 1992; Sandel, 1996). Communitarian theorists view collective attributes as being central to individual identity. Rather perceiving individuals as choosing their ends, as liberals do, communitarians see individuals as developing understanding about their ends through their participation in social relations. Individuals are thus constituted by their involvement in a range of associations (McMahon, 1994). It is this aspect of communitarianism that is particularly relevant to democratic theory and

which, in contrast with liberalism, underpins a strong value on participation and community.⁶³ In addition, liberalism is characterised by an emphasis on competition between individuals, whereas communitarians promote co-operation as more beneficial for social relations (McMahon, 1994; Sandel, 1996).

As well as pointing to the deficiencies of liberal individualism, communitarians promote an alternative conception of politics and reject the idea that the state is neutral.⁶⁴ Kymlicka (1990: 206) seeks to defend liberalism from these communitarian criticisms by arguing that it is misleading to oppose liberalism's politics of neutrality with communitarianism's 'politics of the common good'. Instead he suggests that both liberalism and communitarianism have a concept of the common good but the two concepts are arrived at differently:

In a liberal society, the common good is the result of a process of combining preferences, all of which are counted equally (if consistent with the principles of justice). All preferences have equal weight... Hence the common good in a liberal society is adjusted to fit the pattern of preferences and conceptions of the good held by individuals.

In a communitarian society, however, the common good is conceived of as a substantive conception of the good life which defines the community's 'way of life'. This common good, rather than adjusting itself to the pattern of people's preferences, provides a standard by which those preferences are evaluated.

However, Kateb (1989) argues that rather than counterposing liberalism and communitarianism, it is more accurate to speak of the debate between anti-individualism and individualism. Anti-individualist theorists (among whom he includes Hannah Arendt, Charles Taylor, Michael Sandel, and Alasdair MacIntyre) are those who view self-realisation as necessarily being achieved in

⁶³ Benhabib (1992) distinguishes two different strands of communitarian political thought, an "integrationist" strand and a "participatory" strand. In the former, the emphasis is on the need for belonging and solidarity, while in the latter, the emphasis is on the need for political agency and efficacy.

⁶⁴ Avineri and de-Shalit (1992: 9) note the range of positions that might be encompassed by communitarianism. They describe it as a "very broad conception that includes methodological and normative arguments, moral and political claims, radical scholars alongside more conservative ones."

social activities that are publicly defined and publicly supported and even enabled. They reject the individualism of liberalism but not necessarily all assumptions of liberalism. Individualists object to a politics of the common good because they consider that it induces intolerance and possibly leads to oppressive and totalitarian government. In contrast, communitarians are not apprehensive about these alleged effects of a politics of the common good arising from public life because their conception of public life incorporates participation in a range of mediating social groups. This kind of pluralist politics recognises diversity and protects against totalitarianism (Taylor, 1989; Avineri and de-Shalit, 1992; Etzioni, 1996).

Participatory Democracy

Clearly, participation is a fundamental requisite of classical and modern republican political theory. With the demise of the Greek city-state and the Roman Empire, citizenship came to be replaced by membership of Christendom. In the feudal period, absolutist political regimes and divinely ordained hierarchies replaced the democratic procedures of the Greek *polis*. Accompanying this was a negative value attributed to involvement in public life resulting in the withdrawal of individuals from civic commitment. Somewhat paradoxically, it is as a result of the expansion of liberal ideas (particularly the value placed on individual equality and rationality, and the nineteenth and twentieth century socialist critiques of the liberalism), that participation again becomes a primary value of political theory.

Socialist theory, for example, is associated with the promotion of participatory democracy as a response to the shortcomings of liberal democracy. Socialist democracy promotes material equality as well as political equality, and emphasises participation as a key feature of its critique of bourgeois democracy based on representative politics.

It may be somewhat simplistic to view participatory democracy as the socialist alternative to liberal representative democracy. Liberals themselves have promoted participation. The classic exposition of democratic theory is that of John Stuart Mill who emphasises the developmental and educational role of political participation (Mill, 1972 [1861]).

Gutmann (1988) identifies four distinctive arguments supporting a form of participatory democracy within liberal theory:

- the self-protection view (where participation is a foil to the tyranny of others and, in particular, protection against tyranny by the state);
- the consumer-sovereignty view where participation is regarded as fostering more responsive policy;
- the self-development view where participation in collective decision-making is seen as encouraging the development of personal skills that can be used for both personal and public purposes; and
- the equal dignity rationale.

In addition, there is what is known as the self-transformation thesis (Warren, 1992; Fischer, 1995), in which it is argued that democratic experiences transform individuals into more public spirited, more tolerant, more knowledgeable and more self-reflective citizens.⁶⁵

R. Miliband (1994) points out that, in fact, in classical theory participation was primarily linked with participation in the process of selecting representatives – albeit with increasingly widespread suffrage. In the 1960s this kind of participation was rejected in favour of activity that went beyond voting and traditional forms of political involvement. Participation, R. Miliband (1994: 89) explains:

increasingly came to mean the radical enlargement of the sphere in which people could assume 'control of their own lives'.

In particular, this involved participation in workplace decision-making. A range of 'participationists' since the 1960s (see for example, Pateman, 1970; Barber, 1984; Gould, 1988; Bachrach and Botwinick, 1992) have promoted industrial democracy, which for many provided experiences in self-determination and thus fostered broader political aspirations. A community-based and work-based politics was seen as an antidote to the impersonal and distant character of much political decision-making.

⁶⁵ This is also reflected in the republican tradition, in which engaging in politics is equated with virtue and the good life (Pocock, 1975).

Participatory democracy is contrasted not just with liberal representative democracy but with elitist political theories which opposed participation as potentially being licence for demagoguery. Referring to the criticisms of representative democracy from participatory theorists, Hirst (1990: 3) writes:

Even in the most effective and responsive of political systems, modern representative democracy offers low levels of governmental accountability to citizens and of public influence on decision-making. Democracy has become far more a means of legitimisation of the centralised and bureaucratic government of the nation-state than it is a check upon it.

The existing political structures were regarded as being dominated by those who wielded considerable economic power and therefore were inaccessible to large sectors of the population. The prevailing forms of democracy were thus viewed as fostering elite rule.

Instead, it was argued (by participationists) that, to be effective, democracy demanded a high degree of direct involvement. Consent was an insufficient basis for the state's legitimacy. Barber (1984, 1989) has formulated a theory of 'strong democracy' based on participation as an alternative to liberal representative democracy's basis in consent. According to Barber (1989: 62):

Participation turns out to provide a much more dialectical account of the relation between individuals and the community than consent can possibly hope to. It offers a framework for institutions that safeguards the liberty of individuals without alienating them from public space – since their liberty is constructed in and with respect to that public space.

Taking participation seriously does not reverse the priority of individual and community (which would produce some form of totalist collectivism) but strikes a genuine balance between the two. To do so acknowledges the interdependence of individuals on one another and on the communities from which they derived sustenance for their identities and their (socially constructed) rights, and thus makes of morally autonomous citizens the aim rather than the premise of liberal democratic politics.

Clearly this version of participatory democracy rests on a specific concept of the individual and the social collectivity. Barber rejects the liberal idea that people are 'naturally' autonomous in some pre-social sense and that the collectivity is an artificial construct. Instead he regards persons as being embedded in a social milieu which bestows on them a capacity for action.

In a similar way, Gould (1988) grounds her vision of participatory democracy in a moral theory in which it is argued that human beings have a capacity for positive freedom (that is, the capacity to develop themselves and realise their goals). Constituted as such, humans have an equal right to the conditions necessary for their self-development, among which is included the right to shape the institutions in which they are agents, that is, institutional co-determination or participatory democracy. Direct democracy complements this moral theory. For some proponents (for example, Dewey), participatory democracy is fundamental to fostering community in the sense that active involvement of all citizens is necessary to achieve the goal of community. In this particular moral vision, democracy "represents the apex of associated human life" (Ryn, 1990: 17).

Participationists in part were responding to a volley of empirical research findings which cast doubt on the abilities and competence of voters, and which assert the apathy of voters, particularly (as discussed earlier in the section on elite theory) in the face of problems of time, scale and complexity of decision-making.⁶⁶ They argue that participation is necessary for citizens to learn how to become effective political agents and that by involvement in decision-making in the sphere where they spend much of their time (the workplace) they will develop an interest and capacity for action in the wider political domain. Participationists argue that there is a contradictory aspect of elitist arguments underpinning representative government, which are grounded in a view of the incompetence of ordinary citizens exercising political judgment. Participationists claim that, if people are competent to elect representatives, likewise they are competent to make decisions about policies rather than delegating that responsibility to elected representatives.

⁶⁶ In fact, there is considerable debate about the validity and reliability of much of the empirical data. While accepting much of the evidence proffered by elite theorists, Graham (1986) also cautions against uncritical acceptance of the data generated by participationists who frequently use widely differing definitions and measures of participation.

Advocates of participatory democracy regard participation as necessary for remedying the perceived demise of democracy in which there is apathy and alienation reflected in a low level of voter turnout, cynicism about political participation and accountability of government, and distrust of politicians (see, for example, Barber, 1984; Bachrach and Botwinick, 1992). In response to objections about the feasibility of direct democracy in large-scale societies, participationists highlight the potential of new information and communications technology (Fishkin, 1991; Budge, in Held, 1993), particularly for deliberative democracy.

At the same time, and even with an expansion of participatory democracy in both the economy and the polity, it is not apparent that participationists assume or advocate the disappearance of government. Like many others sceptical of participatory democracy, R. Miliband (1994) considers that direct democracy is not viable because in most organisations, even at the lowest level, representation is needed and this entails some distance between representatives and represented. Therefore he suggests that what is needed is to reduce the distance involved, and combine representative and participatory democracy. To this end he recommends drawing a distinction between public sector agencies (at central, regional and local levels) and private associations – which he refers to as the ‘citizen sector’. In the case of public agencies, it is important to have procedures which ensure that representation is responsive and accountable to citizens with a consultative role for citizen sector organisations as well as devolution of as many functions as possible to the citizen sector. Ranson and Stewart (1994: 116) argue that representation and participation should not be viewed as mutually exclusive:

The quality of representation grows with the quality of participation, ensuring as it does that representation is informed by an active citizenry.

Miliband points out the need to distinguish between oligarchy and hierarchy. The model of democracy he proposes seeks to prevent oligarchic control whereas democratically-run organisations may require structures of power in which some people have more power than others. In order that such power does not become oligarchic, he emphasises that:

those who have a greater measure of power should have been given it freely by their constituents, that they should be accountable, and that the

decision-making process should involve effective participation (D. Miliband, 1994: 91).

Thus, *effective participation* is the crucial aspect of this approach to democracy but at the same time Miliband argues that participation should be seen as a right not an obligation. That is, people may be allowed to choose not to participate.⁶⁷

Associative, consociational and corporatist forms of governance

In response to the deficiencies of liberal representative democracy, there have been modifications to representative democracy, with its interest group pluralism, to ensure greater representation of different interests. Corporatism is a functional type of democracy in which there is direct representation of particular organised interests. So, too, consociational democracy seeks to give representation, to the extent of providing an institutionised veto, to distinct sections of the population. Associative democracy is an approach to democracy which seeks to balance representative decision-making with certain participatory forms. The kind of accountability generated by representative democracy is viewed as having considerable deficiencies. Hirst (1990) suggests that it is necessary to accept that mass electorates, multi-party competition, a limited number of hierarchically controlled parties, and a territorial state with a monopoly of the means of violence, will continue to exist. Therefore the processes of democratisation occur within these parameters and are likely to involve such things as strengthening participation and strengthening political rights. These forms of democratisation both in and beyond the conventional sphere of politics are seen particularly in Eastern Europe where the emphasis has been on developing 'civil society' institutions.

Hirst emphasises associational democracy as a means of democratising civil society, in the face of inevitable limits to representative democracy. According to Hirst (1990: 3-4):

⁶⁷ Other criticisms of participatory democracy focus on the way in which, in the participationists' promotion of industrial democracy, ownership and control issues are confused, and on the potential for inter-group conflict to be increased as a result of heightened group identity and reduced conflict within groups characterised by participatory decision-making (see Graham, 1986)

Modern representative democracy has predominantly functioned as a means of legitimating government power, rather than of making government effectively accountable and open to public influence. ... The problem is that while mass democracy gives the electorate a real power to choose some of the major ruling personnel, it also routinises and minimises political participation. ... Limited participation is an institutional feature of mass democracy and not merely a failing due to specific circumstances. Mass electorates and mass parties mean a low level of participation by the citizens. At best such a democracy permits the masses a vote in periodic and relatively infrequent elections. Active and continuous participation in politics is the choice of a small minority who join political parties and other campaigning organisations.

Associative democracy may be regarded as a remedy to the shortcomings of interest group pluralism in which it is assumed that all groups have equal representation in government (Hirst, in Held, 1993). It may be regarded as a response to corporatist arguments about the need for interest-group intermediation. It has its roots in the anarcho-synicalism and guild socialism of the late nineteenth century and early twentieth century (Hirst, 1989).

Hirst (1994a: 74) argues that democracy requires informed decision-making by public bodies through the "continuous seeking of the consent of the governed." Associations are the primary means of obtaining this consent from the greatest proportion of the population and, therefore, democratic governance (Hirst, 1994a: 5):

Associationalism is a strand of socialist theory which holds that liberty and human welfare are best served when as many of the activities of society as possible are organised by voluntary and democratically-run associations. It is through such associations that people have a voice, that the state is made responsive. Elected officials and the leaders of the dominant party have extensive capacities to intervene in society through the policies of the state, which they at least nominally direct, but they have few means of authoritatively determining and responding to citizens' wishes about the course of such policy whilst in office. Just as an election creates and legitimises their power, so only the threat of failing to be re-elected acts as an effective constraint on politicians. Better that constraint than none at all, yet the electoral threat is

infrequent and its influence touches only the small portion of the policies and practices of the state that reach public notice and become a matter for controversy.

In Hirst's concept of associative democracy, the exercise of state power is reduced but without compromising social provision. Associative democracy gives priority to voluntary associations as the mechanism for governing social affairs. This means that the state transfers functions to voluntary self-governing associations (and also provides the financial resources for voluntary associations to perform those functions). The role of government then shifts from being a provider of services to ensuring that services are adequately provided and that citizens' rights are protected.⁶⁸

Hirst specifically rejects the republican tradition's reliance on public participation because, firstly, he regards it as anachronistic in a pluralistic society and secondly, he considers that the existing representative political institutions weaken government accountability and citizen participation.

Hirst (1990) highlights as a major concern the fact that representative democracy is unable to achieve the very thing that it exists to do, namely, exert a restraint on big government. Hirst therefore argues that representative democracy must be supplemented by corporatism which allows for consultation and negotiation between organised social interests. He proposes a bifurcated three-tiered system of national, regional and local-level government where the conventional representative state is supplemented by a parallel corporatist and associational structure of governance. Hirst views conventional elected legislatures as providing the framework for requisite financial and regulatory structures to sustain the efficacy of associations, a framework that would include basic institutions (such as regional and federal courts) for the protection of citizens' rights.

Advocates of associative democracy thus argue that associationism makes accountable representative democracy possible. For socialists, associative

⁶⁸ There are objections to associational democracy. For example, the notion that the role of government should shift from one of providing services to one of ensuring provision is reflected in the argument that local authorities should be enabling authorities. As enabling authorities, their primary, if not exclusive, role, therefore is to negotiate for services to be provided and enter into contracts for delivery of services. There is no longer a role for local government in the direct provision of services.

democracy can be adopted as a strategy to facilitate the incorporation of socialist values of equal participation into liberal representative governmental institutions (Mouffe, 1993).

One concrete variant of liberal pluralism, which is based on equal incorporation of interests, is consociational democracy. Lijphart (1996: 258) describes consociational democracy as involving

- (1) grand coalition governments that include representatives of all major linguistic and religious groups, (2) cultural autonomy for these groups, (3) proportionality in political representation and civil service appointments, and (4) a minority veto with regard to vital minority rights and autonomy.

Essentially a form of power-sharing, consociational democracy affords stability in deeply divided societies (for example, where there are major ethnic cleavages) because it avoids the absolute majoritarian rule of disproportional electoral systems, particularly the adversarial Westminster system such as is found in New Zealand with its (up until 1996) one party majority cabinets. Lijphart (1996) observes that consociational democracy characterises a number of North European nations (for example, the Netherlands, Belgium, Austria, Switzerland) and is found in other parts of the world as well. The European Union is also regarded as embodying principles of consociational democracy.

While consociationalism represents an effective and successful modifications to liberal representative democracy, there are concerns that may be raised about this and the other adaptations of classical pluralism. Goodin (1996) notes that only a few major cleavages are identified and institutionalised, while others are overlooked and institutionally neglected. He notes (1996: 336):

Furthermore, over time social structures and salient cleavages typically change far more quickly than political institutions which have been set in constitutional cement.

Consociational democracy, like corporatism, involves a division of public power. Self (1993: 200) argues that the fragmentation of public powers found in federal systems can promote an unequal pluralism in which powerful economic interests can dominate. Associative democracy is criticised for only

superficially transcending the limitations of the individualism and interest group politics of liberalism. As argued by Morgan (1996: 2):

... Hirst's formulation of associative democratic governance is untenable, for it relies on a rational choice formulation of associational political participation, through the creation of political 'markets' for governance, while simultaneously advocating the delimitation of purely market-based economic action. Secondly, it presents a fractured model of the polity, where the conventional state is shadowed by an associative apparatus that severely weakens the state's capacities. It also undermines the positive gains of universal state action in search of the dubious advantages of decentralised associations.

The individual, Morgan argues, is still viewed as an institutional consumer. The rational choice model assumes two sets of conditions: a subjective capacity for 'rational' decisions covering the full implications of consuming one association's commodities against those of others; and second, a level of efficiency of the "politico service market" adequate to distribute information about what is on offer. Instead, he suggests:

... local participatory mechanisms represent gains in democratic practice only to the extent that they meaningfully expand and nourish the universal arena of socio-political discourse and governance (Morgan, 1996: 2).

Morgan claims that Hirst does not acknowledge the degree of centralised regulation that is required in order to achieve the anticipated associational objectives of his theory. In contrast, Morgan (1996: 10) asserts:

The evolution of democratic principles in modernity is more closely linked with the development of centralised governance (however flawed and differentially experienced by groups), and with the *universal arena of discourse* it constitutes, than with the local particularism to which associationalism points. Extension of democratic principles under state auspices is more consistent with a deepening of integrative democratic practice than is distribution of face-to-face participative democracy into associations. The demands of decentralisation – the demands which possibly are at the heart of a nascent politics of post-modernity – are

arguably particularistic expressions of universalist socio-political claims. ... Communicative democracy is neither precipitated from, nor advanced by, the sort of 'parcelised' local participatory practice envisaged by Hirst.

At the same time, it is important to note that in a deliberative democracy, associations have a capacity for a high level of communicative democracy through their fostering of decision-making grounded in widespread consultation, co-operation and collaboration (Morgan, 1996).

The deficit of liberal representative democracy: a summary of the argument

Despite the prevalence and tenacity of liberal representative democracy in New Zealand (and in numerous other states), there is also a pervasive disenchantment with liberal representative political processes. First, the notion of political equality is subverted by the concentration of power in the contemporary state. As Dunn (1993: 13) contends:

Modern state structures concentrate power to a degree which no ancient state could have begun to emulate and to a degree that fifth and fourth century BC Athenians, for example, would have considered a complete negation of democracy.

Second, the emphasis on mass voting in periodic (and infrequent) elections for representatives linked to mass parties confirms that limited participation is not an unintended outcome of large-scale liberal democracy but an institutional feature. Participation is confined to plebiscitary voting.

In order to foster a democratic society, rather than "an elective despotism claiming authority from a popular vote", Hirst (1990: 34) argues that it is essential to have political competition and debate where organised social interests "bargain corporatively, collectively and co-operatively with the state." Such corporatist bargaining would not have to be confined to things like incomes policy but would extend to a range of policy debates.⁶⁹ There are, of course, objections to functional basis of representation in corporatist political

⁶⁹ For the United Kingdom, Hirst envisages a corporatist second chamber which would replace the House of Lords and provide a vehicle for continuous and co-ordinated policy development.

systems. In response to these, Hirst stresses that corporatism has greater success where the agenda is wide, where bargaining is continuous, where the organisations represented are more inclusive and more disciplined, and where there is a preparedness to accept policy based upon bargaining and corporatist representation as a necessary element in democracy. Thus, democracy is fostered by political competition between corporate organisations rather than party government, obviating the requirement for a highly centralised and hierarchical state (Hirst, 1990). This discussion of representative government and its adaptations is important to an analysis of the annual planning process and special consultative procedure because, to the extent the annual planning process is a pluralist response to the need to enhance the quality of democratic governance, it will embody these limits of pluralist politics, particularly the assumption that power is dispersed.

It is clear (for example, by certain communitarian and other anti-individualist theorists) that size is not a problem for modern democracy (as some critics of republican and other participatory democracy argue); rather, the problem is the lack of integration of individuals into the polity. Any democratic system, it is claimed, must involve some form of participation. The question then is what balance might be struck between representative and participatory processes.

Conclusion: the need for a balance of representation and participation complemented by deliberation

The aim of this chapter has been to expose and examine key dilemmas and debates in democratic theory with the cornerstone of the discussion being the prevailing form of liberal representative democracy. It has been emphasised that liberalism is not a unified and coherent body of theory but comprises different perspectives of the individual, individual freedom, the rights and duties of subjects and the proper nature and form of community (Frazer and Lacey, 1993; Held, 1993). While not wanting to ignore the tensions within liberal theory, the preceding survey of the literature on democracy allows us to distil key elements of liberal democracy:

- popular sovereignty/consent
- self-determination
- rationality

- deliberation
- private property and the competitive market economy

Democratisation can be enhanced through the extension of representative democracy or through the extension of participatory democracy (Hoggett and Hambleton, 1987).⁷⁰ Representation is seen as pragmatic response to the challenges to participatory processes of an increasingly large and complex society. A critical issue for democratisation is the extent of participation required for democracy. Critics of liberal democracy have highlighted the inadequacies of contemporary pluralist structures for the authentic concept of democracy and the concept of self-development long associated with it. What is clearly required is the recognition of the importance of more participatory and inclusive processes of political will-formation. Both representative and participatory democratic structures need to be developed which allow for an enhanced quality of political judgement.

Representative democracy has undergone change as modernity itself has unfolded. In particular the influence of social movements has been reflected in demands for participation. And, clearly, even by many advocates of representative democracy, there is some emphasis on participation. In the wake of the increasing differentiation of the economic, political and cultural spheres associated with modernity it is clear that democracy must be able to accommodate the pluralism of contemporary society and pursue new possibilities for democratic life while retaining aspects of existing political systems which are indispensable to the task of enhancing democracy.

The debates identified in this chapter provide the backdrop for the analysis that is subsequently undertaken in Chapters Seven and Eight of the empirical data on the democratic theory and practice associated with public participation in local government. The discussion thus far has observed that, in popular discourse, democracy is commonly taken to mean self-rule but in its temporal situation in late twentieth century representative democracy the degree of self-rule is significantly curtailed. Moreover, at the same time a growing

⁷⁰ Hambleton and Hoggett (in Hoggett and Hambleton, 1987) also distinguish between collectivist and consumerist, or political and managerial, approaches to democratisation. They define approaches which emphasise the extension of representative and participatory democracy as collectivist, on the grounds that they involve collectivities and their mobilisation or representation. In addition to collectivist approaches Hambleton and Hoggett recognise the value of consumerist reforms which are more individualist and which draw on private sector mechanisms such as consumer rights and market research.

disenchantment with both bureaucracy (which is portrayed as anti-democratic by the proponents of market liberalism) and representative government has stimulated aspirations for more participatory processes of political decision-making as a means of ensuring accountability of politicians and political processes to citizens. At the heart of the critiques of liberal representative democracy is a recognition that:

Democracy requires a vigorous exchange of ideas and opinions. Ideas, like property, need to be distributed as widely as possible (Lasch, 1995: 10).

This positive evaluation of participation is not a new phenomenon, associated as it is in republican theory with the pursuit of the good life. This discussion of diverse and competing theories of democracy in the political theory literature has been a necessary step in the process of developing new models of public policy-making and governance for local government in this country. At the same time, adequate theory needs to view political philosophy as a practical endeavour and consider the real world consequence of theory and critique.

A central question is to determine the scope of participation and representation. Objections to the expansion of participation are raised in light of the following perceived problems:

- the difficulty of achieving political equality in the face of entrenched interests of birth and wealth and other forms of economic inequality
- the assumption that participation will produce rule by the 'mob'
- the related assumption that people are not competent to engage in politics
- the dependence of democracy upon a communal sense of identity – which seems increasingly unrealistic in mass, complex societies.

Many aspects of liberal democracy (in particular, its lack of a theory of social justice and its apparent exclusion of any notion of the good) are rejected by influential contemporary political theories such as communitarianism. At the same time, liberalism is regarded as having certain strengths, particularly when contrasted with traditional socialist theories. In particular, liberalism is regarded positively in view of its promotion of individual civil and political liberties. The focus of discussion now turns to arguments and possibilities for reconstructing liberal democratic theory with some participatory mechanisms which together

promote debate and dialogue as means of developing political preferences. In Chapter Four, the focus will be on sympathetic criticisms from supporters of liberal democracy and on the importance of reconstituting a public sphere in liberal democracies. The discussion broadens to encompass theoretical developments which have culminated in contemporary theorising about deliberative democracy.

CHAPTER FOUR

THE ANNUAL PLANNING PROCESS AND THE CREATION OF A PUBLIC SPHERE

Introduction

The discussion thus far has focused on the nature of public sector reform, the key theme of democracy, and the theoretical influences on both public sector reform and, more generally, on the liberal representative political institutions and processes which shape policy-making in New Zealand, at both central and local government levels. Chapter Three concluded with discussion of the shortcomings of liberal representative democracy. In this chapter, it is argued that the deficiencies of pluralist representative democracy highlight the importance of deliberation and dialogue for the formation of public opinion. Without some form of expression of public will or interest, it is unclear how political decision-making can be democratic (regardless of whether that decision-making is direct or indirect). Local government reform, as noted in Chapter One, sought to recognise this aspect of democracy through seeking to introduce more effective opportunities for public participation through annual planning (in which local authority proposed activities were to be made public and transparent) and the employment of a statutory special consultative procedure. This chapter further explores the notion of openness or publicness which, in Chapter One, was identified as a key constituent element in democracy. It therefore begins with consideration of the argument that liberal democracy needs to be reconstructed to accommodate more meaningful opportunities for participation. A balance between participation and representation is advocated. From there, the discussion moves to consider Habermas's concept of the public sphere which highlights the importance of a social realm in which public opinion can be formed. The emphasis is on a dialogical approach to political will-formation.⁷¹ Finally, the discussion turns to a consideration of the potential for the creation of a public sphere in the spaces opened up by the Local Government Act's statutory annual planning process and special consultative procedure.

⁷¹ As will be noted shortly in the discussion of the concept of the public sphere, there are a number of Habermasian terms for which there are not identical terms in English. 'Will-formation' can be translated as 'decision-making' (Shapiro, in Habermas, 1971).

Reconstructing liberal democracy

It is clear from the discussion in Chapter Three that both representative and participatory democracy embody diverse institutional forms. Liberal democracy is given expression in both the Westminster system and federal systems. Moreover, there are forms of democracy which are not necessarily illiberal and which do not necessarily lend themselves to classification as either representative or participatory. A further consideration is the extent to which liberal democracy may be compatible with deliberative processes. This is the subject of discussion later in the thesis (Chapter Eight). At this point, a brief examination of an alternative form of liberal democracy may serve to make the point that there are diverse institutional configurations of the key elements of liberal democracy.

A range of responses to liberal representative democracy has emerged reflecting the diverse theoretical perspectives that exist alongside liberalism. Some of these are not so readily classified. Mansbridge (1980), for example, has argued for the need to move "beyond adversary democracy". In essence, she perceives democracy as being an adversarial phenomenon involving as it does a battle of interest against interest, the outcome of which is determined by majority rule. Two key features characterise this form of democracy: self-interest and conflict. Mansbridge argues that in democratic politics there is also action that is not motivated by self-interest. Thus, she also sets out to challenge the public choice – and specifically the Downsian – argument that self interest is the sole human motivation. For Downs (1957), this meant that political participation (voting) is not rational given the minimal influence that any individual's vote has on subsequent decisions. However, it is clear that the apparently rational choice is ignored, and people do participate in voting and other forms of political action. Mansbridge seeks to explain why this is the case by demonstrating that other motivations can be identified including that of expression of sympathy and solidarity, and commitment to principle. People are also motivated by altruism and co-operation.⁷²

⁷² In later work Downs modified his views about the primacy of self-interest and recognised the importance of citizens' ethical beliefs. Other criticisms of public choice theory have been mounted on the grounds that acting out of self-interest can diminish individual welfare. The problem of the prisoner's dilemma, in which if two individuals act in their own self-interest, both will be disadvantaged, is the source of one such criticism. There is also the problem referred to as the 'tragedy of the commons' and another referred to as the 'contributor's dilemma' where, according to public choice theory, an individual's self-interest leads to free-riding or excessive consumption of collective goods. However, it is recognised that there is a paradox associated with this pursuit of individual welfare, because, for example, if everyone who contributes to a

Putnam (1993) sought to explore whether it is the character of a society's political institutions that shapes social reality or whether a democratic social reality engenders democratic political institutions. His research, which seeks to determine the conditions of effective democratic institutions, lends support to the proposition that political engagement is likely to be stimulated by appropriate cultural factors. In a study of regional government in Italy, it was demonstrated that historical context (including social, cultural, and political processes) is decisive in determining the performance of democratic institutions. Given this finding, he argues, it is then important to identify the features of the context that make democratic institutions perform well. He concluded that democracy is robust where civic values are widely shared by ordinary people and expressed through a rich tradition of active and passionate citizen participation. Putnam's research provides a critique of the neo-liberal objection to civic values and the emphasis on the pursuit of private self-interest. He argues that a society inhabited by individuals who do not value and promote public life, and in which politics is regarded as an obstacle to the pursuit of private interests, there will be a progressive deterioration of its democratic institutions (see also Putnam, 1995, 1996). Similarly, Sunstein (in Copp *et. al.*, 1993: 210) argues:

A principal function of a democratic system is to ensure that through representative or participatory processes, new or submerged voices, or novel depictions of where interests lie and what they in fact are, are heard and understood. If representatives or citizens are able to participate in a collective discussion they might well generate a far fuller and richer picture of diverse social goods, and of how they might be served, than can be provided through individual decisions as registered in the market. It should hardly be surprising if preferences, values, and perceptions of both individual and collective welfare are changed as a result of that process.

Liberalism clearly has its critics, and not just from without, such as communitarians who are critical of the individualism of liberalism. Liberalism has its critics from within, such as Gutmann (in Avineri and de-Shalit, 1992) who argues for a reformed liberalism in which liberal values are supplemented rather than supplanted. In addition, there are criticisms such as those

common cause decides to free-ride, everyone will be disadvantaged. For a critical discussion of these problems for public choice theory, see Self (1977) and Ranson and Stewart (1994).

articulated by Bellamy (1993) who points to the changed social and political environment.⁷³ The question, then, is whether liberal democracy is able to nurture democracy or whether it subverts democracy.

So-called 'socialist liberals' (for example, Bobbio, 1987) and others who have been influenced by this libertarian socialism (for example, Mouffe, 1992) have reasserted the strengths of liberal representative democracy. At the beginning of this chapter it was noted that in liberal democracy are to be found major tensions and inconsistencies. In part, these tensions and contradictions may be explained by the fact that liberalism has aligned itself not only with democracy but with other political and intellectual phenomena: rationalism and empiricism, revolution and bureaucracy, enlightenment and romanticism, *laissez-faire* economics and nationalism (Barber, 1989). Barber (1989: 54) argues that:

liberalism was a struggle for emancipation from religious and political absolutism that exacted costs liberal principles could not contend with. In establishing the solitary individual as the model citizen, liberalism shortchanged ideas of citizenship and community, and contrived a fictional self so unencumbered by situation and context as to be useful only in challenging the very idea of the political. In emphasising freedom as the absence of all governmental restraints, it impeded the march of popular sovereignty. In combating higher ecclesiastic and secular authority, it attenuated the capacity of religion and tradition to sustain and integrate. ... Liberalism created a safe haven for individuals and their property, but a poor environment for collective self-government.

Bobbio (1987) wants to transcend the impasse in democratic theory in which representative and participatory democracy are cast as incompatible. He argues instead, that there is a continuum between the different types. While he is critical of liberal democracy on account of its broken promises of (1) participation; (2) control from below and (3) freedom of dissent, nevertheless he argues that socialist goals of equality and freedom can only be pursued satisfactorily within the liberal democratic institutional framework.⁷⁴ He

⁷³ Bellamy's point is that the changed historical context means that liberal principles have lost their moral force. It is for this reason that he is critical of Hayek and Rawls whose work, he says, is based on misplaced attempts "to revive the arguments of the liberal tradition within the totally different social context of the modern world..." (Bellamy, 1993: 38).

⁷⁴ In the context of highlighting the value of liberal ideas, Bobbio argues that it needs to be

emphasises the importance of the formal liberal civil and political rights associated with liberal democracies but also their characteristic constitutional and institutional frameworks.⁷⁵

For Bobbio (1987: 24), democracy should be viewed as a “set of rules... which establish *who* is authorised to take collective decisions and which *procedures* are to be used to choose them.” Like Schumpeter and Dahl, Bobbio considers that the requirements of democracy are best satisfied by the competitive model of different parties vying for the people's vote, rather than by the classical model of participatory democracy.

Bobbio gives four key reasons for approaching democracy in this way. First, he argues that the contemporary, modern ethos is individualistic, and that it is not possible to arrive at an all-embracing general will, even with extensive rational argument. Second, he sees that this fundamental cultural ethos is further consolidated by the nature of the contemporary industrial economy in which it is difficult to form common interests. Third, he invokes the familiar concerns about the time/scale problems which make direct democracy unworkable. Finally, he argues that the increased complexity of modern society makes it difficult for people to really understand what is in their own interests, whereas representatives can perform that role better than individuals can do for themselves. In essence, therefore, he sees the liberal competitive model as being more appropriate to the pluralist nature of modern society.

At the same time Bobbio is cognisant of the weaknesses of the competitive party model (including the tendency towards crowding in the middle of the political spectrum in a two-party system or, in a multiparty system, the failure to achieve an overall majority which means that a party cannot implement its manifesto and government policy is subsequently less accountable to the electorate).

The particular attribute of liberalism that is regarded by many contemporary

recognised that liberalism emerged as a theory of limited government in response to the tyranny of monarchical rule, rather than in response to tyrannical bureaucratic government.

⁷⁵ In a similar vein, Mouffe acknowledges the importance of pluralism and the institutions associated with political liberalism and while seeking to affirm both the individualism and democratic homogeneity of liberalism, at the same time seeks to give priority to difference. Her theory of radical pluralist democracy attempts to incorporate both the logic of identity and the logic of difference.

socialists, communitarians and other democrats, as desirable is its neutrality between different conceptions of the good. Bellamy (1992: 261) makes the following case in favour of liberalism:

Liberalism remains important for anyone who takes the plurality and complexity of the modern world seriously. Traditional liberal arguments, such as the importance of autonomy and diversity for human progress or mere scepticism about the existence of any objective values, fail to do so, for they are all based on recognisably liberal moral conceptions which do not do justice to alternative ethical systems. Attempts to devise supposedly neutral legal frameworks, protecting certain rights and liberties, privilege particular points of view at the expense of others of equal importance. As a result, they become a source of conflict rather than of stability. Contemporary societies lack the convenient moral symmetry such theories require. In an increasingly functionally and ethically differentiated world, clashes between competing aspects of our lives and our social system are inevitable. No overarching moral theory can resolve all the tensions within them. The compromises and rules required for peaceful coexistence can only emerge in an *ad hoc* manner. A democratic liberalism tries to perform this task by constructing a workable set of democratic institutions capable of providing the *modus vivendi* necessary to arrive at these agreements. It seeks to preserve individual and group freedom through the distribution of power. Unlike ethical liberalism, democratic liberalism does not aim at the construction of the just society *sub specie aeternitatis*. More modestly, it attempts to allow people in the here and now to articulate their needs and ideals and map out a basis for their present co-operation. A liberalism of this kind is not only necessary, it is the only way we can all be liberals now.

For Bellamy, then, what is needed is not to replace liberalism but to promote a democratic liberalism. He argues (1993: 252-253) that the reworking of liberal thought, born out of the frustration experienced by Italian and German theorists, provides the materials for constructing a realist conception of liberalism far more suited to the complex political and moral issues currently confronting us. He draws a distinction between ethical and realist liberals.

According to Bellamy, ethical liberals subscribe to a consensual model of society, while realist liberals focus on conflict and the role of power in holding a

community together. Moreover, ethical and realist liberalism give rise to two correspondingly different ways of conceiving the public sphere: liberal democracy and democratic liberalism. Whereas liberal democracy assumes (or seeks to create) a moral consensus which provides a framework for political deliberation, democratic liberalism gives central place to fair procedures that favour the expression and temporary conciliation of a plurality of ideals. Consequently, democratic liberalism responds to the complexity and particularist pluralism of modern life by regarding liberal constitutional principles and arrangements in terms of a *modus vivendi*. They arise out of the current circumstances of justice, rather than being the preconditions of all legitimate social coexistence.

Bellamy argues for a realist conception of liberalism which he contrasts with an ethical liberalism. Ethical liberalism (of which Rawls's theory of justice is an example) is grounded in a shared morality that emerges in modern industrial societies. Realist liberals highlight the effect of power relations on the convergence of values. Bellamy argues that the two different forms of liberalism produce different political systems. Ethical liberalism is associated with liberal democracy while realist liberalism is associated with what Bellamy calls 'democratic liberalism'. According to Bellamy (1993: 39):

Whereas liberal democracy assumes (or seeks to create) a moral consensus which provides a framework for political deliberation, democratic liberalism gives central place to procedures that favour the expression and temporary conciliation of a plurality of ideals. Consequently, democratic liberalism responds to the complexity and particularist pluralism of modern life by regarding liberal constitutional principles and arrangements in terms of a *modus vivendi*. They arise out of the current circumstances of justice, rather than being the preconditions of all legitimate social coexistence.

From a communitarian perspective, Taylor (1989) has drawn attention to an emerging political form which he calls procedural liberalism. Procedural liberalism is grounded in a view of society as an association of individuals each of whom has his or her conception of a good or worthwhile life, and a personal life plan. The good society is one which all these individual life plans are fostered to the greatest extent possible, and in which different life plans are given equal respect. This is a liberal theory because it is premised on formal

equality, and specifically the belief that no particular conception or conceptions of the good life are to be privileged. In this liberal order, the dominant ethic is an ethic of the right rather than the good. Taylor argues that over the past century the character of public life in the United States has increasingly been based on a procedural republic. This public life is one in which participation in elections is declining and where judicial retrieval becomes more prevalent. For communitarians, a stronger basis for democracy is participation and collective deliberation.

Having outlined the criticisms of liberal representative democracy and with the argument being made that liberal democracy needs reconstructing through the incorporation of processes of deliberation, it is now relevant to consider the notion of a public sphere in which deliberation and democratic will-formation can occur. While liberals like Kymlicka (1990) and Rosenblum (1989) are concerned not to assume that contemporary citizens, in contrast with citizens in classical Athens, have aspirations or competence to be active participants in political decision-making, as Racine (1995: 451) asserts:

... it is equally mistaken to take this welcome dose of realism to mean that our political competence is neither capable nor worthy of conscious development.

It was noted in Chapter Three that the separation of state and society was a central theme in liberal democratic theory. This separation, according to Habermas, created the institutional space for the emergence of a public sphere where dialogue and deliberation about public policies took place.⁷⁶ This consideration of the notion of a public sphere, as outlined in Chapter One, will subsequently be used in the analysis of the democratic potential of the public participation mechanisms provided in the reformed local government legislation.

⁷⁶ The public sphere, however, can take different forms. Benhabib (1992), for example, distinguished between the republican notion (the "agonistic" view, as found in the work of Arendt), the liberal notion (for example, as found in the work of Ackerman, 1980), and the discursive notion in Habermas's work.

Habermas's study of the development of the liberal public sphere

Habermas introduced the concept of the public sphere⁷⁷ in his 1962 publication *The Structural Transformation of the Public Sphere*. This text was not published in English until 1989. Habermas provides an historical overview of the emergence and eventual decline of the bourgeois public sphere. Calhoun (1992: 5-6) suggests that Habermas's purpose in documenting the development and degeneration of the bourgeois public sphere is to reinstate:

the progressive potential in "formal" democracy and law and thus to counterbalance their neglect in the Marxist tradition. More specifically, it is part of Habermas's lifelong effort to reground the Frankfurt School project of critical theory in order to get out of the pessimistic cul de sac in which Horkheimer and Adorno found themselves in the postwar era. In a nutshell, the attempt to ground a vision of societal transformation and human emancipation on the proletariat had foundered. The experience of fascism and the rise of the cultural industry and "engineered consent" seemed to indicate that there was no historical subject on which critics might pin their hopes for transcending capitalism. Habermas turned away from the search for such a subject and developed an account of intersubjective communicative processes and their emancipatory potential in place of any philosophy (or politics) of the subject.

The origins of the bourgeois public sphere

During the time of the European Middle Ages, in the period of feudal society, there were not distinct private and public spheres. Moreover, there was not, under feudal social organisation, a space for open public discussion. As Habermas notes, rather than being constituted as a social realm or a particular location, publicness was more in the nature of a "status attribute" of kings and

⁷⁷ As with other concepts such as 'will-formation', a perennial concern for an English speaking author and reader is the difficulty associated with the usage of the terms 'public', 'public sphere', 'publicity' which are translated from the German of Habermas's original publication. Indeed, the meanings and usage of these English terms have changed over time. The text in translation frequently includes the German vocabulary for these and other terms (for example, 'reason') and there is extensive discussion of etymology. The Latin term *res publica*, which is often imported directly into English language usage, is one further way of translating the concept of the public sphere. Peters (1993) argues that 'publicness' can be translated as 'openness' and, interestingly, notes that the German word for 'public sphere', *Öffentlichkeit*, is translated precisely by the term *glasnost*.

lords (Habermas, 1989: 7).⁷⁸ By the seventeenth century the state was taking on a distinctive form and was separated from civil society both judicially and institutionally.

With the development of mercantile capitalism in the sixteenth century, a new kind of public sphere emerged, no longer based on the kind of publicity involved in representation. The public sphere developed out of court society and urban corporations in early modern Europe. In the modern period, Habermas (1989: 18) explains, the term 'public':

was synonymous with "state-related"; the attribute no longer referred to the representative "court" of a person endowed with authority but instead to the functioning of an apparatus with regulated spheres of jurisdiction and endowed with a monopoly over the legitimate use of coercion. The manorial lord's feudal authority was transformed into the authority to "police"; the private people under it, as the addressees of public authority, formed the public.

Habermas notes that the depersonalisation of state authority and the emergence of the public sphere is associated with the establishment of a new political economy, that of mercantile capitalism. A second aspect of the early capitalist commercial system is also highlighted, namely, the development of the press. In the mid-seventeenth century, the first weekly journals appeared (later appearing daily). Accompanying the development of the apparatus of the modern state (reflecting the changed nature of state authority), a new grouping of bourgeois people emerged comprising officials in the state administration (for example, jurists) but also doctors, scholars and others who displaced the traditional bourgeoisie (craftsmen and shopkeepers). These new bourgeois were joined by the merchants, bankers, manufacturers and entrepreneurs whose numbers expanded with mercantile capitalism.

The significance of this class to the public sphere and the newly emergent state authority is outlined by Habermas (1989: 23):

⁷⁸ Habermas (1989: 8) does acknowledge that "the ecclesiastical lords had, in addition to the occasions that were part of the affairs of the world, a specific locale for their representation: the church. In church ritual, liturgy, mass, and processions, the publicity that characterised representation has survived into our time." Even with representation being linked to locale, Habermas notes that the use of the Latin language in church ritual effectively excluded the laity, such that representation was not public but private.

This stratum of the "bourgeois" was the real carrier of the public, which from the outset was a reading public. Unlike the great urban merchants and officials who, in former days, could be assimilated by the cultivated nobility of the Italian Renaissance courts, they could no longer be integrated *in toto* into the noble culture at the close of the Baroque period. Their commanding status in the new sphere of civil society led instead to a tension between "town" and "court"...

The new bourgeois had both the time and material resources to foster new social institutions within civil society, such as newspapers, learned and debating societies, publishing enterprises, and libraries.

The public sphere in some theorisations is referred to synonymously as civil society and Habermas's view of the public realm is derived from the Hegelian idea of civil society.⁷⁹ Habermas (1989: 27) defines the public sphere thus:

The bourgeois public sphere may be conceived above all as the sphere of private people come together as a public; they soon claimed the public sphere regulated from above against the public authorities themselves, to engage them in a debate over the general rules governing relations in the basically privatised but publicly relevant sphere of commodity exchange and social labour. The medium of this political confrontation was peculiar and without historical precedent: people's public use of their reason⁸⁰ ...

The development of the public sphere in turn was assisted by two processes: the reconstitution of the family as an intimate sphere (with the patriarchal head in the public sphere) and the development of a literary public sphere. The two processes, Calhoun (1992) notes, are interwoven with the early novels promoting the private, intimate world of romantic love. The critical importance of the family to the subsequent development of the public sphere is attributed by Calhoun (1992: 11) to the way in which "it taught that there was something essential to humanness that economic or other social status could not take

⁷⁹ For further discussion of the concept of civil society see Keane (1988a; 1988b) and Dryzek (1996a).

⁸⁰ The important aspect of the use of public reason in critical-rational public debate will be discussed further in this chapter.

away." The sentimental novels that emerged in the late seventeenth and early eighteenth centuries also fostered this understanding of humanness as Habermas (1989: 50) indicates:

The relations between author, work, and public changed. They became intimate mutual relationships between privatised individuals who were psychologically interested in what was "human", in self-knowledge, and in empathy.

From literary to political discourse

The establishment of a public literary sphere (the public sphere in the world of letters) provided the institutional infrastructure for the construction of a political public sphere (the public sphere in the political realm), including meeting places, publications and networks.⁸¹ Initially, in England the public sphere comprised the coffee houses where businessmen met to discuss news and economic and political matters; while in France, the equivalent meeting places were the salons in private homes. Habermas (1989: 36) highlights a key characteristic of these new public spaces: the individuals who participated in the social intercourse were able to do so because of the disregard for status and because there was a "justifiable trust" (Habermas, 1989: 131) resulting from the shared class interest:

Laws of the market were suspended as were laws of the state. Not that this idea of the public was actually realised in earnest in the coffee houses, the *salons*, and the societies; but as an idea it had become institutionalised and thereby stated as an objective claim. If not realised, it was at least consequential (Habermas, 1989: 36).

Related to this feature of superseding status differential was the notion that "rational argument was the sole arbiter of any issue" (Calhoun, 1992: 13). Furthermore, the participants in the political public sphere considered themselves free to explore a range of questions and topics which previously had been the preserve of the Church and state authorities who had had a monopoly of interpretation:

⁸¹ Habermas's neglect of the role of the Church in the development of the bourgeois public is noted by Eley (1992). For detailed discussion of the impact of the Protestant Reformation, see Wuthnow (1989).

not just from the pulpit but in philosophy, literature, and art, even at a time when, for specific social categories, the development of capitalism already demanded a behaviour whose rational orientation required ever more information. To the degree, however, to which philosophical and literary works and works of art in general were produced for the market and distributed through it, these culture products became similar to that type of information: as commodities they became in principle generally accessible (Habermas, 1989: 36).

It was at this time that public libraries had their genesis, accompanied by book clubs, reading circles and a wide reading public. The influence of the literary public sphere on the emergence of the political public sphere is especially significant on account of the way in which in the former there was scope for readers to engage in literary criticism:

The privatised individuals coming together to form a public also reflected critically and in public on what they had read, thus contributing to the process of enlightenment which they together promoted (Habermas, 1989: 51).

The practice of literary criticism represented the institutionalisation of a public of private people critically discussing literary products "within which the subjectivity originating in the interiority of the conjugal family, by communicating with itself, attained clarity about itself" (Habermas, 1989: 51).

The establishment of a public literary sphere (the public sphere in the world of letters) provided the institutional infrastructure for the construction of a political public sphere (the public sphere in the political realm), including meeting places, publications and networks. Thus, the public sphere subsequently developed into an arena where private individuals could meet to discuss matters of public or common interest.

In the public sphere of early modern Europe, the new bourgeois class sought to challenge the absolutist state and to hold it accountable to society by publicity.⁸² As Fraser (1992: 112) explains:

⁸² The significance, and changing nature, of publicity are discussed further below.

At first this meant requiring that information about state functioning be made accessible so that state activities would be subject to critical scrutiny and the force of public opinion. Later it meant transmitting the considered "general interest" of "bourgeois society" to the state via forms of legally guaranteed free speech, free press, and free assembly, and eventually through the parliamentary institutions of representative government.

A key polemic of this time was the debate in constitutional law over the principle of absolute sovereignty versus the role of general, abstract and depersonalised laws. The effect of the new public sphere was to assert the latter with public opinion being the source of such law. Calhoun observes that the debate took place most notably in Britain and for this reason Britain is the model *par excellence* of the development of the public sphere. Its development was associated with the opening up of new horizons in public discourse with the expansion of free education.

The distinction between the state and the public sphere

It is important to note that, in Habermas's account, the bourgeois public sphere was not part of the state but a sphere in which the activities of the state were subjected to debate. For this reason, Habermas (1989: 52) argues that a distinction must be made between the public sphere of classical Greece and that of the eighteenth century in Europe:

The political task of the bourgeois public sphere was the regulation of civil society (in contradistinction to the *res publica*). With the background experience of a public sphere that had become interiorised human closeness it challenged the established authority of the monarch; in this sense its character was from the beginning both private and polemical at once. The Greek model of the public sphere lacked both characteristics, for both the private status of the master of the household, upon which depended his political status as citizen, rested on domination without any illusion of freedom evoked by human intimacy. The conduct of the citizen was agonistic merely in the sportive competition with each other that was a mock war against the external enemy and not in dispute with his own government.

Only with the emergence of an impersonal state could the public sphere emerge as a counterweight to state authority. Thus, the public sphere is a sphere which mediates between society and the state. As Garnham (1990: 107) explains, the public sphere

was protected from the power of both Church and State by its access to the sustaining resources of a wide range of private individuals with an alternative source of economic power. It was in principle open to all, because the cost of entry for each individual was dramatically lowered by the growth in scale of the market. The public sphere thus took on the universalistic aspects of the Hegelian State, membership of the public sphere being coterminous with citizenship. All participants within the public sphere were, as with the competitive market, on terms of equal power because costs of participation were widely and evenly distributed. It was distinct from the private interests that governed civil society, on the other hand, because, in the Enlightenment tradition, it obeyed the rules of rational discourse, political views and decisions being open, not to the play of power, but to that of argument based upon evidence, and because its concern was not private interest but the public good. It thus also took over the rationalistic aspects of the Hegelian state.

The decline of the public sphere: the encroachment of the state

The separation of the state and civil society provided the institutional space for the public sphere but as capitalism evolved from its early liberal form to its organised form, the state became increasingly interventionist in the economy and civil society. In addition, the nature of politics also changed with the growth of organised interest groups which permeated the state. Initially, the liberal public sphere was exclusive of many sectors of the population and it is doubtful that its deliberations enhanced the interests of those excluded groups.⁸³

Over time, however, the public sphere was transformed through its continual expansion to include more and more participants and also the formation of large scale social organisations as mediators of individual participation. Private commercial interests began to dominate the state and the state intervened in

⁸³ Later in this chapter, in the discussion of the utility of the concept of the public sphere, some of the significant exclusions are noted.

the private sphere. The development of the capitalist economy in the direction of monopoly capitalism led to an even greater maldistribution of wealth, and thus to unequal access to and control over the public sphere. In addition, the growth of the social democratic welfare state meant the expansion of large public bureaucracies to match large private corporations. As a major participant in the economy, Habermas argues, the state increasingly shared the interests of private economic actors. Thus, as capitalism became more organised, the division between the state and civil society dissolved and the bourgeois public sphere, which had existed in the institutional space associated with that division, waned:

Two tendencies dialectically related to each other indicated a breakdown of the public sphere. While it penetrated more *spheres* of society, it simultaneously lost its political *function*, namely: that of subjecting the affairs that it had made public to the control of a critical public. ... The *principle* of the public sphere, that is, critical publicity, seemed to lose its strength in the measure that it expanded as a *sphere* and even undermined the private realm (Habermas, 1989: 140, italics in original).

Instead of public debate, politics was reduced to plebiscitary voting. This resulted in the depoliticisation of the population and the diminution of the public sphere and the scope for discursive will-formation, that is, for authentic and active public participation in decision-making. Describing the decline of the public sphere, Habermas (1971: 75) wrote:

The depoliticisation of the mass of the population and the decline of the public realm as a political institution are components of a system of domination that tends to exclude practical questions from public discussion. The bureaucratised exercise of power has its counterpart in a public realm confined to spectacles and acclamation .

Habermas argues that through the dominance of commercialism, combined with the privatisation and atomisation of media consumption, the public sphere was destroyed historically by the very forces that had brought it into existence. In effect, the public sphere has been refeudalised.

The theory of communicative action

There is a shift in Habermas's work over time, away from a focus on the public sphere and towards communicative or discourse ethics. Although the objective in carrying out the study of the historical category of the bourgeois public sphere was to articulate a normative ideal for democratic will-formation in contemporary capitalism, this was to some extent abandoned or at least displaced by a somewhat different emphasis on the capacity for non-instrumental rationality and communication and the "validity claims" inherent in all speech.

Weber argued that modernity was characterised by the process of 'rationalisation' which was reflected in the growth of scientific knowledge and its application to modern technology and the related process of the expansion of bureaucratic organisation. Together these processes were associated with the dominance of instrumental reason and instrumental action and the loss of freedom and meaning. Habermas is critical of this view of rationality and reason – shared by his Frankfurt School predecessors. He argued that it overlooked what he called 'communicative rationality' by which people in interaction are preoccupied with reaching an understanding. Any adequate theory of society, he argued, should acknowledge the fact that action is also based on the achievement of shared understanding. Language plays an important role in this and is the distinctive characteristic of humans as opposed to animals. Humans use language as a communicative device with which to achieve consensus. There is an inbuilt thrust for the achievement of what Habermas calls the 'ideal speech situation' in which discourse can fully unfold its potential for rationality.

Based on this social theory, Habermas subsequently developed a theory of communicative action in which he formulated the notion of an 'ideal speech situation'. Although a different emphasis, the concept of an ideal speech situation is nevertheless closely related to the public sphere notion, referring as it does to communication which takes place in the absence of barriers.⁸⁴

In contrast with instrumental rationality, which was viewed pessimistically in many quarters, for example, by Weber and by the early Frankfurt School (and, more recently, by postmodernist critics of the Enlightenment validation of

⁸⁴ For a comprehensive overview and critical discussion of the theory of communicative action, see Agger (1991) and Layder (1994).

reason), Habermas promoted the notion 'communicative rationality' which is concerned with the way in which people in interaction are preoccupied with reaching an understanding. Any adequate theory of society must take into account the fact that action is also based on the achievement of shared understanding. Language plays an important role in this and is the distinctive characteristic of humans as opposed to animals. Humans use language as a communicative device with which to achieve consensus. There is an inbuilt thrust for the achievement of what Habermas calls the 'ideal speech situation' in which discourse can fully unfold its potential for rationality. Habermas claimed that through rational argumentation it would be possible for consensus to be produced.⁸⁵

In the *Theory of Communicative Action* he argues that rational argumentation requires a number of pre-requisites, among them, that validity claims can be contested; that agreement is reached on the basis of better reasons being given; that there is no coercion in the form of force or constraints, and that there is no deception regarding real interests and aims (Habermas, 1984: 17-18). Such agreement would differ considerably from bargaining situations in which parties pursuing their own interests merely agree to compromises, rather than attempting to arrive at genuine consensus. Due to the rationalisation process, the norms and values of modern societies are increasingly open to rational argumentation.

Furthermore, as conceived by Habermas, society comprises different subsystems, namely, the economy, the state and the lifeworld. The lifeworld, which is the realm of culture, society and personality in which cultural reproduction, social integration and socialisation take place, contains unconscious understandings and assumptions which underlie communicative action. The lifeworld involves a higher level of rationality in order to achieve agreement and consensus than the forms of rationality present in the subsystems of the economy and the state (Habermas, 1984).

Late capitalism, according to Habermas, is characterised by the technocratic monopoly of dialogue changes in crisis-prone late capitalism. (As discussed earlier, this was also a theme in *The Structural Transformation of the Public Sphere*.) Habermas's theory of communicative action is founded on the

⁸⁵ Schlosberg (1995) demonstrates the way in which communicative rationality is given practical expression in the contemporary theory and practice of dispute resolution.

argument that challenging capitalist domination requires restructuring the realm of language and communication so that citizens share more fully in the process of system guidance (Agger, 1991). It is through reconstructing the realm of language and communication that capitalism will be challenged.

Criticisms of Habermas's concept of the public sphere

Numerous criticisms of the Habermasian concept of the public sphere have been raised (see, in particular, Peters, 1993; Fraser, 1992, 1995b). These criticisms relate to Habermas's idealisation of the bourgeois public sphere; the inaccuracies, linked to this romanticisation, in Habermas's historical account of the development of the public sphere; his view of media consumption as unmediated; the failure to make explicit certain assumptions about the operation of this sphere; and the neglect of other public spheres.⁸⁶

As has been pointed out by several scholarly studies of eighteenth and nineteenth century political life, women (including bourgeois women) were not active participants in the institutions of politics (polling places, political clubs, newspaper rooms, and the formal decision-making arena).⁸⁷ The structural transformation which produced the public sphere also produced a private sphere and was spearheaded by commercial elites. Fraser (1992: 116) notes that for these accounts, the liberal public sphere was "a masculinist ideological notion that functioned to legitimate an emergent form of class rule".

Fraser (1992) argues that the Habermasian public sphere is based on four assumptions which need to be exposed:

- (1) the assumption that status differentials can be overlooked and that people can deliberate as equals (that is, the assumption that social equality is not necessary for political equality)

⁸⁶ The essays in Calhoun (1992) reflect the range of the critical literature.

⁸⁷ It is difficult to generalise about the role of women during the Enlightenment, particularly as it differed from country to country. Anderson and Zinsser (1989) argue that the *saloniere* was the subject of ridicule and condemnation and that by and large women's traditional role was reinforced by men of the period. However, by the nineteenth century, at least, women's role and influence in informal organisations at least is significant, even if, in the formal institutions of politics, they are still very marginalised.

- (2) the assumption that a single public sphere is preferable to a proliferation of competing public spheres
- (3) the assumption that private interests should be excluded from the public sphere and deliberation about the common good; and
- (4) the assumption that a functioning public sphere requires a sharp separation between civil society and the state.

In summary, she argues that the assumed open access to the public sphere was not realised, and that the bourgeois public sphere was founded on social relations in which there was a clear separation of society and state and where private interests were excluded from discussion.

Despite such objections, Fraser is sympathetic toward the notion of the public sphere and has endeavoured to further theorise the concept. Fraser (1992: 110-111) defines the public sphere as:

a theatre in modern societies in which political participation is enacted through the medium of talk. It is the space in which citizens deliberate about their common affairs, and hence an institutionalised arena of discursive interaction. This arena is conceptually distinct from the state; it is a site for the production and circulation of discourses that can in principle be critical of the state. The public sphere in Habermas's sense is also conceptually distinct from the official economy; it is not an arena of market relations but rather one of discursive relations, a theatre for debating and deliberating rather than for buying and selling. Thus this concept of the public sphere allows us to keep in view the distinctions among state apparatuses, economic markets, and democratic associations, distinctions that are essential to democratic theory.

Fraser accepts that some concept of the public sphere is essential to a critical social theory and democratic political practice, but she notes that the Habermasian notion requires modification. Because Habermas's concept was developed as part of a study of the emergence of a historically specific and limited form of the public sphere, he did not extend his analysis to the post-bourgeois form of the public sphere. In view of this omission, Fraser (1992: 111) asserts:

Some new form of public sphere is required to salvage that arena's critical function and to institutionalise democracy.

In addition, Fraser (1992: 131) argues that it is necessary to critique the way in which the public sphere is defined. She distinguishes four different interpretations of the term 'public' (and, similarly, multiple meanings of the term 'private') noting that the various usages legitimate and delegitimate different interests. First, the term 'public' can refer to action or issues that are state-related (such as in the contemporary notion of the public sector); second, it can refer to things that are accessible to everyone (for example, the traditional understanding in New Zealand of public education and public health care); third, it can refer to things that are of concern to everyone (as reflected in public opinion); and fourth, it can refer to what is a common good or shared interest (as is reflected, for example, in the notion of the public interest).

In addition, Fraser (1992) queries the normative assumption in Habermas's account of the public sphere that there should be a singular public sphere. In contrast with this, she promotes a plurality of competing publics. The reason for advocating a plurality is her scepticism that in a single public sphere there will be bracketing of inequality, as Habermas presupposes, and unimpeded dialogue among equals. Instead, she argues that social inequality cannot thus be bracketed and while it persists the subsequent dialogue will serve the interests of dominant groups. In a single public sphere, this exclusionary effect will be intensified and subordinate groups will be denied any forum for articulating their concerns and perspectives. She cites historical research which highlights the importance of "subaltern counterpublics" to marginalised groups and notes that these counterpublics serve to enlarge discursive space.⁸⁸ These exist in stratified, non-egalitarian societies, and, even in egalitarian societies, it would not be necessary for there to be only one public sphere. Similarly, it is possible to argue that communicative competence⁸⁹ may need to

⁸⁸ Fraser (1992: 124) is not intending to be overly sanguine about subaltern counterpublics, some of which can be anti-democratic and anti-egalitarian. Also, she notes their ambivalent relationship to the wider public, which gives them a dual character: "On the one hand, they function as spaces for withdrawal and regroupment; on the other hand, they also function as bases and training grounds for agitational activities directed towards wider publics. It is precisely in the dialectic between these two functions that their emancipatory potential resides. This dialectic enables subaltern counterpublics partially to offset, although not wholly to eradicate, the unjust participatory privileges enjoyed by members of dominant social groups in stratified societies."

⁸⁹ Agger (1991) emphasises that communicative competence is not simply the capacity for

be supported and reinforced with resourcing (including financial resources, time, and information).

Concerns are raised about the outcome of discursive and dialogical political decision-making.⁹⁰ While Habermas considers that through the argumentative processes of public debate, particular interests will be transcended and an understanding of the public interest will emerge, Agger (1991) notes that Habermas does not sufficiently explicate his notion of consensus underlying the ideal speech situation. Fraser (1992: 130) points out:

In general, there is no way to know in advance whether the outcome of a deliberative process will be the discovery of a common good in which conflicts of interest evaporate as merely apparent or the discovery that conflicts of interest are real and the common good is chimerical.

There is a concern (particularly from poststructuralist and postmodernist theorists) that the ideal speech situation implies a universalism in which conflict and diversity are eliminated.⁹¹ Such an emphasis on unity and consensus is incompatible with the postmodernist recognition of difference and pluralism (Young, 1990, 1995). The implication of this inability to know in advance the character of the common good is that there should be no boundaries placed around what may be legitimately discussed in the public sphere.

The utility of the concept of a public sphere for theorising democracy

To recap, the significance of the public sphere derived from the way in which it provided a forum in which people could reflect critically upon the practices of the state. While initially the focus of the public sphere was on works of literature, eventually the social intercourse shifted from literary to political

interpersonal speech but also a capacity for all sorts of productive and organisational activities, including reading and writing.

⁹⁰ This is also highlighted in other critiques of deliberative democracy, particularly in Young (1995), as will be discussed later in this chapter.

⁹¹ Benhabib (1992) recognises that Habermas's discourse ethics represents a radically proceduralist ethical theory, but argues that it needs to be further elaborated to incorporate not merely questions of justice but questions of the good life (or, as expressed in Chapter Three, an ethic of the good as well as an ethic of the right).

critique. The development of public opinion was made possible by the norms of behaviour which characterised the public sphere. These included the principles of general accessibility, the elimination of all privileges, and the application of rational legitimisation. This latter norm which emphasised rational thinking was seen as facilitating critical evaluation.

A clear implication of the concept of the public sphere is the importance for democratic politics of a sphere distinct from the economy and the state. Indeed, as Peters (1993: 544) notes, recapitulating the ideal of the liberal public sphere in *The Structural Transformation of the Public Sphere*, constitutional government is based on:

the idea of a sovereign, reasonable public nourished by critical reporting of the press and engaged in the mutually enlightening clash of arguments. Over time, goes the story, the 'civic forum' arrives at a rational 'public opinion' which then both legitimises and dictate the actions of government. The dream of a participatory and reasonable public, however much it seems an eighteenth century chimera, grounds the constitutional state normatively.

Another strength is that the concept identifies the importance of rationality and universality as key components of democratic political practice and challenges those theories which reduce politics either to class struggle or to issues of state administration.

Despite here criticisms of Habermas, Fraser (1992) regards the concept of the public sphere as providing a mechanism for overcoming the problems of the lack of parity in public debate and deliberation. Fraser argues that it is not necessary to have a single, comprehensive, all-encompassing public, but a series of publics that will to varying degrees being in contest. Rather than privilege only deliberation, she proposes a postmodern, postliberal conception of the public sphere, in which the notions of privacy and publicity are themselves contested.

Finally, another important aspect of Habermas's account of the liberal public sphere, not to be lost sight of, is the link between the changing historical context from liberal to organised capitalism and the changing nature of the public sphere. An awareness of contemporary political economy should

therefore be central to an understanding of the contemporary public sphere. Postone (1992: 175-176) notes that for Habermas the period of liberal capitalism ended about 1873. Postone then points out that the period of state-interventionist capitalism ended in about 1973 and that a new phase of capitalist development has since unfolded:

The contours of this newest phase are not yet fully clear, but it is apparently characterised by the weakening and partial dissolution of the institutions and centres of power that had been at the heart of the state-interventionist mode: national state bureaucracies, industrial labour unions, and physically centralised, state-dependent capitalist firms. Those institutions have been undermined in two directions: by the emergence of a new plurality of social groupings, organisations, movements, parties, regions, and subcultures on the one hand and by a process of globalisation and concentration of capital on a new, very abstract level that is far removed from immediate experience and is apparently outside of the effective control of the state machinery on the other.

Discursive democracy: linking the public sphere with the ideal speech situation

According to Habermas, liberal democracy needs public spheres but increasingly lacks them. In the public sphere political ideas and opinions can be debated. The goal of democracy therefore must include the development of institutions that foster discourse aimed at public will-formation.

The importance of 'voice', defined by Ranson and Stewart (1994: 91) as "the articulation of perspectives, claims and grievances", is seen as a critical feature of the public sphere, whereas the dominant mode of the market is exit. According to Ranson and Stewart (1994: 92):

It is only through open and comprehensive discourse that a plural society can reach the consent necessary to legitimate the polity. *Public discourse provides both the source for and the test of action in the public domain* (italics in original).

They argue that Habermas's notion of communicative rationality should be "a basic condition of the public domain." In a similar vein, Dryzek (1990) proposes the concept of "discursive design". The task is to redesign political institutions in ways that facilitate authentic democratic exchange between citizens and decision makers.

Whereas liberal theorists see democratic discourse as simply mediating individual and public will-formation, discursive democratic theorists see democratic discourse as instrumental in production of individual and public preferences. Habermas and his followers thus highlight the importance of discourse ethics which encompasses the development of ethical principles that govern the design of deliberative institutions and processes. According to Fischer (1995: 212):

The focus of such ethics is how members of a community develop a sense of what their shared problems are, and how to determine what they have in common... The task of discourse ethics is to specify the properties that serve as prerequisites of a legitimate consensus, that is, how we should structure discourse and the interactions of speech agents so as to give their consensus moral force.

The key characteristics of discourse ethics are that social interaction is free of domination and self-deception; all actors should be equally and fully capable of making and questioning arguments (or, to use Habermas's term "communicatively competent"); and there is consensus about normative and empirical judgements. As an *ideal* speech situation, these conditions may not be fully achieved, but they represent

standards of discourse ethics [which] can be employed to determine the degree to which a given discourse approximates or deviates from ideal conditions, as well as for guiding the design and institutionalisation of deliberative processes (Fischer, 1995: 212).

Deliberative Democracy

Drawing on the self-development or self-transformation thesis⁹², according to which individuals' preferences are not given but are shaped by environmental factors, policy ideas and political procedures, deliberative and discursive democrats emphasise that it is in the course of debate that opinions are expressed, challenged, clarified, and often further developed (Cohen, 1989; Dryzek, 1990; Fishkin, 1991; Petracca, 1991; Miller, 1992; Ingram and Smith, 1993; Fischer, 1995; Young, 1995; Warren, 1996b). Political decision-making, including policy analysis, is viewed as a communicative activity. This is increasingly being recognised across a range of liberal, pluralist, and radical democratic theoretical perspectives. For example, Dahl (1994: 33) in recent writing about the need for improved democratic processes notes the need for "new and more effective institutions for enhancing citizen understanding, deliberation, and informed participation" in both the spheres of national and transnational politics.

From within liberalism, attention has been focused on the value of democratic discourse, most notably in the work of Ackerman (1980) who formulates the principle of 'Neutral dialogue'. The central principle of Neutral dialogue is that none of us conceives of himself or herself as morally superior to any other or believes that he or she, unlike they, enjoys privileged access to knowledge of the good. The very act of speaking and listening presupposes some commitment to these notions.⁹³

Even more intriguingly, Dryzek (1992) suggests that public choice arguments can be extended in the direction of communicative rationality. In particular, he argues that the public choice theorists' prisoner's dilemma can be used to demonstrate that if the two protagonists are encouraged to enter into dialogue, each one will be better off.

Likewise, Ostrom (cited in Walsh, 1995: 8) points out:

⁹² This idea was introduced in Chapter Three in the discussion of participatory democracy.

⁹³ Agger (1991) claims that Ackerman's liberal notion of Neutral dialogue is implausible because it assumes an unproblematically lucid two way communication between fully rational speakers, whereas in reality differences in wealth and power diminish and may prevent the opportunity from such dialogue successfully occurring.

... given appropriate conditions, notably the ability to communicate, to enter into agreements, to arrange for monitoring, and to enforce contracts, individuals and communities will be perfectly capable of developing co-operative solutions to common problems independently of the state. The state may not be the only institutional alternative to the free market even for the provision of public goods.

Communicative rationality is clearly intrinsic to this approach which, ironically, is advocated by many public choice theorists as a way of avoiding bureaucratic or statist intervention in private life and, in particular, dispute resolution.

Finally, theories deliberative democracy embodies the notion (found also in republican, communitarian, and participatory theories of democracy) that political participation has a developmental or expressive value, and not merely the instrumental one that it is attributed to it liberal theory. This developmental quality is linked with the benefits derived from fostering a sense of belonging, fostering civic responsibility and better political knowledge and increased participation by citizens (Putnam, 1993).

Clearly, deliberative democracy, that is, reasoning on the merits of public policy, has considerable appeal for contemporary democratic theorists. In an increasingly pluralistic society, and a society in which distinctions between public and private are increasingly blurred, the utility of the notion of a public sphere and the value of deliberation has considerable purchase. As Stewart (in Hirst and Khilnani, 1996: 47) argues, "it is through the deliberation based on citizen participation that representative democracy at local level can realise its full potential." Similarly, Hanson and Marcus (1993: 20, 21) observe:

The structure of communication between leaders and followers is the principal concern of all considerations on representative government, a central and indispensable element of modern democratic theory. ... There is a pressing need to reconsider the communicative links between leaders and followers, if we want to grasp the possibilities for democracy under representative government.

Fishkin (1991), a key proponent of deliberative democracy, insists that

... a fully defensible version of democracy must simultaneously fulfill

three conditions: it must achieve political equality, its decisions must embody deliberation, and it must avoid tyranny of the majority (Fishkin, 1991: 12).

He is of the view that representative institutions cannot function in a large, extended state such as that which characterises contemporary societies. While formal liberal representative democracy upholds the principle of political equality, this is nonetheless equality of relatively incompetent people. On the other hand, there is a tendency in deliberative democracy for politically unequal but relatively more competent elites to emerge.

In order to overcome this tension between democracy and deliberation, Fishkin (1991) advocates the use of a "deliberative opinion poll" which retains the democratic principle of political equality and combines it with deliberation. According to Fishkin (1991: 1), ordinary opinion polls survey what the public thinks based on very little information whereas in a deliberative opinion poll the emphasis is on what the public *would* think, if it had greater opportunity to think about the issues. Deliberative opinion polling involves randomly sampling the national population (which means there is an equal chance of selection) and drawing a sample of citizens who then engage in intensive, face-to-face debate. The objective of the deliberative opinion poll is to provide a context in which a representative microcosm of the mass public engages in deliberative decision-making.

As Fishkin (1991: 4) explains:

Ordinarily, the electorate has very spotty information and limited occasions for thoughtful interaction on public issues. A deliberative opinion poll gives to a microcosm of the entire nation the opportunities for thoughtful interaction and opinion formation that are normally restricted to small-group democracy.

To date, the use of a deliberative process has been confined to the decision about the guilt of alleged criminals (through the jury system used in the courts). However, the same concept of a jury can, Fishkin argues, be used in other areas of decision-making. Indeed, the notion of citizens' juries is not a new one as this was the mechanism for decision-making in ancient Greece where jury

members were drawn by lot (Fishkin, 1991).⁹⁴ There are contemporary examples in the United States and Germany of the use of citizen juries. In addition, there has been recent interest in the use of citizen juries in the United Kingdom (see, for example, Milne, 1996). Although, as Fishkin notes, the use of such juries is not a perfect solution as they may make poor decisions, there is considerable scope for the use of this approach to deliberation. A contested issue is the extent of decision-making authority that such juries should have. It is argued in some quarters, as Milne (1996) notes, that juries should have an advisory role only (in which case they would differ from legal juries whose decisions are actually implemented). At the same time, the lack of decision-making authority of the citizens' jury in a recent consultative initiative taken by Wellington City Council (New Zealand) was a major source of criticism.⁹⁵

In notions of deliberative democracy, a key feature of the public sphere is participation. The purpose of this chapter has been to probe the nature of participation and to arrive at a critical understanding of the utility of the notion of the public sphere. At the same time as formal impediments to participation are removed, it is necessary to examine informal barriers. Schudson (1992: 146) affirms that importance of participation in the notion of the public sphere:

One of the great contributions of the concept of a public sphere is that it insists that an ideal democratic polity be defined by features beyond those that formally enable political participation. It is not only the fact of political involvement but its quality that the concept of the public sphere evokes.

A key issue for political theory, it may be concluded, is the conditions which promote or diminish public participation in politics and public involvement in rational-critical discussion of politics.

Postone (1992) argues that Habermas's account of the liberal public sphere underpins the argument that an essential condition of democracy in large-scale industrial capitalist societies is the existence of a functioning public sphere, that is, a sphere at the intersection of political and social life, outside of the formal state apparatus, yet not immediately identical with civil society; it is constituted

⁹⁴ Just as jury service is an obligation of citizenship, so too participation in a deliberative opinion poll, if a person is selected, would be an obligation of citizenship.

⁹⁵ This is discussed in Chapter Eight.

by citizens engaged in critical public debates. In a society characterised by a functioning public sphere, public opinion is formed in the course of such debates and influences the formal governmental apparatus. Within this framework, public opinion is not simply the aggregation of individual opinions as revealed by market research or public opinion polls but is actively created by people.

In order to ensure that the public sphere is inclusive, Young (in Benhabib and Comell, 1987: 76) argues for a somewhat different conception of politics and the public sphere:

... the Enlightenment ideal of the civic public where citizens meet in terms of equality and mutual respect is too rounded and tame an ideal of public. The ideal of equal citizenship attains unity because it excludes bodily and affective particularity, as well as the concrete histories of individuals that make groups unable to understand one another. Emancipatory politics should foster a conception of public which in principle excludes no persons, aspects of persons' lives, or topic of discussion and which encourages aesthetic as well as discursive expression. In such a public, consensus and sharing may not always be the goal, but the recognition and appreciation of differences, in the context of confrontation with power.

Young (1995) prefers the use of the term 'communicative democracy', rather than 'deliberative democracy' on the grounds that deliberative democracy assumes a unity or restoration of consensus in which difference has to be transcended. Instead, she argues that only a thin type of unity is necessary for a polity to be a communicative democracy. Three conditions need to be fulfilled: significant interdependence of the members of the polity, formally equal respect, and agreement on procedures. Beyond this, differences can be preserved. Indeed, it is through recognising and speaking across differences (for example, of cultures, social position, and need) that transformation of preferences is achieved:

Although not abandoning their own perspective, through listening across difference, each can come to understand something about the ways in which proposals and claims affect others differently situated. Participants gain a wider picture of the social processes in which their

own partial experience is embedded and this greater social objectivity increases their wisdom for arriving at just solutions to collective problems (Young, 1995: 143-144).

Without necessarily accepting Habermas's theory that human interaction requires language and that within the structure of speech lie the fundamental premises on which all human interaction and social organisation are based, it is nevertheless possible to recognise that communicative rationality and the vision of undistorted communication are central to the implementation of democratic governance and effective political decision-making and public policy. He argues that every time we speak we are making four validity claims, to comprehensibility, to truth, to appropriateness and to sincerity, which in their turn imply the possibility of justifying those claims. Any claim to truth implies a social context within which factual claims about external nature can be validated by evidence and logical argument, while claims to appropriateness, that is, to the social right to make the statement, imply a social context within which social norms can be rationally debated and consensual agreement arrived at. In actual societies characterised by different power relations and resource distribution such conditions do not hold, and we are thus in the presence of 'distorted communication'.

Conclusion

Democratic theory should, arguably, encompass issues of political agency and the design of political institutions. Such a theory, as Habermas demonstrates, requires acknowledgement of the discursive nature of political action and political actors. It has been demonstrated in this chapter that the concept of the public sphere offers considerable assistance in the design of political institutions and that it constitutes a key feature in the institutional framework of a democratic polity. Calhoun (1992: 2) summarises the argument in *The Structural Transformation of the Public Sphere* succinctly as "In a nutshell, a public sphere adequate to a democratic polity depends upon both quality of discourse and quantity of participation." Publicity is the core component of Habermas's theory of democracy and of democratic will-formation.

The discussion has also focused on the notion of a public sphere which is seen as a key feature of liberal democracy. While Habermas documented the decline

of the public sphere there is nevertheless an argument for the reaffirmation and re-establishment of such a sphere, albeit with some modifications. In this chapter it has been argued that the concept of a public sphere has considerable utility. Habermas's theory of communicative action lends further weight to the notion that democracy requires deliberative processes.

In subsequent analysis of the statutory annual planning process and special consultative procedure in later chapters, the concept of the public sphere will be referred to as an important institutional feature of democratic decision-making. The quality of dialogue characterising public participation in local government planning processes will be considered. First, though, Chapter Five provides an historical account of the development of local self-government and local authority planning processes, as a way of demonstrating the impact in New Zealand of the broader developments in governance, outlined in this chapter, which have characterised many western liberal democracies. The nature of local government in New Zealand up to the reform period is also outlined.

CHAPTER FIVE

THE HISTORICAL DEVELOPMENT AND CONTEMPORARY FORMS OF LOCAL SELF-GOVERNMENT IN NEW ZEALAND

Introduction

The focus of this thesis now shifts to the empirical features of local government. This chapter outlines the historical and contemporary patterns of self-government and representative government at the local level, with the emphasis on territorial local authorities.⁹⁶ The changing themes in theories of planning are also outlined to provide the theoretical and historical context for the subsequent analysis of the annual planning process which is the focus of the fieldwork.

The introduction of a statutory annual planning process represented a major new activity for local authorities. While it was modelled on the corporate planning cycle introduced into the core public service by the State Sector Act 1988 and Public Finance Act 1989, the Local Government Amendment Act (No. 2) 1989 was unique among these public sector reform statutes in the way that it imposed a special consultative procedure to be followed in the course of developing the annual plan. As noted earlier, this new approach to planning is a key element in the strategy of making local government more effective, more accountable and more responsive. It is a significant feature of the current governance arrangements that now characterise local authorities. The theoretical underpinnings and the implementation of these broad public sector management reforms were outlined in Chapter Two. Here, the focus is specifically on the planning mechanism. Planning is something that was a function of local government prior to the 1989 reforms and the changing view of planning, as well as its different forms over time, are discussed in this chapter.

⁹⁶ There are additional forms of subnational government that will not receive substantive attention. In particular, there has been limited representative and participatory democratic processes in the health sector (prior to the abolition of area health boards in 1990) and in the education sectors (since the establishment of Boards of Trustees in 1989 and with the provision for community representation on the governing bodies of tertiary education institutions since 1990).

The material in this chapter is divided into two parts. First, the discussion reviews the history of local government in New Zealand with particular emphasis on opportunities for public participation and other features of local government designed to foster democratic decision-making. This historical account is the backdrop for the second part of the chapter which comprises an examination of the planning activity of the state. Planning processes have been emphasised in the public sector at both central and local government levels particularly since World War Two. Town planning gained a new prominence in the post-war reconstruction as is seen by the emergence of a planning profession and the development of planning law. As part of the planning process, opportunities were opened up for public participation, particularly in the wake of the growth of social movements and their critique of traditional political institutions in the 1960s. The aim of the second part of this chapter is to describe the historical and contemporary context in which public participation in political decision-making at the local level is situated, and to highlight features of the practice of planning which has been a significant activity in local government particularly in the past two decades.

Part 1: Historical Forms of Local Self-Government

The history of local government in New Zealand prior to 1987

Local government represents the delegation of governance functions to sub-national territories. As noted elsewhere throughout this thesis the whole *raison d'être* of local government is to provide a vehicle for self-government. Indeed, for many democratic theorists the central vision of democracy is self-government (Hirst and Khilnani, 1996). Local government makes participation in political decision-making possible for many more people than is the case for central government, as both the supporters and sceptics of public participation acknowledge (Stewart, in Hirst and Khilnani, 1996). As was noted in Chapter One, the focus of this thesis is on territorial local authorities although some mention will be made of avenues for public participation in other sub-national levels of government where there are some important implications for territorial local authorities arising from public participation in those decision-making bodies. In Chapter One, there was also reference to community boards which are a significant mechanism for self-government where they are established. However, their establishment is not mandatory. Indeed, it is notable that the

reform legislation made a special consultative procedure mandatory but did not require the formation of community boards.

This discussion of the history of local government is divided into five major periods:

- (i) the period immediately after the signing of the Treaty of Waitangi⁹⁷, with increasing Pakeha/European settlement and a provincial system of government;
- (ii) the period after the abolition of the provinces through to 1926 when a major piece of legislation prompting local administration was passed;
- (iii) the period from 1926 through to 1974, the year in which the Local Government Act was passed;
- (iv) the period from 1974 until the end of 1987, in which there was an expansion of the functions of local government and a more concerted effort to introduce regional government; and
- (v) the reform of local and regional government which culminated in the Local Government Amendment Act (No. 2) 1989 and major reorganisation of the structure, organisation, and functions of local and regional government.

This history of local government is brought up to the present by reference to events and policy proposals since the election of the Bolger National Government in October 1990.

⁹⁷ The Treaty of Waitangi was an agreement between the British Crown and Maori chiefs (on behalf of iwi, Maori tribes). The actual provisions of the Treaty are contested, particularly because they have been interpreted differently in the Maori and English versions of the Treaty. Essentially, there was provision for the representatives of the Crown to establish British law and for Maori to be treated as British subjects. Maori ownership of natural and other cultural resources was to be recognised and protected, and settlement and land purchase by the British and other immigrants could proceed.

1840-1876: Settlement and self-government

Substantial European settlement followed the signing of the Treaty of Waitangi in 1840. The effect of Article II of the Treaty was to give the British Crown the right to make laws and govern. Article III of the Treaty extended to individual Maori the rights of citizenship enjoyed by British subjects. Hobson was given authority to divide the country into smaller administrative units very much based on the English system of districts, counties, towns and parishes, but the smallness of the population, among other factors, frustrated intentions to establish an infrastructure of local government.

It should be noted that self-government had been anticipated by the Colonial Office in Lord Normanby's 1839 Instructions to Hobson. Moreover, as Dalziel (in Oliver, 1981:91) describes, many of the settlers, particularly in the New Zealand Company settlements, were populated by:

a number of well-educated, politically aware gentry and middle-class families who, had they stayed in Great Britain, might well have been active in local and even national politics.

In 1841 New Zealand became a separate colony of Great Britain. Settlements were founded by the Wakefield Company in the 1840s. In the New Zealand Company settlements power was exercised by Company officials. In other settlements local administration was the responsibility of Justices of the Peace who represented central government. The first initiative taken in New Zealand that was associated with the concept of local government was the 1842 Municipal Corporations Ordinance. This provided for any settlement which had a population of 2000 or more to be proclaimed a borough with representatives elected by the settlers of the locality. According to Dalziel (in Oliver, 1981: 89) the Ordinance was one response by Governor FitzRoy to the numerous and varied tensions that had been emerging between the settlers and the Crown. (At this time, the Government was situated in Auckland and settlements outside of Auckland, especially the southernmost, suffered administrative neglect.)

In Wellington a municipal corporation was elected in October 1842 but the Colonial Office disallowed the election and the new corporation was disestablished. Instead, FitzRoy hoped to satisfy the settler demand for self-government by appointing a few representatives to the Legislative Council.

This move did not win the confidence of the settlers because the governor-appointed representatives were simply manipulated by FitzRoy for his own ends.

The New Zealand Constitution Act 1846⁹⁸ provided for the establishment of elected municipal corporations and divided New Zealand into two provinces – New Ulster and New Munster, which were intended to provide a regional level of government (between central and local). This legislation was however suspended in 1848 for five years and the new form of government never really began to function. The suspending of the Constitution became a focus for political activity by the settlers who lobbied locally and in England for elected assemblies.

Eventually, an Ordinance was passed providing for the establishment of two provincial Legislative Councils, based on the provinces proposed by the 1846 Act, but their membership was a mix of officials and nominees and this did not meet the expectations of the settlers at all, and the Councils were surrounded by controversy. The New Munster Provincial Council met only once and the New Ulster Council did not meet at all. However, the New Munster Council did manage to pass a Town Roads and Streets Ordinance allowing for the election of town boards which could raise rates for the upkeep of roads and streets, and a County Roads Ordinance.

Equally unsuccessful was another effort to create a level of local government – the next attempt being Governor Grey's measure of giving Auckland a Charter of Incorporation in 1851. It was the first elected local authority in New Zealand and was to have extensive powers (including police, schools and hospitals) but failed after a brief existence of less than a year – due to its size, the inexperience of elected members and rural/urban conflict (Office of the Minister of Local Government, 1988).

The New Zealand Constitution Act 1852 divided the country into six provinces (centred on the five Wakefield settlements and Auckland). The Act also provided for a General Assembly with an elected House of Representatives and a nominated Legislative Council. Section 71 of the New Zealand Constitution Act 1852 provided for the establishment of separate Maori districts but this

⁹⁸ The Act was passed by the United Kingdom Parliament where it was entitled the Act of the Constitution of Government in the New Zealand Islands.

provision was never implemented, although it remained in force until the repeal of the Act by the Constitution Act 1986.

The Provincial Councils were considerably restricted in the matters over which they had power and their legislation could be vetoed by the Colonial Office. However, there was opportunity for settlers to control internal matters such as tariffs, land, local development, education and immigration policy.

According to one account (Office of the Minister of Local Government, 1988) the Provincial Councils were to be a substitute for local municipalities, but municipalities formed nevertheless (for example, in Auckland) and demand for them grew. Dunedin and Christchurch soon had local administration (in 1856 and 1862 respectively).⁹⁹

By 1867 there were 21 municipalities (of which eighteen were in the South Island) and there were a large number of elected Road Boards set up in rural areas. The Municipal Corporations Act 1867 was an attempt to systematise the creation of local bodies. It gave municipalities the right to run gasworks, libraries, reserves, gymnasia, charitable institutions. Wellington, which had had a Town Board from 1863 became a municipality in 1870 and in 1871 Auckland became a municipality. There were also numerous Road Boards covering most of the country by the late 1860s, which, despite originally having a specific function, gradually performed a more extensive range of administrative tasks.

As the provinces developed, increasing disparities became apparent between provinces. There was a strong desire for local autonomy, particularly on the part of the more well-endowed provinces. New provinces (Hawke's Bay, Marlborough, Westland, and Southland) were created, partly as a result of the neglect of certain outlying areas in the original provinces. The difficulties of communication fostered to an even greater degree the strong level of regional autonomy (Department of Statistics, 1988).

While the new local bodies were generally elected, Maori were effectively disenfranchised because only individual male property-owners were eligible to

⁹⁹ In many respects this development of local self-government among the Pakeha settlers in New Zealand is similar to the experience of other 'frontier societies' such as Australia and the United States, although in parts of the United States (for example, New England) there was a high degree of participatory democracy in the form of town meetings for deliberating political issues.

vote. (Maori tended to own land collectively.) Moreover, the balance of Maori and Pakeha in the population was dramatically altered, with Pakeha coming to outnumber Maori significantly.

In the early 1870s there was increased settlement by European migrants. With the conclusion of the land wars and the settler government in control of land (through its native policy), there was space to turn to the demands of settlement – the need for infrastructure such as roads, railways, communications and other services. These were all publicly provided (financed through public borrowing) and the state grew accordingly.

This period of expansion of settlement in the early 1870s is termed 'Vogelism' in reference to the Colonial Treasurer from 1869-1876, Julius Vogel; who sponsored the borrowing and development. It was in this period that the power of central government was consolidated and the provincial governments became much less influential and instrumental. The opposition of certain provincialists (particularly in the wealthy provinces, Canterbury and Otago) to Vogel's policies led to the removal of the provincial system in 1876.

1876-1926: The multiplication of municipalities

In 1876 the provinces were abolished and administration became largely centralised, although local government was strengthened to take over some of the functions of the former provincial Councils. The country was divided into 63 counties each with a council with the power to make by-laws, levy rates, construct public works, subsidise roads, and give assistance to charitable institutions, museums and libraries. The existing roads boards remained in place with responsibility for minor roads.

The Municipal Corporations Act 1876 led to further expansion of local government, with the creation of new municipalities. The Education Act 1877 produced another level of subnational administration in the form of regional education boards. Despite the abolition of the Provincial Councils and the centralisation of administration, there was still a strong sense of regionalism (Dalziel, in Oliver, 1981).

The number of local authorities increased rapidly and by 1920 there were 129 counties and 117 municipalities (city, borough and town councils). These were

multi-purpose authorities, having a range of functions. As the Officials Co-ordinating Committee on Local Government Reform (1988) explained, the functions related primarily to providing services to property, for example, water and sewerage; community facilities, for example, parks and libraries; and nuisance abatement, for example, health inspection and dog control.

As well as these multi-purpose authorities, there was also, in addition to the existing roads boards, an emerging number of single purpose authorities, for example harbour boards which were established from the 1870s to carry out work which was not done by territorial authorities.¹⁰⁰

In 1882 there was yet another level of administration introduced; a level between the counties and the roads boards, the town district. Government policies were actually fostering the multiplication of local authorities. For example, central government granted a pound for pound subsidy to local authorities, although there was a maximum grant that could be made to any one body.

In 1890 a Parliamentary Committee investigation supported decentralisation by creating fewer and larger local authorities. In 1895 R. J. Seddon (the Premier in the then Liberal Government) introduced a Local Government Bill which would establish local government commissions to determine the boundaries of a considerably smaller number of counties (15-20 in total) and municipalities (12). This was done again in 1896 and 1897 but no reform was achieved. And all the time the number of local authorities continued to grow. Polaschek (1956: 29) cites, as an example of this growth, the case of the former Selwyn County which was divided into seven counties and Ashley County which was transformed into five counties and a borough.

Against this backdrop, J.G. Ward (who was Treasurer in the Seddon Government in the early 1890s and then succeeded Seddon as Premier in 1906) introduced a far-reaching attempt at reform in a new Local Government Bill in 1912 which proposed the creation of a Local Government Board which would control the system of local government. The Bill also provided for the

¹⁰⁰ Other such authorities included hospital boards, now replaced by area health boards; rabbit boards, eventually replaced by pest destruction boards; land drainage boards; and river boards which were later replaced by catchment commissions with water and soil administrative responsibilities.

establishment of 24 provincial councils which would be responsible for hospitals and charitable aid, public health, education, harbours, main roads and bridges, rivers, drainage and water supply. Some counties and boroughs would be merged, and road districts and roads boards would be abolished (Polaschek, 1956; Bush, 1995). The Ward Government was defeated before the Bill was passed although a new Bill was drafted with similar provisions by the new Government. The goal of this reform was expressed in very explicit terms as that of achieving efficiency in local government. There was considerable and united resistance to this Bill by representatives of local bodies, on the grounds that the new constituencies would not comprise a community of interest; that the Local Government Board would be a centralist body; and that there was no need for provincial administration. Even a drastically amended Bill (which excluded the provisions for provincial councils) failed to be passed (Polaschek, 1956; Bush, 1995).

The growth in the size and number of urban settlements had been driven by demographic changes and particularly the relative decline of the rural population between the 1890s and 1920s. It was in this period that there were increasing efforts to make urban administration more effective. Public health concerns highlighted the need for planning and co-ordination of drainage, water supply, and sewage disposal.

By 1920 there were 117 boroughs and 129 counties, 51 road districts, 67 town districts, 51 river districts, 42 harbour districts, 3 drainage districts, 61 land drainage districts, 7 water supply districts, 43 hospital districts, 38 fire districts, 2 tramway districts, 3 local railway districts, and 11 electric power districts (Ringer, 1990: 239).

In addition, it was believed that social problems would be mitigated by the provision of certain amenities such as libraries, parks and other recreational facilities, as well as by the beautification of the urban environment. The demand for more effective planning resulted in the Town Planning Act of 1926.

Already, therefore, there was a steady proliferation of local authorities and considerable fragmentation of administration. With considerable determination (but equally considerable frustration) central government attempted to reform local government, to rationalise the functions of local authorities and to enforce amalgamation.

1926-1974: Recurring reviews

This period was predominantly one of successive efforts to reform local government but also of repeated failure of attempts to achieve any significant reform, although towards the end of this period, initiatives to introduce regional government became more concerted.

The Town Planning Act required boroughs with a population of 1000 or more to submit a town planning scheme by 1 January 1930. However, this too was not enforced – partly because of the Depression. In 1932 the Government set up an inter-departmental committee to examine local government with a view to achieving a more effective structure, given the weaknesses that had become apparent during the depression years, but the Committee's so-called "visionary report" (Office of the Minister of Local Government, 1988) was ignored.

In the first Labour Government, W.E. Parry, the Minister of Internal Affairs, attempted further reform with the introduction of the Local Government (Amalgamation Schemes) Bill in 1936. The Bill was designed to reduce by two thirds the number of counties in New Zealand. The Select Committee received submissions from 450 local body organisations. With increasing attention being diverted to the imminent world war, the Bill was neglected for a while but in 1944 was given attention again. The proposed reorganisation schemes were updated. However, the capacity of ratepayers to overturn a proposed amalgamation was preserved by ratepayer poll provisions and when utilised these polls were able to reject more than half the plans which were proposed.

In 1946 the first Local Government Commission was established by the Labour Government. The Commission had a membership of four, two of whom were government appointees and two of whom represented local government. The duties of the Local Government Commission were to prepare schemes for the creation, merger, abolition and boundary adjustments of local authorities. Its ability to enforce its determinations was significantly limited by the National Government which came into office in 1949 (Ringer, 1990).

The Second Labour Government (1957-60) appointed the first ever major inquiry into the structure of local government. The report of the inquiry was released not long before the change of government in 1960 and its recommendations were largely ignored. A key concern at the time was the

scope for ratepayers' polls to thwart the recommendations of the Local Government Commission in relation to local government restructuring. The potential for parochialism in direct democracy (in the polling provisions citizens had voting rights in respect of amalgamation proposals) was regarded as problematic from at least the 1950s.

In 1963 the first regional authority, the Auckland Regional Authority (ARA) was established. It took on responsibility for bulk water supply, mains sewerage, public transport, regional roads, regional reserves, regional planning, civil defence, the international airport, and the Centennial Memorial Park, all of which were formerly in the hands of special purpose authorities. The Local Government Commission proposed the establishment of twenty regions throughout the country which would ultimately be directly elected and which would replace *ad hoc* authorities. However, no effect was given to this proposal (Office of the Minister of Local Government, 1988).

1974-December 1987: Growing pressures for reorganisation

By 1973 there were 669 local authorities of which 243 were territorial authorities. With the election of the Third Labour Government in 1972 came a new impetus for reform of local government, guided by the Minister of Local Government, Henry May. A major new statute was enacted in 1974, the Local Government Act 1974. The poll provisions were altered (lifting the numbers of electors required to request a poll and also increasing the numbers required to vote to defeat a proposed reorganisation scheme) and the powers of the LGC were strengthened.

The Act divided New Zealand into twenty-two regions. Auckland and Wellington were served by elected councils, while the others had united councils, the membership of which was appointed by the local authorities in the particular region. Initially united councils had only two mandatory functions, namely regional planning and civil defence. However, it was intended that eventually they would take on further functions. Bush notes that the 1974 Act did not abolish a single local authority. Moreover, it was a "charter for regionalism" and foreshadowed the end of special purpose authorities (1980: 51).

As a response to growing expectations of opportunities for participation, the Act also made provision for the creation of district and community councils. The institution of community councils was a major step forward in the provision of opportunities for citizen involvement. Bush (1995) reports that local authorities in fact were very hostile to these new vehicles for citizen involvement which they saw as interfering with the process of government.

Following the return to office of a National administration in 1975, the new Minister of Local Government, Allan Highet, reversed the changes to the Local Government Commission's powers and there was no substantial reorganisation of local government for the next decade. With the election of the Fourth Labour Government in 1984, however, the way was open again for progress. The Labour administration appointed a new Local Government Commission, chaired by Brian Elwood, with increased resources. The LGC invited all local authorities to explore boundary changes with adjacent local authorities and to submit proposals for reform, in the interests of creating more efficient units of local government.

Prior to the 1988-1989 reform of local government there was relatively minor statutory provision for the general public in policy development in local government. Other than through voting in triennial local authority elections, the only participation was the opportunity to vote in polls on loans and proposed reorganisation. As Bush observes (1989: 86), "The public participation that is the arbiter of electoral outcomes is conspicuously missing thereafter." He concedes that local government prior to the reform process met what were the formal-legal criteria of representative democracy, but even with open government legislation and some initiatives taken by local authorities to encourage citizens to present their concerns, there was minimal public participation – a situation which Bush suggests did not trouble officers or elected representatives.

Although there were not immediate impacts on local government arising from the initiatives of the LGC under Elwood's stewardship, in the process of the economic restructuring occurring in the country during the period 1984-1987 there was increasing attention on the public sector and the scope for improved performance and accountability.¹⁰¹ In time, this restructuring was to affect the

¹⁰¹ Prior to its election to office in 1984 the Labour Government had announced its intention to reform the public sector. This was prompted by the Labour Government's experience in its previous term of office (1972-75) when there were difficulties with senior public servants'

momentum for local government reform significantly. Indeed, one rationale for local government reform was the acknowledgement that many other areas of public sector activity which were being reviewed impacted on local government.¹⁰² The outcomes of those reviews would have implications for local government as they pointed to the need for similar modifications of local government.

Wide-ranging and detailed criticisms of the performance of the public sector had been made by the Treasury in its post-election briefing papers in 1984 and 1987. These criticisms shaped the reform of the public sector and also influenced the reform of local government. To recap, the key strategies involved in public sector and local government reform include:

- a reduction in the extent of government intervention;
- a minimisation of public monopolies;
- a separation of advisory (policy), regulatory and service delivery functions;
- an assumption that agency relationships are a feature of the interactions between actors in government organisations;
- a reliance on contracts for Chief Executives and senior executives to ensure that agents act in accordance with their principals' interests (which is supposed to increase efficiency);
- the need to minimise the costs of transacting business;
- a new emphasis on measuring output and performance;
- the development of management information systems;
- a preference for management skills rather than professional and technical expertise;
- expansion of private ownership of formerly public bodies;
- transparency through separating out commercial and non-commercial activities; and
- an emphasis on private sector management practices (including the production of corporate plans, and development of a corporate image) (The Treasury, 1984; 1987).

willingness to implement Labour's policies after a long period of a National administration (Walsh, 1991a:53). Walsh points out, however, that while Labour had signalled its intention to reform management structures, in the actual event the reform was of a broader scope and also included industrial relations and personnel policies.

¹⁰² Two key areas were resource management law reform and land transport law reform.

The same requirements for enhanced accountability and efficiency were also extended to local government where low voter turnout was seen as a sign of apathy engendered by the unavailability of quality information about government and lack of responsiveness by local authorities to citizens.

Overview of local government reform 1988-1989

In 1987 there were 27 cities and 89 boroughs which administered urban areas, eighty counties administering rural areas, and 20 district councils which administered mixed urban-rural areas, and one town council which administered a small urban area (Hikurangi, in Northland). There were also 121 community councils, 15 district community councils, one regional authority (the Auckland Regional Authority), two regional councils (Wellington and Northland), twenty united councils, and hundreds of special purpose authorities (Ringer, 1990: 240).

On 17 December 1987 the Labour Government released a major *Government Economic Statement*, in which it was announced (among other things) that there would be a major review to this system of local government. The timeframe for the reform exercise initially appeared rather ambitious: the government wished to put in place the reformed local government structures by the time of the 1989 triennial local body elections.¹⁰³ The *Government Economic Statement* was followed in February 1988 by the release of the discussion document entitled *Reform of Local and Regional Government* (Officials Co-ordinating Committee on Local Government, 1988). Commonly known as the 'Blue Book', this discussion paper, prepared by the Officials Co-ordinating Committee on Local Government (OCCLG), described the background to the reform and the principles that would guide the reform.

It then outlined some of the reform issues in the following areas:

- functions of local government;
- structure of local government;

¹⁰³ In this respect the reform exercise was successful. By contrast, a parallel reform exercise (Resource Management Law Reform), which had been set up prior to the local government reform exercise, sustained excessive delays and the Resource Management Act was not passed until July 1991.

- funding;
- organisation;
- accountability; and
- constitutional issues

Guiding principles

Echoing the 17 December 1987 *Government Economic Statement*, the OCCLG (1988:1) described as one of the fundamental principles guiding the reform programme the view that

local or regional government should be selected only where the net benefits of such an option exceed all other institutional arrangements.¹⁰⁴

Five other principles guiding the reform process were also identified. These were as follows:

- (a) individual functions should be allocated to local or regional agencies which represent the appropriate community of interest;
- (b) operational efficiencies are desirable...;
- (c) any authority should have clear non-conflicting objectives.... This suggests ... that institutional arrangements should separate service delivery functions and regulatory functions...;
- (d) trade-offs between objectives should be made in an explicit and transparent manner...; and
- (e) clear and strong accountability mechanisms should be encouraged [including] contestability in the provision of services.

The Officials concluded:

¹⁰⁴ At the July 1988 Institute of Public Administration Conference on Devolution and Accountability, the then Prime Minister Geoffrey Palmer distanced himself from this principle when he described it as:

a piece of economic analysis that was offered to the government by the Treasury and which found its way into [the 17 December *Government Economic Statement*]. It has subsequently been publicly disowned by the Minister of Local Government. Indeed, I don't accept it... It seems to me to raise a presumption against local government which is constitutionally inept...

McKinlay (1994) notes that the principle was indeed removed from the Local Government Amendment Act (No. 2) 1989 but interestingly emerged later in the Local Government Amendment Act 1992 but was confined to regional authorities.

The current form of local government has been largely unchanged since its development following the abolition of provincial government in 1876. Since that time, almost every other aspect of New Zealand life has changed extensively, and in some cases beyond recognition. The local government system has adapted to that change in a piecemeal and incomplete manner (OCCLG, 1988: 9).

It was thus to be very much a 'first principles review'. Written responses were invited from interested parties, although, as was typical of such invitations throughout the reform process and in other consultation efforts undertaken by the Labour Government, the timeframe for making responses was extremely short. In this case, less than two months was available; submissions were due in by 8 April 1988. A total of 480 submissions was received and a synopsis of these was published in June 1988 (Bridgeport Group, 1988).

In reality, the reform exercise confined itself to matters of structure and organisation (boundaries and management processes), and did not address the functions of local government in any direct or comprehensive manner. However, the functions of local government have been altered through other reform exercises. Public transport which formerly was provided by many local authorities (and by the regional authorities in the case of Auckland and Wellington) was reviewed in the context of reforming land transport, and the provision of subsidies for urban transport services was discontinued. Moreover, local authorities were prevented from providing public transport; they were required to create separate companies to which they could channel funds, but which had to be organisationally separate from the local authority itself. This was a clear application of the principle of the funder-provider split in local government.

Just as the local government reform process neglected to address the functions of local government, so, too, it omitted, in the end, to make any major changes to the method of funding local government. However, there was some consideration of the issue beyond what was contained in the Blue Book.¹⁰⁵

¹⁰⁵ Management consultants KPMG Peat Marwick prepared a *Report on the Local Government Goods and Services Tax* in May 1988.

The Local Government Commission (LGC) was the body charged with the implementation of the reform of local government.¹⁰⁶ The Chairperson of the Commission was Brian Elwood. Initially there were four other Commissioners (Ms Vicki Buck, Mr Eric Clark, Mrs Heather Little and Mr Ron Wood) – all of whom had been appointed in 1985 for a five-year term – but during the course of the reform process a sixth Commissioner, Mr Brian Jones, was appointed. His appointment was in response to concerns that Maori interests were not represented in the existing membership of the Commission.

Further information about the nature of the reform exercise was provided in a major statement by the Minister of Local Government which was released in July 1988. In the same month, the Local Government Amendment Act (No. 3) 1988 was passed. In the First Schedule to this Act, the Government set out the provisions to be observed by the Local Government Commission in preparing final reorganisation schemes. The Commission was instructed to give such weight as it considered appropriate to:

- (a) the existence of different communities within New Zealand;
- (b) the identity and values of those communities;
- (c) the desirability of enabling communities to make choices between different kinds of local public facilities and services;
- (d) the trading undertakings of the local authority and the need to ensure that they are operated on a competitively neutral basis;
- (e) community of interest;
- (f) the efficient and effective exercise of the functions, duties, and powers;
- (g) the clear definition of objectives and the avoidance of conflicting objectives;
- (h) the need for effective accountability to be achieved through -
 - (i) electoral process; and
 - (ii) provision of appropriate information; and
 - (iii) competition in the provision of services; and
 - (iv) other means

Much of this was directly lifted from the initial Discussion Document (the 'Blue Book'). Given the short time frame, this suggests that submissions on the

¹⁰⁶ The Local Government Commission is a quasi-judicial body charged with a range of local authority matters including reorganisations and boundary changes. The Commission's members are appointed by the Minister of Local Government.

Discussion Document and other consultation exercises were not intended to provide any substantial information to influence the outcomes of the reform. Some of the significant themes influencing decisions about the nature of reform include:

- the need to avoid conflicts of interest
- the need to separate policy, service delivery and regulatory functions
- the need to ensure efficient and effective performance of functions
- the need for effective representation
- the need for accountability
- the need to have sufficiently large authorities

By the time the Local Government Amendment Act (No. 3) 1988 was passed, there were clear indications about the desired outcomes. It was, for example, evident that many small authorities would be subsumed into larger ones and that the proposed district councils (to replace most city, borough and community councils) would incorporate both urban and rural areas, rather than being almost exclusively urban or rural. This was to meet the objective of managerially and technically stronger units which essentially was an untested assumption that bigger territorial districts would result in managerial and technical superiority.

However, while there was definitely some certainty about what was expected of reorganisation proposals, nevertheless some principles were vague and involved considerable debate. An example was the principle of setting boundaries in accordance with "community of interest". There was no precision about the level of community of interest, or the nature of community that would be the basis of reorganisation decisions.¹⁰⁷ One guideline available to local authorities was the LGC's statement that units of local government should be based on existing rather than historical communities of interest. The Commission also stated that it saw:

the need to identify the spatial boundaries of communities of interest in human terms as to where people live and work, and in the allocation of

¹⁰⁷ Community of interest could be ascertained by such things as journey-to-work times; toll-free calling districts; public transport; retail, financial and commercial servicing centres; school catchments; newspaper circulation areas, destination for recreational facilities, and so on. It was decided that an appropriate population size was 60,000-100,000.

functions by taking account of the areas of impact and availability... as a guide to understanding the Commission's approach it can be said that the community of interest is the area to which one feels a sense of belonging and to which one looks for social, service and economic support. The sense of belonging to an area can be affected by geographic features, including the roading network. The community of interest can often be identified by access to the goods and services needed for everyday existence (Local Government Commission, 1988).

It is acknowledged (for example by the Local Government Association, in a memo from the Chief Executive, B. McLay, to members) that the Commission was itself not ultimately responsible for the lack of time for deliberation on issues involved in the reform of local government, but that the Association was obliged to work to a timetable set by Parliament in legislation. However, it is important to note the Minister's views about the appropriate timetable for reform. Clearly, from remarks in the Parliamentary Debates, there was a commitment to a rapid implementation of local government reform. At the same time, it is significant that, while the local government reform exercise was compelled to adhere to a limited timeframe, the resource management law reform process (RMLR) was able to take place over a considerably longer term and involve substantially more extensive public consultation.

Draft and final reorganisation schemes

On 22 July 1988, the Local Government Commission (LGC) issued a Memorandum on Local Government Reorganisation. Local authorities were given five weeks in which to respond to the Memorandum. They were required to make submissions by 1 September 1988 to the LGC about the boundaries and functions of new local authorities based on the principles for reform given by Parliament. In late September and October the LGC released Indicative Proposals (which likewise conformed to the provisions to be observed by the Commission in preparing Final Reorganisation Schemes, as specified in the First Schedule to the Act). The LGC then met with local authorities to discuss the content of the final reorganisation schemes (again local authorities made lengthy submissions) and then drafted the final reorganisation schemes which were released in late January 1989.

The final reorganisation schemes set out the name of the new local authorities, the number of wards and ward boundaries; the size of the membership of the councils (with the specific number of representatives for each ward); the nature of the first election (to be held in October 1989); the date by which the new councils had to meet for the first time; the functions, duties and powers of the new councils; the location of the administration headquarters; the rating system; the location of any service centres; provisions for town and country planning, civil defence, transfer of properties held by amalgamating local authorities; and transitional arrangements.

The Local Government Amendment Act (No. 2) 1989

A Local Government Reform Legislation Draft Bill was released in December 1988. The Bill addressed the purposes and structure of local government; the constitution, powers and procedures of the Local Government Commission subsequent to the reform process; local authority membership, wards and constituencies; communities and certain other matters. In March 1989 a Supplementary Order Paper was introduced while the Bill was at the Select Committee stage. Among other things, this outlined new accountability and accounting measures.

The Local Government Reform Bill was subsequently passed as the Local Government Amendment Act (No. 2) in May 1989 and amended the Local Government Act 1974. For the first time, local authorities were required to produce an annual plan and an annual report and to make these documents available publicly. Not only that, in the course of preparing the annual plan, they had to invite submissions from citizens. Along with the provisions for wards and community boards, the statutory annual planning process and special consultative procedure constitute significant new approaches to enhancing citizen involvement and the accountability of local government to citizens. Wards were required in all local authorities with a population of 20,000 or more. They were to be electoral units (with Councillors being elected by the residents of wards to represent wards) and also were conceived as units for service delivery.

In his opening comments when announcing the reform of local government on the occasion of the release of the 17 December 1987 *Government Economic Statement*, the Minister of Local Government, Dr Michael Bassett, said:

It is important to ensure that [local government] is attentive and responsive to the needs of the communities it serves and that it meets those needs in the most effective manner. This is most likely to occur if local government is directly accountable to those communities... Local authorities are not truly accountable to their electorates.

Section 223D of the Local Government Act 1974 (as amended by the the Local Government Amendment Act (No. 2 1989) requires local authorities to prepare an annual plan. Section 223E requires local authorities to publish a report on performance at the end of each financial year. Together these two provisions give effect to the objective of accountability that is central to the reforms of the public sector. The annual plan must be adopted by the local authority no later than 30 September (that is, by the end of the first quarter of the new financial year). In preparing and adopting the corporate plan there is a particular approach, also outlined in the legislation, that must be taken, namely, the 'special consultative procedure' in Section 716A.

According to Section 223D(2)(a) of the Act, the annual plan must set out in detail for the coming financial year, and in general terms for the subsequent two financial years, the following information:

- (i) The intended significant policies and objectives of the authority, local authority trading enterprise, company or other organisation; and
- (ii) The nature and scope of the significant activities to be undertaken; and
- (iii) The performance targets and other measures by which performance may be judged in relation to the objectives; and
- (iv) In total and for each significant activity of the authority -
 - (a) the indicative costs; and
 - (b) the sources of funds.

This information must be given not only for the local authority itself, but for any local authority trading enterprise as well as any other organisation under the local authority's control or in which it has a significant interest.

In addition to the above provisions, there are further requirements set out in Section 223c of the Act which are designed to enhance accountability (for example, the requirement that business be conducted in a manner that is open and comprehensible to the public; that regulatory functions are separate from policy and service delivery; and so on).¹⁰⁸

The special consultative procedure set out in the Act requires local authorities, once a draft corporate plan has been produced, to “give public notice, and such specific notice as the local authority considers appropriate” of the draft plan and to specify the period in which persons interested in the plan may make submissions on it. According to the Controller and Auditor-General, the accountability model provided for in the Local Government Amendment Act (No. 2) 1989 has four key elements:

1. Public scrutiny of the plan;
2. Monitoring of the activities of the organisation throughout the period by those elected or appointed to be responsible for the organisation;
3. Public reporting of the actual results against those indicated in the plan; and
4. The performance reported at year-end both in financial and non-financial terms, being subject to independent audit (Controller and Auditor-General, 1991: 9).

The statutory provisions outlined above are linked to the purposes of local government set out in Section 37k of the Local Government Act 1974, as amended, and specifically to provide the following:

- (d) Scope for communities to make choices between different kinds of local public facilities and services;...

¹⁰⁸ A further, if not immediately recognisable, aspect of the accountability arrangements is the requirement that local authorities appoint a chief executive officer. The legislation further specifies the responsibilities of the chief executive. In so doing, the legislation defines the parameters of the political domain but interestingly, while giving this attention to the managerial role it does not give the same attention to the role of elected members.

- (i) ... the effective participation of local persons in local government.

The perception that the annual plan is a vehicle for accountability was enthusiastically endorsed by the editor of *New Zealand Local Government* (NZLG, 1991a: 31) in an article in the June 1991 issue:

The Annual Plan process creates accountability. The Plan lists significant council services, details objectives and performance measures by which achievement of those objectives can be judged. This provides a significant opportunity, perhaps equal to that offered by the triennial elections, for residents to have their say and directly alter the course of events.

Similarly, Stuart (in *New Zealand Local Government*, 1991b: 16) commented thus:

[Annual plans] have been a worthwhile innovation which have given New Zealand local government a world lead in terms of disclosure and accountability.

A significant feature of the new statutory requirements was the emphasis on a special consultative procedure. This special consultative procedure, set out in Section 716A of the Local Government Act 1974, requires local authorities to provide opportunities for public scrutiny of the local authority's plans, activities and programmes for each financial year. Section 716A also requires that the local authority ensure that any person who makes written submissions on the plan in the given timeframe shall have a reasonable opportunity to be heard by the local authority. The Act also requires that all meetings at which submissions are heard, and at which the draft plan is deliberated upon, be open to the public (unless there is in law some good reason why they should not be open). The period for submissions is to be not less than one month and generally not more than three months.

This consultative process is to be utilised not just in relation to the development of the annual plan but for any significant policy or activity. Nevertheless,

Councils have come under criticism for taking significant decisions without the statutory consultation.¹⁰⁹ There is no definition of 'significant' in the Act.

At the end of the financial year, once the annual report has been published, both documents are subsequently audited by the Controller and Auditor-General.¹¹⁰

To summarise, the Local Government Amendment Act (No. 2) 1989, through the statutory special consultative procedure, clearly intended that accountability by local authorities to their citizens would be through annual planning and reporting which, along with other major proposals for new activities, would involve the use of a specified consultative process. O'Reilly and Wood (in Boston *et al.*, 1991: 335) described the corporate plan required of core public sector departments as

... perhaps the most important management tool used by government agencies and Ministers. Through the corporate plan, agencies agree to produce specific outputs which contribute to the attainment of various outcomes sought by the Government. The corporate plan establishes indicators of performance for agencies, and accordingly serves as an important instrument of accountability.

In exactly the same way, local authority annual plans are intended to be significant instruments of accountability in which local councils seek responses from citizens about their proposed activities. Accountability is also be fostered through the scrutiny of local authority performance against stated plans and objectives.

¹⁰⁹ In 1991, for example, the Palmerston North City Council agreed to the redevelopment of the DIC corner in the city centre at a cost of \$12 million without this information being included in the 1991-92 Corporate Plan (*Manawatu Evening Standard*, 11/11/91).

¹¹⁰ Despite what appears to be a very clear prescription in the legislation about the process of annual planning and about the content of annual plans and reports, there is room for considerable variation in practice. Indeed, as has been noted by the Controller and Auditor-General (1991: 15), "there is no one right way of preparing the annual plan."

Maori participation and representation in local government

While not part of the initial legislation reforming local government, it is nevertheless important to record the treatment of concerns about the implications of the Treaty and about Maori representation during the reform exercise. The fact that the Local Government Amendment Act (No. 2) 1989 had a response to these issues, albeit a limited one, is in itself instructive.

According to the Minister of Local Government, Dr Bassett, at the time of the 17 December 1987 *Government Economic Statement* when the local government reform exercise was announced, it was not possible to embark upon such a major reform exercise as that entailed by the Reform of Local and Regional Government without considering the interests of Maori. However, in the February 1988 Discussion Document, it was acknowledged:

Apart from the fact that Maori have the same rights and opportunities as any other New Zealanders to participate in the system [of local government], there have until recently been no special provisions recognising the particular position of Maori as the Tangatawhenua (OCCLG, 1988: 59).

Shortly after the reform of local government had been instigated, a Maori Consultative Group had been set up. The Maori Local Government Reform Consultative Group released its recommendations for Maori participation in local government in March 1989. These included:

- (i) giving local Maori groups fifty per cent representation on local authorities;
- (ii) transferring powers, functions and responsibilities as named from time to time by local groups to deal with land and other resources which have special significance to the Maori people;
- (iii) providing for Maori constituencies/wards at regional/territorial level;
- (iv) providing for the establishment of a Maori standing committee in each local authority to monitor all policies and activities and ensure that they do not contravene the Treaty;
- (v) maintaining within all authorities a Maori secretariat;
- (vi) the establishment of a Maori Local Government Commission; and

- (vii) the establishment of a Treaty of Waitangi Audit Office to audit all matters relating to the Treaty.

In late 1989 a draft Bill providing for the establishment of Maori advisory committees for local and regional authorities was released for public comment by the Minister of Local Government. The draft Bill would bring a further amendment to the Local Government Act 1974. The draft Bill was described as being the outcome of consultation that had taken place with Maori during the process of the reform of local and regional government. The purpose of the Bill, according to an accompanying document, the Explanatory Statement (OCCLG, 1989:1), was to respond to the need for:

- (a) appropriate recognition of the Treaty of Waitangi in local government; and
- (b) appropriate consultative mechanisms including committee structures to ensure adequate Maori input into local government decision making.

The Introductory Note (OCCLG, 1989:5) to the draft Bill stated:

The Bill provides for the constitution of Maori Advisory Committees whose functions will include the making of submissions and recommendations to regional councils and territorial authorities.

The Note went on to say that the Maori Advisory Committee would not be a committee of the regional council or territorial authority, and that the purpose of the committee was not just to make submissions or recommendations but to encourage consultation and discussion.

Section 114w of the draft Bill stated:

Having regard to the principles of the Treaty of Waitangi, the purpose of this Act is to provide for consultation and discussion between Tangata Whenua and regional councils and territorial authorities.

Section 114ZA of the Bill set out the functions and powers of the proposed Maori Advisory Committees. These consisted of considering matters of concern to the *tangata whenua* conveyed from the regional council or territorial authority, bringing to the attention of the regional council or territorial authority

matters of concern to the *tangata whenua*, encouraging consultation and discussion between the *tangata whenua* and local government, and any other functions which may be conferred on it at any time.

Initially it had been intended to enact the draft legislation as an amendment to the Local Government Act 1989 by mid-1990. However, the pressure of time and the heavy programme of other bills to be passed in the final session of Parliament prior to the 1990 General Election resulted in the failure to translate the draft Bill into a Bill to go before the House.¹¹¹ The issue of Maori representation highlights a key dilemma for liberal democracy which is, as was outlined in Chapter, firmly grounded in individualism and equality before the law. The effect of these and other foundational liberal values is that the interests of particular groups are submerged by the majority's interests.

Developments since 1990: consolidation or retreat from democracy?

While the scope of this thesis is the new legislative framework that was established by October 1989, it is also useful to document developments in the time since then and particularly since the change of government in October 1990 – the period of the bedding down (and possible revisiting) of reforms introduced by the Labour Government. While some of the Fourth Labour Government's policies were rapidly reversed by the new National administration in 1990 (two examples being the repeal of employment equity legislation and the repeal of legislation establishing incorporated runanga), and while other policy areas less dramatically overhauled by Labour were the subject of intensive reform by National (for example, health service and labour law), local government was one area where there was very little upheaval. At the same time this should not be seen as suggesting that there has been no further change. There have been some significant changes to the Local Government Act 1974 and there have been some important changes in the structure of local government. It is widely recognised that reform of local government, like that of central government, is an on-going process (see for example, Jansen, 1992;

¹¹¹ See Kelsey (1989) and Cheyne (1990b) for further discussion of the issue of Maori representation and local government reform. No further developments fostering Maori participation or representation occurred. The new National Government in 1990 rapidly overturned some of the initiatives of the Fourth Labour Government associated with Labour's policy of devolution to iwi. The cornerstone of Labour's policy, the Runanga Iwi Act, was repealed in early 1991.

Howell, McDermott and Forgie, 1996). Here, the focus is mainly on subsequent statutory amendments which impact on the scope of self-government, that is, on amendments related to representation and public participation. There are, of course, other reforms of local government which are concerned with other aspects of local authority operations (for example, waste management, dog control).

One such amendment provides for new ratepayers' rolls to be prepared. Only the nominated ratepayer may vote – a provision which may disadvantage women in joint family homes who tend not to be identified as the ratepayer, and which discriminates against people in rental accommodation. Absentee ratepayers are able to vote in local body areas where they own properties.

In its manifesto, the National Party articulated a significantly different policy for regional government from that of Labour. Warren Cooper, as the new Minister of Local Government, initially continued to reiterate the National Party's election manifesto intention of abolishing regional government. An Officials Committee was asked to examine proposals to abolish regional government and there was also a review of community boards (Department of Internal Affairs Local Government Business Group, 1991). Territorial authorities and the regional councils themselves are generally opposed to the abolition of regional government. Were regional councils to be abolished this would involve some loss of avenues for public participation.

Other criticisms expressed by the National Government Minister for Local Government related to the efficiency of local and regional authorities to run commercial operations (for example, port authorities). The view is that trading activities must be corporatised so that there is a separation of commercial and non-commercial objectives/activities. Yet another area of debate is the actual functions of local government. There has been an implicit (and possibly explicit) criticism that local authorities are seeking to provide services which should properly be provided either by the welfare state (through the Department of Social Welfare or other welfare departments of central government) or by voluntary (non-statutory) organisations.

In mid-December 1994 a Local Government Reform Bill was introduced which sought to introduce into local government similar financial management disciplines as are found in the Fiscal Responsibility Act 1994 which applies to

the core state sector. The Bill was eventually enacted in mid-1996 as the Local Government Amendment Act (No. 3) 1996. The Act sets out principles of financial management to be observed in local authority decisions and requires local authorities to prepare a long term (ten year) financial strategy and develop funding, borrowing and investment policies. Section 122B(c) notes as one of the mechanisms for promoting prudent, effective, and efficient financial management by local authorities, the provision of "an effective and appropriate avenue for public participation in local authority financial policies and funding decisions." The Local Government Amendment Act (No. 3) 1996 also amended the principal Act (the Local Government Act 1974) by repealing sections 223E and 223F (inserted by the Local Government Amendment (No. 2) Act 1989), substituting new sections relating to the annual plan and annual report. The new statutory provisions require local authorities to include their financial management policies (on funding, borrowing and investment) in their Annual Plan and Report.

Clearly, the recent reforms of the Local Government Act reaffirm the public policy commitment to some form of public participation previously encoded in the statutory framework for local government. Of the enhanced transparency that the Local Government Amendment Act (No. 3) 1996 foreshadows, Boston, Martin, Pallot, and Walsh, 1996: 197) are positive in their assessment, but they caution that it would:

be unfortunate if this commendable ambition were to constrain the freedom of local authorities, in possession of the available facts, to make decisions about the nature of the services they provide and the way they are funded. At some point if this route is followed the purpose of democratically elected local government – to resolve issues of conflicting values and citizens' preferences – is itself called in question.

In relation to financial management, the 1996 amendments to the Local Government Act 1974 are highly prescriptive. While they provide for public scrutiny and financial accountability (for example, through requiring local authorities to adopt the requirements of the Financial Reporting Act 1993 and to comply with Generally Accepted Accounting Principles (GAAP), it is possible that these statutory requirements will constrain local authorities from responding in particular ways to community aspirations.

Summary of Part 1

Without doubt, three major and inter-related aims of the reform process were:

- effectiveness (of policy *and* participation)
- accountability
- responsiveness

The aim of this study is to assess the implementation of these goals. The annual planning process and the special consultative procedure are key instruments for the achievement of effectiveness, accountability and responsiveness, as has been identified in the preceding overview of the policy guiding the reform process. In the next chapter, after outlining the scope of the fieldwork, the discussion returns to the task of assessing the reforms. First, though, there is one further aspect of the historical and theoretical context in which the annual planning process is located that needs to be presented. This is the wider theory and practice of planning and policy analysis. Part Two of this chapter now examines the nature of planning and evolving ideas about the scope for public participation in the development of this area of public policy.

Part 2: Participation In Planning Processes: Opportunities For Self-Government

The growing interest in participatory democracy

Participatory democracy, as was noted in Chapter Three, became a focal point for democratic theory in the wake of growing disenchantment with elite rule, the lack of representativeness and the lack of accountability of decision-makers. The earliest forms of public participation are possibly the efforts of concerned (middle class) citizens organising welfare services for groups in need. With the development of professional services, there was a separation of the professional and the lay person. Among other things, the failures of certain social change projects (for example, Head Start and Project Camelot in the United States in the 1960s) highlighted the need for public participation of citizens in the planning of such programmes. Public participation was further promoted in land use planning because of the poor planning associated with large scale urban redevelopment. This led to provision for consultation and

appeal in the 1968 and 1971 Town and Country Planning Acts in the United Kingdom (Croft and Beresford, 1989).

The community development movement, which emerged in both western nations and in nations undergoing development projects, emphasised bringing about change and involving people in the process. Drawing on the works of Jean Jacques Rousseau, John Stuart Mill, and G.D.H. Cole, Carole Pateman (1970) and others have promoted industrial democracy as the basis for participatory democracy in nation-states. For these theorists, organisational participation is important instrumentally as a means of fostering democracy in the larger political system and intrinsically for its effects on the self-esteem and sense of efficacy of individual participants. More recently, the New Left critique of the bureaucratic state has been accompanied by the emergence of the 'user-movement' which advocates active participation by users of services in their design and delivery. All of these influences have shaped the provision of mechanisms for participation in local authority annual planning and the concept of the special consultative procedures.

In Part 1 of this chapter the historical development of local self-government up to the introduction in 1989 of new corporate planning processes and mechanisms for public participation in local government have been outlined. The focus of the chapter now turns to the theory and practice of planning and the nature of democracy and accountability associated with public participation in planning processes. Hence, the second part of this chapter begins with an outline of the historical development of planning as a vehicle for public policy development. The discussion then returns to the empirical topic of the annual planning process which is the central concern of this study. The current practice is outlined and a critical assessment of the spaces for participation provided by the provisions for public input via the annual planning process is developed.

The origins of planning

Planning is fundamentally a form of public decision-making. It involves *public* action and it involves action that is *deliberate*. For the purposes of this thesis it is viewed as a distinctive form of public policy. Planning and public policy as applied disciplines have a common orientation which is derived from the

rational model of decision-making. The rational model is embodied in planning's emphasis on setting and clarifying objectives, systematic analysis, generation of policy alternatives, evaluation of these alternatives, and monitoring performance. Policy analysis is essentially concerned with rational problem-solving with the focus on formulation of goals and alternatives, identification of constraints, and development of criteria for assessing choices. Policy issues are decision problems, by which is meant that issues for policy-makers are those which are contested and which require public action (Parsons, 1995). Planning and public policy are regarded as teleological, characterised as they are by an end-result conception of policy making.

Planning, and the policy sciences more generally, have their origins in a range of disciplines including the management sciences (particularly Taylorist scientific management), operations research and microeconomics (particularly, decision theory). The application of planning techniques was further refined with the exigencies associated with managing wartime economies. This was followed in the peace-time economy with the expansion of state bureaucracy and state expenditure. In the 1950s, for example, a number of policy-oriented think tanks (such as the Rand Corporation in the United States) were established and there was considerable attention directed at decision-making processes. The emergent policy science was heavily influenced by systems theory as well as insights from psychology which, by illuminating the cognitive and emotional processes at the level of the individual and small group, further shaped the development of decision theory. The general thrust of the policy sciences was towards what Dunn (1994: 48) terms an "analycentric perspective." By this he meant "efforts to separate or decompose problems into their fundamental components." While this was essentially a narrow approach to policy analysis which precluded attention to political and social aspects of policy, it was perceived by its practitioners as fostering more rigorous procedures.

Before long, however, the assumed rationality of planning came under criticism. Instead, it was suggested that public policy was the result of a process of 'muddling through' (Lindblom, 1959).¹¹² In addition, there was increasing awareness of a gap between the intentions of policy makers and the actions of bureaucrats. Comprehensive planning was seen as somewhat ambitious and

¹¹² For a concise summary of Lindblom's alternative model of incrementalism see Leach and Stewart, 1982; Ham and Hill, 1984; Davis *et al.*, 1993; Parsons, 1995.

instead planning and public policy were seen as characterised by incrementalism.¹¹³ Other criticisms were targeted at the pluralist conception of power according to which there was an open and transparent contest between interest groups. Instead, it was argued that there are clear 'policy networks' or 'policy communities' which determine the content of planning and policy agendas. Still other criticisms related to the effects of non-decision-making (Bachrach and Baratz, 1963).

In a discussion of the development of planning in local authorities in the United Kingdom, Cochrane (1994b: 142) notes that with the expansion of local government activities there was a proliferation of specialist departments with a professional head/director (for example, engineer, planner, architect, accountant, lawyer). This "departmentalism" resulted in a characteristic fragmentation and there was not much by way of Council-wide management. In Palmerston North City Council, as in most local authorities in New Zealand, there was up till 1989¹¹⁴ no general manager. There was a group of department directors (which included the Town Clerk) who were the highest tier of managers but no one department director was senior to the others. Cochrane (1994b) reports that during the 1960s and early 1970s there was criticism of departmentalism in British local government, in light of the tendency of department managers to be parochial and unable to detach themselves from their own departmental/professional interests. There was at this time some interest in the management practices of large corporate organisations (including the practice of strategic planning). In local government, the expansion of planning was linked to the perceived:

need to construct long-term stable plans (usually subject to a process of rolling remake), within which departments could develop their own more detailed plans (Cochrane 1994b: 145).

¹¹³ Incrementalism is defined by Dahl and Lindblom (1953: 82) as:

a method of social action that takes existing reality as one alternative and compares the probable gains and losses of closely related alternatives by making relatively small adjustments in existing reality, or making larger adjustments about whose consequences approximately as much is known as about the consequences of existing reality, or both.

¹¹⁴ A key feature of the reform of local government was the requirement for local authorities to appoint a chief executive officer whose responsibilities include "ensuring the effective, efficient, and economic management of the activities and planning of the local authority" (Sections 119c and d of the Local Government Act 1974 as amended by the Local Government Amendment Act No. 2 1989).

Thus, in the 1970s there was a significant expansion in planning activity in central and local government in New Zealand and wider afield (most notably, the United Kingdom, Australia and the United States). This emphasis on planning was a response to the experience of Planning, Programme, Budgeting Systems (PPBS) which was pervasive in the 1950s in the United States.¹¹⁵ PPBS was a type of budgeting system) involving:

- the grouping of an authority's activities into a limited number of 'programme areas', which by no means always coincided with traditional service definitions
- a clear statement of the authority's objectives within each of those programme areas
- the structuring of the authority's budget under programme area headings
- the consideration of alternative solutions
- an attempt to measure results

Jones (1993: 154) argues that from this emphasis on planning as budgeting, there was a shift to planning as forecasting (in the 1960s), and from there to an emphasis on "externally oriented strategic thinking" (in the 1970s) to strategic management as creating the future (1980s and 1990s). Strategic management examines international forces, markets, customers, and information, as well as internal aspects such as organisational culture, competitiveness, implementation skills, and social and political factors.

In the United Kingdom there was a major review of the planning system that had been developed in the post-war period and formalised in the Planning Act 1947. It was assumed – and indeed explicitly stated – that the newly established planning system fostered 'the public interest'. The system that had been established immediately after the second world war came to be seen as too "public-sector-oriented" (Thomley, 1991: 24) and was reformed to become more responsive to the private sector.

Further reform of local government management processes and structures in the UK followed upon the Maud Report of 1967. The Maud Report, according

¹¹⁵ For details of the history of PPBS see Fischer and Forester, 1987; Weimer and Vining, 1992; and Dunn, 1994. Pollitt (1990: 42) states that the United States did not embark on central planning as extensively as Britain did and PPBS was "[p]robably the most (in)famous" of "a number of notable attempts to enlarge the sphere of planning". Hambleton (1978) describes the influence on PPBS on public sector corporate planning in the UK.

to Caulfield and Schultz (1989), was influenced by the American framework of PPBS. The Maud Report influenced the development of the Planning Act 1968 (UK) which introduced structure planning into English and Welsh local government in 1971. Structure planning focused on land use planning and associated matters, rather than the entire activities of a local authority which were the focus of corporate planning.

There were numerous problems with structure planning and Caulfield and Schulz (1989) caution that these suggest implicit weaknesses in strategic planning more generally. In particular, structure planning was criticised for taking an inordinately long time to produce plans – a factor which subsequently meant that the plans were not responsive to change. Eventually, too, the stronger influence of private sector developers also came to be rejected. Planning was criticised for being “apolitical, elitist and technocratic” (Thomley, 1991: 25). In facilitating the aspirations of private sector developers and in assuming that the public interest was being served (without criteria for assessing this), the planning system failed to address the needs of individuals and groups in communities.

Corporate planning processes were introduced in the mid-late 1960s, a period of growth and rapidly expanding budgets. Corporate planning is a technique utilised in private sector management and, like PPBS, reflected a comprehensive rational decision model which emphasises the role of strategic management in setting objectives and clarifying policy issues. Hambleton (1978) highlights the following two key characteristics of corporate planning as implemented in local government in the UK in the 1970s:

- (1) a concern to overcome fragmentation and lack of interdepartmental co-ordination within a local authority's environment; and
- (2) the acknowledgement of the importance of planning, and reviewing plans.

The implications of this approach to local authority decision-making and management are apparent, as Hambleton notes, when corporate planning is contrasted with traditional approaches to administration. In particular, he draws attention to the tendency for local government to be a passive administrative agent of central government, and for it to perceive its role as addressing problems through separate services. (These same tendencies were

subsequently considered by the the reformers of local government in New Zealand to characterise local government in this country, and the emphasis given to the statutory annual planning process and other managerial changes were intended to ensure that local government was more powerful.)

Clearly, the use of corporate planning and other rational techniques imported from the private sector into the public sector brought some benefits, but as subsequent theorists of the policy 'sciences' have pointed out, there was a tendency to overstate the case for rationality (Lane, 1987). The critiques of positivism which emerged in the social sciences generally which led to what is commonly referred to as the 'interpretive turn' in social science research had an impact on the conduct of planning and policy analysis (Fischer and Forester, 1987; Healey, 1992; White, 1994). The critique of positivism was given particular impetus by the new social movements of the 1960s.

The emergence of the 'new public involvement'¹¹⁶

Thornley describes the 1960s as the heyday of the technical approach to planning; by the late 1960s and early 1970s the impact of community action and advocacy movements was prompting planning to provide opportunities for the public to be involved. This led Caulfield and Schultz to observe in the late 1980s that, in the United Kingdom,

Despite the shortcomings in practice of both corporate planning and structure planning, and despite the resulting damage to the reputation of strategic planning in general, the 1980s have seen the revival of external pressures on local authorities to re-introduce some form of authority-wide strategic planning (Caulfield and Schultz, 1989: 15).

In their study of public participation in the United States, Hult and Walcott (1990) refer to the New Public Administration movement of the early 1970s which represented concerns about the need for further democratisation of public organisations. Many of the individuals who were involved in this pressure were outraged by the fact that there was continuing United States involvement in Vietnam despite massive public opposition. They were also

¹¹⁶ The term 'the new public involvement' is taken from Thomas (1995).

motivated by concern about the stigmatising treatment of welfare recipients, and by a fading vision associated with the Great Society programme. A pervasive criticism was that public agencies were not responsive to users of public services and in the face of this negative aspect of bureaucracy they argued for greater participation by government workers in agency decision-making, and they pointed to the need for increased citizen participation in the formulation and delivery of programmes that affected them, in order to heighten governmental responsiveness to clients' needs and demands. Hult and Walcott (1990) observe that it was only this demand for more citizen participation that received much attention and the result was the development of a range of citizen advisory committees at all levels of government. The vision of industrial democracy (more participatory forms of management in industry) was certainly not realised.

Thomas (1995) argues that the growing focus on participatory planning was also related to a concern to avoid the failures associated with the federal urban renewal programmes of the 1950s and 1960s in the United States. To this end, legislation at the time provided for public participation by affected groups in the anti-poverty programmes initiated by President Lyndon Johnson's administration (Fischer and Forester, 1987). Thomas (1995: 4) argues that while the anti-poverty measures were not particularly successful, nevertheless "the idea of broadened public involvement in policy implementation flourished." Moreover, while there was some opposition to participation, and apathy on the part of some public administrators, the argument in favour of public participation strengthened rather than weakened.

The period from the late 1950s through to the early 1970s is frequently associated with the emergence of 'new social movements' (Laclau and Mouffe, 1985; Offe, 1985). The term 'new social movements' refers to the new socio-political groupings which formed to promote claims for equality for previously marginal groups (youth, students, non-dominant ethnic groups, women) and to promote new political awareness based on regard for the environment, retreat from the use of nuclear and other weapons. The common criticism of members of the new social movements was that conventional democratic political groupings and strategies were undemocratic; in particular, the focus on capitalism as the primary source of domination and the working-class as the motor of history was seen as ineffectual.

Increasingly there were demands for a more inclusive and broad-based politics. These demands representing a more assertive political culture have been documented by Gyford (1991) and others and are embodied in the theories and programmes of the New Left. Among such developments Gyford documented the growth of consumer groups and other community action groups (serving both middle class and working class interests); the strengthening of voices and institutions for protecting consumer rights (for example, the office of the Ombudsman and various commissioners for a range of sectors, including government, health care services, and banking). In the social services there was considerable enthusiasm for decentralisation and participation in the planning of service delivery by users. An example of this thinking is the work of Hadley and Hatch (1981), whose work reflects a welfare pluralist approach.

In New Zealand the introduction of the new Town and Country Planning Act 1977 (since repealed by the Resource Management Act 1991) reflected the emphasis on structure plans that characterised reform of planning law in the United Kingdom in 1974. The Town and Country Planning Act provided significantly greater opportunities for public participation through the opportunity for the public to object to development and to be heard in public hearings.

In other professions, particularly the social services, there was a similar emphasis on public participation. This is reflected in such developments as advocacy for clients of the medical profession (including mental health services) and of representation of clients of policy making and funding bodies (such as District Executive Committees of the Department of Social Welfare and the Community Organisations Grants Scheme run by the same Department).

Gyford (1991: 41) argues that along with the changes in the structure of the industrial city which had influenced the development of local government in Britain, there was an emergence of a more "diverse and assertive political culture":

Whether we choose to characterise the changing political culture of the last two decades or more as representing the rise of 'social participation', or the 'new activism' or the 'new populism', it has found expression not merely at the level of changing attitudes and values but also at the level of political action. Those changes in the form of political action have in turn had major consequences for the politics of local government. They

have involved three particular sets of changes. The ways in which the public has sought to participate in local politics have changed; the political parties have had to reformulate their attitudes and their policies to take into account changing public demands; and what might be called the local government establishment, including the local authority associations and various professional and management bodies, has tried to recast old practices and to identify new ones to cope with a more diverse and assertive public.

However, with the view that policy and planning are merely technical matters, there were weaknesses in such opportunities for participation. Under the prevailing traditional bureaucratic form of public administration, policy-making was first and foremost the task of the bureaucracy with the parameters being set by the policies of the political party in office. The main forms of participation associated with this form of public administration were through the ballot box (regular but infrequent elections), the Minister, the media and the courts.

Many commentators (for example, Offe, 1985; Gyford, 1991; Dalton, cited in Considine, 1994) point to the way in which public participation in political decision-making and/or the policy-making process has been changing in Western industrialised societies since the 1960s and 1970s, which have been described as the decades of protest. In that period, participation in political decision-making was shaped by the development of new social movements and the processes associated with grass-roots political activism. As Considine (1994: 142) notes:

The increased use being made of direct forms of democracy, protest and community-based action by citizens provides new forms of policy influence, different in scope and method from more traditional channels provided through parties, elections and interest groups.

As noted in Chapter Two, the emergence of new social movements led to a critique of the bureaucratic state (and especially its welfare departments which were viewed as paternalistic and unresponsive to users) which coincided with the critique made by neo-liberals on account of the growing size and cost of the state bureaucracy. Together the two different critiques (reflecting the breakdown of the Keynesian welfare state and the post war consensus) created a growing pressure for public sector reform. The goal of the new social

movements was individual and collective empowerment over citizens' lives, which included more direct involvement of citizens in the policy making process (Wistow and Barnes 1993).

The comprehensive rational model was the subject of extensive criticism and the lack of responsiveness, inflexibility and costliness of bureaucratic public sector organisations were denounced by groups associated with radical and conservative agenda. The way was open for reform of planning and political decision-making systems in both central and local government.

Planning and public sector reform

Caulfield and Schultz (1989) note that in the early 1980s there were increasing instances of publications by management consultants and accountants highlighting the positive aspects of strategic planning in the public sector. They see this as related to the private sector's experience of successive oil crises and economic recession which brought home to them the importance of planning to respond to uncertainty. At the same time, this interest in planning was dominated by financial considerations rather than political ones.

With the breakdown of the widespread economic, social and political consensus which was established in western industrialised nation-states after the Second World War, there was scope for neo-liberal ideas to gain currency in political thought in the late 1970s and 1980s. As part of the response to the sense of crisis and particularly in response to the claims of government overload, there emerged a new body of literature prescribing the need for outlining the directions for restructuring of the state with a view to curbing the growth of state sector activities, employment and expenditure. This has been referred to variously as public sector reform, reinvention of government (Osborne and Gaebler, 1992), and new public management (to name a few of the key terms). Managerialism (the basic policy criterion of which is technical and economic efficiency) has thus come to replace general economic and regional planning, referred to by Self (1993: 170) as the "expansive forward planning of the 1960s."

Before embarking on an account of managerialism and of new public management, it is important to acknowledge the influence on the local

government reform process in New Zealand of the contemporary preoccupation in the first term of office of the Fourth Labour Government with consultation. This undoubtedly shaped the prevailing climate of popular opinion as well as guiding the architects of reform.¹¹⁷

Participation via consultation 1984-1989

Despite such opportunities as those afforded by the Town and Country Planning Act 1977 aspirations for public participation and community-based decision-making were frequently thwarted by the centralist administration of the then National Government. The Fourth Labour Government was elected to office in 1984 with a certain commitment to greater consultation with the public about policy. The aspirations of the electorate for participation in policy development were in no small part a reaction to the strongly authoritarian government under the leadership of Sir Robert Muldoon during the preceding nine years.

Early in its term of office, the Labour Government initiated consultation with key players about economic policy in the context of an Economic Summit (see Dalziel, 1989) and Hui Taumata (Maori Economic Summit). Consultation was further undertaken through the establishment of a Royal Commission on Social Policy by which the Government sought public opinion about the restructuring of the welfare state and other areas of government intervention in society.¹¹⁸ Through participation in these and numerous other consultation exercises carried out particularly in the first term of office of the Fourth Labour Government (for example, the review of educational administration in 1987-88), it was assumed that citizens would be able to influence public policy and would experience accountable government. However, as noted earlier in this chapter,

¹¹⁷ By emphasising just this period, the intention is not to imply that the interest in statutory consultation has waned. This purpose of focusing on this period is to highlight the prevailing emphasis in the policy-making environment in the late 1980s. Clearly, there has been a continuing emphasis as is evident in, for example, the Health and Disability Services Act 1993, which requires regional health authorities to consult when determining how they will go about purchasing services for the public for whom they are responsible.

¹¹⁸ As well as implementing widespread consultation, in its report the Royal Commission on Social Policy gave particular attention to issues of consultation, public participation in decision-making, and accountability (see Royal Commission on Social Policy, 1988, especially Volume II, pp813-865).

there was, throughout the term of office of the Fourth Labour Government, a recurring tension between the demands of devolution and accountability.¹¹⁹

In addition to incorporating consultative processes into the extensive reviews of public policy that were undertaken, the Fourth Labour Government incorporated a requirement for public sector organisations to consult with citizens in a range of new and amended statutes. There had been some such statutory requirements enacted prior to the mid-1980s but after 1984, these were more common, with particular emphasis given to consultation with *tangata whenua* (that is, Maori who are indigenous to New Zealand).

Interestingly, different statutes have different prescriptions governing consultation. Whereas the Airport Authorities Act 1966 is fairly precise, the now repealed Area Health Boards Act 1983 was much less detailed. Section 10(1)(a) of the Area Health Boards Act stated:

The functions of an area health board shall be as follows:

- (a) Generally to promote and protect the health of the residents of its district, and, towards that end, to consult and co-operate with individuals and organisations ... concerned with the promotion and maintenance of health.
- (c) To plan future development of health services in its district, and towards that end, –
 - (i) To consult as appropriate with any regional or united council in the district; and
 - (ii) To support, encourage, and facilitate the organisation of community involvement in the planning of such services...

Clearly, the obligation to consult is viewed as a way of providing for public participation in political will-formation. The reform of local government was part of this broader stated commitment by the Fourth Labour Government to citizen participation. The substantive effects of this commitment need to be carefully examined. For example, it is necessary to consider whether public participation in local authority annual planning is an effective, appropriate and sufficient response to a commitment to more democratic public institutions and governance.

¹¹⁹ 'Devolution and Accountability' was in fact the theme of a major conference hosted by the New Zealand Institute of Public Administration (Martin and Harper, 1988).

Managerialism

The dominant paradigm in public administration, influencing the direction of public sector reform, and the subsequent governance framework, was managerialism. Managerialism was seen as the key to a more efficient and more effective public sector. Managerialism is in fact a broad umbrella term for describing these changes in public sector management.¹²⁰ Managerialism essentially holds that the key to the efficient use of resources is the application of private sector managerial techniques. Managerialism, according to Famham and Horton (1993: 33-34), utilises economistic, rationalist and generic principles. By 'economistic principles' they are alluding to the application of economic efficiency as the criterion of success. The rationalist principle is associated with the application of ideas of 'scientific management' and classical management theory which assumes there are laws directing human activities which management can apply. Thus, managers are viewed as the systematic planners and controllers of organisations. The generic principle embodies the view that management is a universal activity that can and should be undertaken in all organisations. Management is seen as the appropriate antidote for all organisational problems.

One expression of this emphasis on the reform of management processes and structures, is new public management (NPM). New public management is seen as embodying the following features:

- (1) Adopting a rational approach to managing, which emphasises the role of strategic management in setting objectives and clarifying policy issues;
- (2) Changing organisational structures designed to separate policy from administration and creating executive units with delegated responsibility for service delivery, whether internally or to other parts of the organisation or externally to the public;

¹²⁰ Walsh (1991a) argues that managerialism is not a new phenomenon but in fact has been a continuing feature of public service management for quite a number of decades. Clarke *et al.* (1994) highlight the importance of acknowledging that a number of managerialisms exist. At the most basic level they distinguish between, on the one hand, Taylorist or neo-Taylorist approaches and, on the other, what they refer to as 'new wave human resource management'.

- (3) Changing organisational structures which are designed to shorten hierarchies, devolving managerial responsibility for achieving set targets of performance and holding individual managers responsible for achieving them;
- (4) Measuring organisational achievement in terms of the criteria of economy, efficiency and effectiveness;
- (5) Developing performance indicators enabling comparisons and measures of achievement to be made and providing information upon which future decisions can be determined;
- (6) Developing active policies for changing the cultures of public organisations from ones dominated by traditional public service values to ones attuned to the market, business and entrepreneurial values of the 'new' public service model;
- (7) Implementing human resource management techniques aimed at weakening collectivist approaches and introducing individualist ones, including seeking to mobilise employee support and commitment to continual structural and organisational change;
- (8) Seeking to create flexible, responsive and learning public organisations;
- (9) Developing a 'public service orientation' focusing on the public as clients, customers and citizens, with a move away from supply-led to demand-led services, no longer dominated by professional providers but responsive to the needs of those being served (Famham and Horton, 1993: 238)

Of particular interest for this present study is the way in which new public management has implications for democracy, participation and accountability. As noted in Chapter Two, the traditional form of accountability associated with Weberian bureaucracy with its clear lines of hierarchical authority is replaced by markets. There is a renewed emphasis on corporate planning which is seen as a key instrument for achieving accountability. Planning is done for reasons of efficiency (through enhancing internal coherence) and also for reasons of

effectiveness; in other words, to ensure that the shareholders, owners or clients are familiar with and approve of the organisation's product.

The new public management is generally characterised by a focus on *outcomes* rather than processes, described as 'managing for results' (Keating, 1990). As noted in Chapter Two, with the influence of economic rationalism and other aspects of public choice theory, the public sector is seen as an enterprise producing a product in the same way as a private sector business.

There is a strong emphasis on separating political and management roles with the political role being associated with policy formulation and management being associated with policy implementation, or service delivery. A further feature of new public management is the combining of commercial and service elements. This is very much a result of the way in which economic decision-making models are given priority in policy analysis. Typically, this means that political decisions are recast as technical ones. Centeno (1993: 318) questions the effect on democratic participation of casting a policy question as a technical rather than a political issue:

The transformation of a "political" decision into a "technical" one may have less to do with the inherent complexity of the issue and more to do with the interests of those who benefit from the exclusion of those no longer able to participate. While technical influence will rise in response to technological change, technocratic control will be a function of the ability of an elite or set of institutions to limit participation to those fluent in the expert languages.

A further reflection of this can be seen in the emphasis on the marketisation of public services. This involves the introduction or extension of user part-charges, the split between purchaser and provider with competitive tendering for publicly funded services, and in some cases privatisation or contracting out of service delivery.

Key aspects of new public management discussed above have implications for political decision-making and for the nature and scope of public participation which will be examined in Chapter Eight in the light of empirical data on public participation and the annual planning process.

Conclusion

The emphasis on annual planning in local government and on the development of corporate plans more generally throughout the state sector is closely associated with the emergence of managerialism which permeated public sector administration in the mid-1980s. Walsh (1991a:74-75) identifies the strengths and weaknesses of this new-found (or newly rediscovered) emphasis on corporate planning in the New Zealand public sector:

The virtue of managerialism lies in the explicit setting and prioritizing of objectives, the development of relevant indicators to evaluate the degree to which they have been achieved, and the rational allocation of resources to these tasks. To the extent that the State Sector Act encourages this, it will contribute to the efficiency of the public sector, and the better delivery of services to citizens. Conversely, the managerialist vice is an obsession with form over content. Managers newly liberated from the shackles of the Public Service Manual may become preoccupied with planning to achieve objectives, rather than actually achieving them. A preoccupation with performance evaluation can overlook the subjective nature of most forms of evaluation... and can be a substitute for activity.

A question implicit in the broader research question of this thesis concerning the effectiveness of public participation mechanisms, is: to what extent is public participation in policy making consistent with new public anagement principles and processes. To the extent that public sector reform is guided by managerialist principles, the nature of public participation is likely to embody those principles. The remainder of this thesis is concerned with an examination, via a case study, of the implementation of the statutory special consultative procedure and the annual planning process. To begin, Chapter Six outlines the research design and methodological issues and techniques. Following this, Chapters Seven and Eight will present, interpret and analyse the data gathered about the nature of democratic governance at the local level.

CHAPTER SIX

RESEARCH DESIGN, METHODOLOGY AND PROCESS

Introduction

The primary objective of this research, as outlined in Chapter One, is to explore the notions of democracy underpinning the special consultative procedure and annual planning process which was a major innovation in the reform of local government. Public participation in the annual planning process is seen as a key mechanism for enhancing democracy. As noted in Chapter One, the provisions for public participation are of particular significance as these were a new departure even from the State Sector Act's provisions for corporate planning in the core public sector. Local authorities are required to use a "special consultative procedure" when embarking upon any major new policy or plan. The way this has been incorporated into the legislation governing local government is unique in public sector reform. Other public sector bodies (for example, government departments, universities) are not required to carry out the same level of consultation, nor communicate or account for their deliberations on public input to the same extent. At the same time, and despite the prescriptiveness of the legislation, the annual planning process and the special consultative procedure have not been implemented in an identical fashion by all local authorities. There is evidence of considerable variation in the way the law has been interpreted, at least in the first few years after the introduction of the new statutory framework (Department of Internal Affairs Local Government Business Group, 1992). This study seeks to focus specifically on how the legislation is interpreted and implemented by one local authority.

To identify the notions of democracy underpinning the annual planning process, data was gathered through interviews with key actors involved in the local government reform process in which the new statutory requirements were developed.¹²¹ As part of understanding the new statutory requirements upon

¹²¹ In their study of the annual reporting practices of tertiary education institutes (imposed by the Education Amendment Act 1990), Tower *et al.* (1994) focused on the views and expectations of the preparers' of the annual report (Chief Executive Officer and/or senior manager). They observed that crucial internal influences were the role of the CEO and skills and energy of senior managers. It can be argued that managers' attitudes similarly influence the approach taken to the development of the annual plan. This case study of local authority annual planning therefore explored the influence of managers.

local authorities, it was seen as important to understand the aspirations of those who were key actors in the reform process and who shaped the new statute. This involved finding out what ideas about democracy underpinned the accountability and participation provisions of the reform legislation. Analysis of relevant official policy statements and other documents from this period has also been incorporated to further identify the reformers' assumptions and expectations about the nature of democracy. This data about the local government reform process is complemented by a case study which seeks to examine the implementation of the new statutory requirements (the provisions of the Local Government Act 1974 for annual planning) at the local level (or, to be precise, in one locality). Thus, the focus of the research design is on both the origins of the new statutory requirements and the implementation of new mechanisms for enhancing democracy at the local level.

This chapter discusses issues of methodology¹²² including (i) the rationale for the research design; (ii) the ethical considerations associated with the use of the case study method; and (iii) the details of the fieldwork. It is important to note that the fieldwork involved a dual strategy, the first part of which comprised an investigation of the origins of the annual planning process and the special consultative procedure in the 1988-89 reform of local government. The second part of the research strategy involved a case study of the implementation of the new policy of annual planning in local government with emphasis on public participation as determined by the statutory provisions for consultation.

The task of this chapter is to outline the methodological approach used in the research. In Chapter Seven, the data generated in the course of the case study are presented and analysed. The data gathered from the investigation of the origins of the annual planning process and special consultative procedure are presented in Chapter Eight.

¹²² Although the terms 'method' and 'methodology' are sometimes used interchangeably, here the word 'methodology' is used to refer to the overall principles guiding the use of the particular research techniques employed in this study. Checkland (1981, cited in Tudor and Tudor, 1995: 2) defines a methodology as "a set of principles of method which in any particular situation have to be reduced to a method uniquely suitable to that particular situation." Avison and Fitzgerald (1988, cited in Tudor and Tudor, 1995: 2) describe methodology thus: "A methodology is a collection of procedures, techniques, tools and documentation aids... which consists of phases... but a methodology is more than merely a collection of these things. It is usually based on some philosophical view, otherwise it is merely a method, like a recipe."

Discussion of the research design: the dual research strategy

One specific aim of this research was to examine the implementation of the statutory requirement upon local authorities to prepare an annual plan incorporating a special consultative procedure. The process used by a local authority in the course of the development of the annual plan, including the statutory special consultative procedure, was subject to close scrutiny through a case study. A case study in itself is not a method but utilises different methods. In this case study, three methods – observation, documentary analysis, and interviews – were employed and these will be outlined in detail in this chapter. The second major component of the fieldwork involved gathering data that would generate insights into the intentions of the reformers' of local government. Specifically, the origins of the concept of annual planning and the special consultative procedure and the associated assumptions about the contribution of this aspect of local government reform to the enhancement of democracy were to be identified. This aspect of the research design incorporated interviews with key actors in the reform process, and analysis of key policy documents generated in the reform process.

The case study aspect of the research allowed detailed investigation of the process of preparing an annual plan. As noted in Chapter One, at the time when this study was initiated (1991), there was very limited information or research about the general effects of local government reform or about the effects of specific aspects of the reforms (such as the managerial changes or the annual planning process). In part, this was because of the relative newness of the regime; another reason for the lack of attention is that local government is relatively neglected by social and political theorists and researchers (notwithstanding the contribution of Associate-Professor Graham Bush of the University of Auckland who has been one of very few academic commentators on local government) in comparison with the academic focus on the reforms of central government. There have been a few isolated studies on other aspects of local government, for example, on regional councils (Javison, 1994), on local authorities' strategic planning (a content analysis by Annabell, 1995) and on community boards (see, for example, Storer, 1996).

The Department of Internal Affairs' studies of the implementation of the annual planning process (Department of Internal Affairs Local Government Business Group, 1992; Searle, 1995) involved a postal survey of all local authorities.

Hence, the nature of the data is primarily quantitative, with limited scope in a modest questionnaire form for obtaining open-ended answers to questions. In contrast, the present study sought to obtain more in-depth and qualitative information about the nature of the planning and consultative processes. Jansen's study, a doctoral thesis completed in 1992, traversed the broad issue of reform, exploring earlier efforts at reform and assessing the extent of the 1989 reform. Jansen's preoccupation is rather different from that of the present study, attending to the question of whether the reforms carried out in 1988-89 were comprehensive and complete or, in fact, unfinished. There is also some consideration of the constitutional deficiencies and the appropriate arrangements which might be pursued to strengthen local government. The annual planning process and the issue of public participation receive only cursory comment.

There was one further influence on the research design for this assessment of aspects of local government reform. In mid-1991, a major review of the state sector reforms had been carried out (Steering Group on State Sector Reform, 1991).¹²³ The methodology adopted in that review of the state sector reforms was instructive for any similar reviews of aspects of local government reform. In particular, the review team had noted that the lack of relevant information and base data made it impossible to assess the contribution of the state sector reforms up to that point in time (mid-1991) in terms of efficiency and effectiveness in the state sector. This was true, too, for local government, with no existing reliable measures of efficiency, effectiveness, democracy, accountability, and so on. Although in the case of the review of state sector reforms, the terms of reference of the review team required it to report on whether the reforms had improved efficiency and effectiveness of the Public Service, in its report the review team (1991: 26-27) stated:

We have no direct way of answering this question, for two reasons:

- Firstly, there is no reliable data which enables a comparison of productivity in the Public Service over the period from the introduction of the reforms. The information which would enable this assessment is being collected for the first time now.

¹²³ The review was conducted by a group chaired by Basil Logan and its report, *Review of State Sector Reforms*, is popularly referred to as the 'Logan Report'. Interestingly, no such official reviews, of a parallel nature, of local government reform have been carried out.

- Secondly, the three years since 1988 have been a period of :
progressive introduction of the reforms so that there is no reliable base point and only a short period when they might be considered to be mostly in place;

considerable structural change and financial pressure on departments independent of the reforms, which no doubt also contributed to whatever changes in costs might have occurred.

We have therefore had to examine the implementation of the reforms in their own terms; not on a basis of comparative data, but as to whether they are changing behaviour and processes in a way which leads to improved performance. ... We evaluated the reforms as a system of management currently in place. Therefore we did not attempt any summary assessment of the costs and benefits of past changes, such as the departmental restructuring, which many people associate with the reforms.

In addition, to the review team's acknowledgement of the methodological challenges, in its substantive findings it highlighted shortcomings in the accountability regime and problems with the boundary line between policy and administration. Thus, it was possible that, to the extent that the local government reforms were based on the state sector reforms and shared similar structural features, the same problems might feature in the implementation of the reforms of local government. This confirmed the appropriateness of the research design for a study of local government reform which sought to explore the nature of democracy with particular emphasis on the respective roles of politicians and managers in the implementation of the new statutory annual planning process and special consultative procedure although it was not intended to adopt the same terms of reference as had guided the review of the state sector reforms.

The next section of the chapter outlines the two data collection strategies in greater detail, noting their strengths and weaknesses. While the two data gathering exercises and the two 'data sets' are discussed separately, it should not be assumed that there are no linkages. However, as the significant body of theoretical and empirical literature on policy implementation has highlighted, there is not a clear and unambiguous translation of policy (in this case as set

out in statute) into practice (the implementation of the statutory requirements for annual planning and public consultation).

Case study research

Case study research is often undertaken in the course of programme evaluation.¹²⁴ The present study, while not strictly speaking a programme evaluation, has an evaluative component. Rather than studying a particular programme associated with public policy, this is a study of the origins, interpretation and implementation of the (then new) legislative provisions relating to annual planning and consultation. In this research the case study approach has strengths which assist the task of understanding the implementation of the statutory annual planning process and special consultative procedure in the Local Government Act 1974 (as amended in 1989). Among other things, the strengths of the case study approach include the way it facilitates an understanding of events, projects and programmes and promotes recognition of the context characteristics which help illuminate a particular issue or subject.

This study is based largely on field research; that is, it involves social enquiry into a real-life situation (Sarantakos, 1993). The case study of one local authority's annual planning process is employed to understand the implementation of the Local Government Act's provisions in relation to annual planning. Patton (1990: 47) advocates field research as a means of understanding programmes in their "naturally occurring complexity". He describes the appropriate orientation of the researcher as one of "empathic neutrality".¹²⁵

Case study research is not synonymous with qualitative research but, to the extent that qualitative research assumes that there are multiple realities and that social facts are understood through interaction, perception and

¹²⁴ Interestingly, the case study approach was used in a classical study of bureaucracy and democratic planning, Selznick's study of the Tennessee Valley Authority (Selznick 1966).

¹²⁵ Yin (1989) argues that case studies are to be distinguished from ethnographies and participant observation. However, there are some common elements, one of which is the need for the researcher to have a bond of rapport with the informants. It is argued (Lidz, 1989: 49) that ethnographers have obligations that flow from the rapport they establish with their informants.

interpretation, the case study approach often comprises qualitative research techniques. While this discussion of case study methods, with its emphasis on naturalistic inquiry, possibly implies that the researcher goes into the field to *discover* facts (Patton, 1990), this was not necessarily the objective here. Instead, the primary intention is to document and understand rather than to discover, measure or predict.¹²⁶ Among the features of case study research, Miles and Huberman (1994: 7) note:

A main task is to explicate the ways people in particular settings come to understand, account for, take action, and otherwise manage their day-to-day situations.

Sarantakos (1993: 261) identifies the following criteria of case study research:

- openness;
- communicativity;
- naturalism; and
- interpretativity.

He further notes the following “distinguishing characteristics” of case study research:

- It studies whole units in their totality and not aspects or variables of these units.
- It employs several methods primarily to avoid or prevent errors and distortions.
- It studies a single unit: one unit is one study.
- It perceives the respondent as an expert not just as a source of data.
- It studies a typical case... (Sarantakos, 1993: 259).

More than one case can be studied. The literature on case study research thus distinguishes between single case designs and multiple case designs (see, for example, Yin, 1989: 51-53; Sarantakos, 1993; Miles and Huberman, 1994). Yin (1989) identifies three major rationales for a single case design:

- when it represents a critical case; or

¹²⁶ Merriam (1988) notes that in case study research the emphasis is on process and meaning, and interpretation, rather than measurement.

- when it represents an extreme or unique case; or
- when it represents a revelatory case.

Elements of each of these three rationales came into place in the choice of PNCC as the subject of a case study of the annual planning process, as discussed below.

The specific aim of the case study component of the fieldwork was to observe the way in which the annual plan was formulated, the source of influence over the contents of the annual plan, and the nature and scope of the special consultative procedure, including the degree to which draft plans are modified as a result of public consultation. Case study research typically utilises a range of methods and generates varying types of data.

As noted, the case study approach in this particular research project involved the utilisation of three methods: (i) content analysis of documentary data (for example, minutes of meetings in which the annual plan is developed); (ii) observations of in-house and public meetings at which the preparation of the draft annual plan is discussed; and (iii) interviews with key actors in the annual planning process in the selected local authority (both Councillors and officers). In this case study there were three main types of data: (i) observations of the preparation of the annual plan¹²⁷; (ii) interview text; and (iii) documentation. Case study documents that were considered to be relevant included records of the corporate planning process (minutes of meetings, etc.), summary of submissions received on the draft corporate plan, order papers of meetings at which submissions were deliberated upon, and the draft and final form of the annual plan.¹²⁸

Selection of the case study

A case study may be chosen for a number of reasons. The case may be extreme, typical or significant in some other way (Ragin and Becker, 1992).

¹²⁷ In Appendix 6 there is a timeline depicting the stages of the development of the annual plan, which includes all meetings attended as part of the fieldwork conducted for this thesis.

¹²⁸ See Appendix 5 for a list of the case study documents.

Sarantakos (1993: 262) suggests that in qualitative research "the first case is normally chosen as a typical case".¹²⁹

Initially, in the research design for this study, consideration was given to the number of case studies that would be appropriate. Because the case study method is capable of generating a great deal of data, the number of case studies was determined in part by the researcher's capacity to analyse and utilise the data gathered in the timeframe available. However, the primary consideration was the amount of data required to illuminate the research problem.

It was clear that there was no compelling reason, given the bounds of this project, to study more than one case, that is, one local authority. The emphasis here is on the processes of preparing the annual plan. More specifically, the research seeks to explore the roles and perceptions of key actors. The intensive nature of ethnographic techniques such as observation makes such techniques appropriate for research which seeks to understand why subjects act the way they do. At the same time, this intensive quality means that for reasons of manageability the number of cases may need to be limited.

It was acknowledged that if there was just the one case study, the major limitation would be in the extent of generalisability. A certain level of generalisability was considered to be possible, but it was also recognised there might be limitations due to the nature of the local authority. In particular, the urban or rural characteristics of the local authority would be likely to have an impact on the nature of public participation. (This was noted in the research conducted by the Department of Internal Affairs Local Government Business Group, 1992.) It was decided that the inclusion of just one case, however, was nevertheless appropriate for the goals of the research design. It allowed data to be gathered which identified both unique features and of the annual planning process, as well as features shaped by wider local authority experience, to complement the data that had been gathered in the Department of Internal Affairs survey which highlighted common features in local authority annual planning. As Bell (1993: 9) notes:

¹²⁹ See Merriam (1988: 40-50), Patton (1990: 182-183), and Miles and Huberman (1994: 29) for an extended list of sampling strategies in case study research and qualitative enquiry more generally.

Each organisation has its common and its unique features. The case-study researcher aims to identify such features and to show how they affect the implementation of systems and influence the way an organisation functions.

Because of the intensive nature of the research, and mindful of the physical and financial considerations resulting from the need to have frequent attendance at meetings over a relatively long period (nearly twelve months), it was also important to select for the case study a local authority within reasonable proximity to Palmerston North. Further consideration of the generalisability issue led to the decision to select for the case study a local authority that was neither a large urban (that is, Wellington City) nor a small, mainly rural authority (for example, Tararua District).

Possibilities that were explored included Porirua City, Lower Hutt City and Palmerston North City. In response to preliminary enquiries about the possibility of selecting these three for the case study, each local authority indicated its willingness to be involved. The decision to use Palmerston North was made for two key reasons: (1) there was a perception that Palmerston North City Council's implementation of the special consultative procedure reflected good practice; and (2) accessibility.

Palmerston North City Council appeared to have a strong commitment to the annual planning exercise and there is strong community interest in the exercise. This is reflected in the level of information available to citizens about the plan, the level of Councillor involvement in annual plan hearings and in the number of submissions received over several years which is often far greater than many other local authorities which have larger populations. From feedback given by the Audit Office, from anecdotal evidence, and on the basis of a fairly extensive amount of public participation, it was evident that Palmerston North City Council's approach to annual planning and the special consultative procedure was regarded as being more positive and proactive than many local authorities including those with much larger populations and, arguably, greater resources.¹³⁰ In addition, Palmerston North City Council's 1990/91 annual plan

¹³⁰ This general level of enthusiasm for the annual planning process was from time to time the subject of tongue-in-cheek comments from the local newspaper's civic reporters in the City Eye Column. The reporters would refer to the effort of wading through submissions and sitting through the public meetings of the Hearings Committees (which were faithfully attended by the reporters).

was highly commended by the Society of Local Government Managers which engaged the Chairman of the Local Government Commission and representatives of the Audit Office and Consumers' Institute to judge local authority annual plans.

As a former officer of Palmerston North City Council – and as a citizen of the community – the researcher had some familiarity with the planning responsibilities of local authorities. More significantly, the researcher was a staff member located in the Corporate Policy Unit of Palmerston North City Council for a short time when the local authority first undertook the preparation of an annual plan (November 1989 – March 1990). Therefore, the researcher had some first-hand knowledge of the steps taken in formulating a draft annual plan. While no longer employed at Palmerston North City Council, the researcher has continued to maintain professional links with the planning staff. This first-hand experience and connections with staff and Councillors have been significant factors in developing understanding of the dynamics involved in the annual planning and consultation processes. Often the professional planner and the professional researcher are in separate camps. In this research it is as if the researcher had a foot in each camp.¹³¹ This is important for developing the empathy alluded to by Patton (1990), mentioned in the discussion of field research above. For such empathy there needs to be rapport between researcher and the subjects and the familiarity based on an earlier positive working relationship between the researcher and staff of Palmerston North City Council made it possible for such a rapport to be established.¹³²

Merriam (1988: 36) has pointed out that in case study research the “researcher is the primary instrument for gathering and analysing data” so therefore needs to “maximise opportunities for collecting and producing meaningful data”. Patton (1990: 14) reinforces this when he contrasts quantitative and qualitative research. He says that in quantitative research the measuring instrument (“the test items, survey questions or other measuring tools”) is the key element whereas in qualitative research “the researcher is the instrument”. The open-

¹³¹ This on-going contact has been of some assistance during the data collection and analysis phases of the case study. Texts on the case study method note the importance of checking the results of analysis with key informants or participants in the case study (see, for example, Lincoln and Guba, 1985; Sarantakos, 1993).

¹³² Lofland and Lofland (1995) provide further discussion of the issues surrounding the “known investigator”.

mindfulness, honesty and rigour of the researcher are especially critical when using methodologies which rely on interpretive processes.

Drawing on the work of Lofland (1971), Patton (1990: 32) notes that:

there are four people-oriented mandates in collecting qualitative data. First, the qualitative methodologist must get close enough to the people and situation being studied to personally understand in depth the details of what goes on. Second, the qualitative methodologist must aim at capturing what actually takes place and what people actually say: the perceived facts. Third, qualitative data must include a great deal of pure description of people, activities, interactions, and settings. Fourth, qualitative data must include direct quotations from people, both what they speak and what they write down.

Lofland (1971) emphasises that in qualitative research the researcher is learning about a situation through the participants' understandings of what is happening in that situation. Therefore, the researcher must seek to understand the participants' own frameworks and terms for understanding a situation. Given this importance of the researcher, the prior and on-going association that the researcher has experienced with Palmerston North City Council may be viewed as confirming the suitability of PNCC for the case study.

Patton (1990: 141) claims that qualitative inquiry is particularly suited to process studies, documenting development over time, implementation, evaluations and legislative monitoring. Important features of qualitative inquiry which are relevant to this research project are: that inquiry is naturalistic in that actual situations are studied as they unfold; that systems are viewed as dynamic and change is assumed to be on-going; that research findings are understood within their specific social, historical and temporal context; and that the research design is flexible and able to be modified to meet changing situations and greater understandings of processes (Patton, 1990: 40).

In addition to the observation of the annual planning process, as discussed above, interviews were conducted with three key actors involved in the development of policy at central government level (Dr Michael Bassett, Sir Brian Elwood, and Mr Dave Smith) who were selected on the basis of their

strategic location in the policy development process.¹³³ While interviewing and observation are often regarded as separate activities, Patton (1990: 32) emphasises that in reality they are interconnected: interviewing requires good observation skills and similarly, in the course of observing social phenomena (especially if one is a participant-observer) one is likely to have opportunities to question other participants in the field.

The Palmerston North City Council (PNCC) case study

The focus of the case study was the implementation of the statutory requirement upon local government to prepare an annual plan. Councils are required to publish a draft annual plan and to receive public submissions on the draft plan before proceeding to produce their final annual plan which becomes operational on July 1 (the start of the financial year).

The staff and elected members of Palmerston North City Council were observed in the different stages of the preparation of the draft annual plan. In many instances, development of the draft annual plan took place in meetings which were open to the public and the press (Part 1 agenda items in the terms of the Local Government Official Information and Meetings Act 1987). Some deliberations on the draft annual plan were carried out in non-public forums, and permission to observe these was sought from the City Manager and relevant Committee Chairperson. It was emphasised in writing to the City Manager that the intention of the research was to examine a public process, and not to highlight the contribution of persons as private individuals.

Accordingly, when reporting comments made by individuals, the emphasis is on their professional/political role. Where Palmerston North City Council officers are identified in text based on the fieldwork, the focus is on the professional identities of the participants (for example, City Manager, Director, etc.) and not on the personal identities. Likewise, public figures are referred to by their public role (for example, City Councillor, former Minister of Local Government, Chairperson of the Local Government Commission).

In seeking permission to observe the preparation of the draft annual plan, assurances were given that confidentiality of business would be respected and

¹³³ A copy of the interview schedule is in Appendix 2.

that the interests of the organisation would be protected. Confidentiality was assured by deleting any identifying references to issues or individuals or, if necessary, through the use of fictitious or non-specific descriptors. The interests of the organisation were protected by (i) respecting confidentiality and (ii) providing an opportunity for the City Manager to seek information about the case study fieldwork from the researcher at any time, and to see the penultimate draft of the researcher's analysis and findings that related to Palmerston North City Council. When given the opportunity to comment on the penultimate draft of parts of the thesis, the City Manager highlighted one quotation for which he felt more of the context should be given, and suggested a minor correction in relation to comments attributed to one Councillor.

It should be noted that this was not a fully-developed participant-observation study and therefore the researcher endeavoured to remain unobtrusive. At the same time, having been an employee of the organisation, directly involved in the annual planning process (though prior to the fieldwork phase), and being acquainted with the PNCC managers and Councillors in that professional capacity, the researcher was, to a certain degree, a participant in the field of the study.

Central government policy development: documentary analysis and interviews

As noted above, in addition to the case study, the research design also incorporated analysis of the policy documents which constituted the policy framework that resulted in the reform of local government in 1989. This documentary analysis was assisted by first hand experience of the local government reform process which enabled a degree of familiarity with the development of the reform legislation. The aim of this was to generate further insights into the aspirations of the reformers of local government, particularly in relation to the introduction of public participation in the annual planning process and, more generally, the incorporation of a statutory special consultation procedure. The origins of the ideas about this and the subsequent effectiveness of the provisions were the subject of questions raised in the interviews. Respondents were also asked about their particular role in the reform process. Material gathered in these interviews is presented and discussed in Chapter Seven.

An historical account of the reform process was given in Chapter Five. Further analysis of the statutory framework, the new policy governing local government, is provided in Chapter Eight. The documents included discussion papers issued by the Officials Co-ordinating Committee on Local Government (OCCLG)¹³⁴, documents of the Local Government Commission, statements by the Minister of Local Government (and other politicians) on the proper role and scope of local government, and responses to these (particularly public submissions made to the OCCLG). Some of these documents were mentioned in Chapter Four and further analysis of them is contained in Chapters Seven and Eight. A list of the official documents analysed is in Appendix 1. In addition to official documents, analysis was carried out of parliamentary debates during the time the amending legislation was passing through the committee stages. The purpose of this was to obtain, if possible, further insight into the ideas of the policy-makers who were instigating the changes to local government. Specifically, ideas about the prospects of enhancing democracy through the reformed structures and management practices of local authorities were examined. These ideas were commonly articulated in terms of the key themes highlighted in Chapter One: public participation, openness and transparency, accountability, consultation, and responsiveness. All phrases containing these key words were identified, with particular attention being paid to the connections and disjunctures between these themes as expressed in the policy statements, interviews, and the texts of the parliamentary debates.

More than 200 pages of Hansard (in Volumes 486-501) were analysed.¹³⁵ Because of the adversarial, oratorical and somewhat theatrical nature of Parliament, some caution needs to be taken with interpreting the remarks uttered by politicians in the House. For example, the contributions to the parliamentary debates are forced to take oppositional stances and the language, being employed for rhetorical force and impact, is less measured than it might otherwise be, particularly as used by certain Members.¹³⁶

¹³⁴ The OCCLG consisted of representatives from the Department of Internal Affairs, Ministry for the Environment, the State Services Commission, the Treasury, the Department of Maori Affairs and the Local Government Commission. The OCCLG reported directly to the Cabinet Committee on Reform of Local Government and Resource Management Statutes.

¹³⁵ This examination of the Hansard record was also used to confirm the chronological account of the process of local government reform described in Chapter Three.

¹³⁶ In the Second Reading of the Local Government Amendment Bill on 28 June 1988, for example, the Member for Bay of Islands declared: "This is a day of shame. Democracy has been dealt a death-blow by the Local Government Amendment Bill. It is a day of shame, and I can hear the German-like jackboots marching closer to our door. ... I can smell the smell of

Interviews were conducted with Sir Brian Elwood who was the Chairperson of the Local Government Commission throughout the 1988-89 reform process, Dr Michael Bassett who was Minister of Local Government during the Fourth Labour Government's term of office, and Mr Dave Smith of the Department of Internal Affairs. The main purpose of the interviews was to gather information specifically about the provisions of the revised Local Government Act relating to annual planning and the special consultative procedure. The selection of these three individuals was thus determined by their key roles in the process. By selecting these individuals it was possible to cover the different sources of initiative. It was particularly appropriate to interview the Chairperson of the Local Government Commission as he was the one individual who was specifically mandated with implementing the local government reform agenda. The agenda itself was significantly shaped by the political leaders of the time, the Minister of Local Government being pre-eminent among these. The inclusion of Dave Smith was endorsed by the Minister of Local Government. Having a representative from the arm of the public service bureaucracy most closely associated with the implementation of the reform process was undoubtedly important. The interview schedule used for these three interviews is in Appendix 2.

To recap, then, the selection of these three individuals who were interviewed about their involvement in the development of the reform legislation was guided by the need to ensure that the key sources of initiative (political and bureaucratic) were included. The selection of policy documents was guided by a desire to have a comprehensive coverage of the official statements and discussion papers generated in the course of the reform exercise. The first of these was the 1987 *Government Economic Statement* announcement by the Minister of Local Government which was then supplemented by the February 1988 Discussion Document, *Reform of Local and Regional Government* released by the Officials Co-ordinating Committee on Local Government (the 'Blue Book').

To summarise, the research design incorporated several methods, commonly referred to in the research methodology literature as methodological triangulation. This thesis seeks to contribute to knowledge about the public policy process in two ways. First, as a study of a *policy* (the statutory

socialism - indeed, communism - sliding up our back paths. I can smell it in the House, and it can be sensed throughout the country" (New Zealand Parliamentary Debates, Vol. 489, p4741).

consultative procedure and annual planning process introduced as a result of changes to the Local Government Act 1974), it documents the implementation of policy that is codified in statute. Second, as a study of the *policy-making process* in local government (which is what the annual planning process is), it examines the nature of governance and political decision-making in local government. Specifically, the thesis is concerned with assessing the democratic quality of public participation in the annual planning process.

The choice of methods, which focus on the collection of qualitative data, was guided by a desire to move beyond the predominant style of public policy research which has been empiricist in nature. As Bulmer (1982: 31) explains, empiricism involves:

a conception of social research involving the production of accurate data – meticulous, precise, generalisable – in which the data themselves constitute an end of the research.

Although it is suggested that the data are the end of the research, it is clear that, within the so-called policy sciences, the aim is to generate insights to feed into the policy-making process in the belief that the data will enable the best political decisions to be made (Lerner and Lasswell, 1951). There is clearly a close connection between social research and social intervention, between research findings and sound policy development.

At the same time, empiricism has been criticised, among other things, for its lack of “explicit attention to the problems of conceptualisation, theory and explanation” (Bulmer, 1982: 37). The interdependence of theory and observation is often ignored. In developing the research design for this study of democratic procedures in local government, there has been a firm intention that research requires interplay between empirical and theoretical activity. In this interplay, as Rutter (cited in Bulmer, 1982: 39) explains:

research is not primarily concerned with the collection of facts nor even with the derivation and testing of laws. Rather it provides a means (or, more accurately, many different means) of posing and answering questions. Science is not a body of knowledge. Instead it involves a process of inquiry – a means of finding out about something.

Increasingly, it is realised that an alternative epistemological foundation for carrying out analysis of policy, and understanding the policy process, is required. This has been reflected in a postpositivist paradigm in policy research and analysis (Kelly and Maynard-Moody in White and Adams, 1994; Fischer, 1995), which highlights the importance of symbolic and interpretive approaches to policy-making. In light of this interpretive quality, the perspectives of both the central government policy-makers and also local government policy-makers are considered important in any assessment of the democratic character of the public participation mechanisms introduced into local government as a result of the 1988-89 reform process.

Access to participants and ethical considerations

In the case study component of the fieldwork, it was necessary to have access to staff employed by the City Council. This was initially sought by approaching the City Manager. Information about the proposed case study fieldwork (and about the wider project) were supplied to the City Manager in November 1992, prior to the fieldwork beginning in December 1992.

For the interview component of the fieldwork, access was by personal contact and participation was negotiated individually. Ethical issues that arose in this research related to (i) the recruitment of participants, informed consent, handling of confidential information, and right to withdraw from the research. The City Manager, after consulting with the relevant management staff, approved access for the researcher to Management Team meetings and for individual staff to be approached to be interviewed. All interview participants signed a consent form. Some asked to have the transcript of their interview returned to them for editing, and this was done.

Another ethical consideration was the potential for conflicts of interest for the researcher as someone who had previous connections with the organisation which was the focus of the case study. As noted earlier the researcher was a former employee of Palmerston North City Council for the period 1986-90 and, shortly prior to embarking on the research, was involved in the annual planning process (that is, after the new legislation came into force in November 1989). Although known to a number of the research participants as a former colleague, this did not present any barriers to the conduct of the research and in fact, as

suggested earlier, enhanced the researcher's capacity to comprehend the planning process and to gain access to the organisation.

On one occasion the researcher was asked to leave the meeting at which a particular item of business was being discussed. This item related to Massey University which is the organisation in which the researcher was employed.

Successful application was made to the Massey University Human Ethics Committee for approval of the project. A copy of the Research Agreement between the researcher and the City Manager is provided in Appendix 4.

Procedures for handling information and materials produced in the course of the research

As explained in the previous section, the fieldwork for this thesis comprised two elements: (i) a study of the development of the reform legislation with specific emphasis on the inclusion of provisions for public participation through the special consultative procedure to be used in the annual planning process (involving interviews with policy makers and analysis of associated policy statements); and (ii) a case study of the preparation of the annual plan in one local authority (involving observation/ documentation and interviews with key actors). The analytical techniques employed are outlined below.

Information and materials gathered in this research took the form of:

- (i) documents collected during observation of the preparation and subsequent adoption of the annual plan (these include working papers, reports to Council and its committees, minutes of Council and committee meetings);
- (ii) notes of observations;
- (iii) notes and recordings (transcribed into text) made during the course of interviews with local government and central government policy actors.

Documents

These materials fall into two categories. Policy documents and other management documents were collected in both phases of the fieldwork. As part of the case study, there were both public documents and non-public documents. The former may be used freely, such as Council Standing Committee and Council order papers (with accompanying reports by officers), minutes of Standing Committee and Council meetings. Non-public documents were either documents of an in-house nature and which would not be released under the provisions of the Local Government Official Information and Meetings Act; or they were documents defined as Part II documents under the same legislation and as such were not available to the press or the public. In order to meet ethical requirements, it was agreed that non-public documents held by the researcher would not be made available to any other individual. Their content could be discussed in a summarised form with the researcher's supervisors but this summarised material would be treated confidentially by the supervisors. Non-public documents were to be destroyed upon the successful completion of the thesis. A chronological file of all such Council documents was developed and a list of these is provided in Appendix 5. In many instances these are the official record of meetings attended and observed in the course of the case study fieldwork.

A second set of documents was obtained in the course of the fieldwork. These comprised the official policy statements and other documents generated during the reform process. These were ordered chronologically (see Appendix 1) and were the subject of a content analysis using the same themes as outlined above for the interview transcripts and the parliamentary debates. The information gathered from these is used in Chapter Eight.

Notes of observations

A fieldwork exercise book was used for recording notes during meetings attended while following the process of developing the draft annual plan (including hearings of submissions on the draft annual plan). These notes were of a confidential or non-confidential nature according to the forum that was being observed. These notes were organised into a separate chronological account of the annual planning process at Palmerston North City Council and

this narrative became the basis of the descriptive account and related analysis of the annual planning process presented in Chapter Seven.¹³⁷

Notes and recordings of interviews

Interviews were used in both phases of the fieldwork. These encompassed both central government policy actors and some key people in Palmerston North City Council (three Councillors and the Strategic Planning Manager).

At the time of the interviews, brief notes were made of key ideas which represented a unique perspective, and also of possible avenues for further research. On a number of occasions respondents suggested other individuals to talk to or texts to peruse. The interviews were all audio-taped and fully transcribed, either by the researcher or a professional transcription typist. The transcripts were then cleaned and verified through listening to the original audio-taped version. Analysis of the transcripts was initially done by comparison of answers to particular questions. This proved to be somewhat unfruitful because the individual respondents had quite distinctive experiences of the reform exercise and therefore unique perspectives. However, this variation was very valuable for revealing different perspectives on the reform process.

The main technique was to code the transcripts according to a number of themes:

- the reform process
- notions of democracy, participation, accountability and related ideas
- issues to follow up
- other/miscellaneous 'insightful' remarks

Coding involves the assembling of information around particular themes and points (Strauss and Corbin, 1990; Benton, 1991; Bogdan and Biklen, 1992; Glaser, 1992).¹³⁸ The codes relating to the local government reform process

¹³⁷ A vital aspect of case study research, as well as ethnographic research more generally, is the compilation of a "thick description" of the processes studied (see, for example, Merriam, 1988; Denzin, 1989; Patton, 1990).

¹³⁸ Among the range of possible codes, Bogdan and Biklen (1992) distinguish the following categories of codes: setting /context codes, definition of the situation codes, perspectives held by subjects, events codes, activity codes, and strategy codes (that is, the ways people accomplish things). The development of such codes is a fundamental step in research utilising

were used to analyse both the interviews with key central government actors about the unfolding of the legislative reform process and the official policy documents. In particular, the interviews enabled information to be gathered about the roles and perspectives of key actors which is not documented elsewhere. The codes relating to the key concepts of democracy, participation and accountability were examined alongside the official discourse as contained in the policy statements and compared with the articulation of the same concepts in the parliamentary debates. The codes relating to issues requiring further attention and other remarks were reviewed to ensure that further investigation was carried out as necessary.

Conclusion

Essentially, the exercise of annual planning is about determining the way resources will be allocated. There are three levels of influences on this process of resource allocation:

- (i) the macro level: this refers to influences outside the organisation and the client population/community such as central government policy and, in particular, the constraints imposed on local authorities (for example, the public sector accounting standards and the generally accepted accounting practices of the New Zealand Society of Accountants);
- (ii) the micro level, which encompasses influences within the organisation – for example, the inter-relationship of management, staff and elected representatives; and
- (iii) the meso level, which focuses on the impact of the affected population/community on the process of allocation. Here, the important element is the involvement of individual citizens and groups in the formulation of goals and objectives.

The aim in this research is to look particularly at the micro-level and to identify both the *process of political decision-making* and the *structure of relationships*

grounded theory. From the identification of codes, the researcher then develops concepts, writes memos, shapes categories and eventually formulates hypotheses from which theory is generated (Strauss and Corbin, 1990; Glaser, 1992).

which provides the backdrop to the process. As noted earlier, the empirical data which was gleaned in the fieldwork was predominantly qualitative in nature. This was because the major focus of the research is analytic: it seeks to discover not merely what happens in terms of who influences the content of the draft annual plan and the procedures for obtaining public input, but why things happen the way they do.

The case study aspect of the fieldwork allowed the annual planning process as implemented by one local authority to be studied in its richness. It involved a study *in situ*, that is, in the real-world context. The demands of scientific rigour highlight the need for, among other things, generalisation but this is not confined to, or even required to be, statistical generalisation. It is important to be able to identify those features which are relatively unique to this particular case and those which can be transferred. Yin (1994) notes that analytic generalisation is appropriate in case study research. Because case study research involves "the study of an instance in action" (Walker, 1980: 33), that is, a real-life situation, replicability (in which the data collection procedures are repeated with the same results) may not be feasible.¹³⁹ In any case, it can be argued, context-free data may not ever be possible.

Researcher bias is frequently cited as one of the key deficiencies of case study research. For this reason, Lofland (1971) advises that researchers must self-consciously evaluate their observations by asking questions such as:

- how direct is the observation?
- what influence would the researcher's relationship with those interviewed have on the data?
- did the researcher find only what he/she wanted to?

The detailed discussion in this chapter of the procedures used for gathering and subsequent analysis, and of the connections between the researcher and the subjects in the case study, serves to provide answers to these questions.

¹³⁹ Miles and Huberman (1994: 277-281) argue that in qualitative data analysis the methods must be credible, dependable and replicable in qualitative terms. Lincoln and Guba (1985) suggest that for qualitative data analysis, there are appropriate alternatives to validity, reliability, generalisability and objectivity. Such alternatives include: credibility, transferability, dependability, and confirmability.

To avoid the risks of inappropriate bias, it is important to have rigorous procedures. Patton (1990: 55, 56) notes the need for the researcher to be sensitive to “selective perception, personal biases and theoretical dispositions” but at the same time points out that “qualitative inquiry *depends* on, uses and enhances the researcher’s direct experiences in the world and insights about those experiences.” Maykut and Morehouse (1994: 146) emphasise the value of an “audit trail” as one technique for enhancing the trustworthiness of qualitative research. The audit trail is made up of all the documents, presented as unitised data, generated in the fieldwork.¹⁴⁰

In this study, the use of several forms of data collection and the detailed records of interviews and observations, along with comprehensive documentary evidence, make it possible to obtain greater verification. Through methodological and data triangulation, it is more likely that the data collection and analysis will overcome any tendency for the researcher to overlook or exclude matters not considered intrinsically important to the research question. In addition, on-going contact with ‘key informants’¹⁴¹, not directly participating in the study, provided an opportunity to test ideas and obtain further reinforcement of observations and insights.

Finally, it should be noted that the fieldwork was conducted relatively early in the period of time during which this study has been carried out. The length of time which the study has subsequently spanned has the advantage of making it possible for the relationships between the researcher and the individuals involved in the case study aspect of the research to be placed in a different perspective than would have been the case had the analysis been completed much sooner.

With this outline and review of the methodological strategies used in this study of the nature of democracy that characterises the annual planning process in local government, the discussion now turns in Chapters Seven and Eight to an

¹⁴⁰ For further discussion of audit trails see also Lincoln and Guba (1985: 382-384).

¹⁴¹ Bogdan and Biklen (1992: 159) regard key informants, that is, “subjects who are unusually perceptive and articulate” as providing valuable assistance in the preliminary analysis, although they emphasise that the researcher should not defer to them completely. While, in the present study, it was not possible to have thorough “member checks” as described by Maykut and Morehouse (1994: 147), there was provision in the Research Agreement signed between the researcher and the PNCC City Manager for the data and analysis relating to the case study to be reviewed by the City Manager prior to the completion of the thesis and for any subsequent comments about the presentation and analysis of such data to be acknowledged in the final version of the thesis.

analysis of the data. Chapter Seven documents the annual planning process itself, drawing on the case study data. The aim of this is to explore the scope for public participation by highlighting the different sources of influence on the contents of the annual plan. In analysing this data, there is reference to the literature on planning, democracy and public administration, outlined in Chapters Two, Three and Four. The philosophical basis of the provisions for public participation in local authority annual planning, reflected in the values and meanings attached to key concepts of democracy, public participation, and accountability, as transmitted in official documents detailing the policy framework for local government reform, and in the perspectives of key central government policy actors, who were interviewed as part of the fieldwork, are examined in Chapter Eight.

CHAPTER SEVEN

THE ANNUAL PLANNING PROCESS

Introduction

The aim of this chapter is to present and analyse the data gathered in the case study phase of the research. Specifically, this data includes the observations of the development of the annual plan at Palmerston North City Council and the documents generated in the annual planning process. It also includes the data from interview\ s with three participants in the annual planning process, two Councillors and one Council officer. In collecting this data, the goal was to explore the implementation of the statutory annual planning process and special consultative procedure. The first part of the chapter provides an overview of the annual planning process at Palmerston North largely based on the observations of public and nonpublic (internal management) meetings held from the early stages of the preparation of the Draft Annual Plan until the eventual adoption of the Annual Plan in late July 1993 and including a final feedback public meeting some nine months later after the fieldwork commenced. With this overview serving as a backdrop the next part of the chapter highlights some of the key issues in the annual planning process. The framework for this discussion is derived from the four key components of democracy outlined in Chapter One: participation, accountability, consultation and openness. The reflections of some key participants in the exercise are discussed.

The annual planning process at Palmerston North City Council

The Local Government Act 1974 (as amended in 1989) provides the statutory framework for local authority annual planning. In the course of developing an annual plan, local authorities must prepare a draft annual plan, on which public submissions are sought according to the special consultative procedure outlined in the Act, and, following public deliberation on those submissions the final version of the annual plan is subsequently released. This provides an outline of a local authority's planned activities and expenditure and is the benchmark for assessing performance, which is the purpose of the annual

report. The annual report is another public document prepared at the end of the financial year and submitted to the Controller and Auditor-General.

In the terms of the Local Government Act the Chief Executive is the staff member who is responsible for implementing the policies of the Council (the elected representatives). The Chief Executive at Palmerston North City Council is the City Manager. The development of the annual plan should reflect the aspirations of the elected representatives who, according to democratic theory, are elected to govern by implementing the wishes of electors and/or representing the interests of electors. The Council, in reality, relies heavily on the City Manager and his (in the case of Palmerston North City Council, the Manager is a male) staff to guide the development of the Draft Annual Plan. The case study research involved close investigation of the stages of the development of the Draft Annual Plan. The initial step was a series of meetings called by the City Manager and Corporate Policy Unit Manager of the full Management Team. (A diagram of the Corporate Management Structure from June 1993 is contained in Appendix 6.)

The highest level of management is the Chief Executive, the City Manager. The second tier of management, at the time the fieldwork commenced, consisted of four Directors (Directors of Works, Planning and Development, Corporate Services and Community Services) each in charge of a directorate and the Human Resources Manager. These five individuals, together with the City Manager, comprised the Management Team.

The four directorates were further divided into a number of Units, with the Unit Managers comprising a third tier of management:

Community Services Directorate

- Community Services Policy Unit Manager
- Parks and Leisure Unit Manager
- Public Library Manager
- Social Services Unit Manager

Corporate Services Directorate

- Finance Manager
- Accounting Services Manager
- City Secretariat Unit Manager

- Information Services Unit Manager

Planning and Development Directorate

- Corporate Policy Unit Manager
- Development Services Unit Manager
- Information and Technical Services Unit Manager
- Property Unit Manager

Works Directorate

- Environmental Services Unit Manager
- Water Unit Manager
- Roading and Transport Unit Manager
- Works Operations Manager
- Works Support Manager

In addition, there were two independent Business Units (Gas Department and Municipal Electricity Department) with their own Managers.

Early consultation and management initiatives

The preparation of the 1993/94 annual plan began in October 1992 with an early consultation phase. This was the first time, since the introduction of the statutory annual planning procedure, that Palmerston North City Council had undertaken a preliminary consultation. It was a technique that had been used by some other local authorities and its purpose was to make it possible for significant proposals to be included in the draft annual plan and to ensure that proposals that required detailed investigation were able to be studied within the available timeframe rather than being put forward during April when public submissions on the draft plan were received. There is no statutory requirement to undertake this early consultation.

In November, when the new Council had been elected in the triennial election of October 1992, officers prepared briefing papers and held a workshop (13 November 1992) to introduce Councillors (especially first-time Councillors) to the annual planning exercise and to seek their input on the Draft Annual Plan.

Priorities and proposals that were identified by Councillors at the workshop on 13 November were collated by the Corporate Policy Unit staff and then forwarded to Unit Managers for consideration and, where appropriate, inclusion in their Business Plans. In addition to the workshop, submissions were invited from the public.

The early consultation phase was not observed as a result of logistical difficulties: the preparatory arrangements for the fieldwork had not quite been completed so the fieldwork phase did not begin. However, information about this workshop was contained in a report written by the Principal Planner (dated 23 November 1992) and presented at the subsequent meeting of the Goals and Strategies Committee on 2 December 1992.

The Corporate Policy Unit staff who had serviced the workshop had collated the ideas generated at the workshop and these were attached to the Principal Planner's report. The list of ideas was also being sent to Unit Managers for consideration when they began to develop their programmes for the 1993/94 Annual Plan. In the process of collating the ideas generated at the workshop, the planning staff had classified these according to whether they were items for specific actions (strategies) in the Annual Plan or ideas about general directions to be taken by the Council. The planning staff also undertook the task of rewording new strategies so that they represent outcomes.¹⁴²

Councillors were involved in the early consultation phase and then met with the Management Team once the Management Team had prepared advice and developed a position on possible levels of rates increase (including a nil increase). All Unit Managers were required to compile a Business Plan outlining all income and expenditure by their Unit for the coming (1993/94) financial year. The Business Plan included all staffing costs and overheads. As well as the budgetary details the Business Plans contained the details of the programmes of work to be embarked upon. Unit Managers were required to classify programmes as 'High', 'Medium' or 'Low' priority.

On 16 December 1992 the City Manager met with the corporate management team and other senior staff (Corporate Policy Manager, Budget Accountant, Finance Manager) along with the Project Support Officer (who provided

¹⁴² The use of outcome-based planning is a key theme in the new public management theoretical literature discussed in Chapter Five.

secretarial servicing for the annual plan) to advance the preparation of the Draft Annual Plan. The first step in this process was to discuss the business plans which had been prepared by the Unit Managers. (The Business Plans were regarded as building blocks in the development of the Draft Annual Plan.)

As a meeting of officers, this was not a public meeting and the business conducted was not open to the public. The City Manager began by giving an overview which set out his general impressions of the Business Plans, noting that Unit Managers had been given guidelines for the preparation of their budgets. He then asked the members of the Management Team for their general impressions. Following comments, the Budget Accountant then spoke to his report (dated 15 December), titled *Review of Draft Business Plans*. He explained that the approach that was being taken in this meeting was a scrutiny of Programmes by the Management Team rather than “a parade of Unit Managers.” He noted that Council had set the general direction and that Unit Managers could not embark on additional projects if that indicated a new direction. Not surprisingly, the need to understand the financial implications of Council's planned activities meant that the staff with the expertise in the areas of accountancy and finance had a central role right from the outset in the deliberations on the possible content of the annual plan.

The dominance of this expertise was reinforced by the complexity of financial reporting and accounting practices. A major topic for discussion was the terminology employed when referring to budget items. For example, ‘costs of services’ was a term that was applied very specifically to the costs of services, and not items that were costs of capital. This was a source of some (temporary) confusion as a housing subsidy was regarded by the Finance Manager as a cost of capital (given that it funded a desirable rate of return on capital) rather than a cost of service.

The meeting then proceeded to move point by point through the Accountant's 15 December document. The City Manager said that the operating costs of the organisation drive the rates take. There was discussion about whether rating income needed to be increased. Income clearly provides parameters for expenditure and the prospects for activities being accommodated in the annual plan were clearly delimited by the total revenue at the Council's disposal. Given the pre-existing expenditure commitments there was not much scope for entirely new developments or directions to be contemplated.

In the development of the 1993/94 annual plan one new project under consideration was the proposed aquatic facility. There was vigorous debate among the Management Team about the appropriateness of this budget item. The City Manager questioned the Director of Community Services about where the mandate for this programme came from. The Director of Community Services said that the signal came from Councillors in the current annual plan. At this point the Director of Planning referred to p39 of the Business Plan which indicated that \$200,000 worth of documents were to be obtained by the end of 1994.

The City Manager said the time-frame was "out of sync" with the annual plan process because there was no opportunity for public input. Therefore, to proceed with that programme would mean that the due process for public consultation would not be adhered to. The City Manager advised the Director of Community Services that he had "missed the boat". The Director of Planning pointed out that if necessary the Director of Community Services could proceed by variation to section 716A (the section relating to the special consultative procedure) but that this was not appropriate given that the programme was a Council project and needed to be looked at alongside other major proposals. The Director of Community Services argued that what was being proposed was the same as what had been undertaken with the proposal for a new library. The City Manager, however, explained that it was not the same as the Council had not indicated in the annual plan that it would build an aquatic facility. The Director of Planning further emphasised that no policy commitment had been given and therefore the Council could not be committed to projects without conducting exhaustive investigation. The Director of Community Services replied that this is what the programme under consideration involved. The Director of Planning then asked where the opportunity for "public distillation" was and the City Manager emphasised that Council had to receive public submissions. The Director of Community Services said that the programme under consideration was the continuation of a project started two years before. The City Manager said that the programme presented major problems because Council was being asked to make a major decision at the end of the public consultation phase. The City Manager stated that he was very uneasy about embarking on a major project without consultation. Associated with the proposal for a new library there had been many opportunities for public debate.

The substance and style of this debate within the Management Team demonstrated a keen awareness of the requirement upon Councils to be guided by the fruits of consultation with the public and to recognise the distinctive roles of Councillors, officers and the community, particularly in terms of the initiation of projects.

Preparation of the Draft Annual Plan: contents and parameters

The development of the annual plan is part of an accountability framework which requires local authorities to report on their performance at the end of the financial year. As was noted in Chapter Five, the annual report is then audited by the Auditor and Controller-General. In the audit process there are numerous statutory and other administrative requirements that must be met. In particular, these relate to financial reporting and performance measurement.

Part XIIA of the Local Government Act 1974 spells out the statutory requirements relating to Accountability and Accounting and this has a major influence on the Council's financial management strategy. This section of the local government reform legislation is clearly shaped by the Public Finance Act 1989. The Public Finance Act 1989 replaced a cash accounting system, found in the public sector up to that time, with an accrual accounting system (which, among other things, requires depreciation of assets to be calculated), which was commonly used in private sector organisations. The provisions of the Public Finance Act 1989 were designed to incorporate public sector accounting standards which were formulated by the Public Sector Interest group of the New Zealand Society of Accountants (Pallot, 1991b).¹⁴³ This Part of the Local Government Act also sets out statutory requirements related to the annual plan and annual report (ss 223D and 223E).¹⁴⁴ Section 223D(2)(a) states that, as well as giving particular details of the intended significant policies and objectives, significant activities and performance targets and measures for the financial year in which the report is adopted, the Council must also give general details of the intended significant policies and objectives, significant activities and performance targets and measures for the next two financial years.

¹⁴³ An overview of the introduction of accrual accounting into the public sector in New Zealand, and of public sector accounting standards, can be found in Pallot (1991b).

¹⁴⁴ These sections of the Local Government Act 1974 have been further amended by the Local Government Amendment Act (No. 3) 1996, as discussed later in this chapter.

Section 223E(2) states that in the annual report the local authority must include audited financial statements for the financial year which consist of a statement of financial position, an overall operating statement, one operating statement in respect of each significant activity, a statement of cash flows, and other statements that might be necessary to fairly reflect the financial position of the local authority, the resources available to it, and the financial results of its operations. Section 223F(1) states:

Every local authority shall adopt financial systems and reporting and record keeping procedures that are consistent with generally accepted accounting practices recognised by the New Zealand accounting profession as appropriate and relevant for the reporting of financial information in the public sector.

Section 223F(2)(a) goes on to further specify that these procedures include itemising depreciation and provision for a return on the capital involved.

The public sector accounting standards, referred to above, which are now imposed on local government financial management, include reporting capital and non-capital items and stating all sources of funding. The Unit Managers' Business Plans which, as noted earlier, contain the details of programmes proposed within the Units, are essentially resource bids. When these were brought together there was, not surprisingly, a surplus of proposed expenditure over revenue. Lengthy discussions ensued about how to achieve a closer match between expenditure and income. Identifying external sources of funding, in particular, appeared to be an important aspect of the process of examining Unit Managers' Business Plans and proposed programme expenditure.

A major focus of discussion in the Management Team was the nature of capital and non-capital expenditure. This is defined in the Public Sector Accounting Standards. Capital generally refers to 'bricks and mortar', that is, material objects, but, interestingly, this applies only to items worth \$2500 or more.¹⁴⁵

There had been some concern expressed in the Management Team (especially by the Manager of Corporate Services) that the Council ended up

¹⁴⁵ This means that a personal computer worth \$2600 is defined as capital but not if it is worth \$2400.

funding solid assets without the capacity to run them. The Manager of Corporate Services said, "You can't borrow for consumption because that's like selling the family silver. There is a tendency for Councillors to want to splurge. As responsible managers we need to make sure that doesn't happen." This was followed by discussion in which the Council was described as having stewardship for local public assets, with use of the Maori term *kaitiaki*, which means 'guardian'.

It was made clear that external funding that might be obtained by the Council was for capital expenditure. This means that funding from non capital expenditure must come from rates increases. One viewpoint, expressed by the Corporate Policy Unit Manager, was that non-capital expenditure should drive capital expenditure. For example, policy work should determine what is built.

There was also debate over the Council's tendency to place a high priority on debt retirement. The Corporate Policy Unit Manager said that there was a need to look at how the Council manages its funds, to have a smaller loans programme, and to increase rates. In recent times, it was noted, rates had been kept down, loans increased (and debt is being retired). She said it may be necessary to put up rates to run facilities like the Science Centre.

There were different perspectives coming from accountants and non accountants over the use of depreciation funds and level of depreciation. The Director of Corporate Services commented that depreciation is a construct developed for tax purposes. The Audit Office's requirements about financial and non-financial reporting meant that Councils had to arrange for the information in the annual plan to be in a certain format. For example, the Audit Office requires Councils to account for depreciation in costs.

Drafting a document for politicians and the public

The Management Team then proceeded to work through all the programmes in the database. Any lack of certainty about the nature of the programme was discussed. In some cases (for example, arts and culture, urban design), the City Manager suggested more work needed to be done to make linkages clear, to provide supporting arguments, and to avoid duplication. If items were fully externally funded (for example, Item 110, Community Health Committee, where

funding would come from the Regional Health Authority) the programme was deleted.

The issue of Impact Assessments for several programmes (such as Municipal Composting and New Landfill Site, and Tiritea Dam pipeline) was raised. These Impact Assessments were to be supplied for the next meeting of the Management Team scheduled to take place in late January just prior to a meeting with the Council at which details about the Draft Annual Plan would be presented to the Council.

At the January meeting there was discussion about how the material would be presented to Council. It was decided, largely at the initiative of the City Management, that at the January meeting there would be further deliberations on the programmes and decisions taken about what makes the "first cut" for public consultation. It was proposed that there should be consideration of some options (for example, \$9.5 million, \$12 million, etc.) for the total number of High programmes submitted and of the budget limit for the total Draft Annual Plan. In the meantime, Unit Managers would be asked to carry out prioritising and make deletions. Just prior to the conclusion of the meeting there was discussion of the timeframe for the adoption of the annual plan.

These observations give the strong impression that the Corporate Management Team has a very decisive role in shaping the contents of the Draft Annual Plan and setting the broad parameters for the Council's subsequent direction. The Management Team by determining a particular range of options for rates increases effectively pre-determines the Council's decision-making. That this is so is not necessarily inappropriate; obviously the Management Team considered that it was its responsibility to guide the Council and facilitate the Council's decision-making through the way information is packaged for the Council. This confirms that any notion of a politics-administration dichotomy is unviable.

The separation of the political and the managerial is based on a mechanical model of the relationship between policy-making and administration. This model has been widely critiqued in studies of policy implementation. A key insight from this present study of the annual planning process is the undeniable blurring of the political and managerial roles. Thus, officials absorb some of the governance task. Increasingly, it is realised that greater attention in the public

policy literature needs to be directed at the roles and practices of managers of public agencies (Hughes, 1994, Immergut, 1992).

The critical role of senior management is further evident in the City Manager's report dated 2 December 1992 to the Finance Committee. In this report, which is accompanied by the 1 December 1992 version of the *Five Year Forecast 1992/3-1996/97*, the City Manager outlined issues related to the preparation of the Five Year Plan. In the meantime, a few senior staff had refined the original Five Year Plan. (At the time there was no Strategic Plan although the Council was intending to develop a longer term strategic plan for the city.¹⁴⁶) The City Manager indicated that the Five Year Plan should be seen as a forecast "illustrating the implications of current policy preferences and options." The City Manager proposed a new terminology: 'five year forecast' rather than 'five year plan'. He said that the term 'plan' implies commitment and certainty whereas 'forecast' suggests a concern with implications and projections. The significant aspect of this report is that it raises the possibility of a rates increase. The City Manager indicated that the financial trends beyond 1993/94 were unsustainable and his intention was that this information should "enable Councillors to place some context on Annual Plan decisions."

Notwithstanding the City Manager's articulation of his role as one of considering what advice should be given to Council, it is clear that officers (managers) have significant influence over the political process. Moreover, while such advice may be consistent with the responsibilities of the senior manager(s), with a statement of the assumptions on which it is based, nevertheless it is not openly contested. The managerialist notion that managers should be allowed and required to manage appeared to be the guiding dictum.¹⁴⁷ This has been reinforced by Boston, Martin, Pallot and Walsh (1996: 190), who, in a discussion of local government management emphasise:

Policy advice is clearly a principal function of the CE and other senior officers. This can range from questions of statutory powers to feasibility

¹⁴⁶ In early 1994, Palmerston North City Council embarked on the development of its first strategic plan. There is reference to the development of the Strategic Plan later in this chapter. For a discussion of the significance of local authority strategic plans see Annabell (1995).

¹⁴⁷ In Chapter Eight there is further discussion of the distinctive nature of public sector management and the different goals of technical efficiency and political decision-making.

studies of development proposals. But since the late 1980s, matters of management have loomed large in the affairs of local authorities as they 'modernise'. To the extent that these achieve high salience publicly they become 'political' and, by extension, 'policy'; and thus a concern to elected members.

The decisions that were made at the 16 December meeting were subsequently collated and distributed to Unit Managers, who were then asked to revise their business plans.

The next meeting of the Management Team took place on 26 January 1993 and continued on the morning of 27 January 1993. After introducing the agenda, the City Manager relied on the Budget Accountant to lead the ensuing discussion which addressed issues that needed to be highlighted and in which changes to line items were noted. Reference was made to the problem of a deficit in funding sought from Transit New Zealand. This would mean that some programmes would not be able to proceed. This led to discussion about this and other sources of revenue (including the Regional Health Authority, the Lottery Board and property sales). The Director of Planning emphasised that there was such a "critical mass of property sales" that it needed to be acknowledged. The Lottery Board was a significant source of funding for certain major projects (for example, the Science Centre and Museum). The Finance Manager noted that he maintains a portfolio of properties to be sold and is encouraged by the Audit Office to revalue this portfolio every year. There was discussion of the problem of rates arrears which meant that money was needed to diminish the arrears. It was noted that all rates due are counted because property can be seized in lieu of rates.

The remainder of the meeting was given to presentations by Unit Managers of the revised programme and budget for each Unit. The Accountant argued that the "costs of democracy" should be made clear which would entail highlighting the costs associated with printing order papers and this should be situated in the Council Budget rather than City Secretariat Budget. The outcome of the overview of all Unit Managers' Budgets was that there was a total of \$28.2 million worth of programme expenditure. Of this \$18.4 million was in the 'High' priority category.

Setting the budget: the bottom line

This led into a phase in which very close scrutiny was made of all budgets and careful attention to areas of expenditure where debt was being reduced, which should mean that interest payments would be falling. For example, it was argued that the Civic Centre and Works and Property operational budgets could have been expected to fall with reduced interest costs. The City Manager interrogated the relevant Director as to why the budget did not in fact reflect the falling costs, asserting that he (the City Manager) was unwilling to go to Council and request a rates increase when Unit Managers' budgets did not reflect the savings from reduced interest costs. The City Manager requested these reconciliations to be undertaken and reported back.

In the case of the Gas and Electricity utilities, the Companies prepared their own budgets but the Council had inherited the debt of those Council-owned enterprises. The Works Director argued that PNCC should maximise debt to get the benefit of tax deductibility. The City Manager said that the Council needed to take a position on what it expected from the Companies in the coming year. The Finance Manager was asked to prepare a paper on a long term philosophy in relation to the Companies (setting out, for example, what the Council expects the Companies to do for it). This involved indicating the short and long term objectives for the energy Companies from the shareholder's perspective.

There was discussion about some of the major items of expenditure. The City Manager said that Council had to sort out whether the Council would continue to make a grant to the Museum and Science Centre. He said that in the Draft Annual Plan the Council had to put in some figure to indicate that expenditure would be incurred. The figure should be non-specific, that is, in hundreds of thousands not tens of thousands. When the final plan was prepared, the information would be different. The Project Support Officer (whose role, as mentioned earlier, was to keep a record of the business conducted at meetings of the Management Team relating to the Annual Plan and to ensure that planned action consequent upon the meetings was carried out) was asked by the City Manager not to record the contents of discussion about public disclosure of a grant/loan to the Science Centre. It was decided to ask the Council's Administrative Officer to give an administrative law perspective on the legal capacity of Council to make such a grant.

The City Manager said that clearly there were too many things in the 'High' category (\$20 million). The Management Team needed to decide by how much the figure was too high. He also said that the Draft Annual Plan was to be regarded as an opportunity for the public to decide/comment and that the task of excluding things would be undertaken later. At the draft stage the Plan should be inclusive rather than exclusive of items. This approach gave some clear scope for public participation but important decisions were already being taken by the Management Team, outside of the public arena.

After working through the Project Support Officer's notes of the December meeting, the Management Team then proceeded to discuss the document, titled *General Information and Specific Requests*. The proposed new aquatic facility again evoked some discussion, which centred around the source of the project and the obligations to be guided by public opinion. The Manager of Community Services said that there was a clear signal about this project in the 1992/1993 annual plan. He said that because the Council and Management Team have not had a debate about their objectives for the new aquatic facility, they cannot choose between options. The City Manager said that he preferred to take the same approach as the library and spend \$50,000 and allow for due public discussion.

The budget-setting process dealt with expenditure in relatively fine detail. For example, there was discussion about an extra \$47,000 incurred for telephones. The relevant Unit Manager was brought in to explain where/why the extra expenditure was incurred. When it was explained that it was for direct-dial-in lines, the City Manager asked on what basis he had authorised the extra expenditure. There was some implicit criticism of what was seen to be a rather excessive and unnecessary expenditure.

Another item of some contention was the Passport to Leisure, about which the City Manager expressed reservations, arguing that it was bureaucratically cumbersome and open to abuse. As with the line item relating to telephones, from time to time Unit Managers were brought in to explain items in their budget.

The next stage of the process of developing the Draft Annual Plan involved consideration of the appropriate level at which rates might be set. The Finance Manager led a discussion on funding options based on the assumption of 2%

and nil rates increases with consideration of maximum debt burden (safe debt limit). The City Manager then sought views on what should be presented to Councillors. The Director of Works suggested giving Councillors a choice of 0%, 2% and 4% rates increases. (A 2% increase entailed additional expenditure of \$0.53 million.) The Director of City Planning talked about the need to have balance across goal areas: Vibrant Economy, Healthy Environment, Encouraging People, and Organisational Support. Another issue was how the available funds were to be applied. The Works Director argued that, with the utilisation of depreciation funds, the present day customer paid twice because they met the costs of services that benefited the present as well as future users. There was considerable debate about how depreciation funds were to be treated. The City Manager argued that it was not possible to use depreciation to fund new capital or operating expenses while the Corporate Services Manager remarked that depreciation is a construct developed for tax purposes.

By this stage in the Management Team's discussions, the budgetary implications were becoming more keenly understood and the City Manager said that he was looking for something by which to impose constraint on Councillors. The Manager of Corporate Services said that they had to "give them [the Councillors] a terribly simple formula which they can understand and run with." The Budget Accountant suggested that the Councillors be given a table showing 0%, 2% and 4% increases with a five year outlook. This would be based on a number of assumptions.

The Management Team agreed to meet again to look at:

- (1) 5 year projections
- (2) targets within goal areas
- (3) 4% increase.

It was also noted that the annual plan should have information in the form that is needed for the annual report (which had to conform to Audit Office specifications).

The next meeting of the Management Team on 2 February 1993 considered work done by the Finance Manager on determining a realistic debt scenario. The Manager of Corporate Services asked whether any consensus had been reached on depreciation. The City Manager said that none had been reached.

The Corporate Policy Unit Manager remarked that the only agreement that had been reached was on the definition. The City Manager said that there was no agreement on how to apply it.

The Manager of City Planning reported back on Item 5 - Projected Asset Sales (p9) which he said had been "revised dramatically downwards, from \$2.7 million to \$600,00-\$700,000." The Finance Manager led discussion on the Five Year Forecast. The Directors of Works and Corporate Services said that a healthy dividend should not be expected [from the energy companies] in the first year of the deregulated environment. The Director of Corporate Services said that his personal view was that the existing Statement of Corporate Intent would not be met. Both these items of information meant that estimates of income needed to be revised downwards. The accuracy of budget planning depended critically on the reliability of Unit Managers' budgets and the clarity of understanding about accounting practices. At this stage in the discussion, the Budget Accountant took the position that depreciation could be used for funding the capital programme. However, he emphasised that depreciation is a cost, not income.¹⁴⁸

In the light of the discussions held with the Management Team, the City Manager then developed a report (dated 4 March 1993) that was submitted to the 11 March Committee of Council meeting that was called to approve the Draft Annual Plan. In this report, the City Manager described changes that had been made to the format and contents of the Draft Annual Plan. In this report he uses the words "Staff have produced a Draft Annual Plan..." thus highlighting that fundamentally the document is the result of the efforts of staff. The report summarises the process used by the Council management and officers. The process used in the preparation of the 1993/94 Draft Annual Plan had differed in one respect from that used in previous years. For the first time, Unit Managers were given funding guidelines within which they were asked to prioritise their programmes. Previously, the prioritisation had been undertaken by the Management Team. The Management Team, as was evident in the preceding summary of the observations made of its discussions, sought to focus instead on financial overview issues.

¹⁴⁸ Depreciation is a cost for using capital but the funds can be applied.

The City Manager in his 4 March report signalled that the process of decision-making was moving from the domain of management to the public and political domain and implied that in the interests of genuine consultation the Council did not present its own views.¹⁴⁹ He described the process of the preparation of the Draft Annual Plan as follows:

... the approach used as not been to give the public a virtual final draft annual plan for comment, but rather to produce a more broadly based document aimed at producing wide community discussion on the choices available. As part of that process, Council has not debated the various choices at this stage, so as not to reach any conclusions *before* the public has its say. In this way, the Council is being truly consultative (emphasis in original).

From this, it is apparent that there are a number of dilemmas for local authorities as they implement the statutory annual planning process and special consultative procedure. In particular, there are choices to be exercised about the scope about managerial direction, political (Councillor) leadership, and breadth and depth of consultation with citizens. The approach employed by the City Manager was one of providing Councillors with a document which contains a list programmes within three categories ('High', 'Medium' and 'Low' priority areas), but which are not ranked within those categories. He views the Draft Annual Plan as a document which serves as the basis for the elected members to seek the views of citizens and thus which should focus on the matters about which the Council needs to hear from citizens. As such the 1993/94 Draft Annual Plan omitted detailed performance measures and full descriptions of the Council's Significant Interest organisations,¹⁵⁰ and instead focussed on outlining the day-to-day activities of the Council; the choice of level

¹⁴⁹ The issue of the extent to which Council's own view about a particular proposal or set of proposals should be made public and then subject to consultation has been the source of vigorous debate, with many citizens arguing that the Council should undertake consultation about the position it intends to take and then modifying its stance, if necessary, in the wake of the feedback received from citizens.

¹⁵⁰ Council is described as having a 'Significant Interest' in organisations if the majority of shares or other forms of equity capital are owned by the Council; or the Council has the power to appoint or dismiss the majority of members of the governing body; or the residual benefits or costs associated with winding up the organisation would return to the Council; or the Council provides a significant amount of the overall funding for the organisation. Such organisations in which PNCC had a significant interest at the time of the case study included the Manawatu Art Gallery, the Manawatu Museum, and the Palmerston North Enterprise Board.

of rates for 1993/94 (that is, nil increase, 2 percent increase, or 4 percent increase); and the programme choices.

The City Manager explained that at this point in the process, when the Draft Annual Plan is about to be released for public comment, the Council had to be satisfied with the overall thrust of the document, and be assured that all major proposals are contained within the 4 percent increase option. He noted on p2 of his 4 March report:

Later in the year, once the public has had its say, the Council will have the very difficult task of:

- selecting the appropriate level of funding (i.e. the rates level)
- finalising the programmes that will be funded within that level.

In addition, he emphasised that the focus should be on being 'inclusive' and thereby widening the opportunity for public comment and debate.

The data outlined in this section, based on observations of the role of managers in the preparation of the Annual Plan, confirm that policy formulation is not a discrete activity, confined to the political level. It is a continuous process. Davis *et al.* (1993: 187) argue that objective-driven planning and the new public management has produced a "corporate reorientation" of public sector organisations which privileges managers. In this environment, managers are expected to be active participants in strategic planning and programme design. Their role is to develop and integrate the detailed planning proposals into corporate plans and strategic intentions.

Policy professionals and managers have an important role in the policy-making process (Self, 1985; Fischer and Forester, 1987). The role of the Management Team and Unit Managers at PNCC confirmed the analysis that Self (1985: 141-142) makes:

Political leaders and the senior bureaucracy interact in a complex, symbiotic relationship in respect of both the formation and implementation of policies. Bureaucratic advice and support are indispensable to the leadership, and bureaucrats have many assets - their permanence, their freedom from electoral worries, their knowledge of the files, their control of communications - which they can use to get

their way in encounters with politicians. ... Their interpretative influence over relaying and condensing information, preparing policy options, and applying policies is considerable, and is guided by subtle social and cultural values as well as by considerations of administrative convenience and advantage; but this influence is also constrained by strong traditions of political detachment and neutrality which make the system (as its critics say) a rather 'bloodless' form of administration. The pathology of such a system is either stasis - the inability to get effective action because of political overload and indecision - or else a strong susceptibility to changing political fashions.

Clearly, the goal of the City Manager was to find an appropriate balance between, on the one hand, assisting the political leaders (Councillors) to make decisions which officers then could implement (and thereby avoid the problem of political overload and indecision) and, on the other, usurping the political function. Policy professionals and managers shape the policy choices that political leaders then exercise. There is a tendency for policy managers to be somewhat oblivious to the discretion that they clearly exercise. To the extent that they are aware of their influence, they see themselves simply as functionaries of the political leadership, and whether aware or unaware of their influence, they tend to perceive their role as a technical one.

The City Manager, however, indicated that there was a particular role for Councillors and envisaged that there would be "spirited debate" among the Councillors.

Councillor (elected representatives) input

Two Council Committees had major roles in the development of the annual plan.¹⁵¹ These were the Goals and Strategies Committee which is the Committee, which develops the strategic direction of the Council¹⁵², and the Committee of Council (which is in fact the full Council meeting to make

¹⁵¹ The PNCC political structure is set out in Appendix 8.

¹⁵² See Appendix 9 for the Terms of Reference of the Goals and Strategies Committee. When the political structure for PNCC was first developed by the new City Manager in 1989, it was decided that the Goals and Strategies Committee would have particular responsibility for managing both the special consultative procedure and the accountability provisions of the Local Government Act.

decisions on policy matters separate from the regular monthly meeting of Council at which all subcommittees present a report). When these Committees meet they are governed by the Local Government Official Information and Meetings Act 1987 which requires their business to be conducted in public, unless there are grounds which allow business to be conducted in Part II.

However, there were also unofficial (that is, not publicly notified) meetings between the City Manager (and the Management Team and Corporate Policy Unit staff) and the Council. One such meeting was a briefing was held for Councillors on the afternoon of 27 January after the Management Team had completed its perusal of the Business Plans. An informal meeting between the Management Team and the Council took place at 4.30pm on 11 February 1993. This was designed to be a chance for Councillors to be appraised of the contents of the Draft Annual Plan and, in particular, the budgetary implications. A major public meeting was the Special Finance Committee meeting which took place on 18 February 1993. The next major public meeting was the Committee of Council meeting on 11 March 1993.

These meetings of Councillors (both formal and informal meetings) were opportunities for important interaction between political leaders and managers and policy professionals. The significance of the interaction for the purposes of this study was the dialogue and exchanges that took place about the contents of the Draft Annual Plan.

At the 11 March meeting the Councillors were presented with the Draft Annual Plan. While, up to that point in time, the Draft Annual Plan had been given its shape and detail by the management staff, there was scope for adjustment by Councillors. The word 'adjustment' is used deliberately, to indicate minor modifications more in the nature of fine-tuning. In order for the document to be accepted by the Councillors, and indeed to become their policy document, the managers had to anticipate the Councillors' responses and to prepare their own justification for the contents of the report. With the Draft Annual Plan moving closer to its public release, it was important for the document to be confirmed by Council. At the 11 March meeting of the Committee of Council, the Councillors voted to agree to the proposed format of the Draft Annual . One Councillor, Les Baty, did not support this on the grounds that, at the time of the local body elections, he had indicated that he would not support any rates increase. This meant that he would not be associated with the proposal for an

increase in rates such as was contained in the Draft Annual Plan. He also stated that he felt that officers were telling the Council what to do. In response, the Mayor opined that "to be that dogmatic about the nil percent rates pre-empt the public submissions."

The Councillors then voted unanimously to confirm the City Manager's proposal (in his 4 March report) that Council debate the level of rates, and detailed programmes, following the public consultation phase.

It was proposed that there would be a public meeting in each of the six wards between 29 March and 6 April. Councillor Ian Cruden was concerned that some people would go to every ward meeting, and not restrict themselves to the meeting for the ward in which they lived. Councillor Bob Stewart expressed the view that it was citizens' democratic right to attend any and all such meetings. Councillors Heather Allan and Waana Davis emphasised the importance of citizens' access to Councillors through the meetings, while Councillor Baty objected to the proposal partly on the grounds that few citizens turned out to such meetings and they were often outnumbered by Council staff and Councillors. There was a discussion about how many Councillors should go to each ward meeting with the view being expressed by Councillor Marilyn Brown (Committee Chairperson) that not all Councillors should feel obliged to attend each meeting, although Councillor Bernard Forde felt that people who make submissions would want to talk to as many Councillors as possible. At this point, the City Manager emphasised that ward meetings are not hearings but, instead, are called for the purpose of clarifying the contents of the annual plan, in order to assist those who make submissions. Councillor Alison Wall commented that there should be no doubt that the purpose of the ward meetings was to provide information, which she thought would encourage people to attend. Councillor Cruden asserted that he would not be guided only by groups which made submissions, as these are a small minority. He said that if a majority of the people he spoke to (that is, outside of the formal Annual Plan Hearing Committee process) were in favour of a nil rates increase, he would vote for a nil increase.

These and other discussions among the Councillors highlight the dilemmas for Council in exercising their role as representatives within a process which is intended to strengthen public participation in political decision-making through providing the scope for citizens to make submissions. There were divergent,

and sometimes self-contradictory, understandings of the role of elected representatives, although one commonly-held view was that the majority view should prevail and be reflected in their decision-making. What was not explicitly acknowledged was that there was no mechanism to them for knowing the majority view if, by that, is meant the views of the total number of electors.

The Draft Annual Plan and public submissions

The Draft Annual Plan was released to the public on 29 March 1993. Section 716A(1)(c) of the Local Government Act 1974 specifies that the local authority must receive submissions on a draft plan. The Council has some discretion over the timeframe for making submission, although section 716A(2) specifies that it shall be not less than one month and, unless the local authority otherwise directs, not more than three months. In the case of the 1993/94 Draft Annual Plan, a period of six weeks was given.

Section 716A(1)(b) stipulates that the local authority "shall give public notice, and such specific notice as the local authority considers appropriate" of the annual plan. In addition to the formal written notice about the special consultative procedure, and the opportunity to make submissions, there were the six ward meetings mentioned earlier, and also publicity through radio talkback, advertising and articles in the media. Councillors attended meetings at the invitation of community groups. One thousand copies of the Draft were either sent out or picked up. (Copies were sent to people on request.) Copies of the Draft Annual Plan were available at the public library, City Council and Ashhurst Service Delivery Centre and through some community organisations

A total of 1034 written submissions were received on the Draft Annual Plan, although this included 509 form submissions about the proposed Fitzherbert Avenue tree removal. With the knowledge that the Corporate Policy Unit staff would be producing a *Summary of Submissions*, it was decided not to carry out an additional analysis by viewing all submissions first-hand. Instead, the *Summary of Submissions* is one of the documents critically reviewed. However, as part of the fieldwork, all Annual Plan Committee meetings were attended to observe Councillor and officer responses to submissions made. Handwritten notes of the meetings were taken and copies of Council Order

Papers and minutes of Hearings Meetings were obtained to supplement the observation notes.

The *Summary of Submissions* on the 1993/94 Draft Annual Plan was a 48 page document, which summarised submissions made on each goal area. In general, the document reported the numbers of submissions supporting and opposing expenditure on a particular goal area. Thus, it was an effort to quantify the views expressed. (This was made necessary by the sheer number of submissions received.) Sometimes reference was made to the identity of the authors of specific submissions. The purpose of the document was, as expressed in the *Summary* (p3), to serve primarily as an aid for the Council's decision-making. The authors of the document were at pains to emphasise that the document provided only a summary and that it did not substitute for the submissions themselves.

Of particular significance to this study is the fact that the document explained how the submissions were treated when received by the Council officers. All submissions were read by staff in the Corporate Policy Unit and coded for further analysis. Each submission was numbered and coded according to name; number of submitters; ward (of individual submitters; organisations and businesses were coded as such); the goals, strategies or programmes addressed; and key words. The *Summary of Submissions* also documented the publicity efforts undertaken. The authors of the summary commented that the quality of submissions was high, reflecting considerable effort on the part of the submitters. It was acknowledged that the detail of submissions could not be contained in the Summary, but that the full content of submissions would be utilised by Councillors and officers in their future work. In the Summary, staff reported the code numbers of submissions that are for and against a each individual programme in the Draft Annual Plan. They also note the code numbers of submissions which have some other comment in relation to specific programmes. IN addition, some content of particular submissions is reported. In the process of summarising submissions, staff thus identify what they perceive to be significant input. It is necessary for them to do this, because, with a large volume of material, it is necessary to select, from the total, only a few to be quoted.

The officers thus sought to make the summarising process transparent although the grounds on which quotations were selected is not clear from the

Summary of Submissions. It is possible that those submissions quoted were considered unique or that they were representative of a large number of submissions. It is also possible that these were submissions that supported actions that officers themselves supported.

Public hearings of submissions on the Draft Annual Plan

Section 716A(1)(e) of the Local Government Act 1974 specifies that submissions on the draft annual plan must be deliberated on in public. A total of six Annual Plan Committee meetings took place, on 10 May, 11 May, 12 May, 18 May, 19 May and 20 May 1993. For each such meeting a Hearing Committee with a Councillor chairperson and three other Councillor members was appointed. All other Councillors were also encouraged to attend Annual Plan Committee meetings. The meetings were also attended by the media and by a contingent of Council staff. Generally the City Manager and representatives of the Corporate Policy Unit were present, and in addition some of the Directors and Unit Managers attended (according to the nature of the submissions being presented). Each meeting was publicly notified and an order paper was prepared as for other official/public meetings of the Council.

There were written procedures for the Hearing Committees, which provided that a time limit of five minutes would generally be applied for submissions made by individuals and a limit of ten minutes for submissions made by organisations. It was possible to speak to a submission in Maori but there had to be prior notification of this so that interpretation could be arranged. At the close of each Annual Plan Hearing Committee meeting the Committee referred the submissions heard, together with all written material to the Goals and Strategies Committee.

Submissions were presented by a range of individuals and community groups including organisations in which the Council had an interest (for example, Ashhurst Ward Committee, the Knowledge Centre, Palmerston North Community Services Council, Palmerston North Showground Board of Control). Submissions came from private sector businesses and public sector organisations particularly educational institutions (for example, Massey University and several schools). Submissions addressed a wide range of

issues including traffic and roading issues, environmental concerns, sporting, cultural and recreational facilities.

On 3 June 1993 the Management Team met to review submissions and the 23 business plans. In addition, the Corporate Policy Unit Manager highlighted three documents: the Summary of Submissions; the list of projects referred from Council Committees, and the document entitled *Has Anything Slipped Through the Cracks?* This meeting was attended by both the previous Management Team and the new Team that had taken office as a result of the corporate management restructuring exercise. Clearly, at this point in the process, the Corporate Policy Unit Manager was determined to ensure that no important items were omitted from the financial calculations. A number of items from the *Has Anything Slipped Through the Cracks?* document were accommodated in the Draft Annual Plan. Requests emanating from submissions were also considered along side these. There was continuing discussion of the financial implications with the senior managers becoming increasingly focused on the need to have clear guidelines and advice for Council. The managers were particularly conscious about the need to give appropriate signals to citizens also. For example, in relation to a request for funding an investigation into the use of undeveloped Railway Land, the City Manager observed somewhat wryly that "People have worked out that once you get an investigation grant you get a foot in the door." He took the view that Council should take responsibility to ensure that resources are not wasted and that expectations are not unfairly raised. With regard to the specific request, there were differences among the members of the Management Team with one saying, "Our credibility is on the line."

The remainder of the meeting time was spent debating the issue of the level of the percentage increase in rates, with the decision to recommend to Council a 2 percent increase being arrived at eventually.

Councillor deliberation on the Draft Annual Plan

At the 16 June Goals and Strategies Committee meeting, Councillors considered the Draft Annual Plan, summaries of submissions, minutes of Annual Plan Committee meetings, a report by the City Manager entitled *Reviewing the Draft Annual Plan* and a document relating to the Massey

University Proposed Science and Technology Park. The City Manager's report raised a number of policy issues and proposed that a nil rates increase was not feasible for 1993/94.

The City Manager outlined the process to the Councillors explaining that the Management Team had made recommendations and highlighting the Councillors' role over the coming four weeks of deliberations on the annual plan, in particular the need to address the rating scenario. Councillor Hewitt raised a question about the statistical significance of submissions. In response, the City Manager explained that the impact of submissions was to give Councillors a "general feeling; at the end of the day you still have to exercise your judgement." Councillor Cruden expressed the view that after eight months he felt that the Councillors were still not determining goals and strategies and that they were "being bulldozed, shepherded like dogs into a 2 percent rates increase." Councillor Baty claimed that the Management Team's recommendations were "carefully orchestrated. Managers are just wanting to protect their empires." He was of the opinion that there should be a nil rates increase. Concern was expressed by Councillor Marshall about the lack of submissions from *tangata whenua* (the local Maori tribe(s)) and *taura here* (Maori who are members of tribes from outside the local area).

The initial response from several Councillors indicated wariness, for various reasons, about accepting advice from the Management Team. They either disagreed with the advice, and/or had a sense that Councillors had not been given sufficient scope to make decisions. Over a series of meetings during June and early July (continuation of one Committee of Council meeting which commenced on 29 June), the Councillors debated the rating options and sought clarification about issues such as the sources of funding. Until they had determined the quantum of funds available to be expended (largely dependent on the rates intake), the Councillors were not in a position to exercise judgment about the targets of expenditure (that is, the individual items to be included in the Annual Plan).

Finally, with agreement having been achieved about the line items in the 'High', 'Medium' and 'Low' categories of expenditure for each of the goal areas in the Draft Annual Plan, at the Committee of Council meeting on July 12, the Councillors embarked on the task of ranking the top fifteen items in the 'Medium' list.

Adoption of the Annual Plan by Council

A series of meetings beginning with an informal Councillor briefing on the Annual Plan culminated in the formal adoption of the Annual Plan at the 26 July 1993 Council meeting. During this time the Plan was considered by the Committee of Council which first met on 29 June. This meeting was continued on 5 July and again on 12 July. The adoption of the Annual Plan took place at the regular monthly meeting of the full Council. The first part of these meetings are open to the public, as are all meetings of Council Standing Committees, yet are typically poorly attended. In part, this may be because the Council meets to receive and adopt the reports of the Committees which have met throughout the preceding month.

The 26 July meeting was attended by two members of the public and three media representatives. The Annual Plan had been made publicly available prior to the meeting (for example, it had been available at the Public Library on 24 July, the preceding weekend). The Chairperson of the Goals and Strategies Committee recommended that the reports of the Goals and Strategies Committee be adopted. This included the 1993/94 Annual Plan. One Councillor (Councillor Baty) spoke against the adoption of the Annual Plan, claiming that, with the proposed rates increase, the Council had not given effect to the view expressed by approximately 70 percent of submitters that there should be a nil rates increase. There was debate among the Councillors about the validity of this claim. Councillor Cruden was reluctant to adopt the Annual Plan on the grounds that that final version of the Plan had only been made available to Councillors shortly prior to the meeting. The Mayor acknowledged the difficulties for Councillors arising from the length of the document but he commented that it was not the Councillors' job to proof read the Annual Plan. That task, he said, could be left to the officers. Councillor Davis also expressed concern about the process and methodology employed in the development of the Annual Plan and, in particular, the lack of opportunity for Councillors to discuss it. At this point, Councillor Chettleburgh indicated that he and the Chairperson of the Goals and Strategies Committee, the two Councillors who have the greatest responsibility for oversight of the annual planning exercise, would be presenting a paper at the next Goals and Strategies Committee meeting about the process.

Events after the adoption of the Annual Plan

Following the adoption of the Annual Plan, the final version was published and a feedback meeting was scheduled for September 1993, to which all submitters were invited. This feedback meeting is not part of the statutory requirements but was viewed by the Council as an important aspect of its accountability to citizens and public relations. Interestingly, no press were present at this meeting. It is possible that the reason for this is simply fatigue (after reporting so many meetings) and the informality of the meeting (not a statutory requirement).

The conduct of the business of this final feedback meeting was certainly of a more informal nature than many previous Hearings. In those preceding meetings there was a degree of pressure arising from the need to conclude the business on the agenda within a reasonable timeframe (particularly as officers had to show up for work at the usual time the next morning). And despite some efforts to ensure that the Hearings Committee meetings were 'user-friendly' (for example, through extending an invitation to members of the public to help themselves to tea and coffee provided by the Council), there was undoubtedly a level of tension especially for those unfamiliar with and ill-at-ease with speaking in a public forum in a setting that may have appeared adversarial. In addition, submitters probably had placed some pressure on themselves to be articulate and persuasive in order to ensure success with their submissions.

At the final meeting, however, there was a more dialogical type of interaction and this engendered (and/or was engendered by) a greater informality. Citizens had presented their submissions; therefore, there was not the same pressure on them to be articulate and persuasive; Councillors and managers had heard the submissions and made the final decisions about the planned activities. The format of the meeting was a brief presentation by the Chairperson of the Goals and Strategies Committee, followed by an invitation to the audience to raise question the Council about its decisions. The Councillors were assisted by the City Manager in responding to questions. Some questions related to the effects of submissions on subsequent Council decision-making¹⁵³; others related to substantive matters that had been

¹⁵³ For example, Mark Bell-Booth who represented a significant lobby group (Save the Avenue) wanted to know whether five hundred submissions raising objections to a proposal to four-lane a city street had had any impact on Council's transportation plans.

excluded; and others related to the format of the plan (such as the clustering of activities into the three goal areas). There was a tendency, perhaps not surprisingly, for Councillors and managers to respond somewhat defensively and impatiently to some of the questions. It is recognised that consultation fatigue can be a burden for citizens¹⁵⁴ but it is less readily acknowledged that it also a burden for the elected representatives and bureaucrats who initiate consultation.

In a Review of the Draft Annual Plan preparation in a report to the Goals and Strategies Committee dated 9 June 1993 the City Manager identified three issues which had been prominent during the annual planning process.

- (1) the large number of requests for funding or for feasibility studies which highlighted the need for clear criteria, and for submissions to be made even prior to the statutory consultative phase (which would then ensure that some evaluation could be carried out before the Draft Annual Plan is released);
- (2) the expectation, especially from community groups, that there would be information about the fate of their submissions; and
- (3) the sheer weight of submissions which made it very difficult for Councillors to discuss submissions except in very general terms (which suggested the need for more opportunity for Councillors to discuss submissions).

The need for the reporting-back - which is clearly part of the expected accountability of Council to citizens - led the City Manager, in his 9 June report, to suggest the need for "a rethink of the whole annual planning process in terms of public participation" (Willis, 1993: 3).

During the period in which the 1993/94 Annual Plan was in operation there was public criticism of the Council's consultation processes. For example, the objections were raised about the Council's process for consulting about the sale of the gas supplier, ProGas. There were concerns that the information

¹⁵⁴ At the same time, Councillors have expressed frustration and criticism when citizens who have made submissions and sought to present them orally, subsequently fail to turn up to meetings scheduled for oral submissions.

made available to the public was inadequate and that consultation was meaningless given the Council's apparent support for the sale. Considerable distrust of the Council's handling of consultative processes seemed to exist and, indeed, it was acknowledged by at least one Councillor that the ProGas consultation was not done as well as it could have been.

Following rapidly on the issue of the sale of ProGas, there was vigorous public opposition to the Council's decision-making processes in relation to development of a new Polytechnic campus on land in the centre of the city. It was increasingly evident that, for consultation to be effective and successful, the Council's consultative processes needed to win the confidence of citizens. In November 1994, the City Manager presented a report to the Committee of Council in which the results of a review of the Council's consultation processes were summarised and clarifications and amendments to consultative procedures proposed, culminating in further refinement of the Council's policies on consultation.

The Annual Plan in subsequent years has had to be consistent with other planning documents, most notably the statutory District Plan, and the strategic plan. In early 1994, Palmerston North City Council had commenced work on the development of a draft strategic plan, which would also involve extensive public consultation. This has implications for annual planning as the theory underpinning strategic planning highlights the need for subsequent annual plans to take their direction from the goals and priorities contained in the Strategic Plan. The capacity for the public to influence the annual plan accordingly will be circumscribed by the broad parameters set by the Strategic Plan.

The first District Plan, which Councils are required by the Resource Management Act 1991 to prepare, was in the process of being proposed at the time the fieldwork for the case study was conducted. With the District Plan there is also the opportunity to make submissions which are summarised and made available for public inspection. There is a further opportunity for cross-submissions to be made in support of, or in objection to, those submissions already lodged. Public hearings then take place and there is opportunity, not found in the Local Government Act's annual planning process or special consultative procedure, for submitters to appeal to the Environment Court

(formerly the Planning Tribunal) if they are dissatisfied with the Council's decision on their submission.

Interviews with key actors involved in the PNCC annual planning process

The scope of public participation and the role of elected representatives

Three interviews were conducted with individuals deemed to be key actors in the annual planning process. The purpose of the interviews was to glean more in-depth perceptions of the interview respondents about the way in which the statutory provisions are implemented. The interview respondents were the Corporate Policy Unit Manager (who after the mid-1993 restructuring became the Strategic Planning Manager) and three Councillors (Brown, Stewart and Wall). The decision to interview the Corporate Policy Unit Manager was based on the fact that she was the most knowledgeable officer in the organisation about the annual planning process, having had oversight of the drafting of the annual plan from the time of the Local Government Amendment Act (No. 2) in 1989. This Unit Manager was arguably more heavily involved on a day-to-day basis in all aspects of the annual planning process than the City Manager or other members of the Management Team. It was not likely that the City Manager would be able to provide significantly new material if interviewed and because of the demands on his time, it was decided that an interview with the Corporate Policy Unit Manager would be sufficient for representing the perspective of Council management.

Councillor Brown was selected because of her role as Chairperson of the Goals and Strategies Committee and the inclusion of Councillors Wall and Stewart was guided by a concern to reflect maximum variation in those interviewed. Variation related to newness on the Council, gender, and perceived political perspectives. The remaining part of this chapter draws on the interview material which is discussed in relation to key components of democracy as outlined in previous chapters.

The interviews, as noted in Chapter Six, were transcribed and coded using the categories generated in the review of the literature on democracy. All transcripts were searched for references to democracy, consultation,

participation, accountability and openness. These were themes which were the focus of the questions that were put to respondents.

The three Councillors who were interviewed, perhaps not surprisingly, had a strong conviction that the annual plan was a very powerful democratic instrument. Councillor Brown, for example, asserted:

I think this is a really democratic way of encouraging the citizens to have their say *as it is done in Palmerston North*. I don't say that all annual plans are the same but I do think that our one in particular is very democratic. And while there can be some antipathy to people whose submissions aren't acted upon, that's not to say that they haven't been heard. So I think people can take heart from that, that we really do try to accommodate everybody.

This statement indicates that participation by citizens through the submissions exercise does not necessarily result in Council acting upon the citizens' expressed views. Being heard is seen as a key aspect of democracy and a satisfactory outcome of participation.

As noted earlier, there is a continuous process of policy development and the formulation of the annual plan entails a dialectical involvement of both Councillors and managers. Ultimately, however, the annual plan is the policy document of the political leaders and must be 'owned' by them. Councillor Wall described her experiences of the working relationship between Councillors and officers as follows:

When I went through the first cycle, I thought, "Hell's teeth! Who's sort of running this place?" You know, the officers seemed to be bringing up a hell of a lot of stuff that I wasn't aware of being solicited by Councillors. But of course I came to realise that I'd plonked myself on this roundabout that had been going around for hundreds of years and the reports are always the result of a request... sometimes solicited, but they'll be for a particular reason. ... The officers get to anticipate what the needs of the Councillors are. That's OK, that's using their initiative. We, in the end, make the decision about the policy, so whether we agree with the officer or not depends on where we decide to go with the policy. And I'm independent enough to realise that I don't have to take

everything that's said in the officer's report. So it's kind of a symbiotic relationship in a way, but in the end the decision-making rests with the Council regarding policy. The officers will give us advice and that advice will be based on best practice, precedent, the consequences and this kind of stuff. And the councillors have to exercise their own mind and their judgement about what is appropriate for the city. And ... what's going to be tolerated, and ... what it's going to cost, and all these kinds of things as well. But in the annual planning process it comes down to cutting our coat according to the cloth. We have to decide on what kind of income we can expect in terms of rates, and what is the best uses of that money for the city. And in the end that's the Councillors' decision. So the process is really to enable us to make those decisions, and I think we've got to use it. And to make sure that people let us know which way the public hopes that those decisions will go.

Councillor Stewart commented on what he perceived to be the considerable influence wielded by officers:

... the officers then take all the information and they do their initial draft assessment which of course is pretty powerful because then Councillors are sort of on the backfoot having to argue that something should be in, moved from medium to high, and they've got to make the case.

For some Councillors, then, the interface between Councillors and managers is one that involves a comfortable interdependence, while for others it is something about which there is a contest. However, Councillor Stewart conceded that it was appropriate for officers to make recommendations and to guide the direction of the Council's programmes. He observed there are Councils where there is a lot more conflict between officers and the Councillors, with disastrous effect, that is not the case in Palmerston North.

From the staff perspective, the experience of managers, and Council officers more generally, in relation to consultative processes was a key factor in maximising participation, as suggested by the Corporate Policy Unit Manager:

I guess you could stick to the legislation, the letter of the law, and just do your four weeks' consultation by a public notice in the paper and leave it at about that and then hear your submissions. We decided - and I think

it was at both political and officer level - that we wanted to go a bit further than that. The first plan we did had a six week submission period so people had ample time to respond because we felt that four weeks was fairly short for groups that might only meet once a month. And we also looked at the whole range of ways we could actually encourage people to be involved at that time, some of which we pursued and some we didn't and some we pursued and then gave up fast: they didn't work! Radio talkbacks were one example. So I guess we did explore quite a lot of avenues beyond what the legislation required. I suppose some of those things did come out of the experience of Council and staff in processes like District Plan reviews.

The nature of accountability

If democracy involves implementing the 'will of the people', then accountability is the mechanism by which decision-makers and managers of public services demonstrate that the will of the people has been implemented. Elected representatives and public sector managers (and the bureaucracy in general) have the task of implementing the will of the public and accountability is the means by which they are held to account. Accountability is a concept which takes on different forms.¹⁵⁵ The annual plan and annual report are key instruments of accountability, although there is clearly a strong element of liberal representative democratic theory in Councillor Brown's reference to electoral accountability. She argued:

I think it is good for the citizens if you do more, if you're more accountable, and that's why I feel our method of consultation is particularly accountable and it's much more stringent than most. We are accountable because what happens at the end of three years? If we haven't done a good job, we're out. And the officers are accountable, because they're on contracts and their contracts are reviewed and of course the City Manager is accountable through his contract. So there is much more accountability and I think that's not a bad thing. Where I think it goes wrong I think is where you are looking to cut the budget and still get the high quality. I don't see the two as mutually exclusive but I certainly see that there are constraints. It's a bit like a seesaw. If one

¹⁵⁵ There will be more extensive discussion of the different forms of accountability in Chapter Eight.

goes up, the other goes down. I think there is some cost-cutting you can do but I think once you get down to a certain level, lower than that you can't go without sacrificing quality. And I'm never one to sacrifice quality.

Notwithstanding this emphasis on electoral accountability, Councillor Brown was critical of the potential use of majoritarian democracy in the form of referenda to reflect 'the will of the people':

I think it's a very extravagant way of going about something. The other thing is if you go into a shopping mall and somebody says sign this, you don't tend to focus on it very thoroughly. You sort of read it through and you think oh, yeah, I'm in favour of, you know, doing away with dogs, for example, so you sign it, but I'm not sure that that's really representative of what your considered view would be if you had the opportunity to sit down and think about it and discuss ... it's not a case of either you have something or you don't have something. But there's a range of views in between. I wasn't that comfortable with it and in any case the Council rejected it unanimously.

Clearly, this reflects the idea that representatives do not see their decisions as having to be mandated by the people, other than at triennial elections when their actions cumulatively over three years are assessed. Even then, individual representatives can distance themselves from collective decisions of Council, in much the same way as individual elected representatives in central government seek to distance themselves from party policies and/or collective Cabinet decisions. In central government, there is some scope for political accountability through the influence of party politics but this is largely absent from local government, thus weakening the accountability of elected representatives other than at election time. Councillors' discretion in decision-making is justified on the grounds that they have a leadership role and (where they do not act according to the views expressed by citizens) that they represent the silent majority.

The annual planning process should be seen as one instrument of accountability, according to Councillor Wall. She highlighted as a positive aspect of the annual planning process the way in which it made Council and

Councillors more accessible to citizens. At the same time, the annual planning process has limitations. Councillor Wall noted the following problems:

One is the formality, the reliance on being able to read, at a high level. I think the difficulty for some people to express themselves either in written form and given this type of space they're given to write, can constraint people sometimes. The hurdles that they expect people to jump through I think in terms of speaking to a committee, in a formal committee. I think it's really quite difficult for some people. The fact that some people feel excluded because they don't feel they belong to any groups, or they don't have the appropriate networks. I think that can be quite difficult for some of the small groups in the city, who are actually not asking for every much from the council, but find it difficult to do so because they're not part of some of the bigger mainstream groups. Just picking up the phone and ringing up somebody in the council, they do take verbal submissions. But even that I think is difficult for some people to do. ...The people who use the process understand it, but I think there are a lot of people who don't use it. And I'm not sure that's because they don't understand it, or they don't know about it. ... You've got to be able to read to get into the process. There is some stuff done on the radio... I mean I don't listen to the local radio stations, and I suppose there's a lot of people like me that don't listen to the local radio station. I mean, how many people read the public notices in the back of the newspaper, how many people get a newspaper. Maybe we should have a banner: "It's annual planning time again."

The Corporate Policy Manager commented about the difficulty of providing accountability to citizens and the Council's efforts to be innovative with the annual planning process:

I think one of the things that has perhaps troubled a few of us consistently over time has been receiving all the submissions, hearing them, but then trying to have a process that allows particular submissions to be adopted or rejected and reasons why. People who put in submissions usually want to know why something has succeeded or hasn't. We really haven't had even the time or the basis on which to do that very well, so we had hoped that [the early consultation phase] might help overcome that.

The difficulty for Council in measuring the effectiveness of the annual planning process is one further limitation of the new legislative requirements which construe local authority responsiveness as the opportunity for citizens to make submissions. Decreases in numbers of submissions can be seen as an undesirable trend, but increases in submissions does not necessarily reflect a more responsive local authority or guarantee the citizens are satisfied with local authority decision-making. A more sophisticated appreciation of the requirements of responsiveness is therefore required, as Councillor Wall observed:

Every year we should ask ourselves: are we being effective in involving people in the process, and what could we do that might involved more, or involve different people? So hopefully we'll actually ask ourselves some questions, soon after we've gone through the process.

The challenge of improving the consultative process is a perennial one. The Council had benefited from previous experience and from Councillors who had a strong personal commitment to consultation and public participation, as Councillor Stewart remarked:

I think that it's been a learning curve for the City Council, the whole Annual Planning exercise. I do feel that we've done better each year, we've learnt from the previous year... And so I've been part ... of now three... it was happening at the time I came on. So that was quite new to me and then this year... What was interesting to me, I think, was to see the way the process has improved each time, and I think one of the improvements was this early consultation phase ... and I think ... even if citizens didn't all themselves take advantage of that opportunity there was ... a perception that this was a positive move. And so ... I think in hindsight, yes, it is useful.

It has been important not only for the Council, but also for citizens, to develop relevant skills for consultative processes, as Councillor Stewart noted:

There's been a learning curve, not just for the Council but for the public I think, as well. I was involved as a citizen in the one prior to the 1991, and I can remember there was a sort of confrontational sense that was very present there. There was sort of feeling of "What is all this sort of

thing anyway, it's probably a total window dressing charade." And, you know, there was a sort feeling that the mode that one has as a citizen in relation to the council is one of confrontational, you know that you've got to sort of be fighting city hall or they'll-get-you-kind of attitude. Which is sort of perhaps unfortunate, you know, well, it is unfortunate. So I think there was that initial suspicion and there was that almost hostility. And that permeated the thing. I think what's happened over that, the learning curve, for the public I suppose you might say, has been one of saying, "This is a genuine process." It's not to say that it's perfect; quite clearly it's not. And also some impatience in the fact that the Council at times appears to set it aside and so on. But nevertheless there's a sort of growing feeling that, hey, it is worth while. On the Council's part I think that there was a learning curve in terms of trying to get the balance between getting something which gave meaningful parameters to the public. It's no good just getting a whole jumble of information that you can't act on or do anything with. I think that what they did was sort of move from the early things that we had ... It was more sort of a talk-fest kind of thing. You got the sort of groups who were a bit disgruntled and it was a kind of a big thing. Whereas it became, as a result of that experience, a little bit more focused on, say, ... this is a question about rate demands, I mean, rate levels. You can't talk about anything you like, obviously, to the public, but [you can say:] there is a question we would like your response to. And I think that has been good, in that by virtue of the fact that it's tied in with the pre-consultation thing, it still gives that sort of opportunity to sort of set the agenda to the public, but it still gives that degree of guidance, and what we get out of the thing is something that is useful, it's not just a complete mish-mash.

When asked whether he considered it appropriate for local government to have its consultation process, its planning process prescribed in the way that it is, given that central government does not have the same requirements upon itself for consultation, Councillor Stewart replied:

No. Well, I think that actually is a bit of a sore point really. Because quite frankly, you know I think that local government is being mandated to do something which in fact central government is not doing terribly well. I actually raised this... to cabinet ministers whom I have some contact with, and they were saying that of course we're moving, they

weren't referring so much to the annual plan but they were referring very much to their three year plan and their *Path to 2010*¹⁵⁶, as being the forward looking thing, and we are doing this and so on. But I do think that what is sauce for the goose is sauce for the gander. I think they should be meeting any requirements [like those consultation requirements that they impose on local government]...

When asked about the extent to which the Council has made efforts to make the consultative procedure 'user-friendly' Councillor Stewart replied:

I don't think we've actually achieved the full result on that, and I think even the last time, I was concerned and I think that was the article that you saw, I was concerned about the fact that the, there was some sort of fairly, I hesitate to use the word offensive but there was, there was questioning which was, would appear to be fairly threatening, you know to citizens. I mean, ... there's one thing in sort of trying to understand a bit more about what they're saying, but another to sort of challenge beliefs in a sort of fairly aggressive way, seemed to me unfortunately and that did happen, and I think part of it is that perhaps we still haven't quite learnt that it's a fairly intimidating process actually to come up and then sort of be faced with all of these councillors. You're sort of there, and then all of these people are sort of around, and then there's an audience, and not everyone is necessarily very comfortable with this. I can remember, in 1991, when I was a citizen, it wasn't actually the annual planning exercise, but it was a similar experience. I was a spokesman for a group that were very strongly concerned about rate levels, and I actually made a statement which was fairly strong against the council. I suppose I took a fairly hostile stance to the council as a citizen, and, well, I don't know whether they felt threatened by me, I suppose in a sort of way I was kind of giving it to the council, kind of sticking it to the council, but I suppose I felt some degree of trepidation in doing that. I can certainly understand how people who are not familiar with that situation would feel kind concerned about it, particularly, maybe if they're in a more disadvantaged group, or they're not so experienced

¹⁵⁶ As part of the shift towards strategic management in the state sector, in 1993, the Government produced the document, *Path to 2010* which, along with an accompanying document, *The Next Three Years*, outlined the Government's strategic vision for the country for the next three years. The Government subsequently developed a set of strategic result areas (SRAs) (State Services Commission, 1996).

in public. So I think we've got a way to go on that, I really think that we need to, maybe, arrange the seating, the physical arrangement of the room, to make it more of a sense in which we're all in together, you know, the public's and the council we're really trying to reflect community views.

Conclusion

This chapter has detailed the process associated with the preparation of the annual plan as it occurred at Palmerston North City Council in one year. From this analysis it is clear that there is a close working relationship between political and managerial actors in the development of the annual plan. Although the annual plan is a policy statement, and therefore, in the terms of the managerialist separation of functions, should be a product of the political process, it is clear that managers have a major, and arguably dominant, role in the shaping of the annual plan. In addition, the political role is further weakened to the extent that political leaders tend to keep citizens at arms' length. There is no direct participation by citizens in the decision-making about the contents of the annual plan. There is merely an opportunity to make submissions in an early consultation exercise (prior to the preparation of the Draft Annual Plan) and, later, on the proposals outlined in the Draft Annual Plan. Representative democracy appears to be understood by Councillors to mean that the elected political leaders are exclusively responsible for the taking of political decisions. While there is a rhetorical, if not genuine substantive, commitment by Councillors to receiving submissions from citizens, consultation can be used as a public relations exercise with Councillors having final discretion in decision-making. The statutory consultative procedure reinforces this through its limited provisions for public participation. The Annual Plan is, as the Mayor commented at the 26 July Council meeting, an "indicative document". By this he meant that it attempts to capture some of what citizens recommend but that given the broad basis of consultation, it is necessary to refine that raw public opinion. Finally, as was evident in discussion at the at which the Annual Plan was adopted, Councillors see themselves significantly dependent on the expert advice and the labour of officers. This reflects the part-time, unprofessional nature of elected political representation.

Managers and officers in the local authority studied in this fieldwork were conscious of the political limits of their own proposals, and in many cases sought to respond to the community's wishes, as they perceived them. However, there were varying levels of commitment to implementing what were ascertained to be the preferences of the community and of the Council. At an informal level, managers and officers frequently judged the merits of proposals emanating from Councillors or citizens and extended or withdrew support from them (as was evident in the discussion within the Management Team about the request for funding for an investigation of proposed development on the unused Railway Land in the central city). Nevertheless, it was true, and this was frequently referred to in interviews with representatives of PNCC, that the Council had subsequently acted in accordance with community wishes after opposition to Council proposals (for example, the plan to develop a one-stop shop) had been expressed through the annual planning process, and also when Council had hitherto been oblivious to concerns held by citizens (for example, the significant problems experienced with stormwater drainage in certain parts of the city, which were aired during an annual planning consultation).

It is important to note, at this point, that the scope of the fieldwork in the case study encompassed the formal milestones of the process. These milestones included both non-public meetings of management, and sometimes other officers and Councillors, as well as public meetings (of Council and its Committees) at which both management/officers and Councillors were present and which were open to the press and the public. The written record of these meetings was supplemented with notes of observations. In addition, to these visible features of the annual planning process, it is likely that there is informal lobbying of Councillors and managers/officers. The nature of this and the extent to which this happens, however, is beyond the scope of the case study fieldwork. Informal lobbying is reasonable, given that Councillors are elected to represent the views of citizens. Councillors often encourage citizens to contact them. Councillors are likely, particularly in the lead-up to an election, to be keen to demonstrate their responsiveness to citizens. Some Councillors seek election in order to represent the views of likeminded citizens. In addition to direct contact with their elected representatives, lobbying may take the form of more indirect pressure (for example, letters to the editor of the local newspaper).

Such lobbying can potentially have a significant influence on the views of management and Councillors. Although this study focuses on the formal decision-making process, it is acknowledged that prior to, and cosimultaneously with, the formal process there is an informal process of decision-making. The informal, amorphous, and largely invisible character of lobbying and attendant decision-making, to the extent that it can be investigated, requires an entirely separate study, with a rather different research design; hence, the focus of this research on the formal decision-making process. Within the formal decision-making process which is the focus of this study, there are clearly degrees of formality, with a key distinction being that between meetings which are open to the media and public, and meetings which are of an in-house nature.

The focus now shifts in Chapter Eight from the detail of the annual planning process to the broader issues of public participation and accountability and the nature of democratic governance. Through a critical examination of the key components of democracy outlined in Chapter One, an assessment will be made of the nature and scope of democratic governance consequent upon the introduction of a statutory annual planning process and consultative procedure into local government.

CHAPTER EIGHT

PUBLIC POLICY FOR LOCAL DEMOCRACY: AN ANALYSIS OF THE PUBLIC PARTICIPATION PROVISIONS OF THE REFORMED LOCAL GOVERNMENT ACT

Introduction

Democracy, as has been argued in Chapter Three, is fundamentally about some measure of self-government and, because it is grounded in the notion of local self-government, local government is a key democratic institution in our society. As such, local government should facilitate the collective and participatory engagement of citizens in the determination of the affairs of their immediate environment. Clearly, democratic governance in local government encompasses public participation in local government political decision-making. Along with the establishment of wards on a wider basis than they had been to date, and the establishment of community boards¹⁵⁷, the special consultative procedure enacted in 1989 was intended to be a key mechanism for more broad-based citizen participation. Indeed, given the size of some wards (and in view of subsequent proposals in some local authorities to reduce the number of wards), and given the absence of community boards in many local authorities (including Palmerston North), the special consultative procedure takes on considerable importance as the primary statutory means for citizens to influence decision-making. The question that is now to be answered is: to what extent does a statutory annual planning and reporting process and special consultative procedure contribute to democratic governance?

Thus far, this thesis has looked at the implementation of the statutory consultative procedure and has examined the scope of the role of management in the governance process. The purpose of this chapter is to assess the reforms of local government through a critical examination of the stated and intended goals of the reforms. In particular, the intention to foster democracy, accountability and participation in decision-making is examined. This chapter utilises data drawn from documentary analysis (see Appendix 1 for a list of the documents reviewed) and interviews with key actors in the local government

¹⁵⁷ When introducing the Local Government Amendment Bill on 13 December 1988, the Minister of Local Government gave particular emphasis to the role of community boards in "giv[ing] democracy back to the people" (*New Zealand Parliamentary Debates*, Vol. 495, p8928).

reform process, Dr Michael Bassett (then Minister of Local Government), Sir Brian Elwood (then Chairperson of the Local Government Commission) and Mr Dave Smith of the Local Government Division of the Department of Internal Affairs.

In this assessment of the stated goals of local government reform, specific attention is given to the following key components of democracy: participation, representation, accountability, and responsiveness. In particular, different modes of participation are identified: participation through consultation, participation through representation, and participation through deliberation. The discussion of the empirical material is situated in the wider context of the theoretical literature addressing these aspects of democracy in order to develop a more nuanced and comprehensive understanding of what are, arguably, intrinsic elements of democratic governance. Through delineating the nature and scope of participation in local authority annual planning, as it was conceived and as it is implemented, it will be possible to consider the capacity of the statutory annual planning process and special consultative procedure for enhancing democratic governance.

Public participation as a goal of local government reform

As noted earlier, particularly in Chapter Five, despite some provisions for participation and consultation, by the 1980s there were persistent criticisms of political decision-making in public sector organisations in New Zealand (and indeed elsewhere in liberal democracies).¹⁵⁸ The reforms of local government were ostensibly designed to promote greater openness, transparency¹⁵⁹ and accountability in public agencies and, as a result, to enhance public participation. The key avenue for public participation, other than election to office and election of representatives, is the special consultative procedure.

¹⁵⁸ The aspirations for greater accountability have not waned and can be seen in the debate over the appropriate form of electoral system that has taken place in New Zealand in the late 1980s and early 1990s. This debate is evidence of a widespread disaffection with the first-past-the-post electoral system and the desire for a more proportional form of electoral representation which is deemed more democratic.

¹⁵⁹ Transparency was enhanced through publication of information about the inputs, outputs and outcomes of government agencies. While there had been open government legislation since 1982 in New Zealand the emphasis was on making information available when requested, rather than making information available in the normal course of events. Increased transparency (along with clearer responsibilities) becomes important as traditional political accountability declines (Walsh, 1995: 220).

In his opening comments when announcing the reform of local government on the occasion of the release of the 17 December *Government Economic Statement*, the Minister of Local Government, Dr Michael Bassett, said:

It is important to ensure that [local government] is attentive and responsive to the needs of the communities it serves and that it meets those needs in the most effective manner. This is most likely to occur if local government is directly accountable to those communities... Local authorities are not truly accountable to their electorates.

In the Second Reading of the Local Government Amendment Bill on 28 June 1988, the Minister of Local Government noted that as well as ensuring that the boundaries of local authorities were appropriate to contemporary communities of interest, the reform was designed not to lessen the role of local government but to ensure that local and regional communities would flourish and “provide for the overall well-being of their citizens in a more effective, efficient, and responsive manner” (*New Zealand Parliamentary Debates*, Vol. 489, p4741).

While the consolidation and merger of smaller units into larger units in the process of reforming local government was viewed by many opponents of reform (for example, the National Party in Opposition at the time, and some local authorities) as conflicting with the democratic values of local participation in and control over community affairs, at the same time a major goal of the reforms was to enhance democracy. To this end, accompanying the structural reorganisation which created fewer and larger territorial local authorities, there was a new emphasis on public participation in the affairs of local government.

Alongside efficiency in the use of resources, effectiveness was thus a central goal of the reform of local government. Effectiveness refers to decision-making that is relevant and appropriate to the needs and aspirations of the electorate and users of services. Effectiveness in local government reform was assumed to be achieved through decision-making that was characterised by:

- public participation
- accountability
- devolution
- responsiveness
- recognition of different communities of interest

In the debate on 16 May 1989 when the Local Government Reform Bill was reported back from the Internal Affairs and Local Government Select Committee, the Labour Member of Parliament, Elizabeth Tennet noted (*New Zealand Parliamentary Debates*, Vol. 498, p10467) that the legislation introduced:

a process of consultation with local people. ... it is extremely important that people should be involved in ... decision-making.

And, later, in the Second Reading of the Local Government Reform Bill on 23 May 1989 (which was subsequently enacted as the Local Government Amendment Act (No. 2) 1989), she highlighted "the involvement of local people in decision-making for their own communities" as one of two principles of local government reform (*New Zealand Parliamentary Debates*, Vol. 498, p10719). (The other principle was that of delivery of local services.) A week earlier, when the Local Government Reform Bill and Supplementary Order Paper 107 had been reported back from the Internal Affairs and Local Government Select Committee, Ms Tennet had noted that it was now time for "a system of government that promotes more local involvement from people at the grass roots" (*New Zealand Parliamentary Debates*, Vol. 498, p 10466).

Accountability as a goal of local government reform

Accountability encompasses two elements: (i) giving account and (ii) holding to account (Hopwood and Miller, 1994). Accountability can take various forms (see, for example, Wirth, 1991). Typically, in the public administration literature two types of accountability are recognised: political accountability and managerial accountability.¹⁶⁰ Political accountability encompasses the accountability of elected representatives to electors and is achieved primarily through the triennial electoral process.¹⁶¹ Managerial accountability focuses on accountability within an organisation. Within a government organisation, managerial accountability encompasses accountability of managers to the elected representatives (who appoint the managers). Managerial accountability

¹⁶⁰ Martin and Scott (1990) provide a succinct yet comprehensive discussion of the literature on accountability and of the issue of accountability as it arises in local and central government reform in New Zealand.

¹⁶¹ There is also a constitutional convention of ministerial responsibility, which is a specific form of political accountability. It is not the purpose of this thesis to examine in any detail this convention. For such detailed discussion see McLeay (1995) and Marshall (1984).

is achieved through processes of performance review; in local government the annual planning and reporting process provides for such review of performance. In relation to the public sector, accountability therefore should imply that all those who exercise public power should be accountable to those on whose behalf they exercise that power. Miller (in Hirst and Khilnani, 1996) argues that in fact public accountability is defined in managerial terms.

A distinction is sometimes made between accountability for policy, accountability for performance, and accountability for probity (which includes fiscal accountability and legal accountability). Wirth (1991: 73) identifies, as a principle of accountability, "responsiveness to the needs, problems, and preferences of citizens."

Accountability, as already noted, was a key theme in local government reform. In the Government Statement on Reform of Local and Regional Government (1988) reference was made to electoral accountability, financial accountability and accountability in the form of information disclosure and citizen access to the Ombudsman. Accountability is not possible without openness of information.

In addition, the First Schedule to the Local Government Amendment Act (No. 3) 1988 specified certain provisions to be observed by the Local Government Commission in preparing Final Reorganisation Schemes. Under s 2 (Functions, duties, and powers of local authorities), the First Schedule stipulated that in determining the allocation of functions, duties, and powers to a local authority, the Commission shall have regard to the existence and value of different communities within New Zealand (s 2(a)), the identity and values of those communities (s 2(b)), community of interest (s 2(e)) and the need for effective accountability (s 2(h)) which was to be achieved through:

- (i) Electoral process; and
- (ii) Provision of information; and
- (iii) Competition in the provision of services; and
- (iv) Other means.

In this statutory prescription, accountability is clearly linked with the triennial voting system and openness of information, and the discipline of the market in the form of competition. This is not an exhaustive set of measures but it is not clear what further means were contemplated by s 2(h)(ii).

Public sector reform in the core public sector (as implemented in the State Sector Act 1988 and Public Finance Act 1989) conceived of accountability primarily in terms of managerial terms (hence, the emphasis on financial management reform). This same emphasis on managerial accountability also characterised local government reform, but, in addition, accountability in local government was to be achieved through a number of devices:

- establishment of community boards
- separation of functions
- openness
- remuneration for elected members

The emphasis on accountability was reinforced by the National Transition Committee and Management of Change Unit (1989: 1, 7):

Fundamental to the new structures is the concept of accountability which includes the separation of service delivery from regulatory functions... Accountability is so fundamental to the new local authorities that a number of requirements have been incorporated into the legislation to ensure that not only are the authorities accountable, but that they are seen to be accountable. This is to be achieved by conducting business openly so far as is practicable, and by management and financial reporting.

In Chapter Five the Guiding Principles of local government reform were outlined (OCCLG, 1988: 1). Five subsidiary principles were identified, the first of which referred to the importance of functions being performed by the relevant community of interest. Essentially this related to the 'division of labour' between regional and territorial authorities. The second and third of the five subsidiary principles related to operational efficiencies and the need to have organisational structures which fostered commercially-based decision-making. The fourth and fifth principles referred explicitly to accountability and transparency. The principle of efficiency was given considerable weight and primacy. The requirements of efficiency were subsequently translated into proposals for reorganisation based on fewer and larger units of territorial and regional government. Two things were realised, however, by Bassett when interviewed:

1. that there was no popular support for larger units of local government; and
2. that there was political mileage to be made out of the promotion of accountability.

As Bassett said:

We were conscious of the fact that the larger units of local government inevitably ran into the public complaint that the administration of the local authority was further removed from the people. So I was mindful of the need to improve accountability.

And later in the interview:

from a political point of view I found stressing the accountability and the community board ideas are politically very helpful... And I felt that accountability, the accountability mechanisms and the community boards are ways of always lighting fires in the conservatives' backyards. ... the public out there never thinks particularly well of its local authority and it always believes things could be done better. And I could on the one hand shift the Council towards a larger unit and on the other hand reach over the top of these wailing local authority politicians and say, "Look, people, here are the things that you will benefit from." And it always made it difficult for the status quo and so consequently I used it as much as I could.

Dave Smith of the Local Government Division of the Department of Internal Affairs was responsible for chairing an Officials' group in late 1987 which set out to explore the need for structural changes to local government but which also acknowledged the importance of other factors in improving the effectiveness of local government. When interviewed during the course of this study, he said that the group realised that factors such as "organisation, accountability, participation, management and separation of different functions" were also regarded as important in the effort to improve the efficiency and effectiveness of local government. Smith said that the traditional mechanism for accountability was through elections, and perhaps financial statements but that this was:

... a rather limited approach to accountability; it's much more diverse than that. And so from that we started to develop provisions which lead through to a more participatory approach to the main thrust of what the local authority wants to do. Hence the concept of the annual reporting cycle, and that led through into ... the special consultative procedure.

During the interview, when asked to comment on whether the accountability mechanisms in the local government reform legislation went beyond those for the state sector, Smith confirmed that they did, and in a way that would not be appropriate for central government:

- I'm not sure how practical it would be to bring the local government system which we put into place, into the central government system because... the local government system essentially goes through a procedure whereby the electors can have a say, or can have the right to a say. Whether they take that up is another matter, but they have a right to say what are going to be the significant activities, objectives, etc. of a local authority in a forthcoming financial year, whereas [Central] Government itself essentially just comes down with its Budget and puts it into Parliament and they debate it there for a time and that's it. So yes it did go a lot further. But I think there was a feeling that in many respects in the past local government had done what it wanted to do, basically on the grounds that it had been elected to govern, for three years and therefore would be measured at the end of those three years, and therefore there wasn't a need for participatory input into its activities, in between when it got elected and when it faced the electors again. But what we'd seen, and you see it in most local government areas [was] lots of various... residents and ratepayers associations, and then little groups that come up on a particular issue and try and give input and the local authority to act on it. And there was no real structured format for that. And so that was really what we were trying to put in place. Some local authorities criticised it at the time. They didn't think it was going to be necessary, and indeed probably some still do, saying that essentially it should be permissive and we should be able to do it if we deem it necessary. But I think where the Officials came from is that they felt that it was a key issue and it should not be left as a permissive practice, it should be a mandatory one. ... We wanted more participation, because it

adds to accountability and therefore it is one of the major planks, accountability planks.

It is significant that Smith and the other members of the Officials' group saw participation as a "major plank" of accountability. Prompted by a concern to ensure that local authorities were not dancing to the tune of a few demanding individuals, they sought a more broad-based participation than that which had been evident in local government politics up to that time. A wider base of participation is something which may have been partially achieved by the subsequent implementation of the annual planning process and the special consultative procedure but, as will be emphasised later, the nature of the opportunity for public participation provided through the annual planning process is still one which attracts and advantages articulate, organised, motivated individuals and groups.

In a major discussion paper (25 pages) entitled 'Local Government Reform and Accountability' submitted to the Cabinet Committee on Reform of Local Government and Resource Management Statutes by the OCCLG, the Officials provided a detailed examination of what they described as "the complex and diverse subject of local government accountability" (OCCLG, n.d., p1). The Officials set out to clarify the basic principles of the concept of accountability, noting that the accountability of local government to its communities should not be confined to the triennial elections but should include "as a principle public involvement in decision – making throughout a triennium". The Officials argued that "clarity, transparency, co-ordination and participation are key factors" (OCCLG, n.d., Executive Summary, p1).

The Officials highlighted a number of existing mechanisms of accountability (which included the media, the judicial system, parliamentary institutions, the Treaty of Waitangi, and the electoral process) which collectively provides an extensive set of influences and restraints on local government. However, in order to promote transparency, clear lines of accountability, co-ordination of accountability mechanisms, and participation, an annual planning process was recommended.

In addition to the requirements relating to annual planning and reporting (Sections 223D and 223E), the Local Government Amendment Act No. 2 included further accountability provisions in Section 223C which specified that

local authorities should conduct their affairs in an open and comprehensible way, and establish clear objectives and policies. This section also introduced the requirement for performance measurement, which is discussed later in this chapter.

The new measures for public participation through the annual planning process (and in other political decision-making via the special consultative procedure) are clearly consistent with the private sector corporate approach to accountability and responsiveness. The planning cycle and the managerial and structural changes included in the local government reform legislation were modelled on private sector business practice, in order to attract individuals who had such experience. This was confirmed by Bassett who, at the same time, highlighted the planning aspect:

... it's a function of the fact that the career structures of all, of local government at all levels, are greatly improved, I mean, you've now got people with proper business skills involved instead of, you know, the corner grocer who decided on sort of a change of lifestyle and went and bestowed his talents on the local authority. The whole level, the career structure level has improved so enormously and that could only really take place when you had amalgamations and you could pay decent wages. And the quality of local government management has just improved so much. Partly it's been because of the reforms, partly it's been because the jobs are available in today's day and age, and you've got all sort of people who once upon a time would never have thought twice about going anywhere near a local authority, now very happy to have a local authority job. And so, business thinking is in the air, that's really what the late 1980s and early 1990s has been about. I mean, it's been about accountability, it's been about not just throwing money at problems and not being surprised if they didn't go away. It's all about trying to see if what you do decide you'll put money into you do get a result from. And the only way to do that properly is to form a plan and to keep asking yourself that question as you move along particularly what I'm trying to achieve. New Zealand has been a country that is riddled in ad hocery throughout its history. And thanks largely to government, everybody now is picking up that discipline and saying ... what is it I want to achieve? and will I achieve it if I go this way or that way. Well that's an important discipline as it is for a family, I mean now and again I think about where do I want to be in such

and such a time. It's important certainly for a local authority, it's fundamental for a government department and governments ignore the requirement at their peril.

The impact of the theory of new public management is clearly evident in New Zealand's local government reform, as it is in the reform of the core state sector. This had generated improvements in managerial accountability. Indeed, it is clear that managerialist and consumerist doctrines, from which the management reforms have emerged, have mediated the wider reform agenda, encompassing not just the goal of efficiency but also the goal of democratisation. A succinct summary of the features of new public management, discussed more extensively earlier in the thesis, is provided by Farnham and Horton (1993: 30-32):

The distinctive feature of private sector management is that it is largely market driven. ... Private organisations tend to have less complex, more easily stated and less disputed goals than those of public organisations. This is because they are basically market centred. Private businesses ... have the goal of making a profit both for distributing as dividends to shareholders and for reinvesting purposes. ... Large business organisations generally have corporate plans detailing how their goals are to be operationalised into specific objectives, over three, five or even ten-year periods. It is this planned, rational approach to objective and target setting, with the boundaries of business goals, which is often singled out as the distinctive feature of the large business sector and of private sector management. Other managerial activities associated with business organisations include: identifying the total business and its markets; forecasting likely changes in the environment; acting to take advantage of market opportunities or averting market threats; and focusing on the needs of the organisation's consumers.

Bassett's statement above demonstrates this belief in the superiority of "business thinking". He sees the need for local government to exercise the "discipline" of the market (the careful and efficient use of resources, driven by the requirements to operate profitably). Bassett's comments also reflect the alleged rationality of private sector business principles as outlined by Farnham and Horton (1993). The statutory requirement for local authorities to publish annual plans and annual reports is clearly influenced by the assumption that such rationality is needed in local government. Of particular significance is

there is a further implicit assumption that the accountability that is associated with private sector business practice is sufficient and appropriate to the public sector of local government.

Responsiveness as a goal of local government reform

In its 22 July 1988 Memorandum to Assist Local Authorities Affected by Local Government Reorganisation, the Local Government Commission indicated that the improvement of local government required “units which through electoral processes and service delivery techniques can be more responsive to the input and needs of local people.”

It was noted in Chapter One that, because local government is closer to the people, it can provide for a degree of self-government whereby the residents of a locality have some scope to make decisions about certain aspects of life in the locality. Accordingly, there is an expectation that local government is responsive to the needs of members of the territory. Local government reform was designed to foster responsiveness, as claimed in the parliamentary debates at the time of the reform bills’ passage through the House. For example, in the Second Reading of the Local Government Reform Bill (26.6.88), the Labour Government Member, Richard Northey, described the reforms as enabling local government to “have more power to be more responsive to the community.”

The accessibility of a local authority to its citizens can enhance responsiveness because citizens will be more likely to express their views, needs and aspirations. To the degree that a local authority is innovative in providing opportunities for citizens to obtain information about its proposed activities and to make submissions, accessibility will be improved and there may be responsiveness gains. (This was highlighted by Councillor Wall in comments reported in Chapter Seven.)

Reform of local government in New Zealand, as in the United Kingdom, is leading to a situation where the role of local authorities is changing from that of provider of services to that of specifier of services.¹⁶² This is because of the new public management doctrine that policy and service delivery roles should

¹⁶² The implementation of this specific aspect of local government reform in New Zealand has been the focus of research (see Bridgeport Group, 1994).

be separated (see Alexander, 1991; Gyford, 1991; Hambleton, 1992; Burns, Hambleton and Hoggett, 1994; Walsh, 1995 for discussion of the implications of new public management for local government). However, it is also clear that this separation, with the related emphasis on contracting out of service delivery, can diminish the ability of local authorities to be responsive to citizens.

Responsiveness must be reinforced in this emergent enabling role of local government, and not just encompassed by the notion of responsiveness to consumers of local government's services. As local government in New Zealand and elsewhere adopts what Hambleton (1993) describes as an 'orchestrating' role, and away from the traditional emphasis on service delivery, the importance of responsiveness to citizens' aspirations should not be diminished.

Community of interest

There is frequent reference to 'community' in statements about local government reform. On 14 July 1988 the Local Government Amendment (No. 3) Act was passed setting out the legislative provisions to be observed by the Local Government Commission in the development of reorganisation schemes. In the Schedule to the Act, it was noted that there would be continued but more flexible provision for communities to be established within territorial authority districts and that either community councils or district community councils would be permitted to be established in any part of a district.¹⁶³ An additional mechanism for community representation would be the ward committee. The Government Statement on Reform of Local and Regional Government released in July 1988 expressed the Government's policy of having larger local authority units but within these units lower level representative and decision-making mechanisms:

The Government believes that community councils are a useful mechanism to retain input at the local level while allowing economies of scale to be achieved through rationalisation at the territorial level (p9).

¹⁶³ Under the Local Government Act 1974 it was possible for community councils to be established to provide a measure of self-government for identifiable communities within a local authority district and to obviate the pressure that might arise within such communities to form a separate local authority.

It was decided that the constraints that had been introduced in 1976, which meant that communities could only be established in rural areas and which required district community councils to have a population of 1,500 or more, would be lifted. In addition, the provision for the establishment of ward committees was viewed by the reformers as an alternative to community councils. In a speech to local authorities in Auckland on July 15 1988, the Minister of Local Government noted that the principles of reform reflected “a real desire to protect communities.”

This term ‘community of interest’ is notoriously difficult to define as the Local Government Commission acknowledged in its Memorandum to Assist Authorities Affected by Local Government Reorganisation:

This term can mean different things to different people, depending on an individual perspective from time to time. The Commission recognises that regions and districts will include a number of different communities of interest. A major responsibility of the Commission is that regional or district communities of interest should not be divided. ... Generally the Commission sees the need to identify the spatial boundaries of communities of interest in human terms as to where people live and work, and in the allocation of functions by taking account of their areas of impact and availability. Unfortunately, a precise and concise definition of the words “community of interest” is not possible. It will be necessary to determine the community of interest on a case by case basis. As a guide to understanding the Commission’s approach it can be said that the community of interest is the area to which one feels a sense of belonging and to which one looks for social, service and economic support. ... The community of interest can often be identified by access to the goods and services needed for ordinary everyday existence (p6).

There is no precise definition of the term in the literature on local government reform. It is assumed that people belong to a ‘community of interest’ which can be identified and which is the meaningful arena in which they carry out their daily activities. The reformed Local Government Act provided for the creation of wards, or geographical sectors within the local authority boundaries. which constitute a community of interest for the residents within them, and which are the basis for electing representatives to a city or district council. At a lower level, the provision, albeit not mandatory, for the establishment of a Community

Board was intended to substantially extend the previous statutory provisions for the establishment of communities and ensure that community input into local government was more effective. There is no clear evidence that this has occurred (particularly given many parent local authorities' reluctance to delegate), although in some parts of the country community boards have sought to realise the aspirations of Bassett and his fellow reformers (in particular, in the Auckland area where there is a strong Regional Community Boards Association) (see Storer, 1996). The first national conference of community boards is to be held in March 1997.

Enhancing participation and accountability through openness

Accountability through the disclosure of information had been promoted through the Local Government Official Information and Meetings Act 1987. Along with this recently enacted open government legislation, the reform of local government ensured the annual plan would supply certain information to citizens who desired to be participants in political decision-making. Through the provision of information in the draft annual plan about proposed activities and the costs of these, a local authority fulfills that part of accountability associated with giving account. With the publication of the annual report at the end of the financial year, a local authority fulfills that part of accountability associated with being held to account. The scrutiny of annual reports by the Office of the Auditor and Controller-General constitutes accountability to Parliament but this is not a direct form of accountability to citizens of a territorial local authority. In theory, the transparency of local government activities and decision-making makes it possible for policy advice to be contested.

Transparency may be regarded as synonymous with the principle of publicity, or openness which Habermas described as one of the normative principles of the public sphere. The visibility of a local authority's activities generated by the annual planning exercise and the statutory requirement to consult can stimulate people's interest in the local community. It was noted by Bassett and Smith that the introduction of the annual planning process provided for a much broader base of participation by citizens than that which was available through the Town and Country Planning Act 1977. The Town and Country Planning Act provided for objections to developments to be expressed and considered through a judicial process but the only parties that could make objections were those who

were deemed to have a legitimate interest, namely, those who were immediately and directly affected by a proposed development. As Bassett said:

At the town planning stage one's obligations are principally to let affected parties know what is going on. And of course it's much more precise in the sense that... town planning is designed to seek my rights as the adjoining neighbour and his rights and their rights are all looked after and it's very precise and relates to a particular bit of property. With the accountability procedures you're really dealing with something much wider, more general, more diffuse, you're dealing with intentions, some of which might actually impact on structures on the ground, but many of them might relate just simply to how the books are going to be balanced, or the social services which the local authority might feel itself obliged to provide or whatever. It's a much wider, arguably less tangible thing than town planning.

The provisions of the Town and Country Planning Act were criticised for being time-consuming, expensive, and, to the extent that they were exploited by particular interest groups, even undemocratic. In addition, participation was increasingly viewed with scepticism by participants who came to hold the view that it was used to manipulate citizen involvement. Officials shared some of these concerns and in due course the whole raft of then existing environmental statutes were themselves subject to a lengthy review process culminating finally in the Resource Management Act 1991.

As Smith noted, the annual planning provisions and special consultative procedure were part of a broader packages of reforms which included a ward system of election/ representation and community boards. These were additional means of achieving accountability and participation. They were seen as an important counter-balance to the increased size of territorial authorities, in Smith's words, "to help offset the sort of large faceless local authority."

Elwood went further in counter-balancing the participation mechanisms with the general notion of centralised, bureaucratic government. When asked about the rationale underpinning local government reform, he responded that, in western style democracies, there was a tendency towards:

overcentralisation of both resources and decisions with the consequent isolation of the government decision-making processes, from the people most affected. It seemed to me that the way in which western style democracies were moving was contrary to the liberal notion of the importance of the individual. And that trend needed to be reversed, and one way in which it could be reversed was to place more significance upon the government of the collective affairs of people out at the community level, as distinct from the central level. I would probably be a little ahead of my time, in the fact that at that stage I was recognising the trends, and overloaded issues as far as central governments were concerned and the inevitable need for governments to back out of the many things into which they were tending to become involved. We have still subsequently shown that my concerns were well founded. I feel that the governmental system would collapse with overload issues, and with overload of debt, particularly in our situation where inflationary trends no longer financed yesterday's promises. Thus it seemed to me that what we needed to do in New Zealand to partially reverse the trend was to strengthen the role of community government. That meant rationalising the process of local government.

Assessing the new legislative framework for public participation

Participation implies involvement in the actual decision-making process. Stiefel and Wolfe (1994: 5) offer the following working definition of participation:

the organised efforts to increase control over resources and regulative institutions in given social situations, on the part of groups and movements hitherto excluded from such control.

However, what is not adequately addressed in this definition, and indeed in much of the democratic theory discussed in this thesis, is what form(s) participation takes. As Heater (1990: 212) notes:

The term citizenship is meaningless without some kind of participation in public affairs. There have, however, been enormously diverse interpretations of this function. What advantages are thought to accrue from citizen participation? How much participation and of what kind is desirable? and how practicable?

In liberal representative democracies, participation is generally reduced to election of representatives. The election of representatives cannot be taken to imply that citizens have a role, albeit an indirect one in policy development, because, as the case study data presented in Chapter Seven revealed, managers/administrators have a significant influence on the decisions related to the contents of the annual plan, and by implication the significant policies and programmes of local authorities. The managerialist influences on local government reform have strengthened the role of management in the policy process. Moreover, ironically, the managerialist separation of policy and management has meant that the inevitable role that managers have in the political process is understated and is certainly not made transparent and contested. On the other hand, the reformers of local government stressed that citizens would have influence and that they would participate in decision-making.

Because of these weaknesses in representative democracy, citizens and reformers of government have supported more participatory and accountable forms of political decision-making. This was the stated goal of local government reform. Even though, as was noted in Chapter Three, doubts about the extent of self-government have been expressed by liberal democratic theorists and elite theorists, it is clear that if any degree of self-government is feasible it would seem that self-government would be able to be realised by many more people at the local level than at the national level.

Apart from the episodic form of participation through voting in triennial elections, the primary avenue for participation is that of making submissions to a local authority on the draft annual plan and in relation to other major proposed activities or draft plans. However, it needs to be highlighted at this point that while the term "special consultative procedure" is used, there is no specific reference to consultation in section 716A of the Local Government Act 1974. Rather than a statutory right to consultation (as is found in section 6 and in the First Schedule of the Resource Management Act 1991, for example), there is a right to make submissions on a proposal. Councils are required to give due consideration to any submissions received. Section 35 of the Resource Management Act stipulates that local authorities have a duty to monitor the exercise of their functions, powers and duties, and to make available to the public that information. Furthermore, the Fourth Schedule of the Resource Management Act 1991 requires that among the matters to be included in

assessment of the effects of proposed development are “an identification of those persons interested in or affected by the proposal, the consultation undertaken, and any response to the views of those consulted.”

Clearly the duty to consult is stronger in other statutes than any provisions of the Local Government Act 1974 (as amended by the Local Government Amendment Act (No. 2) 1989). Salter (1994) refers to a judicial review (*Auckland City Council v Auckland Electric Power Board*, High Court, Auckland CP 26/93, 16 August 1993, Williams J) in which the adequacy of the authority's compliance with the statutory consultative procedure was questioned. The Court indicated that a statutory duty to consult is stronger than what is encompassed by the special consultative procedure in section 716A.

In addition to the statutes, mentioned in Chapter Five, enacted during the late 1980s, there are a range of newer statutory prescriptions introduced in the 1990s, with the Resource Management Act 1991 and the Health and Disability Services Act 1993 having more detailed statutory obligations than that found in section 716A of the Local Government Act 1974. For example, section 34 of the Health and Disability Services Act 1993 specifies:

Every regional health authority shall, in accordance with its statement of intent, on a regular basis consult in regard to its intentions relating to the purchase of services with such of the following as the authority considers appropriate:

- (a) Individuals and organisations from the communities served by it who receive or provide public services or personal health services, or disability services;
- (b) Other persons including voluntary agencies, private agencies, departments of State, and territorial authorities.

The various statutory provisions relating to consultation (both the special consultative procedure and the duty to consult) have generated case law as the as the legislative provisions have been occasionally tested. In the 1992 High Court decision in the case *Air New Zealand Ltd and ORS v Wellington*

International Airport Ltd and ORS,¹⁶⁴, in which judicial review was sought of a decision by Wellington Airport to increase landing fees and charges on the grounds of failure to consult, the High Court emphasised that consultation involved meaningful discussion and not just prior notification. This implied that the consultee should have adequate information to make intelligent and useful responses and that the consultor should be ready to change and even start afresh. The provision of adequate information is therefore to be regarded as essential in consultative processes. In that case Justice McGechan described consultation as follows:

Consulting involves the statement of a proposal not yet finally decided upon, listening to what others have to say, considering their responses, and then deciding what will be done. ... If a party having the power to make a decision after consultation held meetings with the parties with which it was required to consult, provided those parties with relevant information and with such further information as they requested, entered the meetings with an open mind, took due notice of what was said and waited until they had their say before making a decision: then the decision was properly described as having been made after consultation (p8).

More recently, in an unsuccessful application for interim orders in judicial review proceedings against the Wellington City Council's proposal to sell the local energy company, Capital Power, the High Court stipulated that while the local authority had to give proper consideration to submissions received in the special consultative procedure, there was no obligation to act in accordance with the submitters' wishes.¹⁶⁵ In addition to a telephone poll, the City Council's consultation process involved the use of a citizen jury, the first time such a mechanism has been used in New Zealand. The jury of fourteen citizens was independently chaired by former Auditor-General, Brian Tyler. It voted 12-2 against the Council divesting itself of its 51 percent shareholding in Capital Power but the Council proceeded with the sale. The Mayor was reported as

¹⁶⁴ *Air New Zealand Ltd and ORS v Wellington International Airport Ltd and ORS* (High Court, Wellington CP 403/91, 6 January 1992, McGechan J) On appeal to the Court of Appeal, the CA endorsed the principles of consultation as articulated by the High Court.

¹⁶⁵ See *Ulrich v Wellington City Council and ANOR* (High Court, Wellington CP 174/96 29 July 1996, McGechan J). From Councillor Brown's comments in the interview, reported in Chapter Seven, it is likely that at least one Palmerston North City Councillor would take a similar view of the use of such consultative techniques.

saying that the jury of fourteen had looked at the proposal for just two days whereas the Council of nineteen had spent seven months considering the proposal.

A key theme in many of the judicial review proceedings has been the open-mindedness of the organisation undertaking statutory consultation. In the High Court judgement relating to *NZ Association of Residential Care Homes Inc v Northern Regional Health Authority* the Justice Tamm referred to preceding judgements which expressed the importance of genuine consultation, the need for the decision-maker to enter the process with an open mind, and the need for consultation to take place before a disputed policy was implemented.

To summarise, among the principles of consultation recognised by the Courts (see, also, Ministry for the Environment, 1994) are the following:

- consultation must be made with the appropriate group;
- consultation does not involve negotiation nor does it mean consensus;
- consultation is to be a continuous process and that consultation should not restrict a Council's decision-making responsibility;
- consultation requires adequate information being made available about a proposal;
- consultation should occur sufficiently early in the development of a proposal for public input to be incorporated but at a point at which the consulting body has something to inform the public about; and
- the form of the consultation is not prescribed, and the possible period of consultation, for example, can range from a very short time to an extended timeframe; however, the persons being consulted should have sufficient time and opportunity to state their views.

While groups and individual citizens can seek a judicial review of a local authority decision where they feel the requirement regarding consultation has not been followed, this entails considerable financial costs. The growing body of case law in the face of such costs indicates the strength of feeling consultees have about what is seen as a fundamental right of participation in political decision-making.

Assessing the goal of enhancing participation through consultation

Given the broader influence of public choice theory on the reform of local government, a theoretical framework which, as was demonstrated in Chapter Two, is characteristically hostile to politics and democracy, it would seem that there is a certain paradox in the development of public participation mechanisms in the form of the statutory consultative procedure. The apparent paradox is less perplexing when closer examination is made of the statutory consultative procedure, which implies a particular, and limited, form of public participation: merely the right to make submissions. What is clear from the case study of the implementation of the special consultative procedures is that there is minimal official guidance about obligations upon local authorities in the implementation of the procedure. Searle (1995) notes that the statutory requirements for the annual planning process, as set out in the reformed Local Government Act, constitute a minimalist approach to consultation which should be the basis for more authentic and extensive consultative techniques.

In addition to the case law referred to, as a result of the emphasis on consultation in the resource management decision-making process, the Parliamentary Commissioner for the Environment has developed guidelines about consultation. Local authorities themselves have reviewed their consultation practices and further refinement is undertaken as an on-going project by many local authorities. Some of the efforts made by PNCC to develop better practice in its consultation (as outlined in a report in August 1993 by a Research Planning Officer in PNCC's Strategic Planning Unit which was followed by a report by the City Manager in November 1994) were referred to in Chapter Seven. In both cases, the Council's officers were seeking to refine the Council's understanding of consultation and to develop effective procedures. In the 1993 report, the Research Planning Officer asserted, somewhat optimistically:

Gone are the days when politicians can take the attitude that they were elected to govern. Ballot box democracy has been replaced by participatory democracy (p2).

~ The following benefits of consultation were recognised:

- consultation leads to better understanding between the decision-making body and the public by virtue of exchanging information (specific mention was made of the consultation about the option of a nil, 2 percent or 4 percent rates increase in the consultation on the *1993/94 Draft Annual Plan*);
- consultation can bring out the skills and expertise of citizens, especially if certain groups or individuals are targeted; and
- consultation can serve to prevent or diminish conflict between groups in the community.

In its *1992 Community Development Plan*, PNCC had articulated seven principles of consultation, most of which had been formulated when the Council had first embarked on the annual planning process in 1990 (see Appendix 10). These were the focus of a review of the Council's consultation practices in a report to Council in November 1994 by the City Manager (Willis, 1994). He acknowledged the tension between representative democracy and the requirements for consultation. Although representatives are elected to govern, he concluded:

... the accountability mechanisms introduced in 1989 have dramatically changed the way Councils make decisions and more particularly, the way in which the public is involved, *and the way in which the public itself expects to be involved* (Willis, 1994: 2, emphasis added).

Referring to Bush (1994), the City Manager noted that there was:

... a stark dichotomy between the expectations of local bodies involved in consultation and [the expectations of] the people being consulted. Local bodies acknowledge a duty to *hear* public views, while the public expect the local body to *heed* their views. ... Thus some middle ground is required (Willis, 1994: 4, emphasis in original).

The City Manager expressed the view that the role of Councils is to govern and that consultation is a (that is, one of several) means by which they achieve that goal. What Councils need to ascertain, he argued, is when to consult, how to consult, and whom to consult. A clear framework is needed particularly given the rising expectations of citizens about consultation opportunities. The suggestion that there is a conflict between governance and consultation was

dismissed by the City Manager, who espoused the view that the two concepts comprised distinct and separate elements of the decision making process. Incorporated in the City Manager's report was a new document containing the existing PNCC Principles of Consultation, reframed as a set of Policies on Consultation. The City Manager emphasised, among other things, that the Council needed to accept that the decision-making process would be slower.

Likewise, Wellington City Council had initially developed a Public Participation Policy and more recently this has been replaced by a Consultation Policy published in December 1996 (Pink, 1996).

In general, local authorities' approach to consultation has therefore evolved over time. Consultation, in general, and the special consultative procedure, was a relatively novel feature of local authority policy development in the early 1990s. In Palmerston North, and many other local authorities, consultation was undertaken enthusiastically and with good will. The advantage of such enthusiasm was that there was not much of a problem with lack of submissions, as the Council's enthusiasm (for example, through its extensive use of popular media to inform citizens about the annual planning process) stimulated citizens' interest in the annual planning process itself, and in utilising the special consultative procedure. The challenge of managing a potentially, and often in actual practice, unwieldy and infinite task of consultation with citizens, led many local authorities, like Palmerston North, which went beyond the statutory requirements, to develop their own principles and policies relating to consultation.¹⁶⁶

Local authorities can also obtain some guidance about good practice through the survey conducted by Searle (1995) for the Department of Internal Affairs; and learn from other public sector organisations with a similar mandate (for example, the Crown Health Enterprises and Regional Health Authorities established in 1993). However, in a 1995 Conference Paper, one senior local

¹⁶⁶ In February 1994, for example, PNCC was approached by a community group which requested that the Council waive a fee for rental of a Council-owned facility which had been hired by the group for the purposes of a public meeting. The group contended that the Council had publicly stated that it supported public consultation of the issue (which was particularly controversial) and, in view of this, the group considered that the Council should provide tangible support for public consultation. The issue of remuneration for groups, especially *tangata whenua*, whom local authorities have a statutory duty to consult (under the Resource Management Act 1991) has been the subject of on-going debate (see Parliamentary Commissioner for the Environment, 1995).

authority planner observed that despite the public nature of the accountability documents (annual plans and report), "the accountability focus is still of management to elected members" (Markham, 1995: n.p.). In particular, the increasing emphasis on the use of performance indicators, which is a reflection of the managerialist quality of the reforms. As discussed later in this chapter, the emphasis on managerial accountability has been to the neglect, and even to the detriment, of strengthening both representative and direct democracy and thus has had implications for the nature of accountability.

To recap, participation and accountability were viewed by the reformers of local government as being fostered through the special consultative procedure, nevertheless the statutory requirements were not extensive. It has subsequently been explained that the statutory annual planning process is in the nature of a 'bottom-line' specification for consultation and that local authorities have discretion over what additional methods of consultation they might employ. Those local authorities, like PNCC that have approached consultation in an energetic and proactive manner have generating increasing expectations by citizens about the opportunity to participate in the decision-making process. On the other hand, Councillors have been unwilling to relinquish the notion that they have the electoral mandate to make decisions as representatives of the citizens who voted them into office. The case study and other fieldwork has revealed considerable ambiguity about the political role. Whereas the Local Government Act 1974, as amended in 1989, like the state sector reform statutes, gives attention to the role of management, it does not give guidelines about the role of elected representatives.

The experience of local authorities in the implementation of the statutory consultative procedure has highlighted a tension between citizens' aspirations for participation (which can generate conflictive inputs into policy development) and the rationalisation associated with managerial and planning activity.

An argument can be made against a more prescriptive approach to a statutory duty to consult. Observing that participation became associated with state manipulation of public opinion, Stiefel and Wolfe (1994: 10) note that there is a balance to be achieved with public policy that attempts to mandate participation:

If national policy strains too hard or too dogmatically to universalise participation, the outcome is likely to be apathy and conformism.

However, as noted earlier, several statutes have given effective guidelines about the consultative process and there is no compelling evidence for why the Local Government Act 1974 should not be consistent with these statutes, particularly as the special consultative procedure has resulted in a weaker basis for consultation and effective participation in the very political institution which should enhance citizen participation. The concern to ensure that local authorities had flexibility and discretion in their implementation of the consultative procedure does not seem to have any sound justification and instead, the obligations of local authorities should be reviewed and expanded beyond those now codified in the Local Government Act 1974. As part of any such review, the exigencies of effective participation should be considered and attention should be given to statutory guidelines relating to the role of elected members and political accountability and responsibility. Effective participation is likely to involve a diversity of strategies, rather than merely using an opportunity to make submissions on a Draft Annual Plan.

In diversifying the statutory provisions for consultation and public participation, it will be possible to overcome an inherent weakness of the existing special consultative procedure which privileges a certain kind of participation. Considine (1994: 145-147) identifies five different types of participant:

- shareholder¹⁶⁷
- consumer
- stakeholder/quasi-proprietor
- community actor
- citizen

The new mechanisms for public participation in local government in New Zealand appear to conform most closely to the community actor type. A significant number of those who make submissions in the course of the annual planning process are members of community groups. Considine (1994: 147)

¹⁶⁷ While being a shareholder may be regarded as one form of participation, it is also clear that this is a very truncated form of participation. For example, the proportion of shareholders who attend annual meetings is often very small. Shareholders typically use information for investment analysis rather than as the basis of individual influence over the conduct of the business of a company.

notes that this form of participation rooted in community activism has deficiencies:

Being largely self-selected, community actors may be unrestrained by rules and unencumbered by the need to be accountable. In the broadest categories of action, such as public demonstrations organised by social movements, key actors may be non-elected, semi-charismatic figures whose role as interpreters of public opinion can be quite eccentric. A policy-making process governed by this form of citizen involvement might well be among the most innovative and adaptive – but it would also be risk-prone and subject to manipulation.

This riskiness that a minority view was being articulated was frequently expressed in the interviews with Councillors, and observed in the meetings of Councillors that were attended during the course of the case study fieldwork. It reinforced the view of Councillors that they should insist on their electoral mandate to govern, which meant that they might take decisions that went against the preferences of citizens (always likely to be a minority of the electorate) as conveyed in submissions. Indeed, the Councillors' strong sense of their electoral mandate also led them to be reluctant to consider a binding referendum (for example, as was proposed in relation to the controversy about the use of the inner-city Railway Land which erupted in Palmerston North in 1993).

Ultimately, consultation must be acknowledged as insufficient as mechanism for strengthening democracy without other forms of participation. Consultation is perceived as (and, at worst, is) merely placation and information. At best, consultation is partial participation. Participation, therefore, extends beyond consultation. Instead, participation must include the expression, discussion and debate of values. If public participation is seen as being necessary in response to perceived risk then consulting organisations are not likely to find citizens coming forward to support proposals. Rather participation is confined to protest action.

An important issue, therefore, as a number of commentators (Lukes, 1974, Clegg, 1989, Cairncross, Clapham and Goodlad, 1994) have noted is the issue of the relationship between participation and power. Numerous criticisms have been made of consultation. Some forms of participation are no more than

manipulative mechanisms for obtaining acceptance of goals that have been selected by those who have power. Selznick (1966: 13) uses the concept of cooptation to refer to what is often intended by democratic procedures. He defines cooptation as:

the process of absorbing new elements into the leadership or policy-determining structure of an organisation as a means of averting threats to its stability or existence (1966: 13).

He argues that instead of participation, there is cooptation which is an organisational survival strategy: it serves organisational needs and does not represent the kind of power-sharing that is consistent with democratic participation.

Selznick's argument, and other similar views, have resulted in continuing and profound scepticism about the likelihood of democratising bureaucracy. This can be appropriate if it means the bureaucratic behaviour is scrutinised, but it has also discouraged efforts to develop effective forms of participation. Clearly, there are some weaknesses in participatory democracy in pluralistic and inegalitarian societies, yet there are also strong arguments for fostering greater public involvement in political decision-making. Likewise, Parella (1993) argues that consultation leads to marginalisation, co-option and reshaping of issues. It can be used to placate consent and on-going consultative rounds can deplete the resources of individuals and groups. In addition, community groups and citizens

... become consumer watchdogs, monitoring the implementation of policies, but unable to challenge the rationale that underpins them (Parella, 1993: 71).

Schlozman, Verba, and Brady (1995) in their research on political activists revealed that while the logic of collective action holds that activity to achieve collective goals is irrational, in fact political activists obtain various rewards and returns from their activity and that the patterns differ substantially across modes of participation. Most importantly, the research calls into question the applicability of narrow rational choice approaches to political activity.¹⁶⁸

¹⁶⁸ Prior to the theoretical and empirical work of Downs (1957) and Olson (1965), a central concern for political theory was the *lack* of active citizen participation. As was noted in Chapter

Having overcome the skepticism about public involvement engendered by Selznick's study, it is then necessary to ensure that public involvement is meaningful, appropriate and effective. What kind of participation and how much participatory democracy are critical issues to be explored. Thomas (1995) proposes a 'contingent theory of public involvement', on the grounds that the value of participation can vary according to the nature of specific policy decisions. As part of this theory, he identifies a process for determining when public involvement should be sought by public managers. The first step in the process involves assessing whether the successful implementation of a particular policy is dependent more on the quality of the policy chosen or on the acceptability of the policy. If acceptability is the vital criterion, the legitimacy of the decision-making procedure and the responsiveness of the decision to citizens' concerns need to be given high priority.

Accountability through representation

Rush (1992) argues that democracy should incorporate popular consent and control. There are both direct and indirect consent and control mechanisms. Whereas participation through voting in elections and referenda (and, of course, deliberative processes) is a direct form of consent, representation is an indirect mechanism for obtaining consent. As was discussed in Chapter Three, a balance of participatory and representative democratic procedures is desirable. In addition, a balance of consent and control mechanisms can assist with accountability where representative government operates. Thus, Hoffman (1995: 207) observes:

Even in the most direct democracy some individuals must be mandated to act on behalf of others, so that the real challenge facing democrats is one of establishing voting as a more 'participatory' process. Representatives should be more accountable, assemblies more representative, voters more readily mobilised, and the political impact of economic inequalities reduced... The point is that an agenda for democratisation requires concepts of representation and participation which mutually reinforce one another.

Two, Downs and Olson argued the reverse position that it was not rational to vote given that an individual's vote had so little influence.

The tension between representation and participation in liberal democratic systems was evident in the lack of clarity about the role of representatives. The mandate to govern that political representatives assumed that election conferred was held in tension with the idea that democratic governance should encompass public participation in political decision-making. As Michael Bassett noted:

You've got a real problem if you think that a council cannot make up its mind, cannot give leadership when it's elected to do that. Because the reality is that if you simply wait for 'the public', 'the public' represents Joe and Mary and Snooks and Bloggs three out of four who are likely to make submissions will have a hobby horse of some sort. The fourth will be batty and the number of people who will actually have what could be called an appreciation of the wider public good at mind, will be confined in large measure to the actually elected councillors who are obliged under law to have a sort of an overall appreciation of the interests of the area. So I mean you've got a clash it seems to me between leadership and pressure group democracy. In the end the balance has always to be on the side of leadership... Where does one stop? I would hold that the legislation has that where the council surely indicates where it's thinking of going. And in effect it can say to the public, "Unless you've got good reason as to why this isn't the way in which we'll go, this is the way we are going to go." So it's over to the public to either yawn and turn away in which case the council moves on, or if enough people think, "My God, come on, we're not elected to local authority on the other hand we're not going to let those swines do that." And if enough of them get up and protest, fine.

Representation in western liberal democracy, in New Zealand and elsewhere is complemented by a range of other devices which are oriented toward strengthening the accountability of the formal political process. Indeed, these devices, which include ombudsmen, legislative scrutiny, the rule of law and judicial review, the existence of pressure groups, the media and public opinion, are important features of representative democracy (Rush, 1992; Palmer, 1987). The purpose of the media is to convey information about the decision-making process and about specific issues, and thus to make the political process more transparent. In turn, this information is required to assist public participation, by citizens as individuals, and through membership of pressure groups. The

scrutiny of legislation by Parliament is a further device for enhancing accountability, as Parliament's business is to be open to the public and the members of Parliament are elected by citizens. The presence of these devices confirms the need for representative democratic processes to be complemented by other instruments of accountability and additional avenues for public participation in the political decision-making process. The statutory special consultative procedure introduced into local government, on its own, is not able to accomplish the accountability or to provide the scope of participation that is needed in representative systems. Therefore, it is necessary to consider the role for such alternative devices as have been mentioned for strengthening democratic governance in local government.

Accountability through constitutional democracy

The strength of liberal democracy is that it recognises the power of the state. Indeed, to be able to guarantee the rights that liberals prize, a powerful state is required (both to protect the liberal society from external aggressors and to protect individuals from the freedom exercised by other individuals). As Pierson (1989: 44) notes,

recognition of the state as both enabling and repressive calls for a consideration of the sorts of state institutions and practices that can facilitate effective mobilisation while curtailing the abuse of power.

Constitutional democracy embodies a recognition that certain protections and procedures are required in the use of deliberative processes, particularly given the differences in communicative competence highlighted in Chapter Four, and the scope for manipulation of public opinion that was the focus of Habermas's work (and which was instrumental, according to Habermas, in the decline of the bourgeois public sphere).

There is increasing interest in the public sector reform literature in applying the principles of corporate governance, which encompasses the "structures and processes for decision-making; and accountability, controls and behaviour" associated with the direction of the affairs of private companies, to public

companies (Australian National Audit Office, 1996: n.p.).¹⁶⁹ Stiefel and Wolfe (1994 : 222) argue that 'good governance' includes:

accountability of public officials, the presence of a legal framework that makes rules and regulations predictable, the availability of information and the transparency of decision-making processes. People's participation and the strengthening of the 'citizen's sector' were initially spelled out as further components of good governance, but in later bank documents popular participation has been subsumed under the call for public accountability of officials and transparency of decision-making processes.

Increasingly it is being argued that there is a significant role for constitutional and administrative law (and by implication, a stronger role for the judiciary) in establishing procedures for democratic public policy development (see for example, Longley, 1993; Lewis, 1994; Galligan, 1996).

Longley (1993) has reviewed differences between the health services and public law in the United Kingdom and in the United States. In the latter there has been heavy use of litigation with the result that the courts have a significant constitutional role in the development of effective and responsive health care delivery. Through their litigation consumer groups pressed for the explicit expression of facts and values in health care policy and implementation and also strengthened the case for representation and accountability.

For the United Kingdom¹⁷⁰, however, this involves a quite different tradition in public law, in which there is cautious or 'soft' standard of judicial review as opposed to the 'hard look doctrine' found in American administrative law. The latter doctrine

... aims to develop and maintain a standard of judicial review which seeks to ensure comprehensive analysis of policy options by decision-

¹⁶⁹ For further discussion of corporate governance and the importance of an appropriate legal framework of the public sector, see Stewart and Davis (1994, Walsh (1995), Australian National Audit Office (1996), Hodges *et al.* (1996), and Whiteoak (1996).

¹⁷⁰ New Zealand shares the same type of public law tradition as that of the United Kingdom as the constitutional law of New Zealand is English-derived. In addition to the United States and English judicial traditions, there is also a distinctive European tradition.

makers and the production of coherent reasons for action (Longley, 1993: 83).

In the United States, this has led to clear specification of procedures to be followed in decision-making. The value of this, Longley argues (1993: 86), lies in the way in which it highlights the contested nature of such decisions and increases

the incentive for decisions to be more rational and accountable by determining the kind of procedure appropriate to achieve proper debate and scrutiny of policy in any given case. It should have to be demonstrated openly by a decision making body that it has weighed all relevant factors before finalising a decision.

Judicial review is one form of what Vallinder (1994) refers to as the judicialisation of politics. Vallinder suggests that adjudication and political decision-making may be viewed as two ends of a spectrum, with judicialisation signifying a move to the end where adjudication prevails. He argues that the judicialisation of politics is an on-going process and that it is not likely to be reversed. A New Zealand commentator on public law has recently noted that in this country the Courts and Tribunals are becoming increasingly engaged in determining the intent of resource management legislation and thus are delegated considerable power. McLean (1996: 224) notes that such delegation "depends for its legitimacy on the potential for people to participate in the decision-making processes at local level." However, there is no resourcing of public participation.¹⁷¹ Again, the particular judicial tradition of New Zealand is relevant, as McLean (1996: 225) observes:

The United States courts have been much more willing to supervise these participatory processes than New Zealand courts have traditionally been. this will be a developing area of administrative law in this country (again legitimacy conferring).

Turner (1995) also endorses the role of law in providing institutions and procedures through which public policy debates can be conducted and

¹⁷¹ This is a matter of some concern given the statutory requirements for consultation with tangata whenua (particularly in the Resource Management Act 1991). There have been calls for funding to be made available to parties which are being consulted by public bodies.

decisions made. Turner argues that administrative discretion should be seen as a positive value rather than something that is unfortunate and in need of strict control. At the same time, discretion is counterbalanced by accountability. Turner (1995: 88) highlights the need for:

work on broader frameworks of guiding principles to influence the exercise of discretion, and the development of more detailed, immediate and provider/client-based forms of accountability.

To achieve accountability clear procedures are needed which define the processes of interaction between policy processes and individuals within public organisations and citizens external to the organisations and processes but who give them their legitimacy.

Therefore, it is clear that, in addition to the promotion of deliberative democracy, certain constitutional supports are required for democracy to be strengthened in both local government and central government.¹⁷²

A key mechanism for ensuring the responsible use of state power is a written constitution. A constitutional form of democracy could be developed in order to guarantee participatory political decision-making. In addition, a constitutional framework reflects rules about basic rights which democratically-arrived-at decisions cannot violate.

People may desire to live in a democratic polity in which there is open and accountable government and equitable public policies, but they do not necessarily seek to be directly and fully involved in bringing this about. At the same time, they want to have access to the political process when and if they desire beyond simply the opportunity to elect representatives.

Increasingly, it is being strenuously argued that consumerism and other features of the marketisation of public agencies may, in fact, represent a downgrading of participative citizenship. This then leads to a questioning of the legitimacy of those agencies and their policy objectives.

¹⁷² Likewise, Hirst (1990: 11) advocating associative democracy, insists:

A legal order and the rule of law is a necessary part of any democratic society, and any political theory seeking democratisation must show how its proposed institutions are compatible with a sustainable legal order.

The strategies discussed here for reinvigorating citizenship and in particular the comments about the design of public institutions are predicated on recognition of the need for a sound constitutional framework for public agencies. As Longley (1993: 103) argues:

Because, by its very nature public power is exercised on behalf of all citizens, everyone has a right to participate in and express concern with its application. The challenge for society and the designers of its public institutions is to provide a means to draw together and manage those diverse sectional interests to as to safeguard the citizen as an individual and a member of society from arbitrary decisions.

Ryn argues that public decisions in a constitutional democracy are reached in a certain, deliberate way and therefore they are not the result of arbitrariness and impulse.

The distinguishing mark of constitutionalism is not so much the laying down of written provisions, as is the belief of Thomas Paine. It is rather the willingness for the sake of a higher goal to subject present political wishes to scrutiny according to a set of rules not itself resting on the preference of the moment (Ryn, 1990:180-181).

This can be a useful complement to deliberative processes and may alleviate concerns (sometimes justified) that public participation reflects particular interests rather than a more general, public interest or common good (Thomas, 1995).

Where there are divergent conceptions of the good, a framework of checks and balances on the operation of participatory democratic institutions, for example, in the form of rights, can ensure that the risks associated with participatory decision-making in which some preferences of some participants may be discounted. Accordingly, Sunstein (in Copp *et al.*, 1993: 204-205) argues that:

the satisfaction of private preferences, whatever their content and origins, does not respond to a persuasive conception of liberty or autonomy. The notion of autonomy should refer instead to decisions reached with a full and vivid awareness of available opportunities, with reference to all relevant information, and without illegitimate or excessive

constraints on the process of preference formation. ... When there are inadequate information or opportunities, decisions should be described as unfree or autonomous; for this reason it is most difficult to identify autonomy with preference satisfaction. If preferences are a product of available information, existing consumption patterns, social pressures, and governmental rules, it seems odd to suggest that individual freedom lies exclusively or by definition in preference satisfaction, or that current preferences should, on grounds of autonomy, be treated as the basis for settling political issues. It seems even odder to suggest that all preferences should be treated equally, independently of their basis and consequences, or of the reasons offered in their support.

The underlying premise is that political decision-making should not be viewed as an aggregative mechanism. As Sunstein (in Copp *et al.*, 1993) argues, politics is irreducible to bargaining. The strengths of a constitutional form of democracy for the development of responsible government have become apparent in the course of the assessment of the utility of the special consultative procedure for enhancing public participation.

Wirth (1991) argues that, just as accountability encompasses control of administrative performance, it should also encompass participation in administrative performance. To this end, he proposes more radical forms of democratisation, including what he refers to as 'dialogic democracy', where relationships are ordered through dialogue rather than through embedded power. It is clear, of course, that there are asymmetries of power in natural deliberations where there are differentials in individuals' communication skills. Similarly, Ryn (1990: 14) argues:

In a democracy, constitutional checks may be viewed as inhibitions imposed by a people and its representatives on themselves. ... Constitutionalism involves a distrust of unhampered action and spontaneous decision. ... One purpose of constitutional law, and lesser laws, is to purge government as far as possible of this element and to create the conditions for reasoned, well-considered public decisions.

A number of democratic theorists of the left (for example, Held, in D. Miliband, 1994) have argued that democracy requires an accompanying set of empowering rights and duties. There are, of course, some valid concerns

about reliance on judicial review and therefore any tendency toward such a reliance would need to be constantly evaluated. It is argued that the judiciary should not usurp the roles of the legislature or executive and that judicial independence can be eroded if it takes on these roles.¹⁷³ These criticisms have been voiced in response to the increasing use of charters for outlining rights of citizens (for example, the Citizen's Charter and associated charters in the United Kingdom, the Charter of Rights and Freedoms in Canada). Responsiveness of public institutions is assumed to result from the specification of standards of service delivery and complaints processes where standards are breached. However, this complaints-driven approach is criticised for being reactive, litigious and individualistic.

R. Miliband (1994: 76), who is generally favourable to a greater reliance on constitutionalism and judicial mechanisms, notes that:

... judges have traditionally used their power to impede legislation which offended their conservative prejudices. This is not, however, inherent in the judicial function; and it is quite possible to conceive of a judiciary that would not have a settled prejudice against progressive legislation. After all, there have been a fair number of such judges who have done honour to the judicial function by the liberal attitudes which they brought to the discharge of their duties. Socialist democracy would no doubt seek to limit the scope of judicial review, for the simple reason that important issues of policy ought as far as possible to be determined by democratic process. But a change in the character of the judiciary does all the same create new perspectives about the meaning of judicial review.

Without going so far as to advocate policy-making by the judiciary it is nevertheless possible to argue for an expanded administrative law system. At a high level of abstraction, judges do influence policy-making, as Le Sueur (1996: 15) observes:

Judges dealing with constitutional ethics embodied in the English common law, like the need for rationality and procedural fairness by public bodies taking decisions, are premised on beliefs about people's rights and what constitutes good governance in a democracy.

¹⁷³ Under the so-called doctrine of the separation of powers, the role of the Courts is to interpret what Parliament enacts.

For some, judicial review is regarded as an affront democracy, but it can also be viewed as an essential tool in public accountability where there is an appropriate degree of judicial reticence.

It is necessary, but not sufficient, to have a juridical framework (administrative law) for guaranteeing the rights of citizens in relation to public bodies – in this case, the right to know the proposed plans, expenditure and activities of their local authority and to contribute their views in the form of submissions in the annual planning exercise. It is not sufficient, because citizens generally do not have resources to uphold the rights juridically given – at most, they can appeal to an ombudsman – but this is a complaints-driven process. Citizens may not have access to the information and knowledge necessary for the growing technicality of decisions that are being made¹⁷⁴ and they may not have the resources and skills to initiate a complaint (which may, for instance, require them to have legal representation).

A more useful approach might be to have what could be called a ‘Citizens’ Commissioner’. A model for this is the example provided by the Parliamentary Commissioner for the Environment in New Zealand. The Commissioner sees herself as a watchdog for the environment. She does not have to rely on a complaint being made but can initiate her own scrutinies of activities impacting on the environment. Importantly, she is independent of Parliament, although reports to Parliament. The main weakness is that she is a creature of statute. This kind of office, in conjunction with the office of ombudsman and official information legislation already in existence, would assist in enhancing the accountability of public bodies like local authorities.

Accountability through performance measurement

As in many parts of the public sector, there has been considerable interest in the introduction of performance indicators which are regarded as potentially a strategy for empowering citizens. They are assumed to assist citizens to know

¹⁷⁴ This is clearly seen in the case of the core health services debate in New Zealand where there is no scope for citizens to appeal decisions made by politicians and policymakers. Citizens are less and less involved in the debate which is increasingly the preserve of professionals and expert advocates; yet there is a facade of consensus. Indeed, the project of developing a list of core health services through public consultation has been largely abandoned.

what kind of public service is intended to be provided and to evaluate the service that is actually provided. In the United Kingdom, local authorities (though not central government departments) are required to publish performance indicators in local newspapers (Jackson, 1995). A critical issue is the extent to which performance indicators enhance the public interest and democracy. There is a strong tendency for the application of performance indicators to lead to a technocratic approach to performance measurement (Miller, in Hirst and Khilnani, 1996). It is important to examine (i) the kind of accountability that performance measurement is associated with and (ii) the reliability of performance indicators.

The emphasis on performance measurement is related to the demands of management accountability. The primary purpose of managerial accountability is to ensure that public sector organisations have clear objectives and that they achieve those objectives. This means that managers can be controlled through the constraints of having to achieve pre-established objectives and levels of performance. Ridley (in Jackson, 1995: 89) describes the emphasis on performance indicators as a feature of a new model of the state:

In many cases they act as a substitute for consumer choice in promoting competition, the engine of improvement. And they help citizens/customers assess the providers of services through comparison with what other providers can do, a useful additional channel for democratic control where the party-political electoral channel is overloaded and people are seeking more functional ways of influence.

Management accounting has, in fact, been subject to substantial critique.¹⁷⁵ The characteristics of performance indicators highlight the shortcomings of performance measurement as an accountability tool. Performance indicators are concerned with intermediate outputs (efficiency and economy) rather than the final output which effectiveness represents (Banks, in Jackson, 1995). Performance indicators can only be developed for activities that can be relatively easily measured: quantity, time, cost, throughput. The cost of collecting information can determine the types of indicators used. Yet another flaw of performance indicators is that they are easily manipulated:

¹⁷⁵ Miller (in Hirst and Khilnani, 1996) provides a concise overview of some of the critiques of various management accounting techniques. For further discussion of the strengths and weaknesses of performance measurement local government see Pollitt and Harrison (1992), Palmer (1993) and Midwinter (1994).

They can be massaged, the books cooked by the way information is presented, for example the level of reported crime will depend on what public reports the police actually record. Resources can be directed to measured activities to the detriment of other activities, for example on hospital waiting lists. The choice of performance indicators itself allows scope for manoeuvre, with the light made to shine on likely favourable measures while other things remain hidden (Ridley, 1995: 89).

Miller (in Hirst and Khilnani, 1996: 66) concludes:

... there are fundamental ambiguities and uncertainties in accounting practice [which] ... demonstrate the limits of accounting in providing ready answers to demands for accountability, and suggest that performance indicators should not be viewed as an easy solution to the more messy problems of democratic accountability.

The preoccupation with performance indicators is viewed by certain critics of new public management as further evidence of the dominance of technocratic and instrumental rationality in public sector organisations to the detriment of the political tasks of those organisations. Instrumental reason, as will be discussed in the next chapter, promotes a narrow means-ends focus in favour of a decisionistic model of politics, thus leading to the scientification of politics (Centeno, 1993).

To summarise, performance indicators tend to measure efficiency in the delivery of service. As such they cannot address the question of whether citizens receive appropriate services (Walsh, 1995). As Ridley (1995: 89) notes, performance indicators

are either concerned with efficiency measures in delivering services or the user friendliness/customer orientation of deliverers. Complaints about failure to give citizens their rights, about legally wrong decisions etc., are really a matter for the courts in the end ... – although indicators of complaints received and internally resolved may be relevant in some cases (for example in errors about tax assessment). In continental European administrative law countries, where there is much greater emphasis on administration as a quasi-judicial activity, customer orientation/ friendliness may rank less high than in Britain.

The observation about different public law traditions is significant because it provides some explanation of why there is so little scope for judicial review of local authority and other administrative decisions in New Zealand which, as noted above, has derived its public law from Britain. Given this lack of opportunity to scrutinise administrative decisions, the consumerist emphasis on customer orientation of public services has been privileged; indeed, it is the exclusive means for promoting responsiveness in public services.

Participation as consumerism

Increasingly, a particular form of participation is coming to characterise the policy-making process. This is where the role of the participant is that of consumer. In recognition of consumer rights, public services have been required (particularly in the UK) to publish charters which set out the standard of service to be provided and avenues of redress if these are not met.

Consumer rights focus on quality assurance, customer care and the rights of redress and exit. The question to be asked in the course of critically assessing the participatory processes introduced into local government is whether and to what extent participation encompasses more than the exercise of consumer rights. The way consumers have influence over the delivery of services is through choice of provider and through the mechanisms of 'choice' and 'exit' (Hirschman, 1970). That is, if they are dissatisfied with a product or service they have the option of taking their business away. This, of course, relies on the presence of more than one provider, that is, a competitive market in the delivery of services.

While there has not been any notable interest in the development of charters applying to local government services in New Zealand¹⁷⁶, there is still an emphasis on quality and consumer guarantees through the formulation of mission statements, development of performance indicators and annual reporting/auditing. Quality is defined in terms of the timeliness, volume, speed with which tasks are performed. Thus, the focus of charters is outputs, and not

¹⁷⁶ The Australian Government is embarking on further public sector reform in the wake of the 1996 election of a Liberal administration. The reforms include the introduction of Government Service Charters. In addition, there has been some interest in Citizens' Charters by the leader of New Zealand First political party which is one of the parties to the Coalition Government formed in December 1996.

outcomes. As noted in Chapter Five, public management is focused on outputs (Walsh, 1995: 221) whereas outcomes are very often more critical. If there is to be a democratic process for determining preferred outcomes, it will be even more imperative to develop deliberative democratic procedures. While it is useful to have what Longley (1993) describes as a 'positive culture of complaint' (a reactive and remedial procedure) where there is an expectation and encouragement of public influence through questioning the actions of public bodies, it is important to take 'preventive' measures such as meaningful consultation, self review and other good practice measures oriented to the enhancement of responsiveness.

In reflecting on the consumerist ethos in local government in New Zealand, Markham (1995) perceives a tension between the preoccupation with consumer responsiveness in service delivery and the notion of governance which encompasses leadership, arbitration of rights and protection of diversity in a pluralist society, and regard for the future. The Audit Office (Controller and Auditor-General, 1991) has indicated that customer evaluation of local authorities' activities cannot be reduced to customer satisfaction surveys. Consumerist strategies can assist accountability but they should not be used to the exclusion of other forms of accountability.

Hambleton (1992) argues for a distinction to be made between responsiveness and accountability. Although, he notes, these concepts are closely related, responsiveness is associated with a different theoretical orientation in the public service reform strategy. Responsiveness is highlighted in the consumerist camp, whereas accountability is associated with reforms that seek to alter the interface and interaction between local authorities and their communities. Following Hambleton, it is argued that democratic governance in local authority political decision-making encompasses more than consumer responsiveness; it requires the expansion of citizen participation in the governing process. Such an expansion of public involvement would include both increases in the number of citizens who participate, and widening scope for participation (which would utilise diverse forms of participation).

Decision-making in public sector organisations

Given that performance indicators focus on outputs, the question remains of what kind of democratic procedures allow citizens to shape decisions about outcomes. This was a key challenge raised in Chapter Four in the context of discussing the sphere of public debate and deliberation about the common good.

Consumerism may have a positive value to the extent that it recognises that the user of public services should be able to influence the design of services which in many social democratic welfare states had become insulated from the views of users. However, Ranson and Stewart (1994) emphasise the limitations of consumerism which assumes the universal validity and applicability of market mechanisms.

Clearly, it is important for all organisations to be mindful of the needs of users of their products and services, but while there are some benefits to citizens from the application of techniques associated with new public management, there are also significant deficiencies in new public management (see for example, Farnham and Horton, 1993; Ranson and Stewart, 1994; Clarke, *et al.*, 1994).

It has been noted that advocates of new public management (and managerialists in general) assume that any shortcomings in public sector organisations (for example, the negative aspects of bureaucracy, lack of efficiency) will be overcome by the use of private sector management techniques. Thus, new public management assumes that there is a symmetry between public and private sector organisations. This is an inaccurate assumption as Ranson and Stewart (1994: 19-20) argue:

Consumerism provides an incomplete and ultimately inadequate language for the public domain. Its emphasis is upon the individual in receipt of a service, rather than on the citizen as an active participant in the polity. The emphasis on the customer of the public service has the merit of forcing public organisations to look outward to those who use and receive their services. The flaw is that the language of consumerism cannot encompass the scope of public action... There are limits, moreover, to the extent to which public services can regard those affected by the service as customers whose wishes are to be met. Public

organisations have the distinctive task of exercising the powers of the state. Sometimes they have to order, inspect and control...

The unique nature of public organisations is being ignored or denied. While there may be some positive results accruing to public sector organisations when exposed to the 'discipline of the market', it must nevertheless be acknowledged that public sector agencies have unique responsibilities not imposed on private sector enterprises.

Moreover, public sector organisations have different responsibilities from those which confront the private sector:

In the public domain, public purposes have to be realised which may not conform to the wishes of individual members of the public. Public purposes can set limits to responsiveness to the customer. The language of consumerism has a contribution to make to the public domain, but a more appropriate language has to be developed to express the complexity of public purpose (Ranson and Stewart (1994: 19-20).

The uniqueness of public sector organisations (and accordingly the weakness of the consumerist model of accountability) is seen in the tension between participation by citizens and representation, that is, the Council's 'duty' to exercise leadership (the assumption of a mandate from its electorate). Bassett noted:

But I come back to that point, if there is not an exercise in leadership from the council then the council, the local authority becomes the playground of flakes, and freaks and misfits and I don't think that's what democracy is actually about.

Dr Bassett is expressing a similar view to that reflected in statements by Councillor Brown, reported in Chapter Seven, in which it is argued that elected representatives have a necessary role in distilling from raw public opinion a sense of what the entire body of the citizenry wants and also of judging what is good for the entire body of citizens.

What is clear from the interviews and the documents outlining the principles underpinning the reforms of local government, is that there is no clear conception of the public aspect of the public sector, or that it has been reduced,

undermined and questioned (Ranson and Stewart, 1994). Such sentiments are strongly implicated in public choice theory in which efficient political management is threatened by politics and where participation is seen as leading to interest group capture. This is reflected in references which have a negative content, such as "costs of democracy" and "constraints of accountability requirements". Even the notion of a trade-off between efficiency and democracy implies that efficiency is sacrificed for democracy. Local authorities in their annual plans describe the costs of the annual planning process and special consultative procedure as "costs of democracy" and Elwood spoke of inefficiency as being the price of democracy.

In contrast, a previous Chief Ombudsman, Sir John Robertson¹⁷⁷ observed:

Democracy was never meant to be efficient. Democracy is supposed to be for the people, by the people, and encompasses the right of people to express views and have them fairly evaluated. It has to do with consensus and compromise.

Similarly, Battin (1991: 303) argues:

Few would be bold enough to argue that because democracy is less 'efficient' than other forms of government in its cherishing of procedure rather than on mere outcomes, it (democracy) should be scrapped. We value democracy because, although it is 'inefficient' on non-democratic terms, it is the only form of government (on democratic terms) which can allow for the expression of interests.

¹⁷⁷ The source of the quotation is the speech notes used at his retirement function (8 December 1994). Robertson's successor was the former Chairperson of the Local Government Commission, (now Sir) Brian Elwood. This is viewed as ironic in some quarters because at the time of the parliamentary debates and submissions on the Local Government Reform Bill, a private member's bill was brought forward by an Opposition member, which sought to extend the Ombudsmen's jurisdiction to encompass the Local Government Commission, which opponents of local government reform considered had been given excessively coercive powers. The motion to introduce the Local Government (Jurisdiction of Ombudsmen) was lost (NZPD, Vol. 498, p10586).

The need for political accountability

In a review of the state sector reforms, referred to in Chapter Two, the review team (Steering Group on State Sector Reform, 1991: 20) noted that the reforms had been characterised application of private sector management principles to the public sector, but it emphasised the need to take account of the specific characteristics of the public service; in particular, it noted:

- the public sector has a unique constitutional role (not found in the private sector), as seen, for example, in the responsibilities of Ministers to the electorate, to Parliament and to each other;
- voters are not shareholders and the rights and functions of voters differ from those of shareholders.
- the private sector management model assumes that authority is delegated in return for accountability for performance but in the public service, chief executives do not have complete autonomy over their operations. Also, their accountability is not just to their Minister(s).

The review raised questions about the adequacy of the new planning and reporting and financial management requirements for ensuring effective parliamentary scrutiny. To the extent that local government has had to implement these planning and reporting and financial management practices, similar reservations apply. In addition, subsequent reviews of the state sector reforms, which have in fact been on-going, rather than confined to the 1988-89 period, have exposed the shortcomings of the output-oriented character of the reforms. It is increasingly clear that attention to outcomes is required in central government and this is equally true of local government. The emphasis on outputs has generated benefits in the form of controls on expenditure, and associated efficiency in resource use, along with improvements in certain areas of service delivery. However, as Walsh (1995: 221) points out:

It is in the case of issues of accountability that the underlying tensions in the new public management are most apparent. Traditional arguments for democratic accountability have always been subject to the argument that it is, in practice, necessarily limited, and there is an inevitable tendency to oligarchy. The introduction of a new set of incentives has

forced public officials and politicians to respond more effectively to service users in some cases. The introduction of the market is not in itself enough, and, in the new public management, relatively little has been done, as yet, to create the institutions that would make possible effective democratic control

The challenge for public sector and local government reform is to incorporate a measure of self-determination which in turn implies a quality and quantity of participation.

Analysis of the public participation mechanisms in local government and the theoretical influences on this feature of the reform agenda highlights the distinctiveness of the public sector and its decision-making processes. Increasingly, it is being recognised that the organising principles of consumerism are inappropriate for addressing the problems contemporary societies confront.

While there is a keen interest in aspects of corporate governance, at the same time, the unique mission of public sector organisations has implications for public sector governance. One aspect of the mission, as McKevitt and Lawton (1996) argue, is the creation and maintenance of social interdependence and cohesion. Essentially, public sector organisations have to develop policy which reconciles a diversity of individual and collective interests. As Ranson and Stewart (1994: 19-20) explain:

There are limits, moreover, to the extent to which public services can regard those affected by the service as customers whose wishes are to be met. Public organisations have the distinctive task of exercising the powers of the state. Sometimes they have to order, inspect and control... In the public domain, public purposes have to be realised which may not conform to the wishes of individual members of the public. Public purposes can set limits to responsiveness to the customer. The language of consumerism has a contribution to make to the public domain, but a more appropriate language has to be developed to express the complexity of public purpose.

With the application of new public management there has been a tendency for differences between public and private sector management to be overlooked. Instead, critics of new public management highlight the need for the

distinctiveness of publicness to be emphasised. For Ranson and Stewart (1994) this means that the public purpose of public bodies is recognised and there is a concern with identifying needs (rather than demand as in the consumerist emphasis of new public management), and giving full acknowledgement to the political nature of public sector management rather than emphasising the criterion of profitability/cost-efficiency which is the key consideration for private sector enterprises. Public sector organisations have a different operating environment which includes legislation requiring openness of information, access for the public to the decision-making process and accountability.

The annual planning process as public space

Local government is commonly understood as an arena in which there can be a degree of self-government, where citizens, including those who are marginalised, have a degree of influence. Where participation is seen as an important goal of public policy, it is important that this is approached in a non-dogmatic way; if not, the outcome is likely to be apathy and conformism (Stiefel and Wolfe, 1994: 10). This highlights the need for an arena in which citizens, politicians and bureaucrats can meet and deliberate on political choices and the procedures by which deliberation can occur.

The annual planning process, suitably modified to accommodate dialogue, can function as a public sphere. It sits on the boundary of the state and civil society, so differs from Habermas's concept of the public sphere in that it is not separate from the state (if local government is regarded as part of the state). The annual planning process and the requirement that local authorities consult with their citizens embody normative principles that were central to the liberal public sphere and on which Habermas sought to build a democratic politics. Through the annual planning process, in which public notification and deliberation are key elements, the principle of openness – also, referred to as publicness – is reflected. The principle of unfettered communication is encompassed in the opportunity for citizens to contribute their views. However, this is largely a one-way communication and the ideal of democratic will-formation through dialogue is still unrealised. Finally, the annual planning process may be viewed as opening up public space, and therefore, potentially, as a public sphere.

Fraser (1992) takes issue with conceptions of the public sphere premised on a sharp distinction between civil society and the state. She notes that different interpretations of civil society prevail. One notion of civil society emphasises private economic activity (that is, the capitalist economy). Another notion highlights the sphere of associational activity outside the sphere of government. Fraser argues that the public sphere in this latter interpretation is associated with the development of weak publics because the deliberation conducted in this sphere is confined to opinion formation and cannot extend to decision-making. If it were to encompass decision-making it would lose its ability to be a counterweight to the state. This conception of the public sphere as distinct from the state predated the emergence of parliamentary sovereignty. A sovereign parliament, Fraser (1992: 134) argues, is:

a public sphere *within* the state. Moreover, sovereign parliaments are... *strong publics*, publics whose discourse encompasses both opinion formation and decision making. As a locus of deliberation, culminating in legally binding decisions (or laws), parliament was to be the site for the discursive authorisation of the use of state power. (Italics in original)

Fraser draws this distinction between strong and weak publics to highlight the different capacity for transforming public opinion into subsequent decisions and actions. There is a need, furthermore, for a rigorous examination of the "relative merits of weak and strong publics and about the respective roles that institutions of both kinds might play in a democratic and egalitarian society" (Fraser, 1992: 135).

Fraser also highlights the importance of accountability of democratic decision-making bodies to external publics. The need to find appropriate mechanisms (direct or representative democracy) and the degree of articulation between the different types of mechanism need to be considered. Fraser (1992: 136) concludes:

The bourgeois conception of the public sphere is not adequate for contemporary critical theory. What is needed, rather, is a postbourgeois conception that can permit us to envision a greater role for (at least some) public spheres than mere autonomous opinion formation removed from authoritative decision making. A postbourgeois conception would

enable us to think about strong *and* weak publics, as well as about various hybrid forms.

The distinction between strong and weak public spheres can be useful in an evaluation of the annual planning process. The public sphere of the local authority's deliberations on submissions received on the draft annual plan is arguably an example of a strong public, whereas group and individual submissions on the draft plan emerge from a variety of publics, some of which are relatively strong, while others are relatively weak.

The inequality in relations among the different publics also needs to be recognised because this diminishes the quality of deliberation by, among others things, determining what can legitimately be defined as a public issue. Even with full acknowledgement of Fraser's critique of the Habermasian concept of the public sphere, it can be argued that the notion of a public sphere is nonetheless an important component of a theory of democracy, as it constitutes a key feature in the institutional framework of a democratic polity. A public sphere is central to a deliberative democracy, comprising, as it does, the arena in which debate and argumentation occur. A key feature of the liberal public sphere, as described by Habermas, was that it was a sphere outside of the state but in fact the state through the arm of the law could protect the public sphere.

It has been emphasised that democracy is seen as more than just the aggregation of preferences. Given that public sector choices are political choices and, as such, are usually contested, challengeable and disputed (Clarke, *et al.* (1994: 252), it is the task of public service managers, together with politicians, to seek some degree of consensus amongst the different interests and stakeholders within the 'policy community'. A pressing issue is therefore to develop governance processes that facilitate a partnership between politicians, bureaucrats and citizens.

It is clear from the intentions of the reformers of local government (as articulated in interviews and in policy documents), and in the discussion of Habermas's concept of the public sphere in Chapter Four, that a goal of democracy is to increase citizens' sense of efficacy, citizen trust in government, and a shared conception of the common good. All of these are necessary both for governmental decision-making to have legitimacy and for policy

implementation to be effective. For this reason, deliberation must be viewed as a feature of democracy. Political choices and policy debates are not solely issues of technical efficiency but involve values and normative arguments. Deliberative democracy in a public sphere will nourish the social capital that is increasingly being regarded as vital for social cohesion (Putnam, 1995; 1996).

Conclusion

In the late 1980s in New Zealand, participation was a key public policy issue as it was throughout much of the world where democratisation movements have continued to challenge national governments, ironically at the same time as citizens have found that the nation-state is increasingly less capable of responding effectively to popular demands for social equity and security. Increasingly the character and capacities of New Zealand's political institutions, like those in so many other countries, are coming under scrutiny. To enhance the effectiveness of government, different governing mechanisms are being advocated.

The reform of local government placed particular emphasis on the role of consultation and public participation in the annual planning process but the discussion in this chapter has highlighted the shortcomings of consumerist approaches for satisfying the requirements of accountability and the demands of democratic governance. These leave unresolved many questions about democratic processes and the conduct of public sector organisations. Critics of new public management have argued that the public sector must be viewed as distinctive and that the values of the private sector cannot simply be transplanted into public agencies. New public management emphasises accountability through contract (as seen, for example, in the implicit contract between providers of services and consumers associated with the development and publication of performance indicators and charters). Critics of new public management do not dismiss the importance of accountable management; instead, they insist that accountable public management entails more than is able to be achieved in those forms of accountability developed in a consumerist mould. As Ranson and Stewart (1994: 164) explain:

The argument is not that accountable management should not be introduced; but that it should not ignore the reality of the political process

or the importance of public discourse, any more than its equivalent in the private sector can ignore the reality of the market. The tests of effective performance management include political sensitivity and recognition of the need to test political reaction to the unexpected and to the emerging patterns of public discourse.

Although the reformers of local government in New Zealand have been regarded as world leaders, as have been the public sector reformers more generally,¹⁷⁸ it is important not to lose sight of the need for further innovations to enhance democratic governance which transcend the practices associated with aggregative democracy. As Stewart (in Hirst and Khilnani, 1996: 55) points out, the emphasis should be on the strategy for developing citizen participation, not just on one technique, such as the annual plan, which “could become a burdensome routine.” Section 716A of the amended Local Government Act is a positive but somewhat unambitious step. It should not be weakened in any way, but there is a pressing need for reinvigorating and protecting the mode of public participation. The final chapter discusses how this task might be undertaken.

¹⁷⁸ Such accolades apply primarily to the management reforms of the state sector (see Schick, 1996) and of local government in New Zealand. In 1993, the city of Christchurch in New Zealand was presented with an award by the Carl Bertelsmann Foundation in recognition of its efforts to enhance democracy and efficiency in local government.

CHAPTER NINE

UNDERSTANDING POLITICS AND POLICY-MAKING AS COMMUNICATIVE ACTIVITIES

Introduction

Governance - the action of government plus its interaction with its non-government partners in the process of governing, in their collective relationship with the economy and public policy - has become a critical issue in the 1990s largely because it is viewed as fundamental to the achievement of effective economic management. At the same time, the legitimacy of government decision-making (derived in representative democracies from the electoral process) is increasingly fragile. As Hirst and Khilnani (1996: 3) observe:

Electoral majorities are artefacts, snapshots of public opinion, that rapidly disintegrate under the pressure of unpopular government actions and negative economic performance. Representative government is thus weakened, because its foundations in the wider society are shallower and less stable than they were.

This thesis has focused on the nature of the statutory special consultative procedure which provides an opportunity for public participation in local authorities' annual planning. The particular focus of the research is the nature of the democratic governance that is encompassed by the special consultative procedure.

This study has explored the assumptions about the nature of democracy as reflected in the public participation mechanisms incorporated into the Local Government Act 1974. The public participation mechanisms were designed to offer scope for citizens to influence decision-making through the requirements on local authorities to implement a special consultative procedure in relation to decision-making about new programmes and policies. The empirical aspect of this study has involved gathering data on the aspirations of the legislators and on the implementation of the new annual planning process which must observe the special consultative procedure. The case study of the implementation of the pertinent sections of the amended Local Government Act 1974 has illuminated the empirical realities of such participation. It has demonstrated, in

particular, the way in which the parameters for this are defined by the intervention of the management wing of the local authority. The significant degree of management influence and the limitations of statutory forms of consultation indicate that more effective and authentic forms of participatory decision-making are required. The review of the public choice theory and liberal pluralist democracy indicate that such forms are marginalised in the reforms of the public sector to date, notwithstanding the claims of the reformers to enhance democracy.

A frequent criticism of democratic theory, is that it operates at an abstract and metatheoretical nature and insufficient attention is given to procedural and institutional requirements. The aim of this chapter is to present the key findings of the study, and to give consideration to institutional questions that arise from these findings. This chapter also concludes the present study by highlighting further areas for research.

A particular concern in this thesis has been to explore the modifications that might be made to liberal representative democracy so that political decision-making is not just the reconciliation of conflicting political interests and aggregated individual preferences but the formation of *public* will. While liberal representative democracy is widely established, it also is recognised as delivering low levels of governmental accountability and public influence on decision-making. To redress the shortcomings, efforts can be made to ensure that representative government has greater legitimacy, or efforts can be made to strengthen democratic procedures and associations in the rest of society. Arguably, a focus on discursive and deliberative democracy (in which representative democracy is supplemented by participation in deliberative processes) will assist both strategies. In addition, it is argued that the strengthening of a public sphere, defined as a realm of social life outside the state to which all citizens have access and in which it is possible to develop public opinion, is vital as a key element in the development of new institutional forms of publicness. The thesis does not seek to provide an exhaustive treatment of proposals for institutional re-design to foster responsiveness and accountability. There are numerous other strategies that might be employed.¹⁷⁹

¹⁷⁹ For example, Stewart (in Hirst and Khilnani, 1996) identifies the following key areas for innovation in democratic practice: the informed citizen, recognising the communities within new forms of public meeting, mediation groups, citizen monitors, referenda and teledemocracy.

The shortcomings of the special consultative procedure

The key finding of the thesis is that the requirements of democracy are not satisfied by the annual planning (and reporting) process/special consultative procedure. Fundamentally, the annual planning process is a 'thin' form of democracy and the scope for participation is truncated by the emphasis on consultation. As Blakely (in Searle, 1995) notes, the statutory requirements represent only a 'bottom-line'. It is significant that the public are not directly involved in the decision-making process. They participate in deliberation only through the presenting of submissions (and possibly responding to questioning by Councillors). This is not a dialogical form of decision-making. Notwithstanding these weaknesses, this mechanism for public participation may be the basis for a more participatory infrastructure, particularly if there are clear guidelines about the representativeness of participants and accountability of political decision-making to the consultative process.

The analysis provided in this study confirms that managers, planners and policy analysts exercise discretionary power. It has been further suggested (Roberts, 1995) that managers seek a mandate for the exercise of such power through the use of public deliberation. The notion of a politics-administration divide is a particular limitation of the annual planning process. From the data gathered, it was clear that despite deference to the politics-administration dichotomy by management, disproportionately greater influence is wielded by bureaucrats (local authority officers) than that enjoyed by politicians (elected representatives) or the electorate. Based on the observations of the annual planning process it is argued that the politics-administration dichotomy that has been resurrected in managerialism must be revisited. This dichotomy is based on a model of governance which sees management and policy implementation as a technical matter. Much has been made of the contribution that a clear division between governance and management roles in the design of public institutions makes to the achievement of accountability. In his study of street-level bureaucracy, Lipsky (1980: 4) argued that street-level bureaucrats "implicitly mediate aspects of the constitutional relationship of citizens to the state. In short, they hold the keys to a dimension of citizenship." For him street-level bureaucracies were the public sector social services and law enforcement agencies. Another group of public sector workers who mediate aspects of the constitutional relationship of citizens to the state are policy analysts and planners in the public sector who have an increasingly significant

role in the 1990s. (This reinforces the need for public law to guarantee openness and fairness in the procedures of public institutions.)

Governance, however, is still conceptualised in terms of representation of electors' views or interest. But this is a weak basis for democratic governance. In much the same way that Longley perceives the need for advisory committees, Devine proposes the administrative structures need to be responsible to elected representative bodies but there needs also to be consultation and negotiation with self-governing groups which have a legitimate interest in the outcome of decision-making. Devine (1991: 206-207) argues that there needs to be less bureaucratic monopoly of decision-making:

The concentration of decision-making in the administrative structures of the state precludes the committed motivation that comes with participation, while because of the overarching nature of its relationship with society the state cannot have access to all the information needed to define the social interest as it would be defined by those whose interest it is supposed to be.

Devine regards negotiated co-ordination as the vehicle for achieving participatory democracy. This is similar to Longley's proposals for "different processes for the institutionalisation of interest representation and accountability" (Longley, 1993: 82).

The importance of public participation in local government decision-making

If democracy is to be sustainable, it must secure its legitimacy through the participation of citizens in political decision-making. Democratic governance is secured in the Local Government Act 1974 through a number of mechanisms. The provisions for remuneration of elected members, for example, is directed at enhancing the representativeness of elected bodies by ensuring that the costs of serving as a representative are alleviated. The provisions relating to community boards are directed to expanding the opportunities for participation of citizens in advice to local authorities. The statutory annual planning process and special consultative procedure, the specific focus of this thesis, therefore, are not the sole instruments for fostering democratic governance. However, these may be regarded as key instruments for ensuring the responsiveness and

Use this to mention about the types of policies instrument

strengthening the accountability of local authorities to citizens. They are particularly important in local authorities, such as Palmerston North City Council, which do not have community boards. They are significant because they are specified in statute and, while the particular steps that must be followed in the special consultative procedure may be regarded as the minimalist approach to consultation, in fact, they may represent the fullness of consultation.

It was intended by the reformers of local government that local authorities would have some discretion in implementing the special consultative procedure, to allow diverse forms of consultation and provide other avenues for citizen participation. However, the effect of such 'bottom-line' forms of consultation can also be to lower the lid on local authorities' consultative efforts, rather than to cause them to aspire to new heights. Certainly, in Palmerston North City Council, there are not numerous examples of supplementary forms of consultation and participation. The statutory provisions that currently exist (in section 716A) are not especially potent, although they provided for a substantive form of participation that was not available prior to the introduction of the annual planning process and special consultative procedure. The limitations of the current statutory provisions are more clearly apparent when compared with the provisions of the Resource Management Act and when viewed in the light of case law. The High Court, as was noted in Chapter Eight, has confirmed that, provided that proper consideration is given to submissions when received, there is no obligation upon local authorities under section 716A to follow submissions made. Although an attempt was made to interpret section 37K(i) (which states that the effective participation of citizens is a purpose of local government) as being able to control section 716A. Thus, the specific sections of the Local Government Act 1974 which mandate consultation are inadequate vehicles for ensuring public participation in decision-making.

Ultimately, effective public participation cannot be separated from other features of local government reform (such as contracting out, remuneration of elected members, and increased size of territorial units) which also impact on governance. For this reason, it is clear that there is a paradox in the development of public participation mechanisms in the context of a reform of local government which was in many respects informed by public choice theory which is characteristically suspicious of liberal pluralist democracy given the

assumed tendency for interest groups to capture politicians and bureaucrats.

The deficiencies of aggregative democracy

As discussed throughout this thesis, there has been increasing criticism of aggregative democracy. The reforms of the public sector were, in small part, a response to some of the criticisms of interest-group pluralism, and specifically the realisation that power was not dispersed to the degree that conventional pluralism assumes. Instead, some groups were able to capture politicians and bureaucrats (leading to inefficiencies in government) and large numbers of citizens were apparently alienated from the political process through the lack of effective influence. To ensure that politicians and bureaucrats were more accountable and responsive, and thus to enhance effectiveness of government as well as the effectiveness of citizen input, the public sectors reforms of the late 1980s were implemented.

An additional response to the deficiencies of representative government may be seen in the new emphasis on a form of direct democracy, plebiscitary democracy, has increasingly been promoted in many liberal democracies. This can be seen in the use of referendums and (in the United States) primaries (Fishkin, 1991). The introduction of the Citizens Initiated Referenda Act 1993 in New Zealand is likewise an example of this form of direct-majoritarian democracy.¹⁸⁰ Despite moves to extend mass participation in this form, there appears to be declining voter turnout. Citing the example of Switzerland, Fishkin argues that new opportunities for direct-majoritarian control have been accompanied by massive nonparticipation and disinterest. In view of the limitations of direct-majoritarian democracy, it is possibly somewhat ironic that this approach has been favoured.

Fishkin (1991) is critical of this "plebiscitary model of leadership" in which large numbers of people have certain power to exercise but little opportunity or requirement to deliberate about the exercise of that power. In many respects,

¹⁸⁰ The use of referenda is also appearing in local government, with a negative report about this development, as it has occurred in Tauranga District Council, appearing in the April 1996 issue of *Management* magazine. It is reported that the Chief Executive of the local authority resigned after a Citizens Initiated Referendum defeated a management proposal to introduce a metered water system (du Chateau, 1996). As further evidence of the tendency for policy-making to resort to referenda in an, albeit misguided, effort to be more democratic, the National-New Zealand First Coalition Government elected in New Zealand in November 1996 has also committed itself to undertaking a nation-wide referendum on superannuation during 1997.

this reflects the concerns of advocates of representative democracy about flaws in direct democracy. Referenda may increase participation, and potentially extend information about particular policy decisions to more of the electorate, but, in general, they do not represent a more deliberative approach to decision-making. Instead, efforts should be made to pursue a fuller vision of democracy that encompasses both political equality and deliberation. As Fishkin (1991: 25) argues:

Until now, it has seemed as if we must choose between the political equality aspired to by direct-majoritarian democracy and the deliberation fostered by representative institutions. However, this dilemma is false. We have only a brief history of experimenting with the adaptations of democracy to the large-scale nation-state. There is plenty of room for innovations that could overcome our present dilemmas of democratic reform.

A fundamental question in democratic theory is whether the public interest or will can be identified, that is distinct from the aggregation of individual interests and preferences. The public sector reforms, underpinned as they are by public choice arguments, like the proposals for citizens' initiated referenda, assume that the public interest is the aggregation of individual interests. These interests are pre-given and fixed.

The introduction of the special consultative procedure in local government annual planning and other decision-making provides an opportunity for citizens' preferences to be revealed but there is no encouragement of, let alone requirement for, dialogue between citizens and politicians. Thus, citizen preferences are treated as fixed and the public interest is seen as emerging from the aggregation of these preferences. This approach to decision-making belies the complexity of public policy-making and the deliberative nature of decision-making. As Lindblom (1987: 179) explains:

Whatever thinking you do culminates not in a fact about you that is disclosed, but in a commitment upon which you decide by your choice, to some degree considered. It is a volition, far removed from what we call preference. Indeed you may – and often do – form a volition for an outcome, or policy, that at the simpler level of preferences you do not

prefer. ... If, rather than uncovering preferences, citizens are engaged in the construction of volitions, then they need helpful empirical, prudential, and moral analysis, and must themselves engage in it through discussion. In constructing and constraining leadership, citizens need such studies as, among others, analyses of the range of possible social institutions and practices, the competences and incompetences of government and of alternative social machinery like the market system, of how to train and organise themselves for political participation, and of the history of constraints on their own habits of thought (a subject hardly touched in contemporary social science). I do not suggest that all that citizens need is research and social science. The political and interactive part of policymaking is a necessary stimulus toward forming better volitions. To form our volitions, we need the specific experience of political life: discussion, agitation, voting, and the like.

The case study has demonstrated that, far from fostering collective deliberation and effective public participation in decision-making, which are important elements in local self-government, the management structures and processes introduced by the 1989 amendments to the Local Government Act 1974, strengthen the role of management. Essentially, as is shown in this case study of the annual planning process and the analysis of the development of the policy framework guiding the 1989 amendments to the Local Government Act 1974, democratisation of local government is limited to the requirements for openness and transparency. However, because of the emphasis given to strengthening managerial accountability (in particular, the emphasis on managers' control of outputs) and the lack of similar reinforcement of political accountability, openness and transparency are in turn confined to the provision of information. This information is mainly related to the financial strength of a local authority and the assets and resources under its control, along with costs of services and programmes. It is entirely appropriate that this information is in the public domain, vital as it is for establishing the parameters in which policies are developed. However, the demands of democratic governance highlight the need for more than financial reporting and managerial accountability.

Through consideration of the Habermasian concept of the public sphere and postpositivist critiques of planning and the policy sciences, that democratic politics requires deliberative processes. Deliberative democratic theorists argue that interests and preferences are not given but are formed through

deliberation.

Deliberative democracy stands in contrast to the liberal conception in which democracy is assumed to comprise the aggregation of individual preferences. Liberal democracy has emphasised political equality and excluded deliberation, other than by an elite of representatives. In contrast, deliberative democracy emphasises the process of open discussion leading to decision-making.

To summarise, there are two alternative conceptions of democracy: the liberal conception of democracy as the aggregation of individual preferences and the notion of deliberative democracy which emphasises the process of open discussion leading to agreement, if not consensus, about political decisions (Fishkin, 1991; Miller, 1992; Knight and Johnson, 1994). In contrast to the public choice and liberal democratic objections to participatory democracy it is argued that deliberative democracy is both necessary and has an important developmental role. In the liberal individualist conception, people's preferences and interests are pre-given whereas in the deliberative conception, preferences and interests are constituted through the activity of deliberation. A distinction needs to be made, however, between the civic republican conception of political discourse and authentic deliberative democracy. In the former, it is assumed that deliberation is about the common good, whereas in deliberative democracy the goal of debate and dialogue is to clarify and form interests. Increasingly, it is recognised that aggregative democracy should be complemented by or superseded by deliberative democracy, the scope and quality of which should be enhanced.

Recognition of the role of communicative rationality in policy development

Clearly, the policy makers who have sought to reform the public sector in New Zealand (and particularly the local government reforms), as well as those who now implement the new consultative mechanisms, have employed and generated certain discourses about democracy and the nature of active citizenship.

These discourses assume that rational, autonomous individuals have clearly identifiable interests and have a capacity and a duty to express their interests in the political arena. It is assumed that there is a public sphere in which public

opinion is unambiguously expressed, that where opinion is not expressed it is not relevant; and that there is a rational and transparent deliberation on the range of opinions that exist. As a result it is assumed that when people make submissions and contribute their views on public issues, these views more or less exclusively subsequently shape the public policy outcomes. For this reason, then, public policies can then be attributed to the citizens. This perspective of public participation in policy development discounts other influences, especially the constraining influence of limited resources and limited information, and also the influence of officials in constructing and interpreting the products of consultation exercises. These influences on public policy outcomes are, at best, understated and, at worst, made invisible. In contrast, this thesis argues that public policies are shaped by a range of actors, among whom managers and other bureaucrats are particularly significant. Those who determine the frameworks for public participation and those (very often the same people) who process the results of public consultation exercises are as influential as those who respond.

A key theme in this study of the nature of democracy in the form of public participation in local government has been the influence of technocratic rationality on planning and policy development. In Chapter Five the features of what Wagner (1994: 113) terms "an outright 'rationalistic revolution'", in which a whole new set of governmental technologies such as Planning, Programming and Budgeting Systems was introduced, were discussed. In contrast, this thesis highlights the need for a critical theoretical analysis of rationality. Rather than rejecting rationality, critical theory argues that rationality is shaped by the conditions in which it is expressed. In modernity, these conditions render rationality as instrumental and alternative ethical rationalities are marginalised or suppressed. Instrumental rationality has come to be falsely construed as objective and its use in political decision-making allows policy analysis and planning to be presented as neutral.

In the course of exploring deliberative democracy, the implications for policy analysis, a key element in the political decision-making process, have been highlighted. Traditional policy analysis developed as a decision-making science for a society governed by large-scale managerial institutions. Fischer (1995) argues that for contemporary societies what is required are more participatory institutions and processes. Stone (1988) argues that policy analysis has been dominated by assumptions of neo-classical economics which cast society as a

marketplace occupied by atomised individuals who have no collective life. In addition, the aim of turning political decision-making and policy analysis into a rational science and of reducing the perceived irrationalities of politics has meant that the ineliminably political and collective character of public policy and planning has been ignored. Public policy is about fostering both individual and collective interests. While abstract goals may be shared, there will be considerable debate over the specific expression of those goals. The notion of discursive democracy incorporates this character of politics as "a set of arguments in favour of different ways of seeing the world" (Fischer, 1995: 219). In light of the fieldwork conducted for this research and of developments within the field of public management, the assumed separation of politics and administration is rejected. Given this blurring of the distinction between politics and administration, two things become vital: (1) ensuring the openness and transparency of actions and decisions taken by management; and (2) ensuring that the political role is strengthened in order to provide a counterbalance to the strong managerialism of the reformed structures and processes of local government. This thesis argues that deliberative democracy provides the key to achieving both these requirements.

Technocratic policy-making or deliberative democracy?

This thesis has highlighted the developments within planning and the policy sciences which have culminated in an approach to political decision-making which privileges expertise over participation. Lasswell (in Lerner and Lasswell, 1951: 5) argued that the new policy science was not to be merely technocratic but a "policy science of democracy". In contrast, Habermas argues that the policy sciences have emerged to mediate technocratically the contradictions of the modern liberal corporate regime. Highlighting the conflicts between capital accumulation and social legitimation Habermas (1971, 1976) argues that decision-making has adopted technocratic strategies and as such seeks to ensure that decisions taken in this way have scientific legitimation.

Drawing on Habermasian theory, some contemporary public policy and planning theorists (for example, Fischer and Forester, 1987; Forester, 1989; Dryzek, 1990; Fishkin, 1991; Fischer, 1993a, 1993b; White, 1994; Schram, 1995¹⁸¹) have argued for a postpositivist approach which seeks a hermeneutic

¹⁸¹ Schram (1995) distinguishes between his postmodernist critique of policy analysis and that of Forester which he says cannot be described as postmodernist in view of its reliance on Habermas who is a critic of postmodernism. Schram argues that in Habermasian theory the

or interpretive understanding of scientific activity and rejects the traditional conception of science (including the policy sciences) as an objective mode of inquiry governed by universalistic criteria. Fischer (1993b: 167) describes postpositivism thus:

Through its view of the theoretical and normative assumptions, underlying action, the political character of perceptions and cognitions, and the contentious nature of scientific prescriptions, postpositivist policy inquiry denies the expert's facile claim that there is only one scientific solution to a pressing social or political problem. In doing so, it offers a more complete evaluation of the components of political argumentation, of the theoretical constitution of policy alternatives, and the stakes involved.

In the technocratic mode of decision-making there is considerable distance between the expert and the citizen. Postpositivist theory seeks to reduce this distance by acknowledging the communicative infrastructure of policy-making. In Dryzek's view most western political systems, built on the formal institutions of representative democracy, are adversarial democracies. He advocates the abolition of political institutions which rely on adversarial, competitive and hierarchical procedures.

Following Habermas, Dryzek (1990: 23) advocates discursive democracy as a rationality to regulate instrumental rationality which should have a more limited sphere of influence than it historically has had:

Most policy analysis efforts to date are cast in the image of exclusively instrumental rationality and as such constitute a "policy science of tyranny" that facilitates the control of centralised power. Efforts to construct a policy science consistent with liberal or pluralist democracy provide little in the way of problem-solving rationality and at best merely reinforce the structure and operation of pluralism. Only a communicatively rational policy science of participatory democracy, oriented to the public sphere rather than the state, is well placed to reconcile the twin demands of effective social problem solving and democratic principles. It should be stressed that the quality rather than

modernist value of reason underpins the deliberative democracy through which bargaining and the force of better argument lead to emancipation.

just the quantity of participation is at issue here. The role of the policy analyst in such processes is not that of a technocrat but rather than of a participant in and facilitator of open discourse about policy (albeit with some special capabilities). That analyst should also focus continually on the conditions of policy discourse.

The growing interest in discursive or deliberative democracy may be attributed not solely to this rejection of positivism but to the specific character of public policy questions in contemporary societies. Fischer (1993b) asserts that, in the face of intractable or 'wicked' (that is, intractable) policy problems, top-down methods (where policy making is in the hands of political or bureaucratic elites) are increasingly problematic and methodological innovation is required. For Fischer, participatory practices which largely arise outside of the state provide solutions which will lead to a reconceptualisation of policy analysis. Policy analysts and planners, he argues, should seek to foster more democratic decision-making by helping ordinary citizens to understand problems confronting them and the options available. Likewise, Hult and Walcott (1990:95) note:

The key challenge in policy making may well not be finding the most efficient or effective means of achieving organisational control or increasing productivity... Rather the challenge will involve learning how to cope with turbulence, controversy, and ambiguity.

Deliberative democracy and challenges to it

Deliberative democracy stands in contrast to the liberal conception in which democracy is assumed to comprise the aggregation of individual preferences. Liberal democracy has emphasised political equality and excluded deliberation, other than by an elite of representatives. In contrast, deliberative democracy emphasises the process of open discussion leading to decision-making.

While a powerful argument can be made in favour of deliberative and discursive democracy, there are some obvious objections. In particular, it is argued that the ideal of communicative competence and noncoercive dialogue is utopian. Furthermore, as critics of participatory democracy have strenuously pointed out, not all citizen participation is of a public or collective character: it may be an

expression of self-interest and may be divisive and not oriented to the common good.

Participatory democracy has its detractors. Critics of participatory democracy argue that contemporary nation-states are too large and pluralistic, and that it is not possible for all citizens to actively participate in all or even some of the decisions that affect them. Also, there are, it is argued, sound reasons for being wary of public opinion, for example:

- citizens do not have adequate understanding of all the relevant information
- citizens do not act in the public interest but out of a narrow conception of self interest
- citizens are not consistent, responsible or disciplined in their input to decision-making

What such criticisms are highlighting is the tyranny of the majority and lack of representativeness that often characterise public participation. For this reason, a number of theorists have argued for what is known as the 'politics of difference' in which there is recognition that the modernist tendency to universalise and individualise has resulted in the bracketing-out of particular identities, and the tendency for difference to be viewed as inferior and therefore subordinate (see, for example, Laclau and Mouffe, 1985; Young, 1989, 1990; Turner, 1995).

Knight and Johnson (1994) argue that deliberative democracy does not provide a remedy for the deficiencies of aggregative democracy. They identify three difficulties internal to the ideal of democratic deliberation:

- (1) the problem of how deliberation might be institutionalised
- (2) the problem of whether and how deliberative procedures might, in a nonfacile way, be reconciled with the sort of pluralism that characterises modern polities
- (3) an apparently unavoidable tension between the normative thrust and the practical aims of deliberation as they envision it

In an increasingly pluralistic society, there will be a tendency, it is argued, for

politics to become particularistic and fragmented. Just as in any form of direct democracy, it is necessary to ensure that minorities are protected, so too in deliberative democratic procedures, differences in communicative competence will very likely continue to exist. Therefore, participants with lesser powers of articulation, persuasion and argument will similarly need protection and assistance.

It is argued that, in fact, deliberative democracy has the advantage of decentralising and redistributing decision-making. In this way, it can be an important mechanism for limiting the scope of central authority. It is consistent with a democratic liberalism which, as discussed in Chapter Five, is an important step in the reconstruction of a pluralist liberal democracy. According to Bellamy (1992: 258-9):

Such a system replaces substantive 'moralistic' constitutional constraints on majority rule and government action with 'realistic' procedural democratic checks and controls. Procedures allowing a plurality of views to be expressed, and which encourage their mediation, take the place of pre-political notions of rights and justice. The preservation of pluralism in this manner constitutes a liberal as much as a democratic commitment, for only a pluralist society provides a sufficient range of worthwhile options for the equal exercise of liberty through choice to make sense. A system of democratic institutions, which reflects the diversity of values and interests within society and enables accommodations to be arranged between them, provides the framework for a genuinely political liberalism, therefore, adequate to 'the fact of pluralism'.

In contemporary societies, such as New Zealand, which are increasingly pluralistic, the earlier forms of democracy which were associated with active participation of a relatively homogeneous population of citizens have come under pressure. There are competing conceptions of the good. The diversity of the population has made deliberative democracy more imperative, not less so. Given this divergence of understandings of the 'good', there is a need for reasoned discourse. Liberalism, on the one hand, assumes that these different understandings are treated as equal but, on the other, fails to account for the predominance of particular ones and the marginalisation of others.

Considine (1994: 130) sees participation as a "primary structure within all policy

development and implementation episodes.” This has implications for public sector management and governance as Thomas (1995: 5) notes:

Changes in society and governance as well as normative arguments for additional desirable changes have implied that public managers as well as other leaders in and out of government face a growing imperative to involve the public in making and implementing all manner of decisions.

For Thomas, education is a key factor in stimulating this aspiration for participation. Education and the diffusion of knowledge with the assistance of new information and communications technologies and access to computers means that centralised control of information is undermined. Brent Council in the UK has engaged in that country's first online budget consultation exercise in which citizens have opportunity to submit their views to Councillors. Rappoport (1997) reports that free online access facilities are provided through public libraries in addition to distributing printed copies of the consultation documents. The risks of inequality of access and of communication skills do not disappear, of course, with electronic media, and may in fact be exacerbated. In addition, the availability of such media does not specifically increase deliberation. While the potential for expanded public access to, and involvement in deliberative processes does arise, nevertheless it must be carefully planned and resourced.

An important task is to identify the social, political and economic conditions that foster democratic discourse and deliberation.¹⁸² Thomas (1995) highlights the need to determine which issues benefit from public participation and which do not. He notes the need to ensure that public participation is not dysfunctional to political and administrative systems. There are various means by which deliberation can be carried out.

Warren (1996a: 46) argues that deliberative democrats need to acknowledge the role of authority in certain decision-making contexts. He notes that a concept of authority, democratically founded, may be appropriate for four

¹⁸² Hanson and Marcus (1993: 21) note that even for representative democracy, the structure of communication between leaders and followers needs to be scrutinised to understand how representation functions and how mediation of interests occurs:

There is a pressing need to reconsider the communicative links between leaders and followers, if we want to grasp the possibilities for democracy under representative government.

reasons. First, there is the functional or pragmatic reason of the need for decisions to be taken without full deliberation due to the constraints of "time, expertise and attention". Second, there is the justification for the use of authority in decision-making because of the specialised nature of certain information and discourse. Third, authority can be seen as a positive feature of politics where it is associated with a popular mandate, that is, where an authority is authorised to take decisions. Finally, authority is not to be conflated with authoritarianism but can in fact be democratic. Indeed, according to Warren, democracy and authority should be regarded as being in a symbiotic relationship.

Some form of constitutional form of democracy is favoured particularly by some socialists who perceive the risks of referenda and other direct-majoritarian approaches, yet who acknowledge certain positive attributes of liberalism. Democratic liberalism, therefore, disputes the liberal democratic aim to ground politics in a set of universalist ethical principles. In the view of realist liberals, this will lead to one group seeking to legitimise its own position and restrict the actions of others. In the face of the complexity and pluralism of modern societies, liberalism needs to devise a complex plurality of political mechanisms to facilitate the influence and scrutiny of government policy by all relevant groups and individuals.

Clearly, participation in decision-making is mediated by group differences. For this and other reasons, the achievement of a democratic polity in contemporary society cannot rely as a matter of necessity on the active participation of citizens, whether as envisaged by civic republicans or by associative democrats. Hence, a theory of political agency which assumes the existence of a vibrant civil society and a multiplicity of civil associations is incomplete. In addition to the efforts to provide and enhance opportunities for public participation, a theory of democratic citizenship needs to be developed which accommodates nonparticipation (that is, the absence of consent) but in which there are controls over decision-makers to ensure that democratic principles are observed in the absence of direct citizen participation and vigilance.

What has become clear from this study of the annual planning process in local government in New Zealand is that despite the provisions for public participation in the annual planning process there are nevertheless limitations on the scope of public participation arising from the consumerist orientation of

the reformed public sector. This does not mean that the goal of participatory democracy is flawed; rather, there is a need to develop a more sophisticated way of pursuing this. The concept of the annual planning process has some value but needs refining.

While the focus of this study is public participation in political decision-making in local government, the findings with regard to the importance of the public sphere and the discursive and deliberative nature of politics can be extended to other dimensions of politics and policy development, particularly the task of policy analysis. Texts on policy analysis commonly define public policy as decision-making or advice which provides a rationale for government intervention in the market (the private choices of individuals). For economists in particular, the dominant value is efficiency and as Weimer and Vining (1992) argue, this is entirely reasonable. But they argue for consideration of other substantive values, including the substantive values of participation and accountability.

Immergut (1992) argues that while the technical assessments of the efficiency or cost-effectiveness of competing policy options are important, it is also important to consider the extent to which alternative policy proposals foster democratic citizenship. A central goal of public sector policy analysis and planning should be to promote democratic decision-making. To this end, it will be necessary to ensure that citizens understand problems confronting them and the options available.

The advantages of participatory policy analysis are recognised by Stewart (in Hirst and Khilnani, 1996: 48):

Participatory democracy, which involves citizens in the process of local government, can take many forms which, far from challenging representative democracy, can strengthen it. Citizen participation may well require representative democracy. Citizens do not speak with one voice. They place different and often conflicting demands. The communities in which people live are marked by lines of competition as well as co-operation. Within any community of place there are many communities of interest or of background. It is the role of elected representatives to seek to reconcile, to balance and in the end to determine the different demands made upon them. Citizen participation

informs but does not determine the process of representative government, although where it takes the form of direct democracy it can reduce the burdens placed upon representative government.

Concluding comments

Local government reform, like public sector reform, is a continuous process and there are clearly tensions and conflicts between different aspects of the reform thus far. The provisions for participation are limited due to the limitations that are associated with consultation as the key device for participation. Instead, it is argued that further development of participatory institutions and devices is needed. In particular, the findings of this thesis suggest that representative government should be complemented by more extensive use of deliberative democracy, that is, government by discussion. There is considerable scope for policy decentralisation, particularly where there are protections for minority interests.

In such a situation of decentralised policy-making, the question of how to resolve conflicting viewpoints arises. Without any resolution, there will emerge problems of particularism and fragmentation which in turn have implications for how citizens restrain the state's autonomy. As postmodernist thinkers have often pointed out, if one objects to the epistemological relativism of postmodernist theorising, one then needs to be able to formulate criteria for determining the validity of competing values and belief systems. This is where deliberative democracy is a potent procedure.

This thesis is ultimately concerned with questions of accountability in policy development. In this sense it reflects what is a worldwide concern with the need for the responsible exercise of democratic power. Delivering policies well has become a major concern for governments and those involved with implementing programmes, requiring innovation in technologies of decision-making. The exploration of decision-making procedures and the further development of and application policy analysis practices consistent with postpositivist theory is a major area for future research. In particular, the enhancement of open government and deliberative democracy through information and communication technologies requires active consideration and close review.

Essentially, this thesis is concerned with mechanisms for making collective choices. The key finding of this thesis is that the traditional forms of representative democracy need to be supplemented and complemented with deliberative techniques and more participatory processes. This is especially critical with the increasing tendency for the public sector, including local government, to engage in strategic management. The legitimacy of government is enhanced when citizens have an opportunity to shape political decision-making through deliberating on policy options. Moreover, often citizens can contribute information that assists the decision-making process.

Drawing on Habermas's concept of the public sphere and his theory of communicative action, and more recent developments in the critical theoretical analysis of planning and policy analysis, this thesis has critiqued the assumptions of the key critiques of liberal representative democracy (namely, traditional participatory democracy, civic republicanism, communitarianism and associational democracy). It also views the public choice approach to public sector reform as of limited assistance in the development of an authentic public participation and the strengthening of democracy.

Emphasising participation does not, of itself, ensure that citizens participate responsibly. Classical participatory theorists such as Rousseau and Mill assumed that political participation would impart qualities of responsibility and toleration. Their critics, particularly from the public choice tradition, however, have pointed to flaws in this benevolent view of collective action. In any case, too often participation has been limited to 'the politics of protest' and has not reflected an authentic influence by citizens on public policy.

Instead this thesis argues that in order to harness the positive features of participation, the new democratic techniques should incorporate mechanisms designed to foster deliberative processes and to constitutionalise the local government polity. Through such mechanisms, it is argued, democracy will be strengthened. Habermas's theory of the liberal public sphere does not address the question of the functioning of the state so attention to the interface between such a sphere and the institutional apparatus of the state is required. The participatory and dialogical processes established by the Local Government Act 1974, in the wake of the 1989 amendments, can be seen as opening up a space between civil society (individuals and autonomous associations) and the

local state.

This thesis is grounded in and seeks to contribute to what Forester (1995) calls a “critical sociology of policy analysis and policy making”. It advocates deliberative democracy as an approach to political decision-making which recognises the process of attention-organising; agenda setting and complex ways that policy-making politically and practically reproduces public belief, consent, trust and attention. The policy process, whether in the hands of elected representatives or bureaucrats, is accordingly viewed not as involving abstract ‘analysis’ but as comprising an evolving structure of interactions in which participants with different levels of authority and other resources negotiate their interests. As Forester (1995: 387) argues,

Policy makers, analysts, and implementers not only make far-reaching practical claims as they speak and write, but they also contingently *reproduce* corresponding *systematic* patterns of (a) public beliefs in states of affairs (toxicity of pollutants, e.g.), (b) public *consent* to political norms (supporting or challenging the ‘right to know’ about pollutants, e.g.), and (c) public *trust* (in the supposed intentions or expressed concern of public officials, e.g.).

In what appears to be an increasingly pluralistic world, the enhancement of diversity rests on some common values, a consensus, which requires dialogue. A discursive and deliberative form of democracy is viewed as vital to a democratic public sphere and the achievement of effective political agency in contemporary society. This will only be achieved through a critical appraisal of the opportunities for public participation and influence over decision-making and a positive evaluation of active citizenship. The crucial challenge is to achieve democracy that is consistent with contemporary aspirations for self-determination and involvement in decision-making while at the same time ensuring that complex decisions are competently made.

APPENDIX 1

LOCAL GOVERNMENT REFORM - DOCUMENTS FOR ANALYSIS

In addition to the Parliamentary Debates from the time of the Introduction of the Local Government Amendment Bill (22 March 1988) to the passage of the Local Government Amendment Act (No. 2) 1989, the following statements of policy and other documents generated during the reform process were analysed:

- (1) *Government Economic Statement*, 17 December 1987
- (2) *Reform of Local and Regional Government. Discussion Document* (the 'Blue Book'), Officials Co-ordinating Committee on Local Government, Wellington, February 1988
- (3) 'Local Government Reform', Office of the Minister of Local Government, March 1988
- (4) *Synopsis of Submissions*, Bridgeport Group, April 1988
- (5) Local Government Amendment Act (No. 2) 1988 (including First Schedule) and Introductory Speech Notes, Minister of Local Government
- (6) *BodyTalk*, Newsletter of the Information Office for Local Government Reform (Vol. 1, No. 1, April 1988 and subsequent issues)
- (7) Speech by the Minister of Local Government to Auckland Local Authorities, 15 July 1988
- (8) *Statement on Reform of Local and Regional Government*, Minister of Local Government, 22 July 1988
- (9) *Memorandum to Assist Authorities Affected by Local Government Reorganisation*, Local Government Commission 22 July 1988
- (10) 'Local Government Reform and Accountability', OCCLG Report to Cabinet Committee on Reform of Local Government and Resource Management Statutes (n.d.)
- (11) Local Government Reform Bill - Matters for Inclusion, Local Government Association, August 1988
- (12) Local Government Reform - Blueprint for Transition, Local Government Association, August 1988
- (13) Local Government Amendment Bill (No. 4) 1988 Introductory Speech Notes, Minister of Local Government
- (14) Policy Document on Reform of Local and Regional Government, Minister of Local Government, 15 December 1988

- (15) *Important Information about the way we manage our communities. Local Government Reform*, Department of Internal Affairs Manawatu-Wanganui Region publication, 1989
- (16) Local Government Reform Bill Supplementary Order Paper 107, 22 March 1989
- (17) Address to the Second National Conference of the NZ Local Government Association, 14 June 1989
- (18) *The New Local Government*, published by the National Transition Committee and Management of Change Unit, May 1990
- (19) *Report on Local Government*, 1991, Controller and Auditor-General, Audit Office, Wellington
- (20) Local Government Association submission to Officials Co-ordinating Committee on Local Government on *Reform of Local and Regional Government. Discussion Document* (the 'Blue Book')

APPENDIX 2

INTERVIEW SCHEDULE: CENTRAL GOVERNMENT POLICY MAKERS

As you know, I am carrying out research on the annual planning process in local government. Would you begin by outlining your involvement in the local government reform process. I am interested in events even before the December 17 *Government Economic Statement*.

I am especially interested in the democratisation element of the reform and particularly of the provisions for public involvement in the annual planning process.

.....

[Points to be covered]

Where did the idea for the special consultative procedure come from? What was the underlying perception of democracy that shaped the legislation?

What in your view were the similarities and dissimilarities between central and local government in the matter of annual/corporate planning and reporting and public scrutiny?

Are there any weaknesses or shortcomings in the 1989 Act in terms of its provisions for public participation?

I would now like to turn to some questions about the way the legislation has been implemented.

In your view, does the current practice of local authorities resemble what was envisaged when the law was drafted?

Do you think the current legislative provisions are appropriate?

Given that certain groups have traditionally dominated the public participation mechanisms created under things like the old Town and Country Planning Act, was there an expectation that this would be different, that there would be genuine democracy?

APPENDIX 3

INTERVIEW SCHEDULE: PNCC REPRESENTATIVES

Interview with Corporate Policy Unit Manager:

Please describe your involvement in the annual planning process?

Was this year the first time that you conducted an early consultation phase?

Why did you engage in the early consultation phase?

What impact did this have on the contents and subsequent public participation (submissions) on the draft annual plan?

Where do your ideas come from about how you approach the annual planning process above and beyond what is prescribed in legislation?

Has the Council's approach changed over time? If so, why?

What qualifications are expected in staff who are responsible for the annual planning process?

What is your opinion of the legislative provisions governing the annual planning process? How extensive do you believe the scope for public influence is?

What are the links between the current annual plan and earlier ones?

How did you determine the three goal areas?

Why do you want balance across the three goal areas?

Who decides performance targets?

How do you see the respective roles of Councillors and officers?

Are you aware of significant ways in which the annual planning process is carried out by PNCC that differ from other local authorities?

What do you think should be the link between annual planning and longer term (strategic) planning?

Has there been any feedback from the Audit Office on the annual plans that have been prepared by PNCC?

Are there any areas of the Council's operations that are or should be beyond public scrutiny?

Interviews with Councillors Brown, Stewart, and Wall:

Was this year the first time that you conducted an early consultation phase?

Why did you engage in the early consultation phase?

What impact did this have on the contents and subsequent public participation (submissions) on the draft annual plan?

Where do your ideas come from about how you approach the annual planning process above and beyond what is prescribed in legislation?

Has the Council's approach changed over time? If so, why?

What are the links between the current annual plan and earlier ones?

How did you determine the three goal areas?

Why do you want balance across the three goal areas?

Who decides performance targets?

How do you see the respective roles of Councillors and officers?

Are you aware of significant ways in which the annual planning process is carried out by PNCC that differ from other local authorities?

What do you think should be the link between annual planning and longer term (strategic) planning?

Has there been any feedback from the Audit Office on the annual plans that have been prepared by PNCC?

Are there any areas of the Council's operations that are or should be beyond public scrutiny?

APPENDIX 4

STATEMENT OF PURPOSE AND

RESEARCH AGREEMENT

between

CITY MANAGER, PALMERSTON NORTH CITY COUNCIL

and

CHRISTINE CHEYNE, LECTURER
DEPARTMENT OF SOCIAL POLICY AND SOCIAL WORK, MASSEY
UNIVERSITY
(referred to as 'the researcher')

1. Statement of Purpose

The purpose of the research is to carry out case study fieldwork investigating the annual planning process at Palmerston North City Council. The research is being conducted primarily for the purpose of obtaining a PhD degree. There are three types of data to be collected:

- (i) observations
- (ii) interviews
- (iii) documents

The aim of the research is to investigate the process, and not the contributions of individual persons. It is not their individual identity but their formal role (e.g. City Manager, Director, Unit Manager, etc) that will be referred to in the thesis or any subsequent publication arising from the research.

1.1 Observations

It is agreed that the researcher may have access to meetings of Councillors and of Council staff (primarily management team deliberations on the annual plan and its component parts). The researcher will make notes about what she observes and hears during meetings.

Where these are public meetings (e.g. Goals and Strategies Committee) this includes attendance at discussions of business conducted in Part II of the Order Paper. In the case of observations of Part II meetings, there will be no public documentation of the content of discussions.

The researcher will not participate in any discussions at meetings.

1.2 Interviews

It is agreed that the researcher may have access to certain Council staff for the purpose of conducting interviews (one interview of approximately 1 - 1 1/2 hours with each staff member).

Access to interview participants will be sought on an individual basis. Each individual will be approached by letter or phone and will be given information about the research, the nature of the interview, and the use of interview material.

Interview participants will be asked to sign a consent form.

Initially, the Palmerston North City Council staff whom the researcher seeks to interview include:

City Manager
Director of Community Services
Director of Corporate Services
Director of Planning
Director of Works
Manager, Corporate Policy Unit

It may also be appropriate to interview other corporate and strategic planning staff.

1.3 Documents

It is agreed that the researcher may have access to order papers, in-house working papers and discussion papers, records of meetings of both Councillors and Council staff, and any other documents which relate to the annual planning process. Where these documents are generated in settings which are not public meetings, or in Part II of public meetings (in the terms of the Local Government Official Information and Meetings Act 1987), the researcher undertakes to treat such material confidentially.

Confidentiality for the purposes of this section of the Agreement means that no material will be used in such a way as to publicly identify the authors of the documents or the results of the matters discussed or addressed.

2. General

There are some further fieldwork issues which have been acknowledged. These are set out below:

2.1 Protection for Council and Staff

It is clearly intended by the researcher that the interests of Palmerston North City Council and its staff should be protected. This will be done in several ways, as set out below:

- (i) The researcher agrees to respect the confidentiality of business conducted in Part II of official meetings and in meetings that are not official meetings (in the terms of the Local Government Official Information and Meetings Act 1987).
- (ii) People who are approached for the purposes of an interview have the right to decline to be interviewed, or, if interviewed, to elect to withdraw from the research project at any subsequent point in time before the final draft of the thesis is completed.
- (iii) People who are approached for the purposes of an interview will individually be given information about the research and the nature and uses of the interview material. If requested by the interview participant, the researcher will provide a copy of notes generated from the interview.
- (iv) The researcher seeks to be as unobtrusive as possible during observations and to make only reasonable requests of staff for assistance with obtaining documents. The interviews will be conducted with a limited number of staff and, in general, will be of a maximum of one and a half hours' duration.

2.2 Restructuring

It is understood by the researcher that Palmerston North City Council is about to undergo organisational restructuring. This will mean that some positions/roles may disappear during the course of the fieldwork. The researcher seeks to accommodate such events and acknowledges that a degree of anxiety may be present among the staff. If necessary, the researcher and City Manager will emphasise to staff that there is no relationship between the research and organisational restructuring.

2.3 Opportunity to comment on research findings.

The researcher agrees to provide the City Manager with a copy of (i) the sections of the PhD which outline the fieldwork involving Palmerston North City Council (the organisation) and its staff; and (ii) the sections of the PhD thesis in which the data collected during such fieldwork are analysed. It should be noted that such material will not be available until a penultimate draft of the thesis is completed. Upon receiving a copy of the relevant sections of the thesis the City Manager will be invited to forward any comments on the descriptive and analytical material within a specified time-frame (no less than a fortnight). Where there are any significantly different perspectives expressed by the City Manager about

the researcher's descriptive and analytical material, this will be acknowledged by the researcher in the final draft of the thesis.

A copy of the thesis will be given to Palmerston North City Council upon completion.

2.4 Ownership of data or material produced

Notes of observations and interviews will remain in the ownership of the researcher.

2.5 Copyright

Copyright of thesis material and subsequent published papers based on the fieldwork will rest with the researcher.

Signed:

M. Willis
City Manager

C. Cheyne
Researcher

Date:

APPENDIX 5**LIST OF OFFICIAL DOCUMENTS OBTAINED IN CASE STUDY FIELDWORK**

- (1) *1992/93 Draft Annual Plan and 1992/93 Annual Plan*
- (2) *1992 Community Development Plan* (which includes Principles of Consultation)
- (3) Terms of Reference for Standing Committees
- (4) 23/11/92 Report by Principal Planning Officer to Goals and Strategies Committee (for meeting on 2 December): '1993/94 Annual Plan'
- (5) 2/12/92 Report by City Manager to Finance Committee: 'Five Year Forecast' accompanied by *Five Year Forecast 1992/3-1996/97 Version 1 (1 December 1992)*
- (6) 10/12/92 Memorandum from Finance and Legal Policy Unit 'Agenda for Management Team Meeting 16 December'
- (7) 15/12/92 Report by Budget Accountant to Management Team: 'Review of Draft Business Plans'
- (8) miscellaneous budget summaries
- (9) 21/12/92 Project Support Officer's Notes of 16/12/92 meeting on Business Plans
- (10) 19/1/93 Memorandum from Planning and Development Directorate: '1993/94 Annual Plan Workshop 27 January'
- (11) 20/1/93 Memorandum from Finance and Legal Policy Unit 'Agenda for Management Team meeting 26 & 27 January'
- (12) n.d. Minutes of PNCC Management Team Meeting 26 and 27 January
- (13) n.d. Minutes of Management Team 2/2/93
- (14) 5/2/93 Memorandum from the Planning and Development Directorate: 'Informal Briefing - Programmes to be included in the Draft Annual Plan 1993/94'
- (15) 8/2/93 Memorandum from Budget Accountant to Management Team, Finance Manager, Strategic Planning Manager and Project Support Officer: 'Attachments for Management Team meeting 9 February'
- (16) 8/2/93 Memorandum from Project Support Officer to Unit Managers: 'Draft Programme Descriptions for Informal Council Briefing'
- (17) 9/2/93 summary notes: 'Oral Report to Management Team February 9, 1993'
- (18) 11/2/93 Minutes of Informal Goals and Strategies Committee meeting
- (19) 16/2/93 Supplementary Agenda for Management Team meeting

-
- (20) 4/3/93 Report by City Manager to Committee of Council: 'Draft Annual Plan 1993/94' (presenting Draft Annual Plan for the Committee's Approval)
 - (21) Order papers for 6 Annual Plan Committee meetings 10-20 May (public hearings of submissions)
 - (22) 29/3/93 *Draft Annual Plan 1993/94*
 - (23) Goals and Strategies Committee Order Paper 5 April 1993 with report by Legal Policy Analyst, 'Establishment of Committees and Procedures for Hearing of Submissions on the Draft Annual Plan'
 - (24) PNCC Information Concerning Procedure for Consideration of Submissions on Matters where Public Consultation is Required or Invited, 27 April 1993
 - (25) 1993/94 *Draft Annual Plan Summary of Submissions*, May 1993, Corporate Policy Unit
 - (26) 27/5/93 Memorandum from Finance and Legal Policy Unit: 'Management Team Review of Revised Business Plans for 1993/94' (agenda for meetings on 2, 3 and 4 June 1993)
 - (27) 3/6/93 Document written by Project Support Officer: 'Referrals from Council Committees to Annual Planning Debate'
 - (28) n.d. *Has Anything Slipped Through the Cracks? Annual Planning Submissions 93/94*
 - (29) 16/6/93 Goals and Strategies Committee Meeting Order paper (with minutes of Annual Plan Committee meetings and report by City Manager to Goals and Strategies Committee: 'Reviewing the Draft Annual Plan')
 - (30) 22/6/93 *Draft Operational Budgets and Programmes 1993/94* with report by City Manager to Committee of Council: 'Finalising the Budgets and Programmes for the 1993/94 Annual Plan'
 - (31) 26/7/93 *1993/94 Annual Plan*
 - (32) 13/8/93 Report by Research Planning Officer to Worker Low Income Sub-Committee, PNCC: 'Principles and Practicalities of Consultation/Public Participation'
 - (33) 7/11/1994 Report by the City Manager to Committee of Council: 'Review of the Council's Consultation Process'

APPENDIX 6

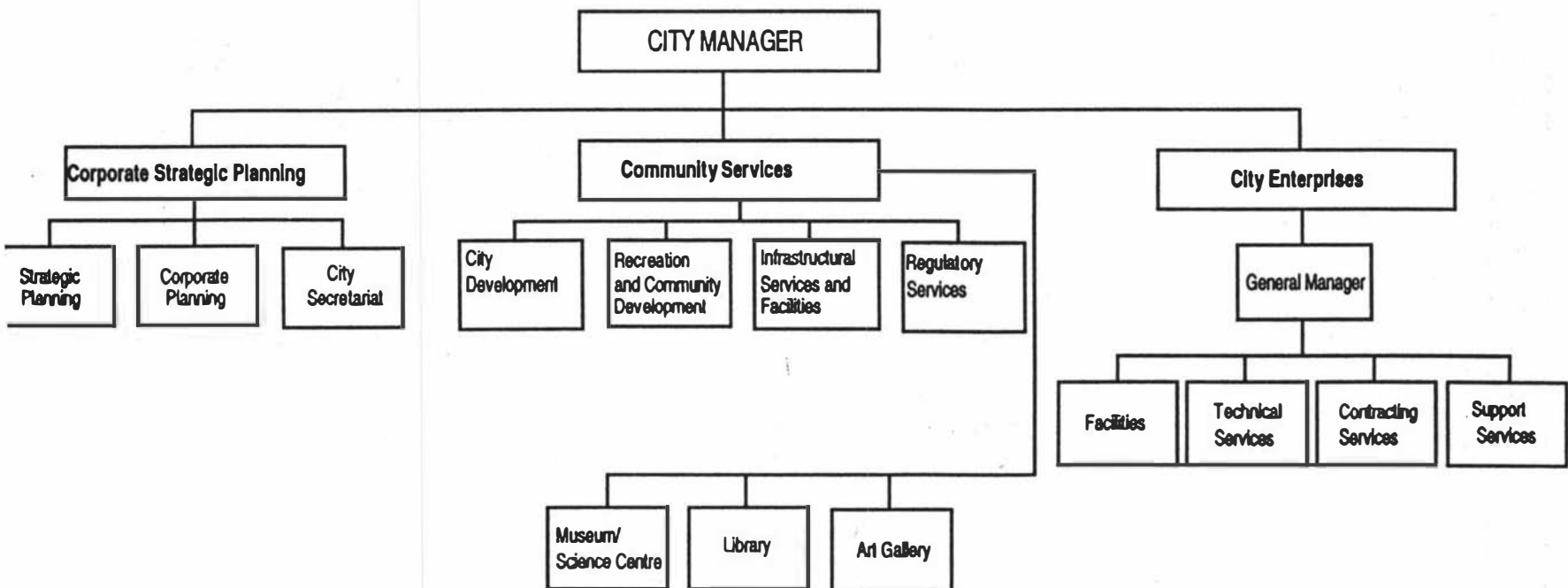
CASE STUDY TIMELINE

Preparation of draft annual plan, October 1992 - September 1993

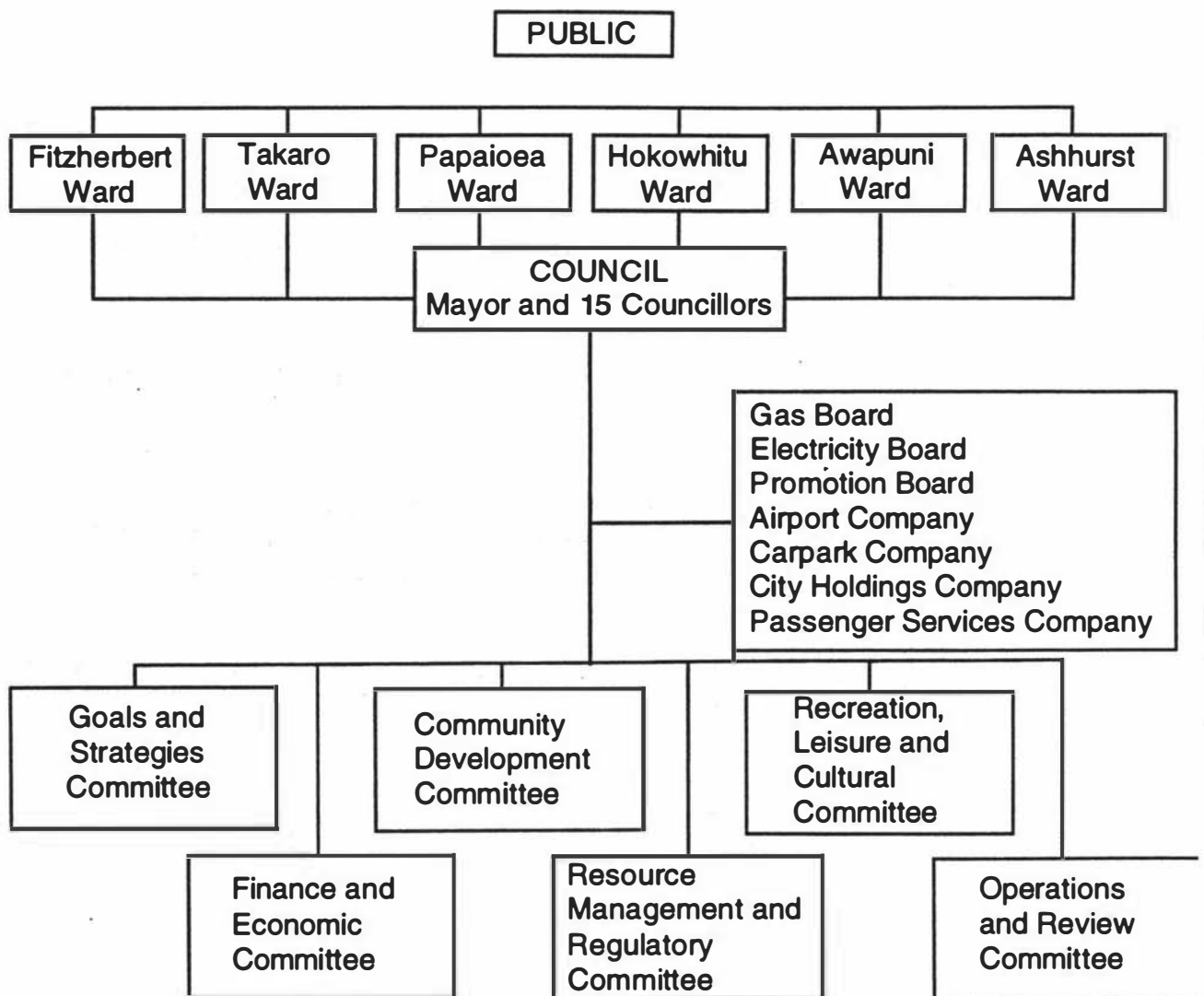
Oct 1992	Request for submissions (early consultation phase)
Nov 1992	13/11 Workshop for newly elected Council; Unit managers prepare business plans (list of programmes, expenditure for each Unit); Summary of submissions received in early consultation phase. Unit Managers classify programmes as high, medium or low priority.
2 Dec 1992	Goals and Strategies Committee
16-17 Dec 1992	Meeting to discuss business plans
Jan 1993	Management Team meeting 26 January and morning of 27 January. Meeting with Councillors afternoon of 27 January.
Feb 1993	Management Team meeting 2 February, 'Informal Workshop' for of Councillors on 11 February, followed by Special Finance Committee meeting on 18 February
Mar 1993	Committee of Council meeting 11 March; Draft Annual Plan released for public comment on 26 March
26 Apr 1993	Submissions on Draft Annual Plan close (over 1000 submissions received)
May 1993	Public hearings of submissions on Draft Annual Plan begin on 10 May
June 1993	2-4 June meetings of Management Team to consider impact of submissions on Business Plans - operations budgets, programmes, etc.
29 Jun, 5 Jul, 12 Jul 1993	Informal Councillors' briefing about submissions
29 Jun, 5 Jul, 12 Jul 1993	Committee of Council meeting, continued on 5 July, and re-convened on 12 July
12 Jul 1993	Finance Committee meeting
26 July 1993	Annual plan adopted by Council
30 Sept 1993	Public meeting to discuss the final 1993/94 Annual Plan decisions and to explain the process for the Draft 1994/95 Annual Plan (early consultation phase).

APPENDIX 7

PALMERSTON NORTH CITY COUNCIL
CORPORATE MANAGEMENT STRUCTURE



APPENDIX 8

PALMERSTON NORTH CITY COUNCIL
POLITICAL STRUCTURE 1992/3

APPENDIX 9

TERMS OF REFERENCE OF GOALS AND STRATEGIES COMMITTEE

The Primary Purpose of this Committee is: "To define the City Mission, general policy framework and accompanying corporate strategies in order to determine the Council's direction for the future. This will require analysis of key external environmental factors and also those internal factors that impact on the City, and will result in a number of major policy statements, as well as the production of a limited number of key corporate strategies as contained in an overall Corporate Plan. These strategies will define the framework of the Annual Plan, as subsequently determined by the Finance Committee." The Secondary Purposes of the Committee are:

- 1.1.1 To develop a set of long-term and short-term goals and objectives and matching priorities.
- 1.1.2 To determine the overall policy framework, including the setting of major policies and the monitoring and review of all Council policies as may be required from time to time.
- 1.1.3 To ensure that clear objectives are set for all activities and policies.
- 1.1.4 To resolve conflicting objectives.
- 1.1.5 To provide and oversee community involvement in the corporate planning process, having particular regard for the requirements of Section 716A of the Local Government Act 1974 (i.e. the special consultative procedure).
- 1.1.6 To promote understanding and co-operation between key public and private interests which will contribute to the setting of corporate goals and strategies.
- 1.1.7 To promote accountability of elected members and officers of the Council, having particular regard for the provisions of Section 223C of the Local Government Act 1974.
- 1.1.8 To ensure greater public awareness of city affairs and the role of the Council.
- 1.1.9 To act as the "fast track" agency for any special or urgent matters requiring early or immediate consideration by the Council.
- 1.1.10 To monitor and evaluate the policy development work of any other Council Standing Committee.
- 1.1.11 To advise the Council on any policy issues affecting areas not relevant to any other Committee.

[Source: Terms of Reference for Standing Committees]

APPENDIX 10

PNCC Principles of Consultation

1. The method of consultation chosen needs to be appropriately matched with the communities being targeted. This includes ensuring relevant documents are available in simple and clear language.
2. When community representation is sought, representatives should be put forward by their own communities rather than the Council choosing the representative it thinks most important.
3. Communities need to be well-informed about both the reasons for the consultation and the levels of influence they may have over the outcome.
4. Once committed to a consultation process, the Council will endeavour not to make any decisions which may have a major effect on the matter under consultation until the process is complete. Where the Council must make a decision before the consultation is complete, it will undertake to explain to the communities involved why this had to be done.
5. The Council recognises the need for communities to be adequately resourced if they are to be in a position to respond effectively to consultation.
6. The Council also recognises that communities need time to respond effectively to consultation and will endeavour to set realistic timeframes for consultation activities.
7. The Council must give feedback on decisions made as a result of the consultation process.

REFERENCES

Note: this list of references contains some, but not all, policy documents referred to in the main body of the thesis. The policy documents listed here are those which are published and widely available. In Appendices 1 and 5 there is a full list of policy documents obtained during the course of the fieldwork and referred to in the main body of the text, some of which are unpublished and some of which are not in the public domain. In addition to this list of references, at the end there is a list of cases referred to in the thesis.

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